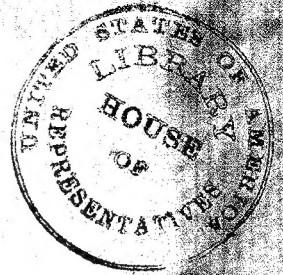


APPENDIX



TO

THE CONGRESSIONAL GLOBE:

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS, LAWS, ETC.,

OF THE

FIRST SESSION THIRTY-FIFTH CONGRESS.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
PRINTED AT THE OFFICE OF JOHN C. RIVES.
1858.

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APPENDIX

TO THE CONGRESSIONAL GLOBE.

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Message of the President.

SENATE & HO. OF REPS.

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES.

*Fellow-Citizens of the Senate
and House of Representatives:*

In obedience to the command of the Constitution, it has now become my duty "to give to Congress information of the state of the Union, and recommend to their consideration such measures" as I judge to be "necessary and expedient."

But first, and above all, our thanks are due to Almighty God for the numerous benefits which He has bestowed upon this people; and our united prayers ought to ascend to Him that He would continue to bless our great Republic in time to come as He has blessed it in time past. Since the adjournment of the last Congress our constituents have enjoyed an unusual degree of health. The earth has yielded her fruits abundantly, and has bountifully rewarded the toil of the husbandman. Our great staples have commanded high prices, and, up till within a brief period, our manufacturing, mineral, and mechanical occupations have largely partaken of the general prosperity. We have possessed all the elements of material wealth in rich abundance, and yet, notwithstanding all these advantages, our country, in its monetary interests, is at the present moment in a deplorable condition. In the midst of unsurpassed plenty in all the productions of agriculture and in all the elements of national wealth, we find our manufactures suspended, our public works retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers thrown out of employment and reduced to want. The revenue of the Government, which is chiefly derived from duties on imports from abroad, has been greatly reduced, whilst the appropriations made by Congress at its last session for the current fiscal year are very large in amount.

Under these circumstances a loan may be required before the close of your present session; but this, although deeply to be regretted, would prove to be only a slight misfortune when compared with the suffering and distress prevailing among the people. With this the Government cannot fail deeply to sympathize, though it may be without the power to extend relief.

It is our duty to inquire what has produced such unfortunate results, and whether their recurrence can be prevented? In all former revulsions the blame might have been fairly attributed to a variety of cooperating causes; but not so upon the present occasion. It is apparent that our existing misfortunes have proceeded solely from our extravagant and vicious system of paper currency and bank credits, exciting the people to wild speculations and gambling in stocks. These revulsions must continue to recur at successive intervals so long as the amount of the paper currency and bank loans and discounts of the country shall be left to the discretion of fourteen hundred irresponsible banking institutions, which, from the

very law of their nature, will consult the interest of the stockholders rather than the public welfare.

The framers of the Constitution, when they gave to Congress the power "to coin money and to regulate the value thereof," and prohibited the States from coining money, emitting bills of credit, or making anything but gold and silver coin a tender in payment of debts, supposed they had protected the people against the evils of an excessive and irredeemable paper currency. They are not responsible for the existing anomaly, that a Government endowed with the sovereign attribute of coining money and regulating the value thereof, should have no power to prevent others from driving this coin out of the country and filling up the channels of circulation with paper which does not represent gold and silver.

It is one of the highest and most responsible duties of Government to insure to the people a sound circulating medium, the amount of which ought to be adapted with the utmost possible wisdom and skill to the wants of internal trade and foreign exchanges. If this be either greatly above or greatly below the proper standard, the marketable value of every man's property is increased or diminished in the same proportion, and injustice to individuals, as well as incalculable evils to the community, are the consequence.

Unfortunately, under the construction of the Federal Constitution, which has now prevailed too long to be changed, this important and delicate duty has been dis severed from the coining power, and virtually transferred to more than fourteen hundred State banks, acting independently of each other, and regulating their paper issues almost exclusively by a regard to the present interest of their stockholders. Exercising the sovereign power of providing a paper currency, instead of coin, for the country, the first duty which these banks owe to the public is to keep in their vaults a sufficient amount of gold and silver to insure the convertibility of their notes into coin at all times and under all circumstances. No bank ought ever to be chartered without such restrictions on its business as to secure this result. All other restrictions are comparatively vain. This is the only true touchstone, the only efficient regulator of a paper currency—the only one which can guard the public against over-issues and bank suspensions. As a collateral and eventual security it is doubtless wise, and in all cases ought to be required, that banks shall hold an amount of United States or State securities equal to their notes in circulation, and pledged for their redemption. This, however, furnishes no adequate security against over-issues. On the contrary, it may be perverted to inflate the currency. Indeed, it is possible by this means to convert all the debts of the United States and State governments into bank notes, without reference to the specie required to redeem them. However valuable these securities may be in themselves, they cannot be converted into gold and silver at the moment of pressure, as our experience teaches, in sufficient time to prevent bank suspensions and the depreciation of bank notes. In England, which is to a considerable extent a paper-money country, though vastly behind our own in this respect, it

was deemed advisable, anterior to the act of Parliament of 1844, which wisely separated the issue of notes from the banking department, for the Bank of England always to keep on hand gold and silver equal to one third of its combined circulation and deposits. If this proportion was no more than sufficient to secure the convertibility of its notes, with the whole of Great Britain, and to some extent the continent of Europe, as a field of its circulation, rendering it almost impossible that a sudden and immediate run to a dangerous amount should be made upon it, the same proportion would certainly be insufficient under our banking system. Each of our fourteen hundred banks has but a limited circumference for its circulation, and in the course of a very few days the depositors and note-holders might demand from such a bank a sufficient amount in specie to compel it to suspend, even although it had coin in its vaults equal to one third of its immediate liabilities. And yet I am not aware, with the exception of the banks of Louisiana, that any State bank throughout the Union has been required by its charter to keep this or any other proportion of gold and silver compared with the amount of its combined circulation and deposits. What has been the consequence? In a recent report made by the Treasury Department on the condition of the banks throughout the different States, according to returns dated nearest to January, 1857, the aggregate amount of actual specie in their vaults is \$58,349,838; of their circulation, \$214,778,822; and of their deposits, \$230,351,352. Thus it appears that these banks, in the aggregate, have considerably less than one dollar in seven of gold and silver, compared with their circulation and deposits. It was palpable, therefore, that the very first pressure must drive them to suspension, and deprive the people of a convertible currency, with all its disastrous consequences. It is truly wonderful that they should have so long continued to preserve their credit, when a demand for the payment of one seventh of their immediate liabilities would have driven them into insolvency. And this is the condition of the banks, notwithstanding that four hundred millions of gold from California have flowed in upon us within the last eight years, and the tide still continues to flow. Indeed, such has been the extravagance of bank credits that the banks now hold a considerable less amount of specie, either in proportion to their capital or to their circulation and deposits combined, than they did before the discovery of gold in California. Whilst in the year 1848 their specie in proportion to their capital was more than equal to one dollar for four and a half, in 1857 it does not amount to one dollar for every six dollars and thirty-three cents of their capital. In the year 1848 the specie was equal, within a very small fraction, to one dollar in five of their circulation and deposits; in 1857 it is not equal to one dollar in seven and a half of their circulation and deposits.

From this statement it is easy to account for our financial history for the last forty years. It has been a history of extravagant expansions in the business of the country, followed by ruinous contractions. At successive intervals the best

and most enterprising men have been tempted to their ruin by excessive bank loans of mere paper credit, exciting them to extravagant importations of foreign goods, wild speculations, and ruinous and demoralizing stock gambling. When the crisis arrives, as arrive it must, the banks can extend no relief to the people. In a vain struggle to redeem their liabilities in specie, they are compelled to contract their loans and their issues; and at last, in the hour of distress, when their assistance is most needed, they and their debtors together sink into insolvency.

It is this paper system of extravagant expansion, raising the nominal price of every article far beyond its real value, when compared with the cost of similar articles in countries whose circulation is wisely regulated, which has prevented us from competing in our own markets with foreign manufacturers, has produced extravagant importations, and has counteracted the effect of the large incidental protection afforded to our domestic manufactures by the present revenue tariff. But for this the branches of our manufactures composed of raw materials, the production of our own country—such as cotton, iron, and woolen fabrics—would not only have acquired almost exclusive possession of the home market, but would have created for themselves a foreign market throughout the world.

Deplorable, however, as may be our present financial condition, we may yet indulge in bright hopes for the future. No other nation has ever existed which could have endured such violent expansions and contractions of paper credits without lasting injury; yet the buoyancy of youth, the energies of our population, and the spirit which never quails before difficulties, will enable us soon to recover from our present financial embarrassments, and may even occasion us speedily to forget the lesson which they have taught.

In the mean time, it is the duty of the Government, by all proper means within its power, to aid in alleviating the sufferings of the people occasioned by the suspensions of the banks, and to provide against a recurrence of the same calamity. Unfortunately, in either aspect of the case, it can do but little. Thanks to the Independent Treasury, the Government has not suspended payment, as it was compelled to do by the failure of the banks in 1837. It will continue to discharge its liabilities to the people in gold and silver. Its disbursements in coin will pass into circulation, and materially assist in restoring a sound currency. From its high credit, should we be compelled to make a temporary loan, it can be effected on advantageous terms. This, however, shall, if possible, be avoided; but if not, then the amount shall be limited to the lowest practicable sum.

I have therefore determined that whilst no useful Government works already in progress shall be suspended, new works, not already commenced, will be postponed, if this can be done without injury to the country. Those necessary for its defense shall proceed as though there had been no crisis in our monetary affairs.

But the Federal Government cannot do much to provide against a recurrence of existing evils. Even if insurmountable constitutional objections did not exist against the creation of a national bank, this would furnish no adequate preventive security. The history of the last Bank of the United States abundantly proves the truth of this assertion. Such a bank could not, if it would, regulate the issues and credits of fourteen hundred State banks in such a manner as to prevent the ruinous expansions and contractions in our currency which afflicted the country throughout the existence of the late bank, or secure us against future suspensions. In 1825 an effort was made by the Bank of England to curtail the issues of the country banks under the most favorable circumstances. The paper currency had been expanded to a ruinous extent, and the bank put forth all its power to contract it, in order to reduce prices, and restore the equilibrium of the foreign exchanges. It accordingly commenced a system of curtailment of its loans and issues, in the vain hope that the joint-stock and private banks of the kingdom would be compelled to follow its example. It found, however, that as it contracted they expanded, and at the end of the

process, to employ the language of a very high official authority, "whatever reduction of the paper circulation was effected by the Bank of England [in 1825] was more than made up by the issues of the country banks."

But a bank of the United States would not, if it could, restrain the issues and loans of the State banks, because its duty as a regulator of the currency must often be in direct conflict with the immediate interest of its stockholders. If we expect one agent to restrain or control another, their interests must, at least in some degree, be antagonistic. But the directors of a bank of the United States would feel the same interest and the same inclination with the directors of the State banks to expand the currency, to accommodate their favorites and friends with loans, and to declare large dividends. Such has been our experience in regard to the last bank.

After all, we must mainly rely upon the patriotism and wisdom of the States for the prevention and redress of the evil. If they will afford us a real specie basis for our paper circulation by increasing the denomination of bank notes, first to twenty, and afterwards to fifty dollars; if they will require that the banks shall at all times keep on hand at least one dollar of gold and silver for every three dollars of their circulation and deposits; and if they will provide, by a self-executing enactment which nothing can arrest, that the moment they suspend they shall go into liquidation, I believe that such provisions, with a weekly publication by each bank of a statement of its condition, would go far to secure us against future suspensions of specie payments.

Congress, in my opinion, possess the power to pass a uniform bankrupt law applicable to all banking institutions throughout the United States, and I strongly recommend its exercise. This would make it the irreversible organic law of each bank's existence, that a suspension of specie payments shall produce its civil death. The instinct of self-preservation would then compel it to perform its duties in such a manner as to escape the penalty and preserve its life.

The existence of banks and the circulation of bank paper are so identified with the habits of our people, that they cannot at this day be suddenly abolished without much immediate injury to the country. If we could confine them to their appropriate sphere, and prevent them from administering to the spirit of wild and reckless speculation by extravagant loans and issues, they might be continued with advantage to the public.

But this I say, after long and much reflection: if experience shall prove it to be impossible to enjoy the facilities which well-regulated banks might afford, without at the same time suffering the calamities which the excesses of the banks have hitherto inflicted upon the country, it would then be far the lesser evil to deprive them altogether of the power to issue a paper currency and confine them to the functions of banks of deposit and discount.

Our relations with foreign Governments are, upon the whole, in a satisfactory condition.

The diplomatic difficulties which existed between the Government of the United States and that of Great Britain at the adjournment of the last Congress have been happily terminated by the appointment of a British Minister to this country, who has been cordially received.

Whilst it is greatly to the interest, as I am convinced it is the sincere desire, of the Governments and people of the two countries to be on terms of intimate friendship with each other, it has been our misfortune almost always to have some irritating, if not dangerous, outstanding question with Great Britain.

Since the origin of the Government we have been employed in negotiating treaties with that Power, and afterwards in discussing their true intent and meaning. In this respect, the convention of April 19, 1850, commonly called the Clayton and Bulwer treaty, has been the most unfortunate of all; because the two Governments place directly opposite and contradictory constructions upon its first and most important article. Whilst, in the United States, we believed that this treaty would place both Powers upon an exact equality by the stipulation that neither will ever "occupy, or fortify, or colonize, or assume

or exercise any dominion" over, any part of Central America, it is contended by the British Government that the true construction of this language has left them in the rightful possession of all that portion of Central America which was in their occupancy at the date of the treaty; in fact, that the treaty is a virtual recognition on the part of the United States of the right of Great Britain, either as owner or protector, to the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbor of San Juan de Nicaragua, together with the adjacent Bay Islands, except the comparatively small portion of this between the Sarstoon and Cape Honduras. According to their construction, the treaty does no more than simply prohibit them from extending their possessions in Central America beyond the present limits. It is not too much to assert, that if in the United States the treaty had been considered susceptible of such a construction, it never would have been negotiated under the authority of the President, nor would it have received the approbation of the Senate. The universal conviction in the United States was, that when our Government consented to violate its traditional and time-honored policy, and to stipulate with a foreign Government never to occupy or acquire territory in the Central American portion of our own continent, the consideration for this sacrifice was that Great Britain should, in this respect at least, be placed in the same position with ourselves. Whilst we have no right to doubt the sincerity of the British Government in their construction of the treaty, it is at the same time my deliberate conviction that this construction is in opposition both to its letter and its spirit.

Under the late Administration negotiations were instituted between the two Governments for the purpose, if possible, of removing these difficulties; and a treaty having this laudable object in view was signed at London on the 17th of October, 1856, and was submitted by the President to the Senate on the following 10th of December. Whether this treaty, either in its original or amended form, would have accomplished the object intended without giving birth to new and embarrassing complications between the two Governments, may perhaps be well questioned. Certain it is, however, it was rendered much less objectionable by the different amendments made to it by the Senate. The treaty, as amended, was ratified by me on the 12th March, 1857, and was transmitted to London for ratification by the British Government. That Government expressed its willingness to concur in all the amendments made by the Senate, with the single exception of the clause relating to Roatan and the other islands in the Bay of Honduras. The article in the original treaty, as submitted to the Senate, after reciting that these islands and their inhabitants "having been by a convention bearing date the 27th day of August, 1856, between her Britannic Majesty and the Republic of Honduras, constituted and declared a free territory, under the sovereignty of the said Republic of Honduras," stipulated that "the two contracting parties do hereby mutually engage to recognize and respect, in all future time, the independence and rights of the said free territory as a part of the Republic of Honduras."

Upon an examination of this convention between Great Britain and Honduras of the 27th August, 1856, it was found that, whilst declaring the Bay Islands to be "a free territory under the sovereignty of the Republic of Honduras," it deprived that Republic of rights without which its sovereignty over them could scarcely be said to exist. It divided them from the remainder of Honduras, and gave to their inhabitants a separate government of their own, with legislative, executive, and judicial officers, elected by themselves. It deprived the Government of Honduras of the taxing power in every form, and exempted the people of the islands from the performance of military duty except for their own exclusive defense. It also prohibited that Republic from erecting fortifications upon them for their protection—thus leaving them open to invasion from any quarter; and, finally, it provided "that slavery shall not at any time hereafter be permitted to exist therein."

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Had Honduras ratified this convention, she would have ratified the establishment of a State substantially independent within her own limits, and a State at all times subject to British influence and control. Moreover, had the United States ratified the treaty with Great Britain in its original form, we should have been bound "to recognize and respect in all future time" these stipulations to the prejudice of Honduras. Being in direct opposition to the spirit and meaning of the Clayton and Bulwer treaty as understood in the United States, the Senate rejected the entire clause, and substituted in its stead a simple recognition of the sovereign right of Honduras to these islands in the following language:

"The two contracting parties do hereby mutually engage to recognize and respect the Islands of Roatan, Bonaco, Utila, Barbareta, Helena, and Morat, situate in the Bay of Honduras, and off the coast of the Republic of Honduras, as under the sovereignty and as part of the said Republic of Honduras."

Great Britain rejected this amendment, assigning as the only reason, that the ratifications of the convention of the 27th August, 1856, between her and Honduras, had not been "exchanged, owing to the hesitation of that Government." Had this been done, it is stated that "her Majesty's Government would have had little difficulty in agreeing to the modification proposed by the Senate, which then would have had in effect the same signification as the original wording." Whether this would have been the effect; whether the mere circumstance of the exchange of the ratifications of the British convention with Honduras prior in point of time to the ratification of our treaty with Great Britain would, "in effect," have had "the same signification as the original wording," and thus have nullified the amendment of the Senate, may well be doubted. It is, perhaps, fortunate that the question has never arisen.

The British Government, immediately after rejecting the treaty as amended, proposed to enter into a new treaty with the United States, similar in all respects to the treaty which they had just refused to ratify, if the United States would consent to add to the Senate's clear and unqualified recognition of the sovereignty of Honduras over the Bay Islands, the following additional stipulation:

"Whenever and so soon as the Republic of Honduras shall have concluded and ratified a treaty with Great Britain, by which Great Britain shall have ceded, and the Republic of Honduras shall have accepted, the said islands, subject to the provisions and conditions contained in such treaty."

This proposition was, of course, rejected. After the Senate had refused to recognize the British convention with Honduras of the 27th August, 1856, with full knowledge of its contents, it was impossible for me, necessarily ignorant of "the provisions and conditions" which might be contained in a future convention between the same parties, to sanction them in advance.

The fact is, that when two nations like Great Britain and the United States, mutually desirous as they are, and I trust ever may be, of maintaining the most friendly relations with each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably be thus have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been the more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the isthmus.

Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British Government in a friendly spirit, which I cordially reciprocate; but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine.

With France our ancient relations of friendship

still continue to exist. The French Government have in several recent instances, which need not be enumerated, evinced a spirit of good will and kindness towards our country which I heartily reciprocate. It is, notwithstanding, much to be regretted that two nations whose productions are of such a character as to invite the most extensive exchanges, and freest commercial intercourse, should continue to enforce ancient and obsolete restrictions of trade against each other. Our commercial treaty with France is, in this respect, an exception from our treaties with all other commercial nations. It jealously levies discriminating duties both on tonnage and on articles, the growth, produce, or manufacture of the one country, when arriving in vessels belonging to the other.

More than forty years ago, on the 3d of March, 1815, Congress passed an act offering to all nations to admit their vessels laden with their national productions into the ports of the United States upon the same terms with our own vessels, provided they would reciprocate to us similar advantages. This act confined the reciprocity to the productions of the respective foreign nations who might enter into the proposed arrangement with the United States. The act of May 24, 1828, removed this restriction, and offered a similar reciprocity to all such vessels without reference to the origin of their cargoes. Upon these principles, our commercial treaties and arrangements have been founded, except with France; and let us hope that this exception may not long exist.

Our relations with Russia remain, as they have ever been, on the most friendly footing. The present Emperor, as well as his predecessors, have never failed, when the occasion offered, to manifest their good will to our country; and their friendship has always been highly appreciated by the Government and people of the United States.

With all other European Governments, except that of Spain, our relations are as peaceful as we could desire. I regret to say that no progress whatever has been made since the adjournment of Congress towards the settlement of any of the numerous claims of our citizens against the Spanish Government. Besides, the outrage committed on our flag by the Spanish war frigate *Ferolana* on the high seas, off the coast of Cuba, in March, 1855, by firing into the American mail steamer *El Dorado*, and detaining and searching her, remains unacknowledged and unredressed. The general tone and temper of the Spanish Government towards that of the United States are much to be regretted. Our present Envoy Extraordinary and Minister Plenipotentiary to Madrid has asked to be recalled; and it is my purpose to send out a new Minister to Spain, with special instructions on all questions pending between the two Governments, and with a determination to have them speedily and amicably adjusted, if this be possible. In the mean time, whenever our Minister urges the just claims of our citizens on the notice of the Spanish Government, he is met with the objection that Congress have never made the appropriation recommended by President Polk in his annual message of December, 1847, "to be paid to the Spanish Government for the purpose of distribution among the claimants in the *Amistad* case." A similar recommendation was made by my immediate predecessor in his message of December, 1853; and entirely concurring with both in the opinion that this indemnity is justly due under the treaty with Spain of the 27th October, 1795, I earnestly recommend such an appropriation to the favorable consideration of Congress.

A treaty of friendship and commerce was concluded at Constantinople on the 13th of December, 1856, between the United States and Persia, the ratifications of which were exchanged at Constantinople on the 13th of June, 1857, and the treaty was proclaimed by the President on the 18th August, 1857. This treaty, it is believed, will prove beneficial to American commerce. The Shah has manifested an earnest disposition to cultivate friendly relations with our country, and has expressed a strong wish that we should be represented at Teheran by a minister plenipotentiary; and I recommend that an appropriation be made for this purpose.

Recent occurrences in China have been unfav-

orable to a revision of the treaty with that Empire of the 3d July, 1844, with a view to the security and extension of our commerce. The twenty-fourth article of this treaty stipulated for a revision of it, in case experience should prove this to be requisite; "in which case the two Governments will, at the expiration of twelve years from the date of said convention, treat amicably concerning the same, by means of suitable persons appointed to conduct such negotiations." These twelve years expired on the 3d July, 1856; but long before that period it was ascertained that important changes in the treaty were necessary; and several fruitless attempts were made by the Commissioner of the United States to effect these changes. Another effort was about to be made for the same purpose by our Commissioner, in conjunction with the Ministers of England and France, but this was suspended by the occurrence of hostilities in the Canton river between Great Britain and the Chinese Empire. These hostilities have necessarily interrupted the trade of all nations with Canton, which is now in a state of blockade, and have occasioned a serious loss of life and property. Meanwhile the insurrection within the Empire against the existing imperial dynasty still continues, and it is difficult to anticipate what will be the result.

Under these circumstances, I have deemed it advisable to appoint a distinguished citizen of Pennsylvania Envoy Extraordinary and Minister Plenipotentiary to proceed to China, and to avail himself of any opportunities which may offer to effect changes in the existing treaty favorable to American commerce. He left the United States for the place of his destination in July last in the war steamer *Minnesota*. Special Ministers to China have also been appointed by the Governments of Great Britain and France.

Whilst our Minister has been instructed to occupy a neutral position in reference to the existing hostilities at Canton, he will cordially coöperate with the British and French Ministers in all peaceful measures to secure, by treaty stipulations, those just concessions to commerce which the nations of the world have a right to expect, and which China cannot long be permitted to withhold. From assurances received, I entertain no doubt that the three Ministers will act in harmonious concert to obtain similar commercial treaties for each of the Powers they represent.

We cannot fail to feel a deep interest in all that concerns the welfare of the independent Republics on our own continent, as well as of the Empire of Brazil.

Our difficulties with New Granada, which a short time since bore so threatening an aspect, are, it is to be hoped, in a fair train of settlement in a manner just and honorable to both parties.

The isthmus of Central America, including that of Panama, is the great highway between the Atlantic and Pacific, over which a large portion of the commerce of the world is destined to pass. The United States are more deeply interested than any other nation in preserving the freedom and security of all the communications across this isthmus. It is our duty, therefore, to take care that they shall not be interrupted either by invasions from our own country or by wars between the independent States of Central America. Under our treaty with New Granada of the 12th December, 1846, we are bound to guaranty the neutrality of the Isthmus of Panama, through which the Panama railroad passes, "as well as the rights of sovereignty and property which New Granada has and possesses over the said territory." This obligation is founded upon equivalents granted by the treaty to the Government and people of the United States.

Under these circumstances, I recommend to Congress the passage of an act authorizing the President, in case of necessity, to employ the land and naval forces of the United States to carry into effect this guarantee of neutrality and protection. I also recommend similar legislation for the security of any other route across the isthmus in which we may acquire an interest by treaty.

With the independent Republics on this continent it is both our duty and our interest to cultivate the most friendly relations. We can never feel indifferent to their fate, and must always rejoice in their prosperity. Unfortunately, both

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for them and for us, our example and advice have lost much of their influence in consequence of the lawless expeditions which have been fitted out against some of them within the limits of our country. Nothing is better calculated to retard our steady material progress, or impair our character as a nation, than the toleration of such enterprises in violation of the law of nations.

It is one of the first and highest duties of any independent State, in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects. The most eminent writers on public law do not hesitate to denounce such hostile acts as robbery and murder.

Weak and feeble States, like those of Central America, may not feel themselves able to assert and vindicate their rights. The case would be far different if expeditions were set on foot within our own territories to make private war against a powerful nation. If such expeditions were fitted out from abroad against any portion of our own country, to burn down our cities, murder and plunder our people, and usurp our Government, we should call any Power on earth to the strictest account for not preventing such enormities.

Ever since the administration of General Washington, acts of Congress have been in force to punish severely the crime of setting on foot a military expedition within the limits of the United States, to proceed from thence against a nation or State with whom we are at peace. The present neutrality act of April 20, 1818, is but little more than a collection of preëxisting laws. Under this act the President is empowered to employ the land and naval forces and the militia "for the purpose of preventing the carrying on of any such expedition or enterprise from the territories and jurisdiction of the United States;" and the collectors of customs are authorized and required to detain any vessel in port when there is reason to believe she is about to take part in such lawless enterprises.

When it was first rendered probable that an attempt would be made to get up another unlawful expedition against Nicaragua, the Secretary of State issued instructions to the marshals and district attorneys, which were directed, by the Secretaries of War and the Navy, to the appropriate Army and Navy officers, requiring them to be vigilant, and to use their best exertions in carrying into effect the provisions of the act of 1818. Notwithstanding these precautions, the expedition has escaped from our shores. Such enterprises can do no possible good to our country, but have already inflicted much injury both on its interests and its character. They have prevented peaceful emigration from the United States to the States of Central America, which could not fail to prove highly beneficial to all the parties concerned. In a pecuniary point of view alone, our citizens have sustained heavy losses from the seizure and closing of the transit route by the San Juan between the two oceans.

The leader of the recent expedition was arrested at New Orleans, but was discharged on giving bail for his appearance in the insufficient sum of two thousand dollars.

I commend the whole subject to the serious attention of Congress, believing that our duty and our interest, as well as our national character, require that we should adopt such measures as will be effectual in restraining our citizens from committing such outrages.

I regret to inform you that the President of Paraguay has refused to ratify the treaty between the United States and that State, as amended by the Senate, the signature of which was mentioned in the message of my predecessor to Congress at the opening of its session in December, 1853. The reasons assigned for this refusal will appear in the correspondence herewith submitted.

It being desirable to ascertain the fitness of the river La Plata and its tributaries for navigation by steam, the United States steamer *Water Witch* was sent thither for that purpose in 1853. This enterprise was successfully carried on until February, 1855, when, whilst in the peaceful prosecution of her voyage up the Parana river, the steamer was fired upon by a Paraguayan fort. The fire was returned; but, as the *Water Witch*

was of small force, and not designed for offensive operations, she retired from the conflict. The pretext upon which the attack was made, was a decree of the President of Paraguay of October, 1854, prohibiting foreign vessels of war from navigating the rivers of that State. As Paraguay, however, was the owner of but one bank of the river of that name, the other belonging to Corrientes, a State of the Argentine Confederation, the right of its Government to expect that such a decree would be obeyed, cannot be acknowledged. But the *Water Witch* was not, properly speaking, a vessel of war. She was a small steamer engaged in a scientific enterprise, intended for the advantage of commercial States generally. Under these circumstances, I am constrained to consider the attack upon her as unjustifiable, and as calling for satisfaction from the Paraguayan Government.

Citizens of the United States, also, who were established in business in Paraguay, have had their property seized and taken from them, and have otherwise been treated by the authorities in an insulting and arbitrary manner, which requires redress.

A demand for these purposes will be made in a firm but conciliatory spirit. This will the more probably be granted, if the Executive shall have authority to use other means in the event of a refusal. This is accordingly recommended.

It is unnecessary to state in detail the alarming condition of the Territory of Kansas at the time of my inauguration. The opposing parties then stood in hostile array against each other, and any accident might have relighted the flames of civil war. Besides, at this critical moment, Kansas was left without a Governor by the resignation of Governor Geary.

On the 19th of February previous, the Territorial Legislature had passed a law providing for the election of delegates, on the third Monday of June, to a convention to meet on the first Monday of September, for the purpose of framing a constitution preparatory to admission into the Union. This law was in the main fair and just; and it is to be regretted that all the qualified electors had not registered themselves and voted under its provisions.

At the time of the election for delegates, an extensive organization existed in the Territory, whose avowed object it was, if need be, to put down the lawful government by force, and to establish a government of their own under the so-called Topeka constitution. The persons attached to this revolutionary organization abstained from taking any part in the election.

The act of the Territorial Legislature had omitted to provide for submitting to the people the constitution which might be framed by the convention; and in the excited state of public feeling throughout Kansas, an apprehension extensively prevailed that a design existed to force upon them a constitution in relation to slavery against their will. In this emergency it became my duty, as it was my unquestionable right, having in view the union of all good citizens in support of the territorial laws, to express an opinion on the true construction of the provisions concerning slavery contained in the organic act of Congress of the 30th May, 1854. Congress declared it to be "the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way." Under it Kansas, "when admitted as a State," was to "be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission."

Did Congress mean by this language that the delegates elected to frame a constitution should have authority finally to decide the question of slavery, or did they intend, by leaving it to the people, that the people of Kansas themselves should decide this question by a direct vote? On this subject, I confess, I had never entertained a serious doubt; and, therefore, in my instructions to Governor Walker, of the 28th of March last, I merely said, that when "a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the

fair expression of the popular will must not be interrupted by fraud or violence."

In expressing this opinion it was far from my intention to interfere with the decision of the people of Kansas, either for or against slavery. From this I have always carefully abstained. Intrusted with the duty of taking "care that the laws be faithfully executed," my only desire was that the people of Kansas should furnish to Congress the evidence required by the organic act, whether for or against slavery; and in this manner smooth their passage into the Union. In emerging from the condition of territorial dependence into that of a sovereign State, it was their duty, in my opinion, to make known their will by the votes of the majority, on the direct question whether this important domestic institution should or should not continue to exist. Indeed, this was the only possible mode in which their will could be authentically ascertained.

The election of delegates to a convention must necessarily take place in separate districts. From this cause it may readily happen, as has often been the case, that a majority of the people of a State or Territory are on one side of a question, whilst a majority of the representatives from the several districts into which it is divided may be upon the other side. This arises from the fact that in some districts delegates may be elected by small majorities, whilst in others those of different sentiments may receive majorities sufficiently great not only to overcome the votes given for the former, but to leave a large majority of the whole people in direct opposition to a majority of the delegates. Besides, our history proves that influences may be brought to bear on the representative sufficiently powerful to induce him to disregard the will of his constituents. The truth is, that no other authentic and satisfactory mode exists of ascertaining the will of a majority of the people of any State or Territory on an important and exciting question like that of slavery in Kansas, except by leaving it to a direct vote. How wise, then, was it for Congress to pass over all subordinate and intermediate agencies, and proceed directly to the source of all legitimate power under our institutions!

How vain would any other principle prove in practice! This may be illustrated by the case of Kansas. Should she be admitted into the Union, with a constitution either maintaining or abolishing slavery, against the sentiment of the people, this could have no other effect than to continue and to exasperate the existing agitation during the brief period required to make the constitution conform to the irresistible will of the majority.

The friends and supporters of the Nebraska and Kansas act, when struggling on a recent occasion to sustain its wise provisions before the great tribunal of the American people, never differed about its true meaning on this subject. Everywhere throughout the Union they publicly pledged their faith and their honor, that they would cheerfully submit the question of slavery to the decision of the *bona fide* people of Kansas, without any restriction or qualification whatever. All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions. Had it then been insinuated from any quarter that it would be a sufficient compliance with the requisitions of the organic law for the members of a convention, thereafter to be elected, to withhold the question of slavery from the people, and to substitute their own will for that of a legally-ascertained majority of all their constituents, this would have been instantly rejected. Everywhere they remained true to the resolution adopted on a celebrated occasion recognizing "the rights of the people of all the Territories—including Kansas and Nebraska—acting through the legally and fairly-expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without slavery, and be admitted into the Union upon terms of perfect equality with the other States."

The convention to frame a constitution for Kansas met on the first Monday of September last. They were called together by virtue of an act of the Territorial Legislature, whose lawful existence had been recognized by Congress in different forms and by different enactments. A large pro-

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portion of the citizens of Kansas did not think proper to register their names and to vote at the election for delegates; but an opportunity to do this having been fairly afforded, their refusal to avail themselves of their right could in no manner affect the legality of the convention.

This convention proceeded to frame a constitution for Kansas, and finally adjourned on the 7th day of November. But little difficulty occurred in the convention except on the subject of slavery. The truth is, that the general provisions of our recent State constitutions are so similar—and, I may add, so excellent—that the difference between them is not essential. Under the earlier practice of the Government, no constitution framed by the convention of a Territory, preparatory to its admission into the Union as a State, had been submitted to the people. I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota "should be subject to the approval and ratification of the people of the proposed State," may be followed on future occasions. I took it for granted that the convention of Kansas would act in accordance with this example, founded, as it is, on correct principles; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms.

In the Kansas-Nebraska act, however, this requirement, as applicable to the whole constitution, had not been inserted, and the convention were not bound by its terms to submit any other portion of the instrument to an election, except that which relates to the "domestic institution" of slavery. This will be rendered clear by a simple reference to its language. It was "not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way." According to the plain construction of the sentence, the words "domestic institutions" have a direct, as they have an appropriate, reference to slavery. "Domestic institutions" are limited to the family. The relation between master and slave and a few others are "domestic institutions," and are entirely distinct from institutions of a political character. Besides, there was no question then before Congress, nor indeed has there since been any serious question before the people of Kansas or the country, except that which relates to the "domestic institution" of slavery.

The convention, after an angry and excited debate, finally determined, by a majority of only two, to submit the question of slavery to the people, though, at the last, forty-three of the fifty delegates present affixed their signatures to the constitution.

A large majority of the convention were in favor of establishing slavery in Kansas. They accordingly inserted an article in the constitution for this purpose, similar in form to those which had been adopted by other territorial conventions. In the schedule, however, providing for the transition from a territorial to a State government, the question has been fairly and explicitly referred to the people, whether they will have a constitution "with or without slavery." It declares that, before the constitution adopted by the convention "shall be sent to Congress for admission into the Union as a State," an election shall be held to decide this question, at which all the white male inhabitants of the Territory above the age of twenty-one are entitled to vote. They are to vote by ballot; and "the ballots cast at said election shall be indorsed 'constitution with slavery,' and 'constitution with no slavery.'" If there be a majority in favor of the "constitution with slavery," then it is to be transmitted to Congress by the president of the convention in its original form. If, on the contrary, there shall be a majority in favor of the "constitution with no slavery," "then the article providing for slavery shall be stricken from the constitution by the president of this convention;" and it is expressly declared that "no slavery shall exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with;" and in that event it is made his duty to have the constitution thus ratified transmitted to the Congress of the United States for the admission of the State into the Union.

At this election every citizen will have an opportunity of expressing his opinion by his vote "whether Kansas shall be received into the Union with or without slavery," and thus this exciting question may be peacefully settled in the very mode required by the organic law. The election will be held under legitimate authority; and if any portion of the inhabitants shall refuse to vote, a fair opportunity to do so having been presented, this will be their own voluntary act, and they alone will be responsible for the consequences.

Whether Kansas shall be a free or a slave State must eventually, under some authority, be decided by an election; and the question can never be more clearly or distinctly presented to the people than it is at the present moment. Should this opportunity be rejected, she may be involved for years in domestic discord, and possibly in civil war, before she can again make up the issue now so fortunately tendered, and again reach the point she has already attained.

Kansas has for some years occupied too much of the public attention. It is high time this should be directed to far more important objects. When once admitted into the Union, whether with or without slavery, the excitement beyond her own limits will speedily pass away, and she will then for the first time be left, as she ought to have been long since, to manage her own affairs in her own way. If her constitution on the subject of slavery, or on any other subject, be displeasing to a majority of the people, no human power can prevent them from changing it within a brief period. Under these circumstances it may well be questioned whether the peace and quiet of the whole country are not of greater importance than the mere temporary triumph of either of the political parties in Kansas.

Should the constitution without slavery be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved. The number of these is very small; but if it were greater the provision would be equally just and reasonable. These slaves were brought into the Territory under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country—and this upon the plain principle that when a confederacy of sovereign States acquire a new territory at their joint expense, both equality and justice demand that the citizens of one and all of them shall have the right to take into it whatsoever is recognized as property by the common constitution. To have summarily confiscated the property in slaves already in the Territory, would have been an act of gross injustice, and contrary to the practice of the older States of the Union which have abolished slavery.

A territorial government was established for Utah by act of Congress, approved the 9th September, 1850, and the Constitution and laws of the United States were thereby extended over it "so far as the same, or any provisions thereof, may be applicable." This act provided for the appointment by the President, by and with the advice and consent of the Senate, of a Governor, who was to be *ex officio* superintendent of Indian affairs, a secretary, three judges of the supreme court, a marshal, and a district attorney. Subsequent acts provided for the appointment of the officers necessary to extend our land and our Indian system over the Territory. Brigham Young was appointed the first Governor on the 20th September, 1850, and has held the office ever since. Whilst Governor Young has been both Governor and superintendent of Indian affairs throughout this period, he has been at the same time the head of the church called the Latter-Day Saints, and professes to govern its members and dispose of their property by direct inspiration and authority from the Almighty. His power has been, therefore, absolute over both Church and State.

The people of Utah, almost exclusively, belong to this church; and believing with a fanatical spirit that he is Governor of the Territory by Divine appointment, they obey his commands as if these were direct revelations from Heaven. If, therefore, he chooses that his government shall come into collision with the Government of the United States, the members of the Mormon church will yield implicit obedience to his will. Unfortunately,

existing facts leave but little doubt that such is his determination. Without entering upon a minute history of occurrences, it is sufficient to say that all the officers of the United States, judicial and executive, with the single exception of two Indian agents, have found it necessary for their own personal safety to withdraw from the Territory, and there no longer remains any government in Utah but the despotism of Brigham Young. This being the condition of affairs in the Territory, I could not mistake the path of duty. As Chief Executive Magistrate, I was bound to restore the supremacy of the Constitution and laws within its limits. In order to effect this purpose I appointed a new Governor and other Federal officers for Utah, and sent with them a military force for their protection, and to aid as a *posse comitatus*, in case of need, in the execution of the laws.

With the religious opinions of the Mormons, as long as they remained mere opinions, however deplorable in themselves and revolting to the moral and religious sentiments of all Christendom, I had no right to interfere. Actions alone, when in violation of the Constitution and laws of the United States, become the legitimate subjects for the jurisdiction of the civil magistrate. My instructions to Governor Cumming have therefore been framed in strict accordance with these principles. At their date a hope was indulged that no necessity might exist for employing the military in restoring and maintaining the authority of the law, but this hope has now vanished. Governor Young has, by proclamation, declared his determination to maintain his power by force, and has already committed acts of hostility against the United States. Unless he should retrace his steps, the Territory of Utah will be in a state of open rebellion. He has committed these acts of hostility, notwithstanding Major Van Vliet, an officer of the army, sent to Utah by the commanding general to purchase provisions for the troops, had given him the strongest assurances of the peaceful intentions of the Government, and that the troops would only be employed as a *posse comitatus* when called on by the civil authority to aid in the execution of the laws.

There is reason to believe that Governor Young has long contemplated this result. He knows that the continuance of his despotic power depends upon the exclusion of all settlers from the Territory except those who will acknowledge his divine mission and implicitly obey his will; and that an enlightened public opinion there would soon prostrate institutions at war with the laws both of God and man. He has, therefore, for several years, in order to maintain his independence, been industriously employed in collecting and fabricating arms and munitions of war, and in disciplining the Mormons for military service. As superintendent of Indian affairs he has had an opportunity of tampering with the Indian tribes, and exciting their hostile feelings against the United States. This, according to our information, he has accomplished in regard to some of these tribes, while others have remained true to their allegiance, and have communicated his intrigues to our Indian agents. He has laid in a store of provisions for three years, which, in case of necessity, as he informed Major Van Vliet, he will conceal, "and then take to the mountains, and bid defiance to all the powers of the Government."

A great part of all this may be idle boasting; but yet no wise Government will lightly estimate the efforts which may be inspired by such frenzied fanaticism as exists among the Mormons in Utah. This is the first rebellion which has existed in our Territories; and humanity itself requires that we should put it down in such a manner that it shall be the last. To trifle with it would be to encourage it and to render it formidable. We ought to go there with such an imposing force as to convince these deluded people that resistance would be vain, and thus spare the effusion of blood. We can in this manner best convince them that we are their friends, not their enemies. In order to accomplish this object it will be necessary, according to the estimate of the War Department, to raise four additional regiments; and this I earnestly recommend to Congress. At the present moment of depression in the revenues of

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the country I am sorry to be obliged to recommend such a measure; but I feel confident of the support of Congress, cost what it may, in suppressing the insurrection, and in restoring and maintaining the sovereignty of the Constitution and laws over the Territory of Utah.

I recommend to Congress the establishment of a territorial government over Arizona, incorporating with it such portions of New Mexico as they may deem expedient. I need scarcely adduce arguments in support of this recommendation. We are bound to protect the lives and the property of our citizens inhabiting Arizona, and these are now without any efficient protection. Their present number is already considerable, and is rapidly increasing, notwithstanding the disadvantages under which they labor. Besides, the proposed Territory is believed to be rich in mineral and agricultural resources, especially in silver and copper. The mails of the United States to California are now carried over it throughout its whole extent, and this route is known to be the nearest, and believed to be the best to the Pacific.

Long experience has deeply convinced me that a strict construction of the powers granted to Congress is the only true, as well as the only safe, theory of the Constitution. Whilst this principle shall guide my public conduct, I consider it clear that under the war-making power, Congress may appropriate money for the construction of a military road through the Territories of the United States, when this is absolutely necessary for the defense of any of the States against foreign invasion. The Constitution has conferred upon Congress power "to declare war," "to raise and support armies," "to provide and maintain a navy," and "to call forth the militia to repel invasions." These high sovereign powers necessarily involve important and responsible public duties, and among them there is none so sacred and so imperative as that of preserving our soil from the invasion of a foreign enemy. The Constitution has, therefore, left nothing on this point to construction, but expressly requires that "the United States shall protect each of them [the States] against invasion." Now, if a military road over our own Territories be indispensably necessary to enable us to meet and repel the invader, it follows, as a necessary consequence, not only that we possess the power, but it is our imperative duty to construct such a road. It would be an absurdity to invest a Government with the unlimited power to make and conduct war, and at the same time deny to it the only means of reaching and defeating the enemy at the frontier. Without such a road it is quite evident we cannot "protect" California and our Pacific possessions "against invasion." We cannot by any other means transport men and munitions of war from the Atlantic States in sufficient time successfully to defend these remote and distant portions of the Republic.

Experience has proved that the routes across the isthmus of Central America are at best but a very uncertain and unreliable mode of communication. But even if this were not the case, they would at once be closed against us in the event of war with a naval Power so much stronger than our own as to enable it to blockade the ports at either end of these routes. After all, therefore, we can only rely upon a military road through our own Territories; and ever since the origin of the Government Congress has been in the practice of appropriating money from the public Treasury for the construction of such roads.

The difficulties and the expense of constructing a military railroad to connect our Atlantic and Pacific States have been greatly exaggerated. The distance on the Arizona route, near the thirty-second parallel of north latitude, between the western boundary of Texas on the Rio Grande, and the eastern boundary of California on the Colorado, from the best explorations now within our knowledge, does not exceed four hundred and seventy miles, and the face of the country is, in the main, favorable. For obvious reasons, the Government ought not to undertake the work itself, by means of its own agents. This ought to be committed to other agencies, which Congress might assist, either by grants of land or money, or by both, upon such terms and condi-

tions as they may deem most beneficial for the country. Provision might thus be made not only for the safe, rapid, and economical transportation of troops and munitions of war, but also of the public mails. The commercial interests of the whole country, both East and West, would be greatly promoted by such a road; and, above all, it would be a powerful additional bond of union. And although advantages of this kind, whether postal, commercial, or political, cannot confer constitutional power, yet they may furnish auxiliary arguments in favor of expediting a work which, in my judgment, is clearly embraced within the war-making power.

For these reasons I commend to the friendly consideration of Congress the subject of the Pacific railroad, without finally committing myself to any particular route.

The report of the Secretary of the Treasury will furnish a detailed statement of the condition of the public finances and of the respective branches of the public service devolved upon that Department of the Government. By this report it appears that the amount of revenue received from all sources into the Treasury during the fiscal year ending the 30th June, 1857, was sixty-eight million six hundred and thirty-one thousand five hundred and thirteen dollars and sixty-seven cents, (\$68,631,513 67,) which amount, with the balance of nineteen million nine hundred and one thousand three hundred and twenty-five dollars and forty-five cents, (\$19,901,325 45,) remaining in the Treasury at the commencement of the year, made an aggregate for the service of the year of eighty-eight million five hundred and thirty-two thousand eight hundred and thirty-nine dollars and twelve cents, (\$88,532,839 12.)

The public expenditures for the fiscal year ending 30th June, 1857, amounted to seventy million eight hundred and twenty-two thousand seven hundred and twenty-four dollars and eighty-five cents, (\$70,822,724 85,) of which five million nine hundred and forty-three thousand eight hundred and ninety-six dollars and ninety-one cents (\$5,943,896 91) were applied to the redemption of the public debt, including interest and premium, leaving in the Treasury, at the commencement of the present fiscal year on the 1st of July, 1857, seventeen million seven hundred and ten thousand one hundred and fourteen dollars and twenty-seven cents, (\$17,710,114 27.)

The receipts into the Treasury for the first quarter of the present fiscal year, commencing 1st of July, 1857, were twenty million nine hundred and twenty-nine thousand eight hundred and nineteen dollars and eighty-one cents, (\$20,929,819 81,) and the estimated receipts of the remaining three quarters to the 30th of June, 1858, are thirty-six million seven hundred and fifty thousand dollars, (\$36,750,000,) making, with the balance before stated, an aggregate of seventy-five million three hundred and eighty-nine thousand nine hundred and thirty-four dollars and eight cents, (\$75,389,934 08,) for the service of the present fiscal year.

The actual expenditures during the first quarter of the present fiscal year were twenty-three million seven hundred and fourteen thousand five hundred and twenty-eight dollars and thirty-seven cents, (\$23,714,528 37) of which three million eight hundred and ninety-five thousand two hundred and thirty-two dollars and thirty-nine cents (\$3,895,232 39) were applied to the redemption of the public debt, including interest and premium. The probable expenditures of the remaining three quarters, to 30th June, 1858, are fifty-one million two hundred and forty-eight thousand five hundred and thirty dollars and four cents, (\$51,248,530 04,) including interest on the public debt, making an aggregate of seventy-four million nine hundred and sixty-three thousand and fifty-eight dollars and forty-one cents, (\$74,963,058 41,) leaving an estimated balance in the Treasury at the close of the present fiscal year of four hundred and twenty-six thousand eight hundred and seventy-five dollars and sixty-seven cents, (\$426,875 67.)

The amount of the public debt at the commencement of the present fiscal year was twenty-nine million sixty thousand three hundred and eighty-six dollars and ninety cents, (\$29,060,386 90.)

The amount redeemed since the 1st of July

was three million eight hundred and ninety-five thousand two hundred and thirty-two dollars and thirty-nine cents, (\$3,895,232 39,) leaving a balance unredeemed at this time of twenty-five million one hundred and sixty-five thousand one hundred and fifty-four dollars and fifty-one cents, (\$25,165,154 51.)

The amount of estimated expenditures for the remaining three quarters of the present fiscal year will, in all probability, be increased from the causes set forth in the report of the Secretary. His suggestion, therefore, that authority should be given to supply any temporary deficiency by the issue of a limited amount of Treasury notes, is approved, and I accordingly recommend the passage of such a law.

As stated in the report of the Secretary, the tariff of March 3, 1857, has been in operation for so short a period of time, and under circumstances so unfavorable to a just development of its results as a revenue measure, that I should regard it as inexpedient, at least for the present, to undertake its revision.

I transmit herewith the reports made to me by the Secretaries of War and of the Navy, of the Interior and of the Postmaster General. They all contain valuable and important information, and suggestions which I commend to the favorable consideration of Congress.

I have already recommended the raising of four additional regiments, and the report of the Secretary of War presents strong reasons proving this increase of the Army, under existing circumstances, to be indispensable.

I would call the special attention of Congress to the recommendation of the Secretary of the Navy in favor of the construction of ten small war steamers of light draught. For some years the Government has been obliged on many occasions to hire such steamers from individuals to supply its pressing wants. At the present moment we have no armed vessel in the Navy which can penetrate the rivers of China. We have but few which can enter any of the harbors south of Norfolk, although many millions of foreign and domestic commerce annually pass in and out of these harbors. Some of our most valuable interests and most vulnerable points are thus left exposed. This class of vessels of light draught, great speed, and heavy guns, would be formidable in coast defense. The cost of their construction will not be great, and they will require but a comparatively small expenditure to keep them in commission. In time of peace they will prove as effective as much larger vessels, and often more useful. One of them should be at every station where we maintain a squadron, and three or four should be constantly employed on our Atlantic and Pacific coasts. Economy, utility, and efficiency, combine to recommend them as almost indispensable. Ten of these small vessels would be of incalculable advantage to the naval service, and the whole cost of their construction would not exceed \$2,300,000, or \$230,000 each.

The report of the Secretary of the Interior is worthy of grave consideration. It treats of the numerous, important, and diversified branches of domestic administration intrusted to him by law. Among these the most prominent are the public lands and our relations with the Indians.

Our system for the disposal of the public lands, originating with the fathers of the Republic, has been improved as experience pointed the way, and gradually adapted to the growth and settlement of our western States and Territories. It has worked well in practice. Already thirteen States and seven Territories have been carved out of these lands, and still more than a thousand millions of acres remain unsold. What a boundless prospect this presents to our country of future prosperity and power!

We have heretofore disposed of 363,862,464 acres of the public land.

Whilst the public lands as a source of revenue are of great importance, their importance is far greater as furnishing homes for a hardy and independent race of honest and industrious citizens, who desire to subdue and cultivate the soil. They ought to be administered mainly with a view of promoting this wise and benevolent policy. In appropriating them for any other purpose, we ought to use even greater economy

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than if they had been converted into money, and the proceeds were already in the public Treasury. To squander away this richest and noblest inheritance, which any people have ever enjoyed, upon objects of doubtful constitutionality or expediency, would be to violate one of the most important trusts ever committed to any people. Whilst I do not deny to Congress the power, when acting *bona fide* as a proprietor, to give away portions of them for the purpose of increasing the value of the remainder, yet, considering the great temptation to abuse this power, we cannot be too cautious in its exercise.

Actual settlers under existing laws are protected against other purchasers at public sales, in their right of preemption, to the extent of a quarter section, or one hundred and sixty acres of land. The remainder may then be disposed of at public, or entered at private, sale in unlimited quantities.

Speculation has of late years prevailed to a great extent in the public lands. The consequence has been that large portions of them have become the property of individuals and companies, and thus the price is greatly enhanced to those who desire to purchase for actual settlement. In order to limit the area of speculation as much as possible, the extinction of the Indian title and the extension of the public surveys ought only to keep pace with the tide of emigration.

If Congress should hereafter grant alternate sections to States or companies, as they have done heretofore, I recommend that the intermediate sections retained by the Government be subject to preemption by actual settlers.

It ought ever to be our cardinal policy to reserve the public lands as much as may be for actual settlers, and this at moderate prices. We shall thus not only best promote the prosperity of the new States and Territories, and the power of the Union, but shall secure homes for our posterity for many generations.

The extension of our limits has brought within our jurisdiction many additional and populous tribes of Indians, a large proportion of which are wild, untractable, and difficult to control. Predatory and warlike in their disposition and habits, it is impossible altogether to restrain them from committing aggressions on each other, as well as upon our frontier citizens and those emigrating to our distant States and Territories. Hence expensive military expeditions are frequently necessary to overawe and chastise the more lawless and hostile.

The present system of making them valuable presents to influence them to remain at peace has proved ineffectual. It is believed to be the better policy to colonize them in suitable localities, where they can receive the rudiments of education and be gradually induced to adopt habits of industry. So far as the experiment has been tried it has worked well in practice, and it will doubtless prove to be less expensive than the present system.

The whole number of Indians within our territorial limits is believed to be; from the best data in the Interior Department, about three hundred and twenty-five thousand.

The tribes of Cherokees, Choctaws, Chickasaws, and Creeks, settled in the territory set apart for them west of Arkansas, are rapidly advancing in education and in all the arts of civilization and self-government; and we may indulge the agreeable anticipation that at no very distant day they will be incorporated into the Union as one of the sovereign States.

It will be seen, from the report of the Postmaster General, that the Post Office Department still continues to depend on the Treasury, as it has been compelled to do for several years past, for an important portion of the means of sustaining and extending its operations. Their rapid growth and expansion are shown by a decennial statement of the number of post offices, and the length of post roads, commencing with the year 1827. In that year there were 7,000 post offices; in 1837, 11,177; in 1847, 15,146; and in 1857 they number 26,586. In this year 1,725 post offices have been established and 704 discontinued, leaving a net increase of 1,021. The postmasters of 368 offices are appointed by the President.

The length of post roads, in 1827, was 105,336 miles; in 1837, 141,242 miles; in 1847, 153,818 miles; and in the year 1857 there are 242,601

miles of post road, including 22,530 miles of railroad, on which the mails are transported.

The expenditures of the Department for the fiscal year ending on the 30th June, 1857, as adjusted by the Auditor, amounted to \$11,507,670. To defray these expenditures there was, to the credit of the Department, on the 1st July, 1856, the sum of \$789,599; the gross revenue of the year, including the annual allowances for the transportation of free mail matter, produced \$8,053,951; and the remainder was supplied by the appropriation from the Treasury of \$2,250,000, granted by the act of Congress approved August 18, 1856, and by the appropriation of \$666,883 made by the act of March 3, 1857, leaving \$252,763 to be carried to the credit of the Department in the accounts of the current year. I commend to your consideration the report of the Department in relation to the establishment of the overland mail route from the Mississippi river to San Francisco, California. The route was selected with my full concurrence, as the one, in my judgment, best calculated to attain the important objects contemplated by Congress.

The late disastrous monetary revulsion may have one good effect should it cause both the Government and the people to return to the practice of a wise and judicious economy, both in public and private expenditures.

An overflowing Treasury has led to habits of prodigality and extravagance in our legislation. It has induced Congress to make large appropriations to objects for which they never would have provided had it been necessary to raise the amount of revenue required to meet them by increased taxation or by loans. We are now compelled to pause in our career, and to scrutinize our expenditures with the utmost vigilance; and, in performing this duty, I pledge my cooperation to the extent of my constitutional competency.

It ought to be observed, at the same time, that true public economy does not consist in withholding the means necessary to accomplish important national objects intrusted to us by the Constitution, and especially such as may be necessary for the common defense. In the present crisis of the country it is our duty to confine our appropriations to objects of this character, unless in cases where justice to individuals may demand a different course. In all cases care ought to be taken that the money granted by Congress shall be faithfully and economically applied.

Under the Federal Constitution, "every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law," be approved and signed by the President; and, if not approved, "he shall return it, with his objections, to that House in which it originated." In order to perform this high and responsible duty, sufficient time must be allowed the President to read and examine every bill presented to him for approval. Unless this be afforded, the Constitution becomes a dead letter in this particular; and even worse—it becomes a means of deception. Our constituents, seeing the President's approval and signature attached to each act of Congress, are induced to believe that he has actually performed this duty, when, in truth, nothing is, in many cases, more unfounded.

From the practice of Congress, such an examination of each bill as the Constitution requires has been rendered impossible. The most important business of each session is generally crowded into its last hours, and the alternative presented to the President is either to violate the constitutional duty which he owes to the people, and approve bills which, for want of time, it is impossible he should have examined, or, by his refusal to do this, subject the country and individuals to great loss and inconvenience.

Besides, a practice has grown up of late years to legislate in appropriation bills, at the last hours of the session, on new and important subjects. This practice constrains the President to suffer measures to become laws which he does not approve, or to incur the risk of stopping the wheels of the Government by vetoing an appropriation bill. Formerly, such bills were confined to specific appropriations for carrying into effect existing laws and the well-established policy of the country, and little time was then required by the President for their examination.

For my own part, I have deliberately determined that I shall approve no bill which I have not examined; and it will be a case of extreme and most urgent necessity which shall ever induce me to depart from this rule. I therefore respectfully, but earnestly, recommend that the two Houses would allow the President at least two days previous to the adjournment of each session within which no new bill shall be presented to him for approval. Under the existing joint rule, one day is allowed; but this rule has been hitherto so constantly suspended in practice, that important bills continue to be presented to him up till the very last moments of the session. In a large majority of cases, no great public inconvenience can arise from the want of time to examine their provisions, because the Constitution has declared that if a bill be presented to the President within the last ten days of the session, he is not required to return it, either with an approval or with a veto, "in which case it shall not be a law." It may then lie over, and be taken up and passed at the next session. Great inconvenience would only be experienced in regard to appropriation bills; but fortunately, under the late excellent law allowing a salary, instead of a per diem, to members of Congress, the expense and inconvenience of a called session will be greatly reduced.

I cannot conclude without commending to your favorable consideration the interests of the people of this District. Without a representative on the floor of Congress, they have for this very reason peculiar claims upon our just regard. To this I know, from my long acquaintance with them, they are eminently entitled.

JAMES BUCHANAN.

WASHINGTON, December 8, 1857.

Report of the Secretary of the Treasury.

TREASURY DEPARTMENT,
December 8, 1857.

SIR: In compliance with the act of Congress entitled "An act supplementary to an act to establish the Treasury Department," approved May 10, 1800, I have the honor to submit the following report:

On the 1st July, 1856, being the commencement of the fiscal year 1857, the balance in the Treasury was, \$19,901,325 45

The receipts into the Treasury during the fiscal year 1857 were \$68,631,513 67, as follows:

For the quarter ending September 30, 1856:	
From customs	\$20,677,740 40
From public lands	892,380 39
From miscellaneous sources,	355,310 57
	21,925,431 36

For the quarter ending December 31, 1856:	
From customs	\$14,243,414 90
From public lands	808,252 86
From miscellaneous sources,	123,999 59
	15,175,667 35

For the quarter ending March 31, 1857:	
From customs	\$19,055,328 55
From public lands	1,065,640 11
From miscellaneous sources,	274,054 90
	20,395,023 56

For the quarter ending June 30, 1857:	
From customs	\$9,899,421 20
From public lands	1,063,213 28
From miscellaneous sources,	172,756 92
	11,135,391 40

The aggregate means, therefore, for the service of the fiscal year ending June 30, 1857, were..... \$68,632,830 12

The expenditures during the fiscal year ending June 30, 1857, were \$70,822,724 85.

Being for the quarter ending September 30, 1856.....	\$18,675,113 21
Being for the quarter ending December 31, 1856.....	17,940,877 90
Being for the quarter ending March 31, 1857,	17,245,932 68
Being for the quarter ending June 30, 1857,	16,960,801 06
	\$70,822,724 85

which was applied to the several branches of the public service as follows:

Civil, foreign intercourse, and miscellaneous.....	\$27,531,922 37
Service in charge of Interior Department,	5,358,274 72
Service in charge of War Department.....	19,261,774 16
Service in charge of Navy Department.....	12,726,856 69
Purchase of public debt, principal, premium, and interest.....	5,943,896 91
	\$70,822,724 85

as shown in detail by statement No. 1.

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Deducting the expenditures from the aggregate means during the fiscal year, a balance was left in the Treasury on July 1, 1857, of.....	\$17,710,114 27
During the first quarter of the current fiscal year 1858, being from July 1, 1857, to September 30, 1857, the receipts into the Treasury were:	
From customs.....	\$18,573,729 37
From public lands.....	2,059,449 39
From miscellaneous sources.....	296,641 05
	20,929,819 81
The estimated receipts during the three remaining quarters of the current fiscal year to June 30, 1858, are:	
From customs.....	\$33,000,000 00
From public lands.....	3,000,000 00
From miscellaneous sources.....	750,000 00
	36,750,000 00
Making an estimated aggregate of means for the service of the current year.....	\$75,389,934 08

An exposition of the grounds on which this amount of revenue from customs during these three quarters has been estimated, is given in a subsequent part of this report.

The expenditures of the first quarter, ending September 30, 1857, of the current fiscal year, were \$23,714,258 37; being for—

Civil, foreign intercourse, and miscellaneous services.....	\$7,315,789 00
Service in charge of Interior Department....	3,240,098 99
Service in charge of War Department.....	7,290,950 83
Service in charge of Navy Department.....	3,915,906 99
Purchase of the public debt, principal, premium, and interest.....	1,951,782 56
	\$23,714,528 37

(See Statement No. 2.)

The estimated expenditures during the three remaining quarters of the current fiscal year to June 30, 1858, are.....	51,948,530 04
	\$74,963,058 41

Leaving an estimated balance in the Treasury on July 1, 1858, which will, of course, be affected by any reduction or increase of expenditure, not contemplated, of \$426,875 67.

Estimates for the fiscal year, from July 1, 1858, to June 30, 1859.

Estimated balance in the Treasury on July 1, 1858.....	\$426,875 67
Estimate of receipts from customs for the year ending June 30, 1859.....	69,500,000 00
Estimated receipts from the sales of the public lands.....	5,000,000 00
Estimated receipts from miscellaneous sources.....	1,000,000 00

Aggregate of means for the service of the fiscal year to June 30, 1859, as estimated..	\$75,926,875 67
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The expenditures are estimated as follows:

Balance of existing appropriations for the service of the present fiscal year, which may be applied to the service of the year ending June 30, 1859.....	\$16,586,588 35
Amount of indefinite and permanent appropriations.....	7,165,224 49
Estimated appropriations proposed to be made for the service of the fiscal year from July 1, 1858, to June 30, 1859, as detailed in the printed estimates.....	50,312,943 13

Aggregate estimated expenditures for the service of the fiscal year to June 30, 1859.....	\$74,064,755 97
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Leaving an estimated balance in the Treasury on July 1, 1859, of \$1,862,119 70.

It is difficult at all times to estimate in advance the probable receipts into the Treasury for the next one and two years. Our revenue being derived principally from duties on imported merchandise entered at the custom-houses for consumption, the amount is necessarily dependent, not only upon all those causes which affect trade and commerce, but on such as control the inclinations and ability of the people in the purchase of such merchandise for consumption.

Ordinarily an approximation can be made to the probable result, provided no unlooked-for cause shall intervene to disturb the usual course of trade and consumption.

The events of the present fiscal year furnish a striking illustration of the uncertainty of all such estimates from the operation of unforeseen causes which exert a controlling influence over the revenue from customs.

When the estimates for the present fiscal year were made to the last Congress by my predecessor, it was impossible to foresee either the material change in the rates of duty, which were among its last acts, or the present revulsion in

trade and commerce, both which have deeply affected the revenue, and satisfactorily account for the difference between his estimates and those now submitted. With these two disturbing causes now in view, it is very difficult to form satisfactory estimates of the probable receipts from customs. The tariff act of March 3, 1857, has not been in operation long enough to test its effects upon the revenue, even under ordinary circumstances. Simultaneous with this act going into operation, the country is subjected to a disastrous revulsion. To what extent importations would have been affected by it, had there been no revulsion in trade and commerce, is now as much a matter of conjecture as it was before the passage of the act. Experience has thrown no light on the subject. The probability is that it would, to a limited extent, have increased importations, though not to the extent of supplying the deficiency created by the reduction of the duties.

In submitting to Congress, under these circumstances, estimates of the receipts for the present and the next fiscal year, it is deemed proper to accompany them with a statement of facts and principles upon which they have been made, in order that Congress may pass its own judgment upon the credit to which they are entitled.

The exports and imports of the United States have always borne a relative proportion, the respective amounts not often differing materially from each other. Both have steadily increased, with occasional exceptions, with the growth and progress of the country. In seeking, therefore, to ascertain the probable importations into the country, the amount of our probable exports constitutes an important element in the calculation. The exports for the year ending June 30, 1857, amounted to \$362,949,144, and the imports for the same period were \$360,890,141. The amount of our exports depends not only on the quantity, but the value of the articles exported. The quantity of some and the value of others may be considerably diminished, and yet the deficiency thus created may be supplied by either the increased quantity or value of other articles. It is probable that this very state of things may occur during the present fiscal year. The indications at present are, that the exports of breadstuffs and provisions will decrease both in quantity and value; but the increased value of cotton, at its probable prices, which constitutes much the largest item of our exports, would make up such deficiency. From the best information which can be obtained, the opinion is entertained that the exports for the present fiscal year will not fall below those of last year more than ten per centum.

Looking to the importations for the last ten years, it may be safely stated that the ratio of annual increase has not been less than ten per centum; though, within that period, there were two years in which there was a falling off. This was attributable, doubtless, to temporary causes which do not affect the general proposition.

The foreign merchandise subject to duty imported during the first quarter, ending 30th September last, of the present fiscal year, by the statement marked 3, amounted to \$88,819,385; and the customs received during that quarter were, as stated in the estimates, \$18,573,729 37. The tariff of the 3d March last having gone into operation on the first day of that quarter, the circumstances under which a considerable portion of that amount was realized were so exceptional as to form no satisfactory guide for the remaining three quarters of the present fiscal year; and it becomes an important consideration, in view of the probable means in the Treasury to meet existing appropriations, to approximate the amount of merchandise subject to duty which will be entered for consumption during that period.

In making the estimates herewith submitted, the amount of merchandise subject to duty imported during the corresponding three quarters of the last fiscal year were taken, being \$210,000,000, to which ten per centum was added for the annual increase, had there been no disturbing causes—giving for the amount of merchandise paying duty, under the then existing tariff of 1846, an aggregate of \$231,000,000.

The inquiry now presents itself—to what extent will this approximated amount of merchan-

dise paying duty be diminished by the revulsion which has come upon the country?

An answer to this inquiry constitutes the most serious difficulty in the way of making an estimate of the receipts into the Treasury from customs. Looking, however, to our probable exports, the great resources of our country, its unexampled prosperity in many branches of industry, its capacity to recover from temporary pressure in its trade and business, the opinion is expressed, with some confidence, that the reduction from this cause will not exceed twenty-five per centum. This would bring the amount of merchandise paying duties down to about one hundred and seventy-four millions for the remaining three quarters of the present fiscal year. For several years the average rate of duty upon all dutiable merchandise, by the tariff of 1846, appears to have been within a fraction of twenty-five per centum, which would produce on that amount \$43,000,000.

The next point of inquiry is—how much will this sum be diminished by the reduced rates provided by the act of March 3, 1857?

From the calculations made of duties under that act upon the importations of the last fiscal year, compared with the amount of duty actually realized under the tariff of 1846, it appears that about one quarter should be deducted for the effect of the tariff of 1857. Ten million dollars have, therefore, been deducted on that account, making the probable receipts from customs, during the remaining three quarters of the present fiscal year, thirty-three millions, which has accordingly been placed in the estimates.

It will, of course, be understood that the returns of dutiable merchandise, from which these inferences are drawn, are of merchandise imported, while the customs revenue is exclusively derived from merchandise entered for consumption. In these estimates the amount of merchandise imported is supposed to equal the amount entered for consumption. In periods of commercial difficulty, like the present, the amount of merchandise imported and placed in warehouse without payment of duty will, no doubt, exceed the amount entered for consumption; but such excess is generally temporary, and is soon obviated by diminished importations and increased withdrawals for consumption, which restores the equilibrium without giving occasion for the discussion of such details in any general statement of the revenue.

The receipts from customs for the next fiscal year, from July 1, 1858, to June 30, 1859, will depend, in a great measure, upon the extent to which commercial and monetary transactions shall have returned to their ordinary channels. It is probable that the immediate effects of the present revulsion in trade will have ceased by that time, and that the usual amount of dutiable merchandise will be required for consumption. The estimate submitted is based on the amount of three hundred and seventy millions of dutiable merchandise, being the amount assumed for the present fiscal year with the usual increase, and without any deduction for the effects of the present revulsion. Upon this amount the customs, under the act of 1846, with the deduction heretofore explained for the effect of the tariff of 3d March last, would produce about sixty-nine and one half million dollars.

The annual estimates in detail, as prepared by the Register of the Treasury, are presented separately by this Department. These estimated expenditures are divided into three classes.

1. Balances of unexpended appropriations which may, and probably will, be required by the respective Departments in the course of the next fiscal year.

2. Expenditures under indefinite and permanent appropriations. In this class was placed the standing appropriation made by the joint resolution of February 14, 1850, of \$2,450,000 for expenses of collecting the customs. It is proposed to change this permanent appropriation for annual appropriations of increased amounts, for reasons set forth in another part of this report. In the mean time, as the proposition has not been sanctioned by Congress, the estimate remains in this class.

3. In the third class are comprised the estimates

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submitted by direction of the several Executive Departments, as necessary to be appropriated to carry on the several branches of the public service in their charge for the next fiscal year. These three classes comprehend the estimated expenditures for the fiscal year ending June 30, 1859, as set forth in this report. Neither these estimates, nor those for the remainder of the present fiscal year, include any provision for deficiencies, or other objects which the several Departments may ask for during the present session, nor for any expenditure whatever, which may arise out of the original action of Congress during the session. To meet such additional expenditures as may be required from these sources, further means must be provided.

The efficiency of the public service, as well as the security of the public credit, requires that this Department shall be provided with means to meet lawful demands without delay. During the remainder of the present fiscal year, it is estimated, as before stated, that sufficient revenue will be received in the course of the year to meet the ordinary outstanding appropriations. But the great bulk of the revenue being derived from duties on merchandise payable only when it is entered for consumption, the period when such duties will be realized is entirely uncertain, being left by law to the option of the importers during three years. The present revulsion has caused a very large portion of the dutiable merchandise imported since it commenced to be warehoused without payment of duty. To what extent this practice will be pursued during the present fiscal year is too much a matter of conjecture at present to risk the public service and the public credit upon the probability of an immediate change in this respect. It may be safely estimated that, in the course of the present fiscal year, a large portion of the merchandise now in warehouse will be withdrawn and duties paid thereon; but, in the mean time, adequate means for meeting lawful demands on the Treasury should be provided.

Such provision should be made at the earliest practicable period, as a failure of sufficient means in the Treasury may occur at an early day. The exigency being regarded as temporary, the mode of providing for it should be of a temporary character. It is, therefore, recommended that authority be given to this Department by law to issue Treasury notes for an amount not to exceed \$20,000,000, payable within a limited time, and carrying a specified rate of interest, whenever the immediate demands of the public service may call for a greater amount of money than shall happen to be in the Treasury, subject to the Treasurer's drafts in payment of warrants.

The fact that such temporary exigency may arise from circumstances beyond the foresight or control of this Department, makes some adequate provision to meet it indispensable to the public security.

Previous to the passage of the act of March 3, 1849, which requires all money receivable from customs and other sources to be paid into the Treasury without abatement or diminution, the whole expenses of collecting the revenue from customs were defrayed from the moneys collected, and the balance only was paid into the Treasury. The expenses of collecting the customs in California and Oregon were excepted from the operation of that act by the third section of the act of September 28, 1850, and the mode of defraying the expenses of collection, which existed previous to the act of March 3, 1849, has been consequently continued at the custom-houses on the Pacific coast up to the present time.

The joint resolution approved 14th February, 1850, makes a permanent appropriation for the expenses of collecting the customs of \$1,225,000 for each half year, together with such sums as may be received for storage, &c., until Congress shall act upon the subject. During the first four years of the operation of the act of 3d March, 1849, the expenses did not equal the amount of this appropriation, and a considerable balance had accumulated, which has enabled this Department to defray the expenses of the last four years, which have considerably exceeded the amount so appropriated, as is shown by statement marked 4.

This accumulation having become entirely

exhausted, this Department will not be able longer to defray the expenses of collecting the customs unless Congress shall now act upon the subject.

In order that this important branch of the public service may be conducted with promptitude and efficiency, I recommend that Congress shall, at its present session, legislate upon this subject, to operate from the 1st of January, 1858, which will put an end to the permanent appropriation under the joint resolution from that date.

For the fiscal year ending the 30th June, 1857, the expenses of collecting the customs exceeded three million dollars, exclusive of those of the ports on the Pacific coast, which amounted to nearly half a million, as shown by statement marked 5. For the half of the current fiscal year, extending from 1st January to 30th June, 1858, at least one million six hundred thousand dollars will be required to defray these expenses in the Atlantic States; and I recommend that sum to be appropriated for that period.

The reasons which originally led to the exception of the custom-houses on the Pacific coast from the operation of the general law of 1849 no longer exist in the same force as formerly, but the system cannot be suddenly changed without much inconvenience. I propose that, during the remainder of the current fiscal year, these expenses be defrayed, as heretofore, out of the accruing revenue; but, from the commencement of the fiscal year on the 1st July, 1858, that provision be made by law that the whole receipts from customs and all other sources on the Pacific coast be paid into the Treasury under the act of 1849, and the expenses of collection be defrayed out of appropriations for that purpose. To meet the expenses of collecting the customs throughout the entire United States during the fiscal year ending 30th June, 1859, will probably require four million dollars.

The statement before referred to shows the progressive increase of these expenses, from year to year, since the passage of the act of 1849. It also shows a corresponding increase in the amount of merchandise imported and duties paid. But the latter are not sufficient to explain so large an addition to the expenses of collection, as nearly the same number of officers are required to collect the smaller as the larger amounts. Other causes have largely contributed to swell these expenses. When the public revenue happens to be abundant, many projects are listened to and adopted by Congress without careful regard to the burdens they may permanently impose. The building new revenue cutters, not needed for the enforcement of the revenue laws; the multiplication of ports of entry and ports of delivery, for local and temporary convenience, at points not required for the collection of the revenue; and the erection of expensive buildings for officers of the customs and other public officers, are of this class. The original outlay for these projects is usually provided for by special appropriations, and their amount is the principal object that attracts attention. But, under the existing system, every one of these appropriations of necessity imposes an additional and permanent charge upon the expense for collecting the customs. New revenue cutters must be equipped, kept in repair, provided with officers and men, and maintained in a state of efficiency at a large annual charge upon the expenses for collecting the customs, that they may be in constant readiness to relieve vessels in distress, or perform some other duty equally remote from their appropriate and legitimate functions of enforcing the laws. New ports of entry or of delivery created by law, at points remote from the ordinary channels of direct foreign commerce, must be provided with officers paid by annual salaries or other emoluments, as expenses of collecting the customs. New buildings must be furnished, warmed, lighted, and kept in a state of repair and cleanliness, under the direction of suitable officers with proper compensation. All charges of such character are now defrayed out of the appropriation for the expenses of collecting the customs. While the public revenue has recently rapidly diminished, these charges are daily increasing in amount.

The public debt on the 1st July, 1857, was \$29,060,386 90. Since that time there has been paid the sum of \$3,895,232 39—leaving the pub-

lic debt at this time \$25,165,154 51. Since the 3d March last, there has been paid of the public debt \$4,878,377 53. The details are shown by the statements marked 6, 7, and 8. The Department continued the purchase of stock as long as the law and a proper regard for the public interest would justify. The object was to redeem, as far as possible, our outstanding debt which had a number of years to run, whilst the payment of the large sums from the Treasury required for this purpose was affording relief to the commercial and other interests of the country, which were then struggling to ward off the revulsion which finally came upon them. At that time it was not seriously apprehended that the revulsion would so greatly affect the trade and business of the country; but, looking even to the most unfavorable result that could happen, it was thought that the Treasury, if compelled to resort to a loan to meet any temporary deficiency that might occur, would suffer no injury from having the character of the loan changed from debts falling due at a distant period to Treasury notes, at a less rate of interest, and which could be redeemed at the pleasure of the Department.

A revulsion in the monetary affairs of the country always occasions more or less of distress among the people. The consequence is, that the public mind is directed to the Government for relief, and particularly to that branch of it which has charge of its financial operations. There are many persons who seem to think that it is the duty of the Government to provide relief in all cases of trouble and distress. They do not stop to inquire into the power which has been conferred by the people upon their agents, or the objects for which that power is to be exercised. Their inquiry is limited to the simple fact of existing embarrassments, and they see no other agency capable of affording relief; and their necessities, not their judgments, force them to the conclusion that the Government not only can, but ought to relieve them. A moment of calm reflection must satisfy every one that such is not the true theory of our Government. It is one of limited powers, to be exercised for specified purposes. Its operations, political and financial, should be conducted within these prescribed limits in that manner that it will most certainly effect the object for which the power was conferred. In doing this it should be the policy, as it is unquestionably the duty, of the Government so to conduct its affairs as to confer the greatest good upon the greatest number of the people. This misapprehension of the powers and duty of the Government has led to the suggestion of measures of relief, which have been pressed with such earnestness upon this Department as to demand a brief consideration of them. A private individual who finds that his income is reduced, at once feels the propriety of bringing his expenditures within his reduced means. The suggestion to such a person to increase his expenses would instantly be rejected. To characterize such advice as folly would not be considered harsh or unjust. The estimates of receipts into the Treasury for the present fiscal year exhibit the fact that the income of the Government will be considerably reduced. In this state of things it is seriously urged that our expenditures should be increased, for the purpose of affording relief to the country. Such a policy would doubtless furnish employment to large numbers of worthy citizens. It would require the use of large amounts of money, to be raised either by a loan or the issuing of Treasury notes, and would thus afford temporary relief to the country to an extent limited only by the discretion of the Government in this unauthorized use of the public treasure and credit. But where shall we look for the power to do this in the Constitution? What provision of that instrument authorizes such a policy? The absence of a satisfactory reply to these inquiries is an unanswerable argument to the suggestion. In the discharge of its legitimate functions the Government is required to expend large sums of money in the building of vessels of war; the erection of custom-houses and other public buildings; the preparation of the defenses of the country; and in a variety of other ways, which give employment to labor, and draw from the Treasury the money which has been collected from the people for

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these purposes. There might and would be just cause of complaint if the Government, under the pressure of either an imaginary or real monetary crisis, should suddenly stop these extensive operations, and by throwing large numbers of employes out of service add to the distress and suffering which the revulsion had already created. Being engaged in the prosecution of necessary and legitimate works for the public service, it would be the policy and duty of the Government to continue their prosecution, even though it should occasion the necessity of increasing its available means by some extraordinary measure. The discontinuance of such works has not been and is not now contemplated, and to this extent the country may look with propriety to the operations of the Government for relief. There are other public works of less necessity, which, for a variety of causes, have not been commenced. A temporary postponement of them will violate no existing contracts—will deprive no one of employment to which he is authorized to look—will inflict no wrong upon any portion of the people, but will enable the Government to realize its means in advance of its expenditure of them, and perhaps avoid the necessity of increasing the public debt. A system of public economy, regardless alike of the just claims of the people and the protection of the treasure and credit of the Government, must command the approval of the country; and it is upon such principles it is proposed to conduct the financial department of the Government in the present crisis.

As a measure of relief to the country, it is proposed to increase the tariff. A return to a high protective system is regarded by some as the surest mode of extricating the country from its embarrassments, and affording immediate as well as permanent relief to the public distress. The people are already suffering from distress, and the proposition seeks to diminish their suffering by adding to their burdens. The earnestness and ability which have been brought to the support of this proposition demand that its merits should be examined with some care; and without attempting an elaborate exposition of a question which has heretofore commanded so much of the public attention, it is deemed proper to refer to some of the considerations which render the adoption of such a policy unwise and improper.

The theory of the protectionists is this: that under a low tariff the importations of foreign manufactures is encouraged, and, being brought into the country at lower prices than they can be produced, the competition with the domestic manufacturer is ruinous to his business. The remedy is, to raise the duties upon the foreign article to such a point that either it will be excluded, and thus give to the domestic manufacturer the entire home market, or else it will be so increased in price by the additional duty as to enable the domestic manufacturer to receive a remunerating price for his productions. That the effect would be temporarily for the benefit of the manufacturer is conceded; but that the ultimate effect would be alike injurious to him, as well as all other interests, is equally clear. In looking upon the operation as a measure of relief, we must consider its effects not only upon the domestic manufacturer, but also upon the consumer.

If the increased duty neither diminishes the importations nor increases the price, it is manifest that no advantage has been derived by the domestic manufacturer. If the effect should be to exclude the foreign article, then the domestic manufacturer monopolizes the home market, and commands his own price. The relief he needs is a higher price for his goods, and, as a matter of course, unrestrained as he will then be by the laws of competition, he will so raise his prices as to remedy the evil of low prices of which he had complained. The effect upon the consumer is clear. He must pay the increased price thus put upon the article of consumption. Nor does it stop there. Under the existing state of things, when he has purchased the article he has not only furnished himself with the goods he needed at the reduced price, but at the same time has paid into the Treasury the tax required of him for the support of Government. The measure of relief proposed

by the protectionists increases the price he is required to pay for his goods, and where the foreign article is excluded leaves his tax unpaid. This deficiency in the revenue must be supplied, and he is called upon to pay it from his other resources. The proposed measure of relief thus imposes upon him these additional burdens, in the increased price of his goods and the additional tax he is required to pay. If, however, the increased duty should not exclude the importation of the article, but simply advance the price to a remunerating point to the domestic manufacturer, the effect upon the consumer would be to require him to pay the additional price, not only upon the foreign article, but also upon the domestic manufacture. The amount of taxation put upon him for the benefit respectively of the Treasury and the domestic manufacturer, will depend upon the relative proportion of the foreign and domestic article he may consume. In no event can the increased duty operate to the advantage and relief of the manufacturer except by a corresponding injury to the consumer. The amount of benefit conferred and injury sustained by the proposed relief measure would depend upon the relative number of manufacturers and consumers of the articles upon which the increased duties were laid; and as the number of consumers exceeds the number of manufacturers, so would the injury sustained exceed the benefit conferred. A policy so partial and unjust in its operations cannot command the approval of the country.

Regarding the suggestion as a proposition to return to the protective system, it is obnoxious to all the objections which have been heretofore so forcibly and successfully urged against it.

The day has passed in this country for increasing restrictions upon commerce; and it is hoped that the same remark will soon be applicable to all other countries. We are accustomed to look to the amount of our exports and imports as evidences of our growing wealth. To encourage commerce, enlarge its operations and extend its limits, have been regarded by all portions of our people as objects worthy of their united efforts. One branch of commerce cannot long exist without the coöperation of the other. We cannot expect to furnish the world with our cotton, breadstuffs, tobacco, rice, and other productions, unless we are willing to receive in return their productions. There must be mutuality between nations as between individuals. If a policy is to be adopted by which the productions of other countries are to be excluded from ours, for the benefit of the domestic producer of such articles, justice to other interests demands that there should be adopted a policy by which the producers of our present exports should also be furnished with a market for the fruits of their industry. To do this is impracticable; not to do it, would be unjust.

How strangely inconsistent is the doctrine of the protectionists with the practice of the Government! We annually expend large sums of money in maintaining a Navy whose chief duty it is to give protection to our commerce in all parts of the world. Appropriations are asked, and freely given, to send our flag in search of new avenues for our increasing trade.

The American officer who returns to his country to announce the successful terminations of his mission, in having made new and favorable commercial treaties, is hailed as a public benefactor, and all classes unite in doing him honor. In these demonstrations no one participates more cordially than the protectionists. If, upon the announcement of the discovery of a new country which promised a large and lucrative commercial intercourse with our own, it should be simultaneously proposed to impose upon that commerce restrictions that would close our ports to the entry of its productions, under the false theory of protecting home industry, what would be the judgment of an enlightened public opinion upon the wisdom of a people who first expended their treasure in discovering new marts of trade, and immediately denied themselves all the promised benefits to be derived from it? In the case supposed, the proposition would be more startling, but not more unreasonable, than when applied to our intercourse with those countries between whom and ourselves a commerce has grown up

from small beginnings to its present large dimensions. This has been accomplished through a policy inaugurated by our own Government, and which has commanded the approval of enlightened minds throughout the world. Other countries have, in their legislation of late years, manifested, by reducing their duties upon imports, a desire to coöperate in the work of throwing off those shackles upon the freedom of commerce which false theories have placed upon it. It would present a strange spectacle if the United States should be the first to commence a retrograde movement.

The sentiment among our people in favor of free commercial intercourse is manifested in their domestic as well as foreign policy. The strong feeling in the public mind for the extension of our territorial limits is generally attributed to the desire for more land. That it operates to some extent is freely admitted; but such a cause fails in its application to those cases where the acquisition of new territory brings with it no proprietary title to the land. And yet the public sentiment for acquiring territory, where every foot of it is held by private titles, is as decided as in any other case. It is accounted for satisfactorily only upon the theory that, as our territorial limits are extended, we enlarge the area of free trade, opening new markets for the productions of our industry, untrammelled with those restraints which a restrictive international policy has imposed.

It is an error to suppose that the occasional revulsions which have so seriously affected our manufacturing interest is attributable to the want of a high protective system. In the policy which the Government has adopted of allowing many of the raw materials used by them to come in, either free of duty or at low duties, in the incidental protection which a tariff laid for the purpose of revenue gives them—in the increasing consumption of their productions, brought about by the general prosperity of the country, they will find the most ample encouragement that could reasonably be expected or desired. Like all other interests in the country, they suffer from the too frequent changes of the tariff, and from those fluctuations in business which flow from causes wholly distinct and separate from the tariff question. What they need is steady prices, a sound currency, and protection against the ruinous effects of expansions in the credit system. From a free and unrestricted commerce with the world, no interest in our country would derive a more certain and permanent benefit than the manufacturers.

Rejecting the proposition to raise the tariff as a measure of relief, and looking to the probable receipts and expenditures for the present and next years, no change is recommended in the act of March 3, 1857, at this time. The present tariff is not regarded as perfect; far from it. It has, however, been in operation less than six months—a length of time too short to judge of its workings, even under the most favorable circumstances. This fact, in connection with the revulsion in business, makes it wholly impracticable to form a correct judgment upon its merits. There are changes which should be made as soon as it can be done with propriety. A return to the decimal division in the rates of duties, a more accurate classification of various articles, and other amendments, would greatly improve the law, even if it should be found by experience unnecessary to make any radical change in its general provisions. The propriety of postponing any action upon the subject, until an opportunity has been offered of testing its general merits, seems to admit of no serious doubt.

Returning to the question of relief which is expected from the Government, it becomes necessary to inquire into the cause of the present revulsion, as preliminary to the consideration of a proper remedy for it. Public opinion generally holds the banks responsible for all our embarrassments. The true cause is to be found in the undue expansion of the credit system. The banks constitute an important part of that system; but there are other elements entering into it, which, equally with the question of the banks, demand public consideration.

Credit, confined to its legitimate functions, is the representative of capital, and when used within

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that limit, may extend and invigorate trade and business; when it ceases to be such representative, it stimulates overtrading, excites speculation, and introduces an unsound state of things in the business of the country. It is this undue expansion of credit which has brought the country to its present embarrassments. The extension of bank credits and the over-issue of bank notes, is a part, and a very important part, of this undue expansion. A spirit of speculation being created, a demand is made upon the banks for the use of their credit, and yielding to the pressure, they respond by the increased issue of their notes and by enlarging their discounts. The extent to which the banks have enlarged their credit beyond its proper limits is not to be measured alone by the amount of their circulation. At the time the New York city banks suspended specie payments in October, they reported a larger amount of specie in their vaults than their notes in circulation, and, notwithstanding this fact, they were unable to meet the demands of their creditors promptly with specie, owing to their credit operations under their deposit system. Having extended their own credit, and enabled their customers to do the same, they were unprepared for the revulsion which came upon them. If it be true that our embarrassments have been occasioned by the cause here assigned, we must look beyond the action of the banks, to the operations of other corporations, as well as individuals, to fathom the entire cause of our difficulties. The limits of this report will not admit of a detailed examination of this subject, but a solitary illustration will present the subject in its proper light. In answer to a circular letter addressed to the various railroad corporations of the country, the information contained in table No. 9 has been obtained. It appears from this statement that the capital of these companies amounts to \$491,435,661, their indebtedness to \$417,243,664. The annual interest upon the latter sum is \$25,093,203; their annual income was \$48,406,488.

It is proper here to remark, that this statement is not entirely accurate; some of the companies failed to respond to the circular of the Department, and in such cases the returns made by them during the preceding year, and contained in the last report of my predecessor, have been used in the preparation of the table. Whilst it cannot, therefore, be considered as perfectly accurate, it approximates it sufficiently near for the illustration of my argument. It exhibits the extent to which this class of corporations has contributed to that expansion of credit which is properly chargeable with the recent revulsion. It is due to a large class of our railroad companies to state that this excessive indebtedness is not equally distributed among them. Some have conducted their business with the utmost propriety and success, whilst others have so far exceeded these limits as to present the foregoing aggregate result of railroad operations in the United States.

The undue expansion of credit, which stimulated in some an eager desire to borrow, and in others a willing disposition to lend, which engendered schemes of improvident speculation, leading to rapid fluctuation in prices and habits of extravagance, I regard as the principal cause for the embarrassment existing in the commerce of the country. The only efficient remedy for such evils is to be found in a return to the prudent courses and steady habits which, for a time, were unhappily laid aside. This Government could do but little towards extricating individuals, corporations, or communities, from the pernicious consequences of their extravagant expenditures or ill-conceived enterprises. When credit has been extended so far beyond the bounds of legitimate confidence as to create a revulsion in trade, occasioning a fall of prices, and a destruction of private credit, a speedy adjustment of the relations between creditor and debtor by liquidation and settlement is the surest mode for the restoration of the equilibrium.

Wild and chimerical speculations will thus have their termination, industry will be better enabled to realize its sober expectations, and the substantial interests of society, being relieved from the noxious influence of excitement, overaction, and disorder, will resume their accustomed energy in communicating a healthful and vigorous

activity to the business of the country. The proper agency of the Government in such a case is to remove whatever impediment may exist to the exertion of the native force of society, and to extract from the experience they have gained lessons to be embodied in wholesome and well-considered laws to prevent the recurrence of the evil.

It is evident that the great moneyed corporations created under the laws of the States have had a controlling influence in the undue expansion of private credit. In many of the States the legislation in respect to these is stringent, and embodies many of the safeguards that experience has suggested for their regulation.

But it will not be denied that this legislation has been nugatory. The State authorities have already manifested an eager disposition to relieve them from the penalties they have incurred, and to dispense, as far as they were able, with the performance of the obligations they have exacted from them when they were organized. This has been done, in some cases, without an inquiry into their condition or management, or their capacity to resume their position as solvent institutions, or even to protect the community from a depreciated paper currency.

In my judgment, the period has arrived for Congress to employ the powers conferred by the Constitution upon it to mitigate the present evil, and to prevent a catastrophe of a similar kind in future; and for this purpose a compulsory bankrupt law, to include two classes of corporations and companies, is necessary. It should be a law for the protection of creditors, not the relief of debtors; to prevent improper credit, not to pay improvident debts; compulsory, not voluntary. The effect of such a law would be felt more in its restraining influence than in its practical execution.

I do not recommend a law similar to either of those which have heretofore existed, and were abandoned after a short and unsatisfactory experience. The first was adopted on the 4th April, 1800, and was repealed on the 19th December, 1803. It provided for a compulsory process of bankruptcy against those merchants and commission agents, at the suit of creditors, whose insolvency had become manifest by certain overt acts of fraud or defalcation, and effected a collection and distribution of the estate of the bankrupt through the judicial tribunals of the United States, which was followed by his discharge from the debts his estate had not satisfied. The second act was passed 12th August, 1841, and was repealed the 3d March, 1843. This act, besides the compulsory system of the act of 1800, contained a system of bankruptcy, to be applied on the petition of an insolvent debtor, of any class or profession, and to result in his relief from his debts and engagements, upon the surrender of his property and compliance with other conditions of the act.

There are grave objections to the present adoption of the systems developed in these statutes. The voluntary feature of the act of 1841 is rejected as unwise, unjust, and unnecessary. It was this provision which rendered that law so justly odious in the public mind. Nor do I propose to extend the provisions even of a compulsory bankrupt law to the numerous cases covered by the act of 1841. It is better to leave to the operation of the insolvent and bankrupt laws of the several States all cases which do not, from their magnitude and importance, affect the general commercial and business interests of the country. It is believed that the power of the States is ample to meet such cases, and the propriety and policy of exercising such powers will, sooner or later, be developed by the lessons of bitter experience.

The two cases which it is now proposed to bring under the operation of a compulsory bankrupt law are banks and railroad corporations. The immense capital employed by these companies, their controlling power and influence in the commercial and business operations of the country, their disposition to expand and enlarge their credit, and the ruinous effects produced by their operations when carried beyond legitimate bounds, impose upon the Government the duty of providing, by every constitutional means in their power, for the safe, proper, and legitimate conduct of such corporations. The facts which are pre-

sented in other portions of this report, developing the condition and operations of these two classes of corporations, will fully justify the policy now recommended. The object is not to injure them, but to protect the community. The effect will be to restrain their operations within proper limits, and thereby insure to the country all the benefits they are capable of conferring, without the accompanying hazards of wild speculation and ruinous revulsions.

In closing my observations on this subject, it is proper to state that these recommendations are not formed in any spirit of hostility to these corporations and companies, nor am I insensible of their vast importance in the commercial system of the United States. Nor have I any disposition to denounce any punishment, nor to subject them to any loss, in the present conjunction of their affairs. My object is to place them in subjection to wholesome laws; so that, while the benefits they yield to the community may be preserved, their excesses or errors will be counteracted or prevented.

The details of any act formed on the principle I have suggested, should be adopted after an enlarged inquiry into their condition, and should embody the most liberal provisions for the security of the rights of the persons interested in them. A reasonable time should also be allowed to the corporations which are now in default to reestablish themselves before this act becomes operative.

During this financial crisis and general derangement of the currency, the collection and disbursement of the public revenue have proceeded without loss or embarrassment. The operations of the Independent Treasury system, in ordinary times, had been found by experience eminently successful. The danger of loss from unfaithful and inefficient officers, the expense of conducting its operations without the intervention of bank agencies, its deleterious effects upon commercial progress and the general business of the country—all of which was apprehended by the opponents of the measure at the time of its adoption—have been demonstrated to be unfounded. It only remained to encounter a commercial crisis like the present to vindicate the justice and wisdom of the policy against all cause of complaint or apprehension. A brief comparison of the operations of the Treasury Department during the suspension of 1837 and the present time, will place the subject before the public mind in the most satisfactory manner.

On the 30th June, 1837, immediately after the general suspension, the deposit banks held to the credit of the Treasurer of the United States, and subject to his draft, the sum of \$24,994,158 37—a larger amount, in proportion to the receipts and expenditures of the Government, than there was in the Treasury at the time of the suspension by the banks the present year. The funds of the Government being then under the control of the banks, and they, either unwilling or unable to pay, the Government was placed in the anomalous condition of having an overflowing Treasury, which it was seeking to deplete by distribution or deposits with the States, and yet unable to meet its most ordinary obligations. It had either to make its payments and deposits in the depreciated currency which suspended banks forced upon the country, or postpone their payments until, from its credit or other ordinary resources, it could command the means for that purpose. It is unnecessary to detail the expedients to which the Government was forced to resort at that time. The embarrassment consequent upon this state of things will be remembered by those who participated in the scenes of that day. It will be realized by every one from this brief presentation of it. The effort of the Government to withdraw its deposits and get control of its funds, was felt as an additional blow aimed at the banks. Every dollar which could thus be drawn from the vaults of the banks, diminished to that extent their ability to afford relief to their customers. Their loans had to be contracted, and the demand made by them upon their debtors for settlement, increased the pressure already felt in the money market, and thereby added to the general panic and want of confidence, which are the usual attendants of a monetary crisis. The Government was not only embarrassed for the want of its

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money, but in the effort to obtain it became obnoxious to the charge of adding to the general distress, which many persons thought it was his duty to relieve. To avoid a recurrence of these difficulties, the plan of separating the Government from all connection with the banks was suggested, and in 1846 was permanently adopted. The result is before the country in the occurrences of the last few weeks. The banks, as in 1837, have suspended specie payments; but the analogy ceases there, so far as the operations of the Treasury Department in its disbursements are concerned. The Government has its money in the hands of its own officers, and in the only currency known to the Constitution. It has met every liability without embarrassment. It has resorted to no expedient to meet the claims of its creditors, but with promptness pays each one upon presentation. If the contrast between the operations of 1837 and the present time stopped here, it would be enough to vindicate the policy of the Independent Treasury system; but it does not. The most remarkable feature distinguishing the two periods has reference to the effect upon the commercial and general business interest of the country produced by the present operations of the Independent Treasury. It is the relief which has been afforded to the money market by the disbursements in specie of the General Government. In 1837, the demand of the Government for its funds, with which to meet its obligations, weakened the banks, crippled their resources, and added to the general panic and pressure. In 1857, the disbursements by the Government of its funds, which it kept in its own vaults, supplied the banks with specie, strengthened their hands, and would thus have enabled them to afford relief, when it was so much needed, if they had been in a condition to do it. Their inability or unwillingness to do so, under such favorable circumstances, only shows how much worse the embarrassment would have been if the Government was now demanding payment from them, instead of furnishing them the means of relief.

At the time, and subsequent to the passage, of the Independent Treasury act of 1846, the greatest apprehension was expressed, and no doubt felt, by its opponents, of the effect of such a policy. The accumulation of specie in the vaults of the Government, the distress it would occasion in the collection of the public dues in specie, and particularly its operations in a monetary crisis, were regarded as certain sources of inevitable evil. The idea that it would afford relief at such a time, was looked upon as wild and visionary by its opponents, and not very confidently anticipated by its friends. The success of the policy should be as gratifying as it was unexpected to those who resisted its adoption with so much zeal and ability.

Whilst the opponents of the system apprehended from it the most ruinous effects upon the banks and the currency, its friends looked confidently to its operation for a wholesome check upon excessive issues by the banks. Experience has shown that the apprehensions of the one were groundless, and the anticipations of the others were well founded, to a limited extent. The increase of the circulation of the banks at the time they were used as public depositories, compared with their circulation at other periods, and particularly since the adoption of the Independent Treasury system, affords the most satisfactory evidence of the restraining influence of the system upon the tendency of the banks to extend their credit and increase their issues. It is impossible to estimate with accuracy the extent of this influence. There are so many elements which enter into the financial operations of a great and extended country like ours, that no man can pretend to analyze the many causes at work with a view of assigning to each its separate and legitimate effect. No one doubts, however, that the effect of collecting the public revenues in the notes of the banks, and depositing the funds when collected with them, would be an extension of the credit of the bank, and an addition of their circulation proportioned to this increased demand for the use of their notes. To the extent that this stimulant to credit has been withheld, to that extent, certainly, has the restraining influence of the Independent Treasury upon excessive bank

issues been felt. The collection annually of about seventy millions in the notes of banks, and a large amount at all times remaining in their vaults as deposits, would afford facilities for extending their credit, which the past history of these institutions show they would not hesitate to avail themselves of. If such a system had prevailed for the last ten years, the strong probabilities are that the present crisis would have been much sooner reached, and the effect would have been more disastrous, because more extended, and with fewer sources of relief.

If the beneficial effects of the Independent Treasury system in restraining the banks from extending their credits have not been overestimated—and it is confidently believed that they have not—it is respectfully submitted to public consideration whether the adoption of the same principle by the respective State governments would not complete the work of reform and prevention against bank suspension, so happily inaugurated and successfully practiced by the General Government. The various State governments now collect annually about fifty million dollars. This amount is collected mainly in bank notes, and, when not immediately disbursed, is either kept in the form of bank notes in the vaults of the State treasuries, or deposited directly with the banks. Let the several States collect their revenues in specie, and thence is withdrawn from the banks a stimulant to overbanking to the extent of the facilities now afforded them by this use of their notes.

The remarks already made in connection with the Independent Treasury of the General Government are here applicable to the effect that would be produced by such a policy. The collection and disbursement in specie of the revenues of both the General and State Governments, not to speak of the various city, town, and county corporations, would constitute such a demand for specie, at all times, as to require its retention in the country. The banks, knowing that they were liable to furnish their note-holders with this specie, would regulate their issues accordingly, and would consequently be restrained from excessive overissues, which render suspension of specie payments by them inevitable when a crisis comes, which requires them to do what they ought always to be ready to do—pay their debts. The apprehension that such a requirement by the State governments would operate oppressively upon the people, would prove as unfounded as it did in the case of the General Government. State taxes are now paid, most generally, in bank notes. These notes profess to be the representative of specie. If they are, the tax-payer could easily convert them into specie. If they are not, then they ought not to be received as such either by the State governments or the people. The very object of the law is to guard against the latter contingency, and thus to secure to the country a sound paper currency, always convertible into specie.

Under the operation of an independent treasury system, adopted by each of the States, there would be no difficulty in retaining in the country a sufficient amount of specie, not only for the purposes of the Government, but also to secure a sound paper currency. As long, however, as the present system lasts, this result cannot be looked for. One would suppose that the large increase of gold in the last few years would have enabled the banks to have protected themselves against the necessity of suspending specie payments. Such should have been the case; but it has not been, and will not be, until some policy, such as is here recommended, is adopted, which will compel them to keep sufficient specie in their vaults to meet their issues. Since the discovery of gold in California, in 1849, there has been coined at the mints of the United States the sum of \$400,000,000; and even a larger amount has been added from that source to the gold of the world. At that time it was estimated that there was in the United States \$120,000,000 of specie. Of that amount the banks held \$43,000,000; upon which they issued a circulation of \$114,743,415. Their deposits at that time amounted to \$91,178,623. It is estimated that there is now in the United States, \$260,000,000 of specie, and of this sum the banks have \$60,000,000; upon which they have issued a circulation of \$214,778,822, and

their deposits have increased to \$230,351,352. It will be seen from this statement that, with the increased quantity of specie in the country, the banks have only increased their specie from \$43,000,000 to \$60,000,000, whilst they have increased their circulation from \$114,743,415 to \$214,778,822. No one supposes that such would have been the case if, during this period, the financial operations of the various State governments had been conducted upon the principles of the Independent Treasury system. It is confidently believed that such a policy would have saved the country from the present bank suspension. If, at the time the General Government was making its disbursements in specie at the commencement of the present crisis, the same operation had been going on from the different State treasuries, the effect necessarily would have been to have supplied every demand in the country for specie, and the banks, already restrained within legitimate bounds, would have been enabled to have pursued their usual business without serious interruption.

In this connection, it cannot fail to attract observation, that at the very moment when the General Government, through the instrumentality of the Independent Treasury system, was meeting, with promptness, its liabilities of every character, and by the very act of disbursing its specie funds affording relief to the banks and the country, the State governments, for the want of such a system, were unable, with nominally full treasuries, to pay their debts, and, in the effort to do so, were subjected to the charge of either paying their liabilities in depreciated currency, or adding to the distress of the country by their demands upon the banks for specie funds. These difficulties are the legitimate fruits of their past policy, and for the present must be endured; it will be their own fault if another revulsion should find them in a like condition.

As an additional restraint upon the tendency of the banks to over-issue, as well as for the purpose of keeping an ample supply of specie in constant circulation, the suppression of all bank notes under the denomination of twenty dollars is recommended to the consideration of those under whose jurisdiction these State institutions exist.

Previous to the act of 20th February, 1857, the Director of the Mint was required, by law, to make his annual report to the President. By the seventh section of that act he is directed to make his report to the Secretary of the Treasury, to the 30th June of each year, that it may appear in the annual report on the finances. The director has made his annual report to the President for the calendar year to the 1st January last, and has now reported to this Department the operations of the Mint and its branches during the remaining half of the last fiscal year, to the 30th June last. The report is herewith transmitted, marked 10.

The director calls the attention of this Department to the propriety of such an amendment of existing laws relative to coinage, that, where fine gold bars are made and paid to depositors of bullion, in addition to the charges now made for parting and toughening, there shall be a charge of one half per cent. paid into the Treasury thereon, which would have been imposed had the same been coined. By the sixth section of the act of 21st February, 1853, this charge of one half per cent. was payable into the Treasury, in addition to the charges for refining or parting bullion, whether it was paid to depositors in the form of coin, or in bars, ingots, or disks. But the sixth section of the act of March 3, 1853, chapter ninety-six, provides that the charge for refining, casting, or forming bars, ingots, or disks, shall not exceed the actual cost of the operation. The effect of this provision is to repeal the seigniorage of one half per cent. imposed equally on bullion coined or withdrawn in the form of fine bars, by the act of February 21, 1853, and to restrict this duty entirely to coin. This is, of course, equivalent to paying a premium of one half per cent. upon all bullion exported in the form of fine bars, as it would have been subjected by law to that burden had it been coined. I concur with the director in the opinion that it is not good policy to impose this half per cent. on all bullion coined for circulation, and at the same time exempt fine bars withdrawn for exportation. If depositors

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of bullion choose to export it in the form of fine bars, they should be at liberty to exercise that option; but they should not be allowed a premium of one half per cent. upon such as is withdrawn for exportation, which is the effect of imposing that duty on that bullion which is coined, and exempting, as is done by the section of the act of March 3, 1853, referred to, that which is withdrawn in the form of fine bars. I accordingly recommend that the original provision of the sixth section of the act of February 21, 1853, be restored.

By the act of March 3, 1857, amendatory of "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," it was provided "that each and every disbursing officer or agent of the United States, having any money of the United States intrusted to him for disbursement, shall be, and he is hereby, required to deposit the same with the Treasurer of the United States, or with some one of the assistant treasurers or public depositaries, and draw for the same only in favor of the persons to whom payment is to be made in pursuance of law and instructions, except when payments are to be made in sums under twenty dollars, in which cases such disbursing agent may check in his own name, stating that it is to pay small claims."

The object of this provision of law was to protect the Government from the improper use of the public funds in the hands of disbursing officers. It was the desire of the Department to carry it out to the fullest extent that it could be done. An enforcement of its provisions according to its letter was impracticable. It would have required a considerable increase of the clerical force of different offices, for which no provision had been made by Congress, and in some of the Departments a compliance with its requirements was impossible. Payments by the disbursing officers of the Army and Navy, as well as payments by a portion of such officers in the Interior Department, could not be made in the mode pointed out. Pursers in the Navy, settling with the officers and crew of a vessel in foreign ports; paymasters in the Army, at remote points from any public depositary; disbursing agents, charged with the payment of Indian annuities, could not discharge their duties if a literal compliance with this law had been required. Regarding the object of the law as wise and proper, and feeling bound to enforce it to the utmost extent of my power, I caused circulars Nos. 2 and 3, appended to this report, to be issued to the various public depositaries and disbursing agents of this Department, by which it will be seen that the object of the law has been carried out, and in the mode prescribed, as far as it was possible to do so. It is believed that the regulations thus adopted will effectually secure the object which Congress had in view in the passage of the act of March 3, 1857, and I would recommend that the law be so amended as to conform to these regulations. At all events, some legislation is absolutely necessary on the subject, and I would ask the early attention of Congress to it.

The sum of \$2,500 was appropriated at the last session of Congress "to enable the Secretary of the Treasury to cause such experiments and analyses of different beds of ore as to test whether any of such ores, in their native state, possess alloys that will resist the tendency to oxidize to a greater extent than others, and to ascertain under what circumstances they are found, and where, in order to facilitate the proper selections of iron for public works." To carry out the object in view, I caused circulars to be sent to all iron-masters whose names could be ascertained, soliciting specimens of ore and iron, and calling for information pertinent to the subject; and, in compliance with the request, already a large number of specimens have been received and are being received daily. The specimens are accompanied by letters manifesting great interest in the result, and communicating much valuable information in relation to the production of iron, which has become one of the great national industrial interests. So soon as the specimens are all received and arranged, and the information which accompanies them has been abstracted and collated, a competent chemist or metallurgist will

be employed to make the experiments and analyses. Conclusive evidence has already been received that a decided difference in the susceptibility of different irons to oxidize does exist, and it is hoped that the proposed analyses will discover the cause. However, should the experiments fail in this respect, they will at least show the localities from which the least oxidizable iron can be procured. Some idea may be formed of the importance of being able to discriminate between irons as to their susceptibility to oxidize, from the fact that the quantity used by the Government, in this Department alone, since January, 1852, exceeds forty million pounds; and the Navy and War Departments may each safely be put down for equal amounts. The use of iron capable of resisting oxygen, for rigging, anchors, chain-plates, sheathing, &c., in our commercial marine, would be immense.

In accordance with the authority vested in the Secretary of the Treasury, by the joint resolution approved February 26, 1857, to provide for ascertaining the relative value of the coinage of the United States and Great Britain, and fixing the relative value of the unitary coins of the two countries, I appointed Professor J. H. Alexander, of Baltimore, commissioner to confer with the proper functionaries in Great Britain in relation to some plan or plans of so mutually arranging, on the decimal basis, the coinage of the two countries, as that the respective units shall hereafter be easily and exactly commensurable. Professor Alexander is now in London, and I expect the result of his mission will be embodied in a statement and report from him at an early day, which will be laid before Congress as soon as received.

The joint resolution to prevent the counterfeiting the coins of the United States, approved February 26, 1857, empowered the Secretary of the Treasury to cause inquiry to be made, by two competent commissioners, into processes and means claimed to have been discovered by J. T. Barclay, Esq., for preventing the abrasion, counterfeiting, and deterioration of the coins of the United States. Under said authority, I appointed Professor Henry Vethake and R. E. Rogers, of Pennsylvania, and directed every facility to be afforded them at the Mint, in Philadelphia, to pursue their investigations. I anticipate, at an early day, to communicate the results of the said inquiry to Congress, with my opinion as to the probable value of the alleged discoveries.

In the settlement of the accounts of the Clerk of the House of Representatives by the accounting officers of the Treasury, a question arose as to the power of the two Houses of Congress over their respective contingent funds. Under resolutions passed by the House of Representatives, the Clerk had paid certain sums to different employes of the House for extra services rendered by them, and the question was presented to me whether he could be allowed credit for such payments in view of the provisions of the act of March 3, 1845, which was evidently intended to prevent the application of the contingent fund of the two Houses to such purposes. My opinion was, that the act of March 3, 1845, was still in force in this respect, and I accordingly held that the credits could not be allowed. The reasons for that opinion are so fully stated in my letter of June 30, 1857, to the First Auditor of the Treasury—a copy of which accompanies this report, marked 11—that it is unnecessary again to discuss the question. In conformity to the suggestions of that letter, and for the reasons therein given, I recommend the passage of a law for the relief of the parties who have acted under the different construction placed upon the law by this Department.

By the act of February 5, 1857, the President was authorized "to procure, by purchase or otherwise, a suitable steamer as a revenue cutter," and for that purpose the sum of \$150,000 was appropriated. Under this authority proposals were invited for the building of such a vessel, and the contract awarded to Mr. William H. Webb, of New York. He is progressing rapidly with the work, and it is believed that the vessel will be ready for service by the 1st of February, 1858. The character of the contractor, and the

care and energy which have been displayed so far in the construction of this steamer, justify the opinion that, when completed, it will be a vessel that will do credit to the service. The whole expense of building and equipping the steamer will be within the appropriation made by Congress.

The report of the engineer in charge of the Bureau of Construction is herewith submitted, marked 12. It will give a detailed statement of the expenditures in that branch of the public service. There are interesting facts set forth in this report, which should not fail to attract the attention of Congress. By reference to the tables accompanying the report, the number of public buildings erected prior to 1850, and their cost, will be shown; also the number authorized to be erected since that time, as well as the propositions which have been urged upon Congress for the still further enlargement of the system. In view of these facts, it is submitted that Congress should either return to the practice of the Government prior to 1850, or else adopt a system that would do justice to the different sections of the country. If these public buildings are to be erected to the extent indicated by the legislation of the last few years, not only justice to the different sections of the country, but economy and the public interest require that they should be subjected to a system which will guard the public interest against the unwise expenditures likely to be incurred from the present mode of legislating on the subject. No public building should be authorized until an official report has been made to Congress showing the necessity for its erection, and its cost.

The suggestions made in the report of the engineer, on the propriety of systematizing this class of business, are commended to the consideration of Congress. Before, however, adopting the late legislation on this subject as the fixed policy of the Government, it would be well to consider the expense which such a system will permanently entail upon the Treasury. The number of custom-houses, court-houses, and post offices which would be called for can hardly be computed with accuracy; but our general information on the subject is sufficient to justify the opinion that it would be attended with an expense which would never be compensated for in any advantages to the public service. My own opinion is decidedly against the system; but if Congress adopts it, I am desirous of placing it upon the most just and economical principles.

Among the tables accompanying this report, I especially call the attention of Congress to No. 13, giving a detailed account of the expenditures and receipts of the marine hospital fund for the relief of sick and disabled seamen in the ports of the United States for the fiscal year ending June 30, 1857.

The relief afforded at the hospitals belonging to and under the charge of the Government is no greater than at other points, whilst the expense is much larger. This is attributable, in a great measure, to the unwise location of some of the hospitals, though there are, doubtless, other causes which contribute to that result. The propriety of dispensing with these public hospitals, and returning to the system which still exists at most of our ports for the disbursement of the marine hospital fund, is commended to the favorable consideration of Congress.

Having called on the President of the Louisville and Portland Canal Company for a report of its condition, I herewith transmit the response of that officer, marked 14, from which Congress can decide whether further legislation on that subject is advisable.

The report of the Superintendent of the Coast Survey will be submitted to Congress at an early day. It will give a statement of the operations of that branch of the public service, showing the progress which has been made in it during the last fiscal year. Every reduction in the expenditures of this service has been made consistent with its prosecution on the present scale.

The reports of the First, Second, Third, Fourth, Fifth, and Sixth Auditors, and of the First and Second Comptrollers, the Commissioner of Customs, and those of the Treasurer, Solicitor, and Register of the Treasury, (marked from A to L, inclusive,) are herewith submitted. They give

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a detailed account of the business transacted in their respective offices.

The report of the supervising inspectors, marked 15, will be found among the documents accompanying this report, and gives the operations of the law under which they are appointed for the past year.

The operations of the Light-House Board, with the condition of the works under their charge, will be found in the report from that body, No. 16.

A disposition on the part of the board to curtail a system which has been extended beyond the wants of commerce, should recommend it to the favorable consideration of Congress.

The duties devolving upon those having charge of this branch of the public service have been performed with satisfaction and ability.

All which is respectfully submitted.

HOWELL COBB,
Secretary of the Treasury.

HON. JOHN C. BRECKINRIDGE,
Vice President of the United States,
and President of the Senate.

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DEPARTMENT OF THE INTERIOR,
December 3, 1857.

SIR: In presenting an exhibit of the operations of this Department, attention is first invited to the important and diversified interests connected with the administration of our public domain, respecting which the accompanying report of the Commissioner of the General Land Office furnishes interesting details, with a gratifying view of our extended land system. American legislation has shown its superior practical wisdom by its simplicity and adaptation to the wants of our people in its code of land laws, in regard to the improvement of which few suggestions can be made.

The leading fact attracting our attention is the vast extent of the operations of the land bureau.

The public domain covers a surface, exclusive of water, of 1,450,000,000 of acres. It stretches across the continent, and embraces every variety of climate and soil, abounding in agricultural, mineral, and timber wealth, everywhere inviting to enterprise, and capable of yielding support to man.

This great inheritance was acquired, first by the voluntary cessions of several of the original thirteen States; then by the Louisiana purchase obtained from Napoleon by the treaty of 1803. The next enlargement of our territory was effected by the treaty of 1819 with Spain, ceding the Floridas to the United States; then its further extension was effected by the treaty of 1848, at Guadalupe Hidalgo, with Mexico, ceding New Mexico and California. Subsequently, Texas accepted the proposition of this Government establishing her boundaries, for the "relinquishment by the said State of all territory claimed by her exterior to said boundaries." The last accession to the public domain is that, in 1854, from Mexico, known as the "Gadsden purchase," covering a surface of 23,161,000 acres, south of the Gila river.

The Supreme Court has said, in reference to acquired lands, that "the people change their sovereign; their right to property remains unaffected by this change." Consequently, when the United States succeeded to the ownership of that portion of our territory derived from treaties with foreign Powers, the first and paramount duty in the disposal of the public lands was to separate private from public property.

In obedience to this well-settled principle of public law, and under the especial obligations of treaties, the United States have established boards of commissioners, conferred powers on registers and receivers, opened the courts of the United States for the adjudication of foreign titles, and in multitudes of cases confirmed such titles by special acts of legislation.

These classes of titles are known under the generic description of "private land claims," and are of every species, from minute parcels in the form of lots in Spanish towns to rural claims, ranging in size from one hundred arpents and less to a million and a half acres.

These titles are of British, French, Spanish, and Mexican origin, all depending for validity on

the colonial laws of their different sovereignties. And there is no branch of jurisprudence where greater research and extent of legal erudition have been displayed by our judicial tribunals, than in the determination of the intricate questions which have arisen, been discussed, and judicially determined in connection with this branch of the service. These foreign claims are of every diversity of shape, and everywhere scattered over the public domain, interrupting the regularity of our surveys, with which they are necessarily interlocked, and exhibit in striking contrast the irregularities of the foreign surveys, when compared with the simplicity and beauty of our own rectangular system; showing the difference in the modes of distributing estates, one of which concedes to the favorites of princes immense bodies of the choicest lands, whilst the other subdivides the public territory, so as to deal with every citizen in a spirit of enlarged liberality. In the growth of our immense territory, in the way and by the means already mentioned, there remained and still remain unextinguished, the claims, rights, and possession of the aborigines. The General Government of the Union, at the dawn of our political existence, adopted the principle asserted by the colonizing Governments of Europe, to the effect that the absolute title was in the United States, subject only to the Indian right of occupancy, and with the unconditional privilege of extinguishing that right.

Under the operation of these principles, the purchase and extinguishment of the Indian right has been gradually progressing in the ratio in which lands in Indian occupancy were demanded by our people for settlement. *Pari passu* have the lines of the public surveys been carried, in preparing the way for homesteads, and the means by which to pass to our people unincumbered and infeasible titles.

The surveying system is now organized into twelve different districts, and the lines of the public surveys have already been extended over more than one fourth of the whole surface of the public domain. That surface, as heretofore stated, is 1,450,000,000 acres. Of this, there have been surveyed and prepared for market, of net public lands, that is, exclusive of school lands, &c., 401,604,988 acres, of which quantity 57,442,870 acres have never been offered, and are, consequently, now liable to public sale; in addition to which, there were upwards of 80,000,000 acres subject to entry at private sale on the 30th September last.

Of the public domain, there have been disposed of by private claims, grants, sales, &c., embracing surveyed and unsurveyed land, 363,862,464 acres, which, deducted from the whole surface, as above stated, leaves undisposed of an area of 1,086,137,536 acres.

During the fiscal year ending June 30, 1857, and the quarter ending September 30, 1857, public lands have been surveyed and reported to the extent of 22,889,461 acres. During the same period 21,160,037.27 acres have been disposed of, as follows: For cash, 5,300,550.31 acres; located with military warrants, 7,381,010 acres; returned under swamp land grant, 3,362,475.96 acres; estimated quantity of railroad grants, of March, 1857, 5,116,000 acres. The amount of money received on cash sales is \$4,225,908 18.

This shows a falling off in land receipts from those for the corresponding period of the preceding year of \$5,322,145 99; with a falling off during the same period, in the location of lands with warrants, of more than twenty per cent.

Whatever may have been the cause of this diminution, the fact demonstrates that, long before the prostration of all credit by the suspension of the banking institutions, the investment in wild lands had greatly decreased.

In the territory of the United States there are eighty-three organized land districts, each having a register and receiver, for the sale and disposal of the public lands. Yet we have no land district for either the Territory of New Mexico or Utah. In New Mexico the public surveys have been executed to a very limited extent, owing to Indian hostilities. In Utah the surveys had rapidly progressed, until the surveyor general abandoned his post owing to reported hostilities of the Mormon authorities at Salt Lake City. The extent of the

surveys, since the beginning of the operations in Utah, exhibits a sphere of field work embracing 2,000,000 acres.

A due regard for the public interests, as well as a proper respect for the prosperity and advancement of New Mexico, would justify, if not loudly call upon Congress to establish a land office and a board of commissioners for the adjudication of Spanish and Mexican claims in that Territory. It is important to its future prosperity promptly to separate private property from the public lands, before the settlements become dense, and consequent conflicts of claim and title arise.

By the act of April 24, 1820, the old credit system of sales of land was abolished, the cash system instituted, and the minimum price fixed at \$1 25 per acre. This is the great basis of our present system of sales. The policy of the law is to favor the actual settler. It is a humane, wise, and just policy. When the hardy pioneer breaks off from the comforts and security of a long settled community, and encounters the hazard and endures the hardships and deprivations of a new settlement in the forest, he has rendered a positive service to the Government; and to deny him the right of securing his home and improvements, in preference to all others who would profit by his sacrifices, would be a crying injustice.

When an actual settler goes upon lands which have been offered for sale, and builds himself a house, the law allows him twelve months within which to pay for a preemption right of one hundred and sixty acres. If he enters upon unoffered land, or lands which have never been surveyed, he is permitted to file his declaration of intention to enter, and is not required to pay for his preemption till the day appointed by proclamation for public sale of the lands. Public policy may cause an indefinite postponement of the sale of the land, and the consequence is, that with this inchoate, imperfect right, he continues to occupy without perfecting his title. This privilege to enter being a personal right, its transfer or assignment is prohibited by law.

By thus conceding a privilege, and fixing no time in which he is required to perfect his title, an interest is created in opposition to a public sale by proclamation, when the good of the country may require it. The suggestion, therefore, that settlers upon unoffered lands should be required to make their proof and payment within a specified period, is approved.

Preemptions upon unsurveyed lands are now limited to particular States and Territories. A general law authorizing preemptions upon lands of this character, superseding or repealing special statutes on the subject, would conduce to the harmony of the system; and such a law is recommended.

In order to remove all doubt in the construction of existing law, preemption privileges should also be extended to alternate reserved railroad sections, in cases where settlements have been made after the final allotment. The enhanced value of such lands presents only a stronger reason why preference should be given to settlers over all others.

The mode of disposing of the public lands under existing legislation is simple, uniform, and complete. Lands are introduced into market, and opened to free competition at public sale by the President's proclamation, which, at the same time, notifies settlers to come forward and secure their homes at the minimum price, without risk of competition at public sale. Then such lands as remain thus undisposed of, are open to free purchase at private sale, at the ordinary minimum of \$1 25 per acre; or when in market ten years and upwards, at reduced prices—always, however, with the preference right of purchase awarded to the actual settler.

The public domain is the property of the United States, and the individual citizens thereof have equal rights of purchase. Actual settlers, as already shown, are amply protected by law from interference, and efficient safeguards are thrown around their rights. As an evidence of this, it is estimated that, in the sales of the last year, three fourths of the sold and located lands were taken for actual settlement. Large districts of the public lands are valuable, however, only for the timber found upon them: they are unsuitable for settle-

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ment; and to restrict their purchase to settlers alone, would prevent their sale for an indefinite period, and hold out a standing temptation to trespass and plunder.

An amendment of the law fixing the maximum compensation of the registers and receivers, so as to restrict the payment for any one quarter or fraction of a quarter to a *pro rata* allowance, both for salary and commissions, is approved and recommended.

Under the bounty land law of 3d March, 1855, large sums have been received at some of the local land offices for the location of warrants, and claims have been presented by several of the officers for the whole amount of fees collected. The General Land Office has decided, and the decision has been sanctioned by the Department, that, in view of the limitation as to maximum in the act of 20th April, 1818, and the terms of the second and third sections of the act of 22d March, 1852, in connection with the act of 1855, there is no authority of law for the allowance of any excess over the maximum compensation for commissions, as fixed by said act of 1818.

The act of 12th January, 1825, authorizes repayment of purchase money to be made from the Treasury in all cases of sales of lands made by the local land officers, where the Government is unable, from want of title in itself, to issue patents to the purchasers.

My predecessors have construed this act as providing for repayments in all cases where, from any cause, the sale could not be confirmed; and the uniform practice has been in conformity with that view of the law.

This practice is unquestionably founded in strict justice, and I have not deemed it best to disturb it, although inclined to the opinion that a strict construction of the law would limit its operation to the class of cases specifically embraced therein. Should any doubt be entertained of the propriety of my action in this particular, such amendatory legislation is respectfully recommended as may be called for in the premises.

The interesting communication, which accompanies this report, of the late Secretary of the Territory of New Mexico, respecting the mineral resources of that distant Territory, suggests the propriety of providing for a geological survey thereof. It is not doubted that vast quantities of gold and silver, copper, lead, and iron ores are to be found imbedded in its soil; and their discovery and development could not fail to conduce to the public prosperity.

The report of the Commissioner of Indian Affairs furnishes an interesting view of a peculiar people, with whom this Government holds the most complicated relations.

The members of the Indian tribes within our limits, while they are not citizens, cannot, with strict propriety, be termed foreigners. "Domestic dependent nations, their relations to the United States resemble those of a ward to his guardian. They look to our Government for protection, and appeal to it for relief to their wants." While we negotiate treaties with them, which are ratified with all the solemnity befitting a contract to which nations are parties, we undertake to construe and execute their provisions, acknowledging no responsibility but such as we may owe to truth, honor, and justice. As the limits of our civilization have been extended, the number of these children of the forest with whom our people are brought into immediate contact is greatly increased. Treaties multiply; rights are acquired; mutual obligations are assumed; obedience is promised on the one part, protection is guaranteed on the other. The Indian bureau is grown to be a great foreign office, conducting the correspondence and adjusting the relations of more than sixty interior governments; while it is at the same time charged with the control, regulation, and protection of the rights of the individual members of those Governments.

In the performance of these duties questions are presented of the most difficult character, in the solution of which it is almost impossible to arrive at a conclusion which shall reconcile the necessities of sound policy with the requirements of the law. The intercourse act of 1834 was adapted to a condition of affairs which no longer exists, and it might be judiciously modified. The

wide dissimilarity, too, of the provisions of the various treaties recently negotiated with the several tribes, agreeing, however, in this, that legislation by Congress is made a prerequisite to the full enjoyment by the Indian of the rights they were intended to secure to him, furnishes a weighty reason for the revision and codification of the laws now in force; and it is to be hoped that Congress will give its early attention to the subject, and prescribe, in one comprehensive enactment, a well-considered, compact, and uniform system of laws for the regulation of Indian intercourse.

The Indian tribes within our limits, numbering about three hundred and twenty-five thousand souls, may be divided into three classes: The first—wild, roving, fierce, retaining all the traditional characteristics which marked the race before the advent of the white man—eke out by plunder the uncertain subsistence derived from the chase. To this class, comprising nearly three fourths of the whole number, belong most of the bands whose hunting grounds lie in the interior of the continent, and in the Territories of Oregon and Washington. These tribes are controllable only through their fears. They are, ostensibly, our friends, because they dare not openly avow hostility; and this must continue to be the case as long as they retain their roving habits. The Indian office is powerless to effect any amelioration of their condition until they can be induced to adopt fixed habitations. To the accomplishment of this preliminary step the efforts of the Indian bureau are now directed; and it is hoped that, with the aid of the military arm of the Government, the system of colonization, which has elsewhere been so productive of good, may be successfully applied to these tribes.

The tribes of California, Utah, Texas, New Mexico, and a portion of those in Oregon, constitute the second class. Some three years since the policy was adopted of concentrating these Indians on small reservations, where they might be practically taught the industrial arts, and labor for their support under the immediate supervision of their agent. These establishments are, in fact, manual-labor schools on a large scale; and I am gratified to be able to state that the happiest results have followed their introduction. The two great difficulties to be encountered in effecting the civilization of the Indian, are his impatience of restraint and his aversion to labor; and these are not to be overcome by abstract teachings. He must be taught *practically*, if at all, the immense superiority of a settled over a roving life, and the value and dignity of labor. This, the colonization system appears to be accomplishing, and it is certainly the most effectual and economical plan yet devised for his reclamation.

The Indians along the west bank of the Missouri, those of Kansas, and the four great tribes occupying the territory west of Arkansas, form a third class, differing in many particulars from either of the others. Generally true and reliable, they constitute a people for whom we justly feel the deepest sympathy and the greatest solicitude. The degree of civilization to which these tribes have attained varies greatly in different localities. Some of them, steeped in ignorance, thoroughly degraded, seem, in their contact with our people, to have lost the rude virtues that characterized them in a savage state, and acquired from civilization only its vices. Others have rapidly advanced, socially, morally, and in the knowledge of the useful arts, until they have become fit to be recognized as citizens. Here and there is found one whose talents, attainments, and integrity, constitute him an ornament to his race, and, while he challenges our admiration and respect, furnishes practical evidence of the capacity of the Indian for high civilization.

When those tribes who once resided east of the Mississippi river were induced to leave the graves of their fathers and emigrate to the west, the Congress of the United States gave them a solemn pledge that the country where they now reside should be forever "secured and guaranteed" to them. The westward march of emigration, however, has overtaken the Indian, and now begins to press upon him; and it is evident that a critical period in his history has been reached. To attempt his removal still further west is im-

practicable. The country is unsuited to his wants; it has no sufficient supply of wood or water, and a removal there would but be the means of hastening on his bitter fate. Where he now is, he must make a stand and struggle for existence, or his doom is sealed. If he cannot adopt the habits, and rise to the level of his white neighbor, he must pass away; and the necessity of devising some policy which shall meet the emergency presses itself upon the Government at this time with peculiar force. So far as the Indians of the central and northern superintendencies are concerned, the question is especially embarrassing. Treaties have, within the last three years, been negotiated with most of these tribes, by which their lands, with the exception of small reservations, have been ceded to the United States. Other treaties have been made, by which individual reservations have been secured, in the expectation that the Indian would settle down, each upon his own farm, and gradually and insensibly attain the level of his neighbors. Unhappily for the success of this scheme, an unprecedented tide of emigration pressed into Kansas and Nebraska. The fertility of the reservations, greatly enhanced in value by the rapid settlement of the country, tempted alike the cupidity of the land speculator and of a class of settlers by no means punctilious in their respect for the right of the Indian. The result has been disastrous. Trespassed upon everywhere, his timber spoiled, himself threatened with personal violence, feeling unable to cope with the superior race that surrounded and pressed upon him, the Indian proprietor has become disheartened. Many of them have abandoned their reserves, and still more desire to sell. These Indians now ask for patents, as they have a right to do, for their selections. The treaties vest in Congress the power of providing for their issuance, "with such guards and restrictions as may seem advisable for their protection therein." There can be no doubt that our people will succeed in getting possession of these homes of the Indian. If Congress shall fail to act, and thus open no door by which the Indians can divest themselves of their titles, it may be apprehended that unscrupulous men will, without law, obtain possession of their lands for a trifling consideration, and stand the chances of an ultimate title. The interest of the reserve requires the passage of a law regulating the alienation of his right to his land, and securing him the payment of a fair equivalent for the same.

For their numbers, the income of most of these tribes, in the way of annuity, is large; but experience has shown that the system heretofore pursued, of paying them in money at stated periods, has been productive of evil rather than good. It represses industry and self-reliance, it encourages idleness and extravagance, and draws around them a swarm of unprincipled traders. In many of the treaties which have lately been negotiated with these tribes, this provision has been inserted: "The object of this instrument being to advance the interests of said Indians, it is agreed" that "Congress may hereafter make such provision by law as experience shall prove to be necessary."

If Congress, in the exercise of this power, should clothe this Department with some discretion in the payment of annuities, so that the same could be used as a means of their moral reform and elevation, instead of the injurious system now prevailing, of distributing money *per capita*, decided advantages may be reasonably anticipated.

The plan which has suggested itself as the most likely to arrest the demoralization now rapidly increasing, and, at the same time, lay a solid foundation for their ultimate civilization, may be briefly outlined thus:

They should be gathered on smaller reservations and in denser settlements. They must be familiarized with the idea of separate property, by encouraging them to erect houses as homes for themselves and their families. For this purpose the reservations should be divided into farms of suitable size, and distributed among the individuals of the tribes, to hold, in severalty, as their separate and private estate, but without the power of selling, mortgaging, leasing, or in any manner alienating the same, except to members of the same

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tribe with themselves. Settlements by white men within the reserves should be prohibited, and the prohibition rigidly enforced; and increased efforts should be made to suppress the sale of ardent spirits, to effect which the cooperation of the Indian authorities should be secured. Farms should be established in central positions, at which all the children of the tribe should be collected and required to labor, and where they could be taught the rudiments of an education. A certain portion of them should be apprenticed to useful trades, and the surplus of the proceeds of their labor, whether on the farm or in the workshop, should be divided among their parents. Here they would be taught the great truths that labor is honorable, and that want and suffering inevitably follow in the train of improvidence and idleness. Implements of husbandry, blankets, and clothing, useful articles of furniture, books, and, indeed, everything which promises to give comfort to their homes, should be purchased and divided *per capita*.

Should their income be more than sufficient to meet the outlay required for these purposes, then the remainder might be paid in money. Now the annual indiscriminate distribution of their national funds among the Indians is gradually working their ruin; whereas a wise policy, such as any parental Government should adopt, would necessarily produce the happiest results.

The details of the system should, of course, be modified to suit the varied conditions of the several tribes; but the uniform application of its leading ideas to the government of the tribes in the central and northern superintendencies is, I conceive, indispensable.

The condition of affairs in the southern superintendency presents a gratifying spectacle. The four great tribes of Choctaws, Chickasaws, Cherokees and Creeks, with the kindred band of Seminoles occupying the territory west of Arkansas, have steadily improved in morals, in education, in the comprehension of, and respect for, the rights of persons and of property, and in a knowledge of the theory and principles of government. They have regularly organized governments, constructed upon the model of our own, State constitutions, governors, legislatures, codes of laws, and judicial magistracies to expound them. There the path of duty is plain. Every encouragement should be held out to them to persevere in well doing, until the period arrives when, ripe for citizenship, they shall be admitted to the full enjoyment of all its rights and privileges.

One grievance, however, to which they are subjected, and of which they justly complain, deserves the consideration of Congress. While the Constitution, laws, and treaties of the United States are in force over this territory, there is no local tribunal empowered to take cognizance of the causes which arise under them—which, therefore, are sent for trial to the United States district courts in the State of Arkansas. This not only causes great expense and inconvenience to the suitors, but, in criminal cases especially, interferes with the impartial administration of justice. A Choctaw or Chickasaw, accused of an offense against the laws of the United States, is hurried away from his friends, to be tried at a remote point, in a community which has no sympathy with him. Unable to compel the attendance of his witnesses, and deprived of the aid and comfort extended to the white man similarly situated, he defends himself under great disadvantages. There is a manifest injustice in this which should be remedied at once; and I would suggest the establishment by Congress of a district court of the United States for this territory, to hold at least one term annually for each of the four tribes of Cherokees, Creeks, Choctaws, and Chickasaws. Among these tribes there are educated, well-read lawyers; and the holding of a court in their country would create, in the minds of the people, respect for the laws, and give dignity to the administration of justice.

The Indians of the Territories of Washington and Oregon are still restive and belligerent. This disposition on their part evidently springs from disbelief in the strength and ability of this Government to punish them for trespasses committed upon our settlements. It is the duty of the Government to disabuse their minds. This can best

be done by peaceful means. Let an appropriation be made to defray the expenses of a delegation from each of the large tribes in those distant Territories, to Washington and other eastern cities. Let them know, by personal observation, our numbers, see our improvements, and estimate our strength. They would readily conclude that further hostility would be absurd; and when they carried the story of our greatness and power to their people, a change would come over their minds, and we might then reasonably hope for the establishment, by treaties, of good understanding and perpetual peace between us. Such an appropriation would be, in my judgment, an act of true economy.

During the past year a large amount was paid into the Treasury of the United States on account of moneys belonging to certain Indian tribes. The several treaties under which this amount was derived devolved upon the President the duty of causing it to be invested in some "safe and profitable stocks," to be held by the Secretary of the Interior in trust for the respective tribes. In pursuance of your directions, these Indian trust funds were invested in State stocks which were deemed safe and profitable. The amount of bonds purchased was \$1,481,476 03, costing \$1,291,677 49.

The investment having been made at a time of unusual financial embarrassment, we were enabled to make a profit of \$190,398 54 for the Indian tribes, and at the same time to afford relief, to some extent, to the business community.

The report of the Commissioner of Pensions presents a satisfactory view of the operations of that bureau during the last year. The business of the office has been brought up to date, as nearly as it is practicable; and the large clerical force, required to dispatch the heavy labors devolved upon it by the recent laws granting bounty land, has been reduced, so as to conform to the present exigencies of the office.

For some years past, the practice has prevailed of paying to the children, and sometimes to the administrators, of deceased revolutionary soldiers and their deceased widows, the amount of pension to which such soldiers or widows would have been entitled had they succeeded in making good their claims during their lifetime, but never to grandchildren, as such. At the last term of the Supreme Court it was decided, in a case involving the distribution of certain pension moneys which had been paid to an administrator for the exclusive benefit of the children of a deceased widow of a revolutionary soldier, that grandchildren, *per stirpes*, stood in the same relation to such claims as children; and it was subsequently contended that the effect of that decision was not only to affirm the legal correctness of the practice alluded to, but to enlarge it, so as to embrace a class of claimants not previously recognized by it.

Seeing that a large amount of money had already been drawn from the Treasury under the practice of the office, and doubting whether the court had gone beyond the mere question of distribution involved in the cause before it, and decided as to the law on which that practice was founded, I availed myself of the first case that arose to elicit the views of the Attorney General, both as to the effect of the decision of the court and the legality of the previous ruling of the office. He thoroughly investigated the whole subject, and gave a most lucid and convincing opinion on the law of the case; in which he came to the conclusion that soldiers or widows, who might have been entitled to pensions in their lifetime, but died without establishing their right or receiving the same, left no estate in their claims which could be inherited either by grandchildren or children; that arrears of pension, which alone, by the statute, were inheritable, only existed in cases where a pension had once been received, and, at the death of the pensioner, a portion was left unpaid; and that the Supreme Court, in the decision referred to, had not passed upon that question. In this opinion I concurred; and, as there was no law for the payment of pensions in such cases, and as no money could be drawn from the Treasury without a previous appropriation, any payment ordered by me would have been against law, and would have amounted to a

naked act of legislation by an executive officer. I felt no hesitation, therefore, in ordering a discontinuance of the practice in question; and all the cases coming within it will be indefinitely suspended, unless Congress shall pass a law giving to children and grandchildren the pensions their deceased ancestors would have received had the proper proof been made out during their lifetime.

A pension is a bounty given by Government for meritorious personal service, and the first law granting pensions for revolutionary services confined the bounty to the *indigent* soldiers. But, whether this restriction be correct or not, it is self-evident that the great inducement, in all pension laws, is to relieve and compensate, in his own proper person, the self-sacrificing soldier, who risked his life, wasted his energies, and neglected his private affairs in the service of his country. The law has extended its beneficence from the soldier to his widow, and there it has stopped. If Congress shall take one step further, and provide for children and grandchildren on account of the services of their ancestors, the question arises, why take care of the children and grandchildren of those whose fortune it was to live till Congress had passed a pension act, and not of those, equally meritorious, who died in the service, or who dragged out a miserable existence, uncared for and unrecognized by the Government?

The children and grandchildren and great grandchildren should be contented in the rich inheritance derived from a glorious ancestry, in the liberties they enjoy, and in the institutions which give them protection. Congress has not been unmindful of our revolutionary heroes. It has dealt out to them with no sparing hand. Up to the 30th June, 1857, under the pension laws of 1818, 1828, and 1832, \$43,011,960 had been paid to revolutionary soldiers; and under the acts of 1836, 1838, 1848, and 1853, \$18,302,660 had been paid to the widows of our revolutionary soldiers—making an aggregate, in money, of \$61,314,620, besides large donations of land and disbursements of money, under other laws, on account of revolutionary services.

The discriminations pointed out by the Commissioner of Pensions as existing between the invalid and half-pay pensions for the Army and the Navy, would seem to demand revision and correction by Congress. Some reorganization of the systems upon which those pensions are granted is desirable, not only because of the inadequacy of the lower rates to relieve the wants of those intended to be benefited, but because of the manifest propriety of making like provision for those of corresponding grades in the two arms of the service who may become disabled while in the faithful discharge of duty.

During the past year 41,483 warrants for bounty land have been issued, requiring, to satisfy them, 5,952,160 acres of the public domain; and the number issued under all the bounty land acts of Congress from the revolutionary war to the present time is 547,250, requiring, to satisfy them, 60,704,904 acres of land.

The frauds practiced upon the Pension office in attempts to procure, and in the actual procurement of land warrants, are numerous; but, owing to the short statutory limit of two years, the frauds are not discovered, and many guilty persons escape. I would, therefore, recommend an extension of the limit now made by the law for the prosecution of offenses of this kind.

The Commissioner of Pensions has called my attention, also, to the fact, that the forging of land warrants is rendered penal by no existing law. The extent to which this evil practice exists is not known, but the importance of some legislative action upon the subject is obvious, and I would respectfully recommend that Congress provide some law which may serve as a protection to the Government.

The report of the Commissioner of Public Buildings furnishes a detailed and satisfactory statement of the application of the appropriations placed under his more immediate direction.

The west wing of the Patent Office building is nearly completed throughout, and presents an elegant and tasteful appearance. The north front of the building is in the process of erection. Satisfactory contracts have been entered into for

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the granite and marble work; the sub-basement has been finished; and the contractors are pressing forward their operations with a commendable zeal. This portion of the building will be completed by the appropriations already made, and no estimate is now deemed necessary for the improvement and inclosure of the grounds around it.

An extraordinary flood, during the last winter, swept away several sections of the bridge across the Potomac. The authorities of the city of Washington repaired the breach, and the bridge has been otherwise placed in such condition as to make its passage safe. This, however, is a temporary arrangement, but it is the only one by which a convenient connection between the city of Washington and the shore of Virginia can be had at present. A permanent bridge across the Potomac is a necessity, and it is for Congress to determine its location and its character.

The District of Columbia has been set apart for the capital of the nation, and the relations of its people to the General Government are altogether anomalous. Without a representative in Congress, and with no voice in the election of their Chief Magistrate, so far as political rights are concerned its inhabitants occupy the attitude of a dependent people. But they are, nevertheless, American citizens, and, as such, have rights and interests which are dear to them, to guard which facilities should be afforded them, as to every other portion of our fellow-citizens, of making known their wants, through their own representative, to the only body clothed with the authority to supply them. There can be no just reason for the distinction which has heretofore prevailed—allowing a Territory, with a meager population, a delegate upon the floor of Congress, to make known its requirements and advocate its interests, and denying the same privilege to this District, with its seventy-five thousand inhabitants. It would be an act of justice to provide a seat on the floor of the House of Representatives for a delegate to be chosen by the people of the District of Columbia. Such an arrangement would remove a just ground of complaint, that they have no accredited organ by which their interests can be fairly and favorably brought to the consideration of Congress.

In the act to incorporate the city of Washington, passed May 15, 1820, Congress invested the corporation with full power and authority to "lay and collect taxes;" "to erect and repair bridges;" "to open and keep in repair streets, avenues, lanes, alleys, drains, and sewers, agreeably to the plan of the city;" "to erect lamps, and to occupy and improve for public purposes, by and with the consent of the President of the United States, any part of the public and open spaces and squares in said city, not interfering with private rights."

In conferring these powers upon the corporation, Congress must have acted on the conviction that it was the duty of the city, and not of the General Government, to open and repair streets and avenues, as well as to make the other improvements indicated.

It is evident that the city authorities, acting under the influence of a city constituency familiar with the localities, and well informed as to the true interests and requirements of the people, are less liable to be misled in such matters by the representations of private interests than those whose attention is chiefly taken up with subjects of more general concern, and who are not supposed to be specially interested in the material advancement of the city.

It seems to be eminently proper, therefore, that these improvements should be made, in pursuance of the provisions of the charter, under the direction of the city authorities; and hence no estimates have been submitted thereto by this Department. Beyond the appropriations made by Congress for these objects, neither the Commissioner of Public Buildings nor the Secretary of the Interior has been intrusted with this duty. The law relieves this Department from the obligation, not unfrequently urged, of initiating plans and suggesting appropriations for the opening, improvement, and lighting of streets and avenues, and for the construction of drains and sewers in the city.

The Government, however, is a large real-estate proprietor in the city of Washington; and provision is made in the charter of incorporation by which the Commissioner of Public Buildings is directed to reimburse the corporation a just proportion of the expense incurred in opening and improving streets passing through and along public squares. This expense has been heretofore defrayed out of money arising from the sale of lots belonging to the Government; but this resource has now failed us, and an estimate has been submitted for an appropriation out of the national Treasury on that account.

The reservations owned by the United States within the city of Washington require to be improved by the General Government. Much attention has been bestowed upon these during the last few years, and several of them have been substantially inclosed and tastefully embellished. But while much has been accomplished, more remains to be done; and liberal appropriations might, with propriety, be made for the continuation of these improvements whenever the condition of the Treasury will admit of it.

The grounds around the Capitol are particularly commended to the favorable consideration of Congress, in the hope that early measures may be taken to relieve them of their present uncomely appearance. The time has come when some plan should be agreed upon for their extension; but how far they should be extended is a question to be determined by congressional action.

The auxiliary guard is a police force provided by the Government for the protection of property and the preservation of the peace within the city of Washington. Its members are paid from the public Treasury, through the Commissioner of Public Buildings, but derive their appointments from the Mayor of the city, to whom alone they are responsible for the faithful discharge of their duties. It is respectfully recommended that the law on this subject be so far amended as to require these appointments, before they can take effect, to be reported to and approved by some officer of the Government, either the Commissioner of Public Buildings or the Marshal of the District of Columbia, and to give such officer the power of removal from office whenever, in his opinion, the public good may render it necessary.

The reports of the superintendent and board of visitors of the Government hospital for the insane accompany this report. The number of patients in the hospital, July 1, 1856, was ninety-three. During the fiscal year ending June 30, 1857, fifty-two were admitted, and thirty-five discharged, leaving in the institution, at the last-mentioned date, one hundred and ten, four of whom are independent or pay patients. This number exceeds the rated capacity of that part of the building now completed; but an appropriation has been made for the construction of the center building and three sections of the wings, according to the original plan adopted, which are in process of erection, and which will be pressed to completion with all proper dispatch and economy. When these portions of the building are finished, it is believed its capacity will be sufficient to meet all present demands for the accommodation of this unfortunate class of our people.

The institution is conducted with skill and fidelity, and reflects credit upon all who are concerned in its management.

At the last session of Congress, an act was passed incorporating the Columbia Institution for the Instruction of the Deaf, Dumb, and Blind. In the charter of incorporation it is made the duty of the Secretary of the Interior, whenever he is satisfied that "any deaf and dumb or blind person of teachable age, properly belonging to this District, is in indigent circumstances, and cannot command the means to secure an education," to authorize the said person to enter the said institution for instruction, and to pay for his or her maintenance and tuition therein, at the rate of \$150 per annum. In pursuance of this provision of law, fourteen pupils have been placed in the institution.

The report of the president of the institution, which he is required to make annually, is here-

with communicated. It exhibits the institution in rather a crippled condition. It is in debt, and it needs more land, better buildings, and a larger income to pay the teachers. It has fifteen pupils, fourteen of which are maintained by the Government. The charity is a noble one, but as it is not a Government institution, it is for Congress to determine whether further assistance shall be extended to it.

The report of the inspectors of the penitentiary, with the accompanying reports of the warden, clerk, physician, matron, and chaplain, are herewith submitted. They furnish a detailed account of the administration of the affairs of the penitentiary for the past year. The views expressed by the inspectors of the present working of the penitentiary, and their recommendations for its future improvement, are approved and commended to your favorable consideration.

The report of the engineer in charge of the construction of the bridge across the Potomac at Little Falls, exhibits the progress of that work, and the probability of its early completion. There have been unavoidable delays, which are explained, but the work, when finished, will be creditable alike to the engineer and the Government.

By a joint resolution of the last Congress, the duty was devolved upon this Department of distributing a portion of the journals and congressional documents to the public libraries, &c., previously distributed by the Department of State. As the resolution prescribed no rule by which the distribution should be made, it is proposed to send to each State copies in proportion to its Federal representation, and the distribution will be made on that basis, unless Congress shall otherwise direct. It is respectfully suggested that a law be passed for the future government of the Department in reference to this subject.

To this Department belongs the supervision of the accounts of marshals, district attorneys, and clerks of the circuit and district courts of the United States, and no other branch of the public service is encompassed with greater difficulties in its administration. In some respects advantageous changes might be made, and additional legislation is recommended.

By the act of February 28, 1799, fees for services rendered by district attorneys in the performance of their duties were specifically prescribed, and in certain districts named an annual salary was provided, "as a full compensation for all extra services." All district attorneys, except the one in southern New York, now draw a salary, the greater part of them at the rate of, and none less than, two hundred dollars per annum. But the repeated applications for compensation for extra services by these officers is becoming a serious evil.

Some of the district attorneys assume that they are under no official obligation to render any service for the Government for which no fee is prescribed under existing laws, such as preparing a case for trial, procuring and examining witnesses, examining title to property purchased for the use of the United States; and they insist, as a matter of equity, if not of strict legal right, that they are entitled to compensation for all professional services, other than those specifically enumerated in the fee act, notwithstanding they receive a fixed compensation for all extra services, and the act itself declares, "no other compensation shall be taxed or allowed" than the fees therein prescribed.

I recommend an increase of the salaries of the respective district attorneys, graduated by some equitable rule, coupled with a provision devolving upon those officers the duty of faithfully performing all such services, in the line of their profession, as should be required of them in every case in which the interests of the Government are in any way involved, and declaring that the receipt of such salary shall operate as a full discharge of all claim on the part of the recipient for compensation for all services not enumerated in such fee bill as may at the time be in force.

Experience has demonstrated that a change may be made with propriety in the law providing for the appointment of clerks of the several United States courts.

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These officers are now appointed by the judges, to whom alone they are responsible for their official conduct. The law requires them, semi-annually, to make returns of their fees and emoluments. But in case of failure or refusal, this Department is powerless to enforce obedience, or to remove the delinquents. It can, however, withhold any money that may be due them by the United States, until they shall render their accounts. This is the whole extent of its power.

It is made the duty of this Department to restrict the expenditures of these officers within proper limits, although defrayed out of the proceeds of their offices; to allow no one clerk to retain of his fees and emoluments a sum exceeding three thousand five hundred dollars per annum, for his personal compensation; and to require him to pay into the Treasury of the United States, semi-annually, any surplus of the same. A duty is thus imposed upon the head of the Department, while he is clothed with no adequate authority to enforce a compliance with his orders and requirements. As an evidence of this, it is proper to state, that in order to answer a resolution adopted by the last House of Representatives, circulars, calling for the requisite information, were addressed to all these officers on the 1st of September last; and although proper commendation is due to those who replied promptly, yet fourteen in the States, and nineteen in the Territories, have wholly failed to respond thereto. Some remedy for this state of things should be provided, and it is respectfully suggested, as the most effectual, to change the tenure of the office, so as to require all clerks of all the courts to be appointed in the same manner as marshals and district attorneys.

Clerks of courts, in many cases, are appointed and act as United States commissioners. This practice, it is believed, adds largely to the expenses of that branch of the public service, especially in the large cities, where it becomes necessary, in the absence of the clerk, to employ an additional number of deputies in his office. This evil requires correction at the hands of Congress.

The clerk of the Supreme Court cannot, by the received construction of the law, be required to make a return of the fees and emoluments of his office, nor is his compensation limited; yet the policy and spirit of the law includes this officer, as well as the clerks of the circuit and district courts. If the existing law be wise and ought to be maintained, then no valid reasons exist why this officer should be made an exception.

The late Attorney General gave an opinion that a clerk was a "collecting agent of the Government, and should be held to account for all the fees of his office, received or receivable, deducting therefrom the maximum allowed by law." Now, although the clerk or other officer may earn a large surplus, still one half of the maximum may not have been actually received. And, notwithstanding the fact that they are legally powerless in some cases to collect their earnings, they are positively required to pay into the Treasury, with each semi-annual return, any surplus which the same exhibits. The officers claim, generally, that they have a right to retain the compensation to which they are entitled, and that they are not in a position to retain it until it is actually collected, which leads to much difficulty.

To remedy this, it is suggested that all clerks and marshals in the respective States and Territories, and in the District of Columbia, be explicitly authorized to demand the payment of their fees, or take security therefor, when they are not properly chargeable to the United States, in advance of the rendition of all official services.

During the last session of Congress an appropriation of \$100,000 was made for the erection of a court-house in the city of Boston. This was construed not to authorize this Department to purchase a building, however suitable for the purpose. The Masonic Temple, conveniently situated in the business part of that city, was offered to the Department for \$105,000. The proposition was accepted, subject to the approval of Congress; and an estimate has been submitted covering the expenditure.

The fourth section of the act of 26th February

last, authorizing the people of Minnesota "to form a constitution and State government," made it the duty of the United States marshal for said Territory "to take a census, or enumeration, of the inhabitants within the limits of the proposed State, under such rules and regulations as should be prescribed therefor by the Secretary of the Interior, with the view of ascertaining the number of Representatives to which said State may be entitled in the Congress of the United States."

The necessary instructions have been issued to enable the marshal to perform that duty, and an appropriation will be asked, as soon as full returns of his operations have been received, to defray the expenses he has thus been directed to incur—no provision therefor having yet been made.

By an act of the last Congress, this Department was charged with the construction of the following wagon roads: one from Fort Kearny, Nebraska, by way of the South Pass, to the eastern boundary of California, near Honey Lake; one from El Paso, on the Rio Grande, to Fort Yuma, at the mouth of the Gila river; and one from the Platte river, via the Omaha reserve and Dacotah City, to the Running Water river.

Provision had been previously made for opening a road from Fort Ridgely, Minnesota, to the South Pass, and operations had been commenced thereon under instructions from my predecessor.

Work has been commenced on all these roads, and measures have been taken for its vigorous prosecution. The obvious design of Congress, in these appropriations, was to locate and open roads which should meet present emergencies and the demands of emigration, and not to introduce a system of improvements which would require other and larger appropriations to be made, from year to year, for their completion. With this view, and to secure the speedy and economical construction of these great and extended thoroughfares, it was deemed expedient to appoint a superintendent, and organize a suitable corps of operatives on each road. Each superintendent was instructed to pass over the entire length of the section of the route assigned him, locating it on the most direct and advantageous ground, and opening and improving it in such a manner as to admit of the easy passage of a loaded wagon.

The immediate direction of the movements of these several parties was placed by me in charge of a gentleman of experience; and so soon as full information of the operations of the past season is received, I will cause him to make a detailed report of their progress, for the purpose of laying it before Congress.

The Fort Ridgely and South Pass road has already been opened as far west as the Missouri river, a distance of about two hundred and fifty miles, and the country through which it runs is reported to be a rich and desirable one for settlement. The appropriation for this work has, however, been exhausted, although some four hundred and fifty miles remain to be completed. To finish this portion of the road, should it be the pleasure of Congress to carry out its original design, an additional appropriation of \$30,000 will be required, and it should be made at an early day.

The joint commission for running and marking the boundary between the United States and Mexico, under the treaty of December 30, 1853, concluded its labors and adjourned on October 1st; and the commissioner on our part has turned over to this Department the maps, (with one or two exceptions, which are in the hands of the engraver,) journals, astronomical determinations, and other public property in his possession.

Of the report, heretofore ordered by Congress to be printed, the first volume is completed, and will be ready for distribution early in January. The second volume, or appendix, which contains the reports upon the zoology and botany of the region surveyed, is still incomplete. The engraved plates to illustrate this part of the work are in the custody of this Department, so far as they are completed.

During the last Congress, the Senate, by resolution, ordered the printing of five thousand extra copies of the report proper and accompanying

maps, and two thousand extra copies of the second volume, or appendix, to be paid for out of the fund appropriated for running the boundary. The execution of this order will cost from thirty-five to forty thousand dollars. The resolution of the Senate, without the concurrence of the House of Representatives and the President, will not furnish to this Department a sufficient warrant to justify the payment of these expenses out of the fund designated.

By the fourteenth section of the act approved March 3, 1837, the Commissioner of Patents is required annually, in the month of January, to make a report to Congress, detailing the operations of his bureau. This law was enacted while the office was under the supervision of the Secretary of State; and as it was not required of him to make an annual report, it was deemed more convenient, without doubt, for the Commissioner to report directly to Congress. The act approved March 3, 1849, transferred the supervisory and appellate powers in relation to the acts of the Commissioner of Patents, previously exercised by the Secretary of State, to the Secretary of the Interior. All the other bureaus of the Department make annual reports to the Secretary, to be laid before the President, and by him communicated to Congress; but, in the case of the Commissioner of Patents, while the rules and regulations for the management of his office, his acts, and the conduct of all those under his immediate supervision, are subject to the control of the Secretary, and, through him, of the President, yet the annual report required of him is not, in any way, under existing law, open to the revision of either. There is nothing in the peculiar nature of the subjects or duties pertaining to that bureau which makes this exception necessary; and as the reason for the law has ceased to exist, it might be changed with propriety.

From the 1st of January to the 30th of September, 1857, 4,095 applications for patents have been received, and 820 caveats filed; 2,066 patents have been issued, and 2,287 applications rejected.

The receipts for the three quarters ending 30th September, 1857, were \$161,415 97. The expenditures were \$163,942 04. Excess of expenditures over receipts, \$2,526 07.

The policy indicated in the law establishing the Patent Office is, that it should be a self-sustaining bureau. This policy is a sound one, and should be observed.

The law now authorizes a return, upon the rejection of an application, of two thirds of the fee required to be deposited by the applicant on presenting his claim. Of the \$163,942 04 expended during the last three quarters, \$27,939 99 was made up of fees restored to applicants, after the labor of examining their cases had been performed. There seems to be neither justice nor expediency in this requirement. Its consequence has been to bring into the office a large amount of business, frivolous in its character, and which seems, in fact, obtruded but as an experiment upon its credulity. If it is desired that this bureau should be, as heretofore, supported by its own earnings, this feature of the financial administration of the office should be revised and reformed.

By the ninth section of the act approved July 4, 1836, the applicant for a patent, if a subject of the King of Great Britain, was required to pay a fee of \$500. At that time, an American citizen applying for a patent in that kingdom was required to pay a fee of £100. But recently the English Government has reduced the fee required of an American citizen from £100 to £20. As the fee originally required seems to have been determined on a principle of retaliation, it is proper and becoming in our Government to respond to the liberal policy shown by Great Britain toward our citizens, by reducing the fee in such cases to \$100.

The existing law authorizes an appeal from the decision of the Commissioner to either of the judges of the circuit court for the District of Columbia. This law is an anomaly in our legislation. It confounds the executive and judicial departments, which the genius of our institutions requires should be kept separate and distinct from each other. Its violation of principle is not a

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more serious difficulty than its practical operation. The appellant not only selects the judge who shall try the case, but also pays the fee of twenty-five dollars allowed him. The amount of compensation thus received will depend upon the number of cases brought before him; that number will inevitably be influenced by his course of decision. The judge is thus placed in a position of embarrassment, if not of humiliation, alike to be deplored by himself and the country.

This law should be repealed, and some other system substituted, which will put this office in a position of independence in its executive action, and at the same time secure all the rights of inventors. The most feasible plan yet suggested to effect this is, in my judgment, to authorize the creation of a permanent board of review, to consist of three members, selected from the examiners of the office, and who shall be known as examiners in chief. This board shall be charged with the duty of hearing and determining upon all appeals from the judgment of the primary examiners, except in cases of appeal where any of these may have previously formed and expressed an opinion; in which case another examiner may be substituted to act in his stead; and then their judgment and action will be subject to the supervision and review of the Commissioner. This alteration of existing law must necessarily increase the efficiency of the office, and at the same time secure uniformity and certainty in its rules of action. And while the inventor will be saved from vexatious delays, and heavy costs to judges and counsel, he must feel satisfied that, in the provision made for the thorough examination of his application by the examiner in the first instance, then by the board of examiners in chief, and lastly by the Commissioner, he has secured to him the amplest opportunity for the establishment of his rights.

The activity and success of the inventive genius of the country, the limited circumstances of this worthy class of our fellow-citizens, who are badly prepared to brook delay or expense in the prosecution of their claims, the rapid enlargement and growing importance of this branch of business, and the fact that this office asks nothing from the national Treasury, but only seeks such an organization of its internal machinery as will place this branch of the public service upon the most efficient footing, justify an earnest invocation of the attention of Congress to the wants of this office.

The agricultural division of this office is growing in popularity with the country and increasing in usefulness. It may be well questioned whether any other expenditure of the public money has ever proved so largely remunerative and so beneficial in its influences. The crop of Chinese and African sugar cane alone, for the present year, will more than compensate for the money heretofore expended in this behalf.

Measures have been taken for the establishment of a more satisfactory system for the distribution of seeds; the introduction of the tea plant; the collection of the seed and cuttings of the native grape vines with the view of testing their value for the manufacture of wine; the investigation of the nature and habits of the insects that infest the cotton plant, with a view of ascertaining whether some plan can be devised for the protection of the cotton planter; and for the chemical analysis of various plants and soils.

The cases required by the act of March 3, 1857, to be constructed in the hall of the Smithsonian Institution for the reception of the collections of the exploring expeditions and other objects of curiosity and interest, now in the main hall of the Patent Office building, have been contracted for, and sufficient progress has been made to warrant the belief that the removal can be made before the expiration of the current fiscal year. The object of the transfer of these collections to the Smithsonian Institution evidently was to relieve the Patent Office from the responsibility and trouble of their custody; the force, therefore, heretofore employed to take care of them will then be no longer needed by this office, and no estimate has been submitted for that purpose.

I am, sir, very respectfully, your obedient servant,

J. THOMPSON,
Secretary of the Interior.

To the PRESIDENT OF THE UNITED STATES.

Report of the Postmaster General.

POST OFFICE DEPARTMENT,
December 1, 1857.

SIR: Since entering on the administration of the Post Office Department, I have ventured on no new theories, nor attempted any innovations on the well-tried system established and practiced upon by my predecessors: I have contented myself with endeavoring, as far as in my power, to perfect existing arrangements, and extend its facilities equally and fairly to every portion of our widely-extended country. In examining its present condition, it is worthy of observation that, while the total number of post offices created during the twenty years from 1827 to 1847 was but 8,146, the number established in just half that length of time, from 1847 to 1857, was 11,444. On the 30th of June, 1827, the whole number of post offices in the United States was 7,000; in 1837, 11,767; in 1847, 15,146; and on the 30th of June, 1857, 26,586. During the last fiscal year there have been 1,725 offices established and 704 discontinued, being a net increase of 1,021. The number of postmasters appointed during the year was 8,680. Of these appointments 4,767 were to fill vacancies occasioned by resignation; 1,681 by removal; 238 by death; 269 by change of names and sites; and 1,725 by the establishment of new offices. The total number of offices at this time is 27,148, of which 368 are of the class denominated presidential, their incumbents being subject to appointment by the President and Senate. The commissions of the higher class run four years from the date of confirmation, but those of the lower are not limited.

TRANSPORTATION STATISTICS.

On the 30th of June last, there were in operation 7,888 mail routes. The number of contractors was 6,576. The length of these routes is estimated at 242,601 miles, divided as follows:

Railroad..... 22,530 miles.
Steamboat..... 15,245 "
Coach..... 49,329 "
Inferior grades..... 155,497 "

The total annual transportation of mails was 74,906,067 miles, costing \$6,622,046, and divided as follows:

Railroad, 24,267,944 miles, at \$2,559,847—about ten cents and five mills a mile.

Steamboat, 4,518,119 miles, at \$991,998—about twenty-two cents a mile.

Coach, 19,090,930 miles, at \$1,410,826—about seven cents and four mills a mile.

Inferior grades, 27,029,074 miles, at \$1,659,375—about six cents a mile.

Compared with the service reported on the 30th of June, 1856, there is an addition of 2,959 miles to the length of mail routes; 3,598,170 miles to the total annual transportation—being about five per cent.; and of \$586,572 to the cost, or nine and seven tenths per cent.

The aggregate length of railroad routes has been increased 2,207 miles, and the annual transportation thereon 2,458,648 miles—eleven and two tenths per cent.; at a cost of \$249,458, or eleven and eight tenths per cent.

The length of steamboat routes is greater by 294 miles, and the annual transportation by 277,949 miles, costing \$131,243 additional, or six and a half per cent. on transportation, and fifteen and two tenths per cent. on the cost.

The expense for this species of service was increased, in one case alone, \$28,200, without any additional service, that is, owing to the failure of the contractor on the New Orleans and Key West route. By act of Congress, \$7,200 additional was also allowed between Bainbridge, Georgia, and Appalachicola, Florida, without additional service. A route was put in operation on the Missouri river, on the 1st of June last, at \$85,000 per annum, including side mails by horse or coach, and regular land service during the suspension of navigation. Steamboat contracts were also made between Paducah, Kentucky, and Cairo, Illinois, at \$6,000 per annum; and between Columbus and Bay Port, Florida, at \$7,000; and a fourth weekly trip commenced between New Orleans and St. Francisville, at \$8,323. On the other hand, a reduction of \$15,719 per annum was effected by discontinuing service between Chattanooga, Tennessee, and Decatur, Alabama,

and curtailing the Nashville and Memphis route so as to end at Cairo, Illinois. Such are the more prominent changes in the steamboat service.

The length of the coach routes has been reduced 1,124 miles, and the annual transportation 24,061 miles; while the expense has been increased \$70,470, or about five and a quarter per cent., (\$10,000 less than would appear from comparing the cost on 30th June last with that reported on 30th June, 1856, the latter having been short stated by that amount.)

In the States of New Jersey, Pennsylvania, Delaware, Maryland, and Ohio, where new contracts took effect on 1st July, 1856, the length of coach routes was decreased 505 miles, and the annual transportation 228,976 miles, at an increased cost of \$24,752. At the same time the railroad service and cost in those States were largely increased—907 miles in length of routes, and \$119,208 in the cost.

In the New England States, during the past year, the coach transportation was slightly decreased, but the cost increased \$11,264—the amount allowed by Congress to a failing contractor.

In Missouri there is a seeming reduction of coach service of 1,366 miles in length of routes, 137,960 miles annual transportation, and \$43,174 in cost; but it must be noted that the Missouri river contract, above referred to, absorbed much coach service, which, to a great extent, will continue as such, although, under the circumstances, unavoidably reported under the head of steamboat transportation.

In Tennessee there is a disproportion between the miles and cost of coach service, the cost only being increased. This is accounted for by an allowance for expediting in the gap between the Virginia and Tennessee and the East Tennessee and Virginia railroads, and other changes.

In other States there have been no changes requiring special notice. In some there have been reductions; but in most of them the coach service has been somewhat increased.

There is nothing of note in connection with the California, Oregon, New Mexico, Nebraska, and Kansas routes.

The cost of the Utah routes was increased \$17,500 by the allowance of that additional pay, under an act of Congress, without any increased service, on the route between Salt Lake and San Pedro.

The additional length of inferior routes is only 1,582 miles, owing partly to the fact that during the year ending 30th June last, comparatively little new service of this description was put in operation. The large increase of such service reported 30th June, 1856, arose from new routes established by Congress, amounting to nearly 6,000 miles, in the northwestern and southwestern sections alone, and from other extraordinary service.

The increased cost over that of 30th June, 1856, (\$124,401,) may be explained by the additional expense under the new contracts commencing July 1, 1856, in the middle section of the Union, (\$63,533,) while there was a decrease in the length of routes of this grade; and the allowance of \$17,500 on the Salt Lake and San Pedro route, without additional service, must also be taken into account.

As already stated, the extension of railroad service has been very great; and in order to exhibit this more plainly, the increase is given separately in five geographical sections, as follows:

States.	Additional cost.	Additional miles of transportation.	Additional miles of route.
New England.....	\$11,149	26,123	137
New Jersey, Pennsylvania, Delaware, Maryland, and Ohio.....	119,208	1,257,075	907
Virginia, North Carolina, South Carolina, and Georgia.....	19,890	171,078	184
Michigan, Indiana, Illinois, and Wisconsin.....	71,267	650,088	586
Kentucky, Tennessee, Alabama, Mississippi, and Louisiana.....	27,935	354,234	393
Total.....	249,458	2,458,648	2,207

The letting of new contracts for the term commencing 1st July last, embraced the New England States and New York.

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The following table shows the new service as in operation on the 30th September:

Conveyance.	Miles in length.	Miles of annual transportation.	Cost.
Railroad.....	6,413	7,099,505	\$718,840
Steamboat.....	770	474,608	27,348
Coach.....	9,967	4,604,426	208,468
Inferior modes.....	10,258	3,276,073	144,093
Total.....	27,408	15,454,612	\$1,098,749

Compared with the service on 30th June last, there appears to be a decrease of 791 miles in the length of routes, and 823,034 miles in the annual transportation, while the cost is increased \$120,044.

In *New England* the annual transportation by railroad is decreased 885,876 miles; but this is more nominal than real, owing to the fact that a great portion of this grade of service in that section has heretofore been stated at twelve trips a week, the contracts requiring the conveyance of mails as often as the cars run, while really but six trips were performed. Now, however, the service is reported as actually existing, and there is no reduction of mail facilities.

The cost is increased \$61,041.

Steamboat transportation is increased 147,784 miles, at a cost of \$13,918.

Coach transportation is decreased 320,474 miles, but the expense increased \$5,074.

Inferior grades of service are increased 360,925 miles in annual transportation, and \$22,405 in cost.

In *New York* the railroad transportation is increased 293,328 miles, at a cost of \$10,268. Steamboat service decreased 161,664 miles, at a decreased cost of \$7,501. Coach service decreased 143,384 miles, but the cost increased \$12,642. Inferior service decreased 113,673 miles, and cost increased \$2,197.

On the 30th of June last there were in service 406 route agents, at a compensation of \$310,900; 45 local agents, at \$28,488; and 1,335 mail messengers, at \$160,425; making a total of \$499,813. This amount, with the increased cost of service commencing the 1st of July, under new contracts, (\$120,044,) added to the cost of service as in operation on the 30th June last, (\$6,622,046,) makes the total amount for the current year \$7,241,903.

This is independent of the cost of ocean mail service.

There should also be added the estimated cost of improvements made since 1st July last (including the San Antonio and San Diego route,) \$587,825.

I have caused to be put in operation a steamship route, twice a month, between San Francisco and Olympia, and a weekly line on Puget Sound.

Also, a tri-weekly steamboat line between Napoleon and Pine Bluff, Arkansas; and a semi-weekly line between Napoleon and Vicksburg; besides the daily mail on the Missouri river, already referred to, viz., from Jefferson City to St. Joseph.

The overland route from San Antonio, Texas, to San Diego, California, has also been successfully commenced.

I have also made a contract for conveying mails six times a week between Prairie du Chien and St. Paul, in coaches or sleighs, as the case may be, during the suspension of navigation on the Upper Mississippi.

REVENUE AND EXPENDITURES.

The comprehensive report of the Auditor, heretofore appended, will be found to contain a mass of statistics skillfully prepared, and so judiciously arranged as to present with clearness and precision the financial operations of the Department, in their various branches, during the past fiscal year.

The expenditures of the fiscal year ending June 30, 1857, including payments to letter carriers and for foreign postages, amounted to \$11,508,057 93, viz:

Compensation to postmasters.....	\$2,285,609 86
Ship, steamboat, and way letters.....	17,594 76
Transportation, including foreign mails.....	7,239,333 27
Wrapping paper.....	52,120 78
Office furniture, for post offices.....	3,978 26
Advertising.....	75,106 37
Mail bags.....	65,219 21

Blanks.....	\$117,170 87
Mail locks, keys, and stamps.....	12,287 50
Mail depredations and special agents.....	65,228 25
Clerks for offices—post offices.....	834,025 60
Postage stamps.....	30,638 80
Stamped envelopes.....	63,597 74
Payments to letter carriers.....	154,710 51
Repayments for "dead letters".....	41 84
Miscellaneous payments.....	189,107 99
Payments for balances on British mails.....	297,098 88
Payments for balances on Bremen mails.....	5,187 44
	\$11,508,057 93

If to the expenditures of the year, as stated, there be added the sum of \$734 16 lost by compromising debts under the third section of the act of March 3, 1851, and if the sum of \$1,121 93 gained by small balances carried to "suspense account" be deducted, the net expenditures for the year will be \$11,507,670 16.

The gross revenue for the year 1857, including receipts from letter carriers and from foreign postages, amounted to \$7,353,951 76, viz.:

Letter postage.....	\$983,207 24
Stamps sold.....	5,447,764 51
Newspapers and pamphlets.....	634,863 51
Registered letters.....	35,876 87
Fines.....	15 00
Receipts on account of emoluments.....	79,351 00
Receipts on account of letter carriers.....	154,710 51
Receipts on account of dead letters.....	6,756 57
Extra compensation overcharged.....	1,667 30
Miscellaneous receipts.....	9,739 25
	\$7,353,951 76

But if to the gross sum above stated be added the permanent annual appropriations made by the acts of March 3, 1847, and March 3, 1851, in compensation for services rendered to the Government in the transportation and delivery of franked matter, the whole revenue of the year will be \$8,053,951 76, being \$3,453,718 40 less than the expenditures.

ESTIMATES OF RECEIPTS AND EXPENDITURES IN 1858.

The aggregate sum appropriated by the act of Congress approved March 3, 1857, for the regular expenditures of the year ending June 30, 1858, exclusive of the transportation of foreign mails, of payments for foreign postages and to letter carriers, was.....	\$11,173,247
For Panama mails, act of March 3, 1857.....	135,000
For Charleston and Havana mail, act of March 3, 1857.....	50,000
For the transportation of the mails between New York and Havre, and New York and Bremen, under the new contracts authorized by the acts of March 3, 1845, and July 2, 1836, there will be required the sum of.....	230,000
For payments to letter carriers, act of March 3, 1851, estimated.....	165,000
Payments for foreign postages, estimated.....	300,000
Total.....	\$12,053,247

The means applicable to defray the foregoing expenditures consist of—

1st. The balance standing to the credit of the Department on the Auditor's books on the 1st July, 1857.....	\$1,163,886
2d. The estimated gross revenue of 1858, including foreign postages and receipts from letter carriers.....	7,795,188
3d. Balances of appropriations made by Congress remaining in the Treasury subject to requisition.....	1,625,000
	10,584,074

Leaving the sum of.....\$1,469,173

to be appropriated from the Treasury to defray the expenditures of the year 1858, as they have been authorized by law.

In the foregoing statement I have not embraced the cases in which Congress has by law directed particular services and made special appropriations for them out of the Treasury, such as the transportation of the mail by sea between San Francisco, California, and Olympia, Washington Territory, between New Orleans and Vera Cruz, Mexico, and for the mail on Puget Sound, Washington Territory, because the means are supplied by the Treasury upon the Postmaster General's requisitions; and if they were embraced as matters of receipt and expenditure, the resulting balance to be provided for would still be the same.

MONEY ORDERS.

The adoption of some plan for the more convenient and safe remittance of small sums of money through the mails by means of orders drawn upon one postmaster by another, having

been frequently urged upon this Department as a matter worthy of its attention, it is deemed proper here to state that, on the 31st January last, my predecessor transmitted to the chairman of the Committee on the Post Office and Post Roads in the House of Representatives, in compliance with his request, the outline of such a plan as might be put in operation in this country. The submission of it does not appear to have been accompanied by any recommendation of the Department, nor does it appear that the honorable committee acted upon the subject. A system of remitting sums of money not exceeding five pounds sterling (twenty-five dollars) in amount was adopted by the British Post Office Department in 1839; and some idea may be formed of the growth and extent of its operations from the following brief statement derived from the annual report of her Majesty's Postmaster General, dated March 17, 1857:

Number and amount of money orders issued in the United Kingdom of Great Britain and Ireland, every fifth year, commencing with 1840.

Year ending—	Number of orders issued in sums not exceeding £5 sterling.	Aggregate amount in pounds sterling.
January 5, 1840.....	188,921	£ 313,124
January 5, 1845.....	2,806,803	5,695,395
December 31, 1850.....	4,439,713	8,404,498
December 31, 1855.....	5,807,412	11,009,279
December 31, 1856.....	6,178,982	11,805,562

OCEAN STEAMSHIP AND FOREIGN MAIL ARRANGEMENTS.

The contract with the Ocean Steam Navigation Company for monthly trips between New York and Bremen, and New York and Havre, via Southampton, expiring on the 1st of June last, it became necessary to make some arrangements for the continuance of that service, or leave the carrying of the European mails almost exclusively to the lines running between Boston and Liverpool and New York and Liverpool, on which twenty only of the seventy-two annual voyages are performed by American steamers. The Bremen and Havre lines having, under the sanction of Congress, been in operation ten years, affording direct communication between the United States and the continent of Europe, and it not appearing by its action at the last session that it was the intention of Congress that they should be discontinued on the expiration of the contract, I deemed it my duty to make provision for their continuance another year. This seemed proper, in view not only of the importance of keeping up, and, if possible, increasing the direct communication with the continent, in order to avoid the expense of the English transit, but also for the reason that I had official information of the intention of a Bremen company to put on a line of semi-monthly steamers, so as, in connection with an increased American line, to secure a weekly communication with the United States. In the mean time Congress may take action on the subject. Under the old contract, the annual compensation for twelve round trips on the Bremen line was \$200,000; and on the Havre line, for the same number of trips, \$150,000. The temporary contract for the service on the Bremen line is with Cornelius Vanderbilt, and upon the Havre line with the New York and Havre Steamship Company. Each contract provides for thirteen round trips annually; and the compensation to be paid is limited to the United States postages, sea and inland, accruing from the mails conveyed. This, it will be observed, is a very considerable reduction upon the former pay, assuming that the postages for the year will be nearly the same as for the year ending 30th June last, when on the Bremen line they amounted to \$124,193, and on the Havre line to \$90,042. Moreover, it appeared to be a fit occasion to inaugurate a system of self-sustaining ocean mail service; and I shall esteem it fortunate if the present temporary arrangements lead, as I trust they may, to the adoption of this as a permanent system.

A contract has been made with the Panama Railroad Company for the conveyance of the mails, as frequently as may be required, between Aspinwall and Panama, at an annual compensation

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of \$100,000. It took effect on the 1st day of April last, and is to continue until the 1st of October, 1859, the date of expiration of the contract for the connecting lines from New York and New Orleans to Aspinwall. Prior to the 1st of April last, the price of the isthmus service was regulated by the weight of the mails, the law authorizing the payment of twenty-two cents a pound; and at that rate the cost of the service for the year ended 31st March last was \$160,321, being \$60,321 a year more than is now paid under the contract.

The original contractors on the New Orleans and Vera Cruz line having abandoned the service, I made a temporary contract with Mr. C. K. Garrison for semi-monthly trips on the line at \$1,210 93 the voyage, or \$29,062 32 a year. This is the same rate of compensation paid the old contractors, who, although their contract called for three trips a month, never performed but two. The present contract will expire on the 30th June next, the date fixed for the expiration of the original contract.

By its terms, the contract with the Pacific Mail Steamship Company, for semi-monthly service from Astoria, by San Francisco, &c., to Panama, expires on the 1st of October, 1858, while, under the decision of the Navy Department, the contract of the connecting lines on this side runs until 1st October, 1859. Therefore, to keep up the connection with the Pacific line, as provided by law, and as originally contemplated, it will be necessary to extend the contract on the Pacific one year; and as the Pacific Mail Steamship Company have performed their service generally in a highly creditable and satisfactory manner, I cheerfully recommend an appropriation for such extension.

The aggregate amount of postages (sea, inland, and foreign) on mails transported during the year by the steamers of the New York and Liverpool (Collins) line was \$210,463 03, which is a heavy decrease as compared with the amount (\$461,575 94) of the previous fiscal year. It should be observed, however, that the additional allowance to this line, authorized by the act of 21st July, 1852, having been terminated on the 20th of February, 1857, and six yearly trips dispensed with from and after that date, twenty round trips only, instead of twenty-six, as formerly, were performed during the year.

The postages upon mails conveyed by the New York and Bremen line were \$137,754 78, and by the New York and Havre line \$97,950 05; being a decrease of \$5,491 74 by the Bremen, owing to the fact that much of the time there have been several foreign steamers running and carrying ship letters on this line; and an increase of \$2,125 02 by the Havre line, as compared with the fiscal year ended 30th June, 1856.

The amount of letter postages upon mails exchanged during the year with Great Britain was \$374,194 75; Prussia, \$326,872 57; Bremen, \$52,082 99; France, (from 1st April to 30th June, 1857), \$41,189 19; Hamburg, \$1,059 60; being a decrease on British mails of \$23,453 95, on Bremen mails of \$3,706 86, and an increase on Prussian closed mails of \$27,406 86, compared with the preceding year.

Of the amount of postages on mails exchanged with Great Britain, \$574,194 75 was collected in the United States, and \$300,133 30 in Great Britain; the excess of United States and British postages thus collected in the United States being \$274,061 45. In like manner, an excess of \$95,397 95 of the postages upon mails exchanged with Prussia, and of \$32,494 15 on mails exchanged with Bremen, was collected in this country.

The gross amount of United States postage, sea and inland, on mails transported during the year, was:

By the Collins line, (20 round trips,)..... \$189,456 61
By the Bremen line, (12 round trips,)..... 124,193 81
By the Havre line, (12 round trips,)..... 90,042 47
The ocean postage upon mails conveyed by the Collins line amounted to..... \$154,545 93
By the Bremen line..... 84,231 19
By the Havre line..... 73,716 37

The following statistics will exhibit the operation of the United States and British postal treaty during the last four years:

Number of letters and newspapers conveyed in the open mail between the United States and Great Britain from July 1, 1853, to June 30, 1857, inclusive:

Year ending June 30—	By U. States steamers.		By British steamers.	
	Letters.	Newspapers.	Letters.	Newspapers.
1854.....	1,595,838	901,477	2,740,866	1,571,299
1855.....	2,026,727	1,777,130	1,815,501	1,377,470
1856.....	2,017,269	1,662,825	1,891,859	1,533,189
1857.....	1,220,733	1,178,629	2,658,343	2,143,423
	6,860,567	5,520,061	9,106,569	6,625,381

Origin of the above correspondence.

Year ending June 30—	Sent from the U. States.		Rec'd from G. Britain.	
	Letters.	Newspapers.	Letters.	Newspapers.
1854.....	2,137,611	1,512,671	2,199,093	960,105
1855.....	1,937,573	1,975,388	1,904,656	1,179,312
1856.....	1,997,571	1,954,102	1,911,557	1,241,912
1857.....	1,917,934	2,041,466	1,961,142	1,280,586
	7,990,688	7,483,527	7,976,448	4,661,915

Year ending June 30—	By U. States steamers.		By British steamers.	
	Letters, in ounces.	Newspapers.	Letters, in ounces.	Newspapers.
1854.....	123,932½	46,763	335,870	849,744
1855.....	269,318	999,311	317,718½	789,740
1856.....	262,511	295,136	330,409	630,505
1857.....	159,398½	97,141	461,258½	1,021,664
	814,160	738,351	1,445,355½	3,277,653

Year ending June 30—	By U. States steamers.		By British steamers.	
	Letters, in ounces.	Newspapers.	Letters, in ounces.	Newspapers.
1854.....	123,932½	46,763	335,870	849,744
1855.....	269,318	999,311	317,718½	789,740
1856.....	262,511	295,136	330,409	630,505
1857.....	159,398½	97,141	461,258½	1,021,664
	814,160	738,351	1,445,355½	3,277,653

Number of newspapers conveyed in closed mails through the territories of the United States and Great Britain from July 1, 1853, to June 30, 1857.

Year ending—	United States mails in transit through England.	British mails in transit through the United States.	Canada mails.	California, Havana, &c.
	United States and Prussian closed mails.			
June 30, 1854..	50,417	790,046		49,044
June 30, 1855..	49,953	986,892		35,206
June 30, 1856..	65,722	809,197		50,723
June 30, 1857..	90,486	976,244		52,075
	256,578	3,572,379		187,047
		187,047		
		3,759,426		

NOTE.—The transit charge upon newspapers is two cents each in either country.

The Atlantic conveyance of closed mails was performed as follows:

Year ending June 30—	By U. States steamers.		By British steamers.	
	Letters, in ounces.	Newspapers.	Letters, in ounces.	Newspapers.
1854.....	123,932½	46,763	335,870	849,744
1855.....	269,318	999,311	317,718½	789,740
1856.....	262,511	295,136	330,409	630,505
1857.....	159,398½	97,141	461,258½	1,021,664
	814,160	738,351	1,445,355½	3,277,653

Payments made for the transit conveyance of closed mails.

Year ending—	By G. Britain to the United States.	By the United States to G. Britain.
June 30, 1854.....	\$54,826 21	\$91,926 58
June 30, 1855.....	84,471 68	109,303 92
June 30, 1856.....	84,127 53	115,598 65
June 30, 1857.....	64,969 30	150,868 90
	288,394 72	467,698 05
		288,394 72
Balance in favor of the British office.....		179,303 33

Balances due the United States on adjustment of accounts with Prussia.

Fiscal year ended June 30, 1854.....	\$70,419 13
Fiscal year ended June 30, 1855.....	69,694 11
Fiscal year ended June 30, 1856.....	45,305 70
Fiscal year ended June 30, 1857.....	43,501 34

Total balance in favor of United States in four years.....228,913 28

Balances due Great Britain on adjustment of accounts.

For fiscal year ended June 30, 1854.....	\$195,522 68
For fiscal year ended June 30, 1855.....	71,104 65
For fiscal year ended June 30, 1856.....	108,261 37
For fiscal year ended June 30, 1857.....	264,918 69

Total balance against the United States in four years..... 619,867 59

It will be seen that the excess of British postage alone collected in the United States is very considerable, amounting the last year to \$193,287 47. This, as explained in previous reports, results disadvantageously to this Department, inasmuch as its postmasters are paid commissions for collecting. Its expenses the last year on this account have been not less than \$75,000. The large increase in the excess of last year arises mainly from the circumstance that nearly two thirds of the transatlantic mails have been conveyed by the Cunard line of British mail packets, and, when thus conveyed, nearly four fifths of the postage goes to the British Government, saying nothing of the still greater proportion it receives on mails so conveyed for countries beyond England. In the final settlement, too, it will be observed that the balance is every year largely against the United States; and that, for the year ending 30th June last, it reached the sum of \$264,918. A part of this, however, to wit: \$43,501, has been received back in the balance paid to the United States, on final adjustment, by the Prussian office, thus reducing our indebtedness to \$221,417. Under the arrangement with Prussia, the balance is in favor of this Department, because

Excess of British postages collected by the United States over and above the total amount of United States postages collected by Great Britain:

Year ending June 30, 1854.....	\$175,367 11
Year ending June 30, 1855.....	64,820 64
Year ending June 30, 1856.....	84,530 83
Year ending June 30, 1857.....	193,287 47

Total excess in four years.....\$518,006 05

Number, in ounces, of letters conveyed in closed mails through the territories of the United States and Great Britain, from July 1, 1853, to June 30, 1857, inclusive.

Year ending—	United States closed mails in transit through England.	British closed mails in transit through the United States.	Canada mails.	California, Havana, &c.
	United States and Prussian closed mails.			
June 30, 1854..	Ounces. 227,556	Ounces. 206,224½		25,022½
June 30, 1855..	314,461	224,209½		28,366
June 30, 1856..	314,808	251,680		26,432
June 30, 1857..	341,535	250,323½		28,798½
Total U. States closed mails,	1,198,360	952,437		108,619
				952,437
		Total Br. cl'd mails,		1,061,056

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the United States provides for the ocean as well as British transit conveyance of the Prussian closed mails; but the general balance must continue to be largely against the United States while so great a proportion of the mails are conveyed by British packets. Whether it is more desirable to be subject to this outlay for the transmission of our mails abroad than to incur probably a still greater expense in fully providing our own means of ocean transportation, is for the wisdom of Congress to determine. If, fortunately, as before suggested, our steamship companies, aided by receipts from passengers and merchandise, shall find sufficient encouragement to establish lines of steamers, and carry the mails for the postages thereon, it will be a great point gained. On this principle, were it practicable, I would be pleased not only to see the number of trips increased upon existing lines, particularly to the continent, but all the lines put in operation which have been, or may be, projected by our enterprising citizens. Among these are the proposed lines from Norfolk to Milford Haven; from New Orleans to Bordeaux; from New York to Antwerp, Hamburg, or Gluckstadt; from Savannah to Para, in South America; from Panama to Valparaiso, &c. This whole subject is worthy the serious consideration of Congress; and I venture to hope that such action may be taken upon it, at an early day, as that the Department may clearly understand its duty in the premises. Whether the present lines are to be continued, and the trips increased, on the expiration of the contracts, or new ones established, at a cost, in each instance, exceeding what they may earn in postages, and, if so, at what expense in each case, I respectfully submit to Congress to decide.

A postal convention has been concluded between the United States and France, having been signed on the part of the United States by my immediate predecessor, and on the part of France by the French Minister, on the 2d of March last, and has been in operation since the 1st of April. The rate of postage for letters of the weight of one quarter ounce or under is fifteen cents, irrespective of the route, whether through England or direct, by which they are conveyed. France accounts to Great Britain for the British sea and transit postage, as explained in the articles of agreement hereto annexed. This is the first postal convention between the two countries.

A postal convention has also been concluded with the Hansatic Republic of Hamburg, similar in all respects to that existing between the United States and Bremen—the rates of postage under both being the same. It was finally executed in June last, and went into effect on the 1st of July. The articles are annexed.

Negotiations are pending for a radical change of our postal arrangements with Great Britain; but as the proposition of the British office, in its present shape, cannot be acceded to, and as it involves, also, a preliminary agreement requiring the sanction of the treaty-making Powers, definite action upon it has been necessarily postponed for the present.

CITY POSTS.

With the view to facilitate the receipt and delivery of letters in New York, Boston, and Philadelphia, the postmasters in those cities have been instructed to make improvements in their letter-carrier system to the full extent authorized by law. In New York, I found that nearly everything had been done that could be accomplished under existing laws, except the transmission of drop letters direct to their address without going into the main office, which is now done. Six stations, or sub-offices, had been established, at which, as well as at the principal office, the letters were sorted and passed into the hands of the carriers, and a large number of boxes for the collection of letters had been placed at convenient distances throughout the city. On all letters through the mail the carriers receive two cents each for delivery, and on drop letters one cent. I had hoped to be able to reduce the delivery fee to the uniform price of one cent; but this was found impracticable in New York and Philadelphia, inasmuch as the law requires that the entire cost of delivery shall be defrayed out of the carriers' receipts. In Boston, where the districts are all comparatively densely populated, one cent a letter

is made to pay. The postage on drop letters, including the carrier's fee, is now two cents; and upon the improved plan now adopted for their delivery direct from the main office, or the nearest station, as the case may be, it is believed that the public convenience will be fully subserved. In each of these cities there are to be from four to six deliveries a day; and the letters for mailing, &c., are to be collected and disposed of as frequently as occasion may require. I do not feel at liberty to advise the free delivery of letters by carriers; but I would recommend a modification of the present law, so as to give the Postmaster General authority to have the delivery made at one cent a letter, whether the carrier's receipts are sufficient to meet expenses or not. If the improved system is found to work satisfactorily in the three cities above mentioned, it is my purpose to extend it to all the other principal cities in the United States.

EXPRESS AGENTS.

One of the prominent subjects which have demanded my attention is that of providing more effectually for the regularity and safety of mails conveyed on railroads. Owing to the large number of separate bags on the great through lines, the frequent changes of cars, and the brief time allowed, in most cases, for that purpose, great care is necessary to guard against mistakes and losses. This is more especially important to the letter-mail pouches, which are exchanged between the principal cities and towns having railroad connections in all sections of the country, however remote. In order that they may receive due attention at all points, agents of this Department are required, and also a regular system of accountability for the performance of their duties. The beginning of such a system was made by my immediate predecessor, and my aim has been to extend and improve it as much as possible. Its main features are, briefly, as follows: In the post office at the end of each separate route, as apporportioned to mail agents, (say Washington and Philadelphia,) and at the prominent intermediate points, lists are kept, showing the pouches forwarded; which lists are receipted by the route or mail agent, who thus becomes directly responsible for a certain number of pouches for certain specified points. Upon delivering the same into post offices, to mail messengers, or to an agent on a connecting route, he takes receipts to show the fulfillment of his duties. In addition, it is required, on some routes, that full and careful accounts be kept, in book form, of all pouches, so as to show where they are received, how labeled, and how disposed of. By such means it becomes practicable to trace missing pouches, and there is also kept alive a sense of responsibility on the part of agents, impelling them to greater watchfulness in performing duties which, from their laborious and monotonous nature, might otherwise insensibly become, in a measure, mechanical, and not occupy so much of the mind as their importance demands. Moreover, all irregularities in any way chargeable to agents can be traced to their true source, so that suspicion in no case attaches to innocent parties. For such reasons, apart from an interest in the service generally, which is presumed to be felt by all agents of the Department, the system in question has commended itself favorably to all who have been called on to give it attention. Its details are not yet perfected; but it is regarded as the beginning of a work which must be gradually advanced and improved, under the teaching of experience, until it shall fully accomplish that for which it was designed.

Experiments have been made on the great railroad lines between New York and Montgomery, Alabama, and Nashville, Tennessee, which have shown the advantages of the system as now existing, and given ample encouragement that it will be made more useful in the future.

On some of the principal western lines—as from Buffalo, New York, to Chicago, Illinois, and St. Louis—accounts of mail pouches are kept, but not quite so satisfactorily as on the other lines referred to, owing chiefly to the fact that the larger proportion of what are called *through mails* go by “express trains,” in charge of baggage masters, and not the agents of this Department. The latter travel on other trains, for the purpose of delivering mails to numerous post

offices on the way where “express trains” do not regularly stop; and it has been considered an unnecessary expense to appoint agents simply to deliver bags, when the railroad companies are paid as well for that service as for conveying them, there being express stipulations to that effect in all contracts. These views are undoubtedly correct in theory, but experience has shown that railroad companies cannot be made to appoint persons to give the mails due attention in all cases, and there is, therefore, no alternative but to multiply largely the number of agents of the Department on all great routes where important mails now go without them. In addition to the western routes just alluded to, there are many others of equal grade in the same category. The principal mails between Philadelphia, Baltimore, and Washington, and the West, for instance, have been nominally cared for by baggage masters, but who, having other duties equally if not more important in their estimation, have not always duly attended to the mails. Especially is it found that they cannot be induced to account for pouches, as desired by the Department. Believing that such a state of things should be remedied, I have placed agents on the express lines between Baltimore and Cincinnati, and Philadelphia and Cincinnati, and required each one to run through the whole distance between those cities. Starting, say at Baltimore, an agent will give a receipt for the several pouches according to their destination, and the same will also be entered on a “way bill.” For mails received and delivered on the route, receipts are to be exchanged and entries made on the “bill,” and the agent will go through in the shortest possible time to Cincinnati, and deliver his mails and way bill for examination at the post office. If detained from any cause, he is to go forward by the first opportunity, and in no case to allow passengers to outstrip him; and he must report to the postmasters the particulars of all delays, with their causes, for publication, immediately on reaching his final destination, so that the public shall be fully informed on the subject, and know where blame rests. In this way one individual is held responsible, without chance of evasion, for the whole distance; whereas, under the ordinary division of duties, the mails would pass through the hands of perhaps five or six persons, rendering it always difficult and sometimes impracticable to know with certainty, in case of irregularities, who is really blamable.

Similar agencies will be established between New York and Cincinnati, and Cincinnati and St. Louis, and on other great routes, and all possible precautions adopted to insure the regularity and safety of the mails.

It is frequently charged that the mails have not uniformly equal expedition with travelers on railroads; and, in so far as this may be the fact, it is considered attributable to the want of attention to the mails on the express lines which are without agents of this Department. The evil, therefore, can only be remedied by employing additional agents to accompany mails long distances without changing, and guard against all delays that can possibly be avoided, and especially to see that passengers enjoy no advantages over the mails, but that both are equally expedited under all circumstances.

It may be proper to add in this connection that the preparation of all necessary forms and instructions for maintaining accountability on routes where this work is already commenced, and for extending it generally as proposed, will involve an amount of additional labor which cannot be performed with the present clerical force.

NEW ORLEANS AND NEW YORK ROUTE.

For a number of years the attention of Congress and of the commercial public has been directed to the necessity of adopting measures to insure greater speed and regularity in the transmission of the mails between New York and New Orleans, the recognized centers, as these cities are, of two great commercial circles, conducting by far the larger portion of the importing and exporting trade of the whole country. The interest felt in the subject has been manifested, from time to time, in the presentation to Congress of memorials from citizens, chambers of com-

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merce, and State Legislatures, praying that means might be employed to effect increased expedition and certainty in the transmission of these mails; and in the subsequent passage of resolutions by both Houses, calling on the Postmaster General to report the causes of the failures and delays referred to by the memorialists, and to state whether any and what legislation was necessary to accomplish the object of their prayers.

The great northern and southern mails are transported by railroad from New York, via Philadelphia, Washington, Richmond, Petersburg, Weldon, Wilmington, Kingsville, Augusta, Millin, Macon, and Columbus, to Montgomery, thence by coach to Stockton, and thence by steamboat to Mobile and New Orleans. The service is twice daily between New York and Montgomery, and daily between Montgomery and New Orleans. The time prescribed in the contract schedules for the performance of the through trip is six days; but the instances in which this speed is actually attained constitute rather the exceptions than the rule. Of 627 mails sent from New York to New Orleans within the year ending 31st March, 1856, only 163 were carried through in six days, the time occupied in the transportation of the remaining 464 ranging from seven to twelve days. Of 369 mails sent in the same year from New Orleans to New York, only 153 were carried through in six days, the remaining 216 ranging from seven to fourteen days. Of 651 mails sent from New York to New Orleans within the year ending 31st March, 1857, only 159 were carried through in six days, the remaining 492 ranging from seven to twenty days. Of 363 mails sent in the same year from New Orleans to New York, 161 were carried through in six days, the remaining 202 occupying from seven to sixteen days. No mail was received at New Orleans from New York on sixty-five several days within the year ending 31st March, 1856; and on ninety-six several days within the same year no mail was received at New York from New Orleans. Thirty-five similar failures occurred at New Orleans during the year ending 31st March, 1857, and ninety-seven at New York. The failures at intermediate points, going south, during the year ending 31st March, 1856, amounted to 331; going north, to 262. During the year ending 31st March, 1857, the failures going south were 284; going north, 324. The average time occupied in the performance of the through trip from New York to New Orleans, during the year ending 31st March, 1856, was seven days, four hours; from New Orleans to New York, seven days, one hour. For the year ending 31st March, 1857, the average time from New York to New Orleans was seven days, three hours; from New Orleans to New York, six days, twenty hours. The shortest time either way, in either year, was six days; the longest going south, in the year ending 31st March, 1856, was twelve days; going north, fourteen days. In the year ending 31st March, 1857, the longest time going south was twenty days; going north, sixteen days.

The inconvenience occasioned by these delays and failures is aggravated by the fact that by far the larger portion of them occur within the winter months—from October to March, inclusive—comprising the period during which the great mass of the commercial operations of the year transpire. Thus, of the one hundred and sixty-three mails carried through in six days from New York to New Orleans, in the year ending 31st of March, 1856, only forty-six were transmitted within the winter months. Of one hundred and fifty-three carried through in six days, in the same year, from New Orleans to New York, only forty-three were transmitted within the winter months. Of one hundred and fifty-nine carried through in six days from New York to New Orleans, in the year ending 31st of March, 1857, only fifty-six were transmitted during the winter season. And of one hundred and sixty-one carried through in six days, in the same year, from New Orleans to New York, only forty-nine were transmitted during the winter months. Of sixty-five failures, in the year ending 31st of March, 1856, to receive any mail at New Orleans from New York, forty-six occurred during the winter. Of ninety-six failures, in the same year, to receive any mail at New York from New Orleans, fifty-four occurred

in the winter. Of thirty-five similar failures at New Orleans, in the year ending the 31st of March, 1857, thirty occurred in the winter; and of ninety-seven at New York, sixty-one occurred in the winter. Nearly four fifths of all the failures at intermediate points, in each year, transpired during the winter months. The average time of the through trips from New York to New Orleans, for the six summer months ending with September, 1855, was six days, eighteen hours; for the six succeeding winter months, the average was seven days, fifteen hours; for both together, seven days, four hours. The average time from New Orleans to New York, for the same year, was, for the summer, six days, eleven hours; for the winter, seven days, fourteen hours; for both, seven days, one hour. The average time from New York to New Orleans, for the six summer months ending with September, 1856, was six days, seventeen hours; for the six succeeding winter months, seven days, thirteen hours; for both, seven days, three hours. The average time, the same year, from New Orleans to New York, was, for the summer, six days, nine hours; for the winter, seven days, eight hours; for both, six days, twenty hours.

The causes uniformly assigned for these failures and delays are such as these: "Cars off the track," "Collision of trains," "Machinery deranged," "High winds," "Snow storms and ice," "Snow drifts," "Road injured by heavy rains," "Bridge broken," &c. They are such, too, as necessarily attach to the description of service employed. The line between New York and New Orleans is composed of sixteen different links, or routes, the service on each being performed under a separate and distinct contract, having annexed to it, as a material part, a schedule of departures and arrivals, by which the contractors are to be respectively governed. To secure the speediest practicable transmission of the mails over the whole line, the connections between these links must necessarily be close, and each separate road must be put up to its greatest average running power. Under these circumstances, a very slight accident upon any one of the roads occasions a failure on its part to form a connection with the succeeding link, and the consequence is a loss, in the through trip, of twelve or twenty-four hours, accordingly as the service on that part of the line is double or single daily. Periods occur every winter when the transmission of the mail is suspended for days together by reason of snow storms. During the last winter it was arrested for ten days at one point on the line, and at others for seven, eight, and nine days together.

Among the routes established by law during the first session of the Thirty-Fourth Congress were two described in the following words:

"From Cedar Key, Florida, to New Orleans, Louisiana, in steamers." "From Fernandina, Florida, to New York, New York, in steamers."

In advertising these routes, the Department, believing that they were designed, in connection with a railroad in course of construction across the peninsula of Florida, from Fernandina to Cedar Key, to constitute a new route from New York to New Orleans, with a view to the speedier and more certain transmission of the great northern and southern mails, invited bids for tri-weekly and also for daily service, and requested bidders to state the least time in which they would guarantee to perform the trip. The railroad part of the line was not embraced in the advertisement, the act of 1845 (section 19) authorizing the Postmaster General to contract for the transportation of the mails on railroads with or without advertising.

In response to the invitations of the Department, the Florida Railroad Company presented the following proposals:

1st. To carry the mails tri-weekly in steamers between Cedar Key and New Orleans, the trip to be performed in thirty-eight hours each way, at \$110,000 per annum.

2d. To carry the mails tri-weekly in steamers between Fernandina and New York, the trip to be performed in seventy-five hours each way, at \$165,000 per annum.

3d. To carry the mails tri-weekly or daily in steamers from New York to Fernandina, thence by railroad across the peninsula of Florida to

Cedar Key, and thence in steamers to New Orleans, and back, the trip each way to be performed within five days, at \$300,000 per annum for tri-weekly, or \$500,000 per annum for daily service—to commence on the completion of the railroad between Fernandina and Cedar Key, and the contract to be renewed for four years from the expiration of the current term, (i. e., June 30, 1859.)

In a subsequent correspondence between the Department and the bidders they gave assurances of their ability to perform the through trip ordinarily within four days, and stated that in fixing five as the limit they had allowed ample margin for any such detentions as were likely to result from accidents, head winds, or storms. They also submitted the following modification of their proposals:

"The company will perform a daily service throughout the year for the sum of \$455,250.

"To insure a five days' mail they will guaranty the time; or, in other words, no pay will be demanded for any trip not performed within five days between the terminal points of the route, viz.: New York and New Orleans.

"The company will also stipulate that at any time during the contract, when required by the Department, upon three months' notification, they will convey a mail from Cedar Key to Aspinwall, Greytown, or Huasacualco, (as preferred by the Department,) and back, twice monthly, and from Cedar Key to Key West and Havana and back twice monthly, the compensation for both services to be \$100,000 per annum.

"The time between Cedar Key and Aspinwall guaranteed not to exceed one hundred and twenty hours, and between Cedar Key and Havana not to exceed thirty-five hours.

"If Greytown or Huasacualco be selected, the time to be proportionately reduced.

"The service to Havana and the Pacific crossing to start from Tampa, instead of Cedar Key, when the road to that point is completed."

The transportation of the great northern and southern mails by the proposed new route would obviously be free from many of the causes of interruption and delay to which the land route is subject. The whole line would be under contract to a single party, with a schedule fixing the period within which the entire trip should be performed; whereas, by the present arrangement, sixteen different parties are employed in the service, with separate schedules, each of which must be exactly complied with to insure the performance of the through trip in contract time. The running time proposed, also, is one day less than the least in which it has proved practicable to transport the mails by land, and more than two days less than the actual average. The liability of mails to depredation and to misdirection by frequent overhauling and distribution would be obviated, in the proposed arrangement, by inclosing the matter in crates or boxes in New York or New Orleans, and transporting it unopened to its destination; and thus, also, the abrasion of packages, with the consequent liability to loss of directions, &c., would be prevented—a consideration of no small value, in view of the generally bad condition of the document mail on its arrival in the southwestern States, and the too frequent failure of such matter to reach its proper destination.

The establishment of the proposed service, while it would not interfere with the carriage of the local mails on the inland route, would relieve the Department from liability to embarrassments under which it has at times been placed in consequence of being dependent on a single line for the transmission of the through mails; and it would be productive, both to the Department and the public, of other advantages naturally arising from the competition it would create.

The inducement it would offer to the mercantile community to insure the due transmission of their communications by duplicate letters, to be forwarded by both routes, would be a source of increased revenue to the Department; and the greater speed and certainty it promises would have the effect of relieving the mail service, to some extent, from the competition of the telegraph.

By conveying the mails for California upon the proposed route as far as Cedar Key, and forwarding them thence by a separate steamer to Aspinwall, Greytown, or Huasacualco, and by substituting the branch proposed from Cedar Key to Key West and Havana for the present Charleston line, and for that part of the New Orleans and Key West line between Cedar Key and Key West—say half the route—an annual saving of \$235,000 would be effected. In such event, this saving should be deducted from the cost of the proposed

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daily service, to show the net additional expense to the Department, which would thus be reduced to \$181,250 per annum.

Upon the question of accepting the proposals for this service, considering the uncertainty of the period at which the railroad portion of the proposed line will be completed, I have been unable, thus far, to announce to the bidders any definitive determination. But the subject is referred to here because it is deemed to be one of vast public interest, in view of the promise which the contemplated new arrangement affords of so materially facilitating the communication between the two sections and the two great commercial capitals of the country.

THE MAIL SERVICE ON THE MISSISSIPPI RIVER BELOW THE OHIO.

The river is divided into the following sections, for distribution of the local mails at the different towns and offices on it:

Route 7305.—New Orleans to St. Francisville, 170 miles, four times a week, by steamboats.

Route 7309.—New Orleans, via St. Francisville, to Vicksburg, 397 miles, three times a week, by steamboats.

Note.—This arrangement makes the service daily between New Orleans and St. Francisville, and three times a week between St. Francisville and Vicksburg.

Route 7499.—Vicksburg to Napoleon, 230 miles, twice a week, by steamboats.

Route 7512.—Napoleon to Memphis, 203 miles, twice a week, by steamboats.

Besides these four subdivisions for local purposes, there is the *great through mail*, No. 7809, from New Orleans to Cairo, which, like all the others, will expire the 30th June next.

The Department recommends that, on the expiration of the present contracts, another subdivision be added, from Memphis to Cairo, so that the plan for supplying the local mails to the various towns and settlements between the Ohio and New Orleans may be adequate and uniform.

As to the *great through mail* from Cairo and New Orleans, the hope is indulged that there will be no necessity for continuing it on the river, as at present. When first ordered by Congress, there was great and obvious propriety in it; but the progress since made in constructing several railroads nearly parallel with it has put a new aspect on the question. By the 30th June next, it is believed that the railroad from New Orleans to Jackson, Canton, &c., will be so far completed that, with one or two short stage lines between the unfinished portions, the mails may be conveyed over it in nearly half the present time, and with much more certainty and regularity. This may confidently be anticipated with respect to so much of said road as is south of the Tennessee line. Thence it is already completed to Jackson, in the latter State, and, from the progress making and expected, it is probable that the *great through mails* may at no distant day be conveyed on the entire line to and from Cairo with infinite advantages over the present river route.

The Department, however, desires the power to make river contracts for a shorter term than four years, as at present, so as to continue that mode of conveyance until sufficient progress is made with the above or any other parallel route to authorize the transfer of the entire through mail service from the river.

The personal acquaintance of the Postmaster General with that river, and the investigation of the fines heretofore imposed on the contractors for the present service, fully convince him that no regular and expeditious transportation of the mails need ever be looked for on so long a route, at any reasonable compensation. If the contractors shall be required, by express provision, to take on themselves all the risks and losses growing out of the ice in winter, the low waters of summer and fall, and of the fogs that prevail at nearly every season of the year, they will covenant to perform the service, but only at enormous rates. In making out bids, they would estimate liberally for all the trips that may be lost, all the failures to arrive in schedule time, and all the failures to connect with other routes, whether arising from ice, low water, and fogs, the breaking of machinery, or other casualties, of whatever nature.

Thus enormous prices would be paid; and after all, on account of the physical impossibility in some cases, and unavoidable accidents in others, the regular and punctual service required would not be obtained. The express service, on horseback, established by a former able head of this Department, (Mr. Kendall,) furnishes an apt illustration of this subject. He expressly advertised that no excuses would be received, and the consequence was, that when a failure took place the fine or forfeiture was deducted unconditionally; but to this the contractor could well afford to submit, having amply allowed for it in his bid, and obtained a contract accordingly at a high price.

In the existing contract, however, for transporting mails between New Orleans and Cairo, there was no express provision that the contractors should take on themselves *all the risk* of failures by physical causes or unavoidable accidents, such as ice, unprecedented low water, fogs, damage to machinery, &c.; and hence due allowance was to be made for them, as in the case of all other contracts, construed and enforced as they have been in the long and uniform practice of the Department.

Congress, on the last night of the last session, enacted, with reference to this case, "That the Postmaster General be, and he is hereby, authorized to reexamine and adjust all questions arising out of fines imposed upon the contractors for carrying the mails on the Mississippi river."—Act of 3d March, 1857.

Under this law several applications were made for the remission of fines and forfeitures under late contracts for services on the Mississippi river; but, as the act seemed to the Department to have been only intended to embrace *existing* contracts now in course of being carried out, such applications were not considered, under a rule, well settled, not to review or reverse the decisions of a former head of the Department, unless something existed on the record showing that he himself intended to have reexamined the case.

The act of Congress above quoted, referring to the present case, took it out of this rule, and the decision of the Department is shown by the separate statement marked A in the appendix. The amount remitted may appear large; but, according to law and the testimony taken in the case, and the practice in similar cases, the Department seemed not to be warranted in making it less.

The irregularity of the service, as fully ascertained by this investigation, would have induced the annulment of the contract; but, having only some eight or ten months yet to run, no one was found willing to take it, except at a rate double the present compensation, and even then it was required that a new contract should be made for four years, and not merely for the few months remaining of the regular term. Such a contract not being allowable by law, it was found unadvisable to annul the existing one; and, in order to secure its most efficient execution through the remainder of the term, the agents of the Department at New Orleans and Cairo were instructed to engage any boat on hand and dispatch the mails in every case of failure on the part of the contractors to do so at the time required, the cost of such temporary service (not exceeding \$450 the half trip) being chargeable to them. The postmaster at Memphis, where commercial connections have now become vastly important, was also instructed that whenever the mail-boat from Cairo failed to arrive there in reasonable time, he should transmit mails for New Orleans by any other boat, at the expense of the contractors. Under these arrangements, now being energetically executed, the hope is indulged that the service for the few months remaining may be satisfactorily rendered.

All the difficulties in relation to this route have been inherited from former years; and the Department looks forward to the day, believed not to be distant, when the *great through mails* from Chicago, St. Louis, Memphis, and other important cities of the West, can be transmitted to New Orleans in less than half the time now required, and with the regularity of a well-constructed and well-managed railroad.

FINES.

A detailed statement will be presented to Con-

gress, showing the fines and deductions which were imposed upon the contractors for imperfect mail service during the fiscal year. These fines and deductions will be found to amount in the aggregate to \$188,746 84. In this amount of \$188,746 84 is included the sum of \$74,598 46, being that portion of the deductions made from the contractors' pay on the New Orleans and Cairo route during the third and fourth quarters of 1856, which has since been remitted to them, in pursuance of the seventh section of the act of Congress passed the 3d of March, 1857.

SETTLEMENT OF THE CLAIM OF GEORGE CHORPENNING, JR.

By an act of Congress of March 3, 1851, the Postmaster General was "required to adjust and settle the claim of George Chorpenning, jr., as surviving partner of Woodward & Chorpenning, and in his own right, for carrying the mails by San Pedro, and for supplying the post office in Carson's Valley, and also for carrying part of the Independence mail by California; allowing a *pro rata* increase of compensation for the distance by San Pedro, for the service to Carson's Valley, and for such part of the eastern mail as was carried by California during all the time when said services were performed;" and to adjust and settle the claim of said Chorpenning "for damages on account of the annulment or suspension of Woodward & Chorpenning's contract for carrying the United States mail from Sacramento, in California, to Salt Lake, in Utah Territory, as shown in the affidavits and proofs on file in the House of Representatives;" also, to allow and pay to said Chorpenning his full contract pay during the suspension of their contract, from 15th of March to 1st of July, 1853, and thereafter to pay him at the rate of \$30,000 per annum, which sum was to be in lieu of the contract pay under both the contract with Woodward & Chorpenning, which expired June 30, 1854, and under his (Chorpenning's) present contract, which runs four years from July 1, 1854. The contract pay under the first was \$14,000, for monthly service between Sacramento City and Salt Lake, by Carson's Valley; and under the present, \$12,500 a year, for the same number of trips from San Diego or San Pedro to Salt Lake by San Bernardino. In obedience to this law, and on the proofs and affidavits on file in the House of Representatives, to which I was, by the terms of the law, restricted, I have allowed—

1. For damages on account of the annulment or suspension of the old contract.....	\$30,000 00
2. For five months' service to Carson's Valley,.....	1,153 33
3. For increased distance from Sacramento, in carrying the regular California and Salt Lake mail, by San Pedro, ten months.....	\$6,410 00
and Independence mails eight of same months.....	15,384 62
4. For carrying the Independence mails eight months between San Pedro and Salt Lake, (all the above being under old contract).....	28,000 00
5. For carrying the Independence mails under present contract, from July 1, 1854, to October 1, 1856.....	28,125 00
In the aggregate.....	\$109,072 95

In making the *pro rata* allowances, the act of Congress not being specific on this point, I have taken as the basis of the calculations the original pay under each contract, instead of the higher sum of \$30,000, to which, as above observed, the compensation has been raised. But, even upon this lower basis, the sum allowed, it will be perceived, is very considerable, independently of the further increased compensation of \$16,000 under the old, and \$17,500 per annum under the new contract.

The settlement of this claim has not been made without considerable embarrassment. The act of Congress was peremptory to adjust and settle, not according to the proofs that might be taken before the final action, but "as shown by the proofs and affidavits on file in the House of Representatives." These were to be the sole guides in the settlement, and neither the records of the Department nor any contradictory or explanatory testimony could be taken by the Government to assist in attaining what might be considered exact justice in the case. The act directed that the claimant should be paid *pro rata* for carrying his own mail, under his contract, from Sacra-

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mento, around by San Francisco and the coast, to San Pedro, instead of east by Carson's Valley to Salt Lake, and that he should be paid also for carrying the Independence mail that way, when the records and correspondence of the Department show that the change in the route was permitted at the claimant's own instance and request, and not forced upon him by an order or wish even of the Department. The *pro rata* allowance for this change alone, it will be observed, is \$21,794 62. The act further directed that he should be paid *pro rata* for carrying the eastern mail for Salt Lake, sent round by the isthmus to California; whereas, by the contract itself, and the usage of the Department in all such cases, he was bound, as a contractor, to carry the mails of the United States, from whatever quarter they might be sent to his line. The principal difficulty in the case, however, was in deciding on the true intent and meaning of the act in requiring him to be paid *pro rata*. *Pro rata*, or in proportion, to what? The first contract was to carry the mail at \$14,000, and the second at \$12,500 per annum. Congress, however, in the very act which granted him this *pro rata* relief, raised these prices up to \$30,000 per annum. Now, in making the estimate required by Congress, should the basis of calculation be a *pro rata* on the \$14,000 and the \$12,500 contracts, or on the \$30,000? The Department could find nothing in the act throwing light on this subject, and therefore made the calculation on the contract or lowest basis, instead of the \$30,000 basis. In doing so, the Department has gone on the principle that, in every case of doubt in a matter of this kind, the Government was entitled to the benefit of that doubt, until Congress, by some new enactment, should remove it.

OVERLAND MAIL ROUTE TO CALIFORNIA.

In order to carry into effect the act of Congress approved the 3d of March, 1857, relative to the overland mail to California, the Department issued the following notice, and caused the same to be regularly advertised according to law:

"POST OFFICE DEPARTMENT,
"April 20, 1857.

"An act of Congress, approved 3d March, 1857, making appropriations for the service of the Post Office Department for the fiscal year ending 30th June, 1858, provides:

"Sec. 10. That the Postmaster General be, and he is hereby, authorized to contract for the conveyance of the entire letter mail from such point on the Mississippi river as the contractors may select to San Francisco, in the State of California, for six years, at a cost not exceeding \$300,000 per annum for semi-monthly, \$450,000 for weekly, or \$600,000 for semi-weekly service, to be performed semi-monthly, weekly, or semi-weekly, at the option of the Postmaster General.

"Sec. 11. That the contract shall require the service to be performed with good four-horse coaches or spring wagons, suitable for the conveyance of passengers as well as the safety and security of the mails.

"Sec. 12. That the contractor shall have the right of preemption to three hundred and twenty acres of any land not then disposed of or reserved, at each point necessary for a station, not to be nearer than ten miles from each other; and provided that no mineral land shall thus be preempted.

"Sec. 13. That the said service shall be performed within twenty-five days for each trip; and that, before entering into such contract, the Postmaster General shall be satisfied of the ability and disposition of the parties *bona fide* and in good faith to perform the said contract, and shall require good and sufficient security for the performance of the same—the service to commence within twelve months after the signing of the contract."

"Proposals will accordingly be received at the Contract Office of the Post Office Department, until three p. m., of the 1st day of June, 1857, for conveying mails under the provisions of the above act.

"Besides the starting point on the Mississippi river, bidders will name intermediate points proposed to be embraced in the route, and otherwise designate its course as nearly as practicable.

"Separate proposals are invited for semi-monthly, weekly, and semi-weekly trips each way.

"The decision upon the proposals offered will be made after the Postmaster General shall be satisfied of the ability and disposition of the parties in good faith to perform the contract.

"A guarantee is to be executed, with good and sufficient sureties, that the contract shall be executed with like good security, whenever the contractor or contractors shall be required to do so by the Postmaster General, and the service must commence within twelve months after the date of such contract."

In pursuance of said advertisement, the Postmaster General and his three assistants assembled in the Contract Office and opened the respective bids, making the following abstract of them, and causing said abstracts to be copied into a separate book, and also in the route book for California.

ABSTRACT OF THE BIDS.

John Butterfield, William B. Dinsmore, William G. Fargo, James V. P. Gardner, Marcus L. Kinyon, Hamilton Spencer, and Alexander Holland: From St. Louis, by Springfield, and from Memphis by Little Rock, connecting at a common point at or eastward of Albuquerque; thence west, to and along the military road to Colorado river; thence up the valley of the Mohahoc river, to and through the Tejon passes of the Sierra Nevada; and thence along the best route to San Francisco; *weekly, \$450,000; semi-weekly, \$600,000.*

John Butterfield and others: From Memphis, by Little Rock, Albuquerque, mouth of Mohahoc, on the Colorado river, and one of the Tejon passes of the Sierra Nevada, to San Francisco; *semi-monthly, \$300,000, weekly, \$450,000; semi-weekly, \$595,000.*

John Butterfield and others: From St. Louis, by Springfield, to Albuquerque; thence, as above, to San Francisco; *semi-monthly, \$300,000; weekly, \$450,000; semi-weekly, \$585,000.*

James E. Birch: From Memphis, by Little Rock, Washington, Fulton, Clarksville, Gainesville, Fort Chadbourne, head spring of Concho river, to Pecos river, nearly due west; thence, along Pecos river, Delaware creek, through the Guadalupe and Huaco mountains, to the Rio Grande river; thence, over the emigrant road, to Fort Yuma; thence, by San Gorgona pass, San Bernardino, Tejon, Tulare, or Salinas valleys, to San Francisco; *semi-weekly, \$600,000.*

James Glover: From Memphis, by Helena, Little Rock, across Texas, to El Paso, Fort Yuma, San Bernardino, Los Angeles; thence between the coast range and Sierra Nevada mountains, to San Francisco; or from Vicksburg, by Shreveport, to El Paso, &c., &c., (as above); *semi-monthly, \$300,000; weekly, \$450,000; semi-weekly, \$600,000.*

S. Howell and A. E. Pace: From Gaines's Landing, on the Mississippi, to San Francisco; term of four years; commence at Vicksburg, if preferred; *weekly, \$1,000,000 for the first year, \$800,000 for the second year, \$700,000 for the third year, \$600,000 for the fourth year.*

David D. Mitchell, Samuel B. Churchill, Robert Campbell, William Gilpin, and others: From St. Louis to San Francisco; *semi-weekly, \$600,000.*

James Johnston, jr., and Joseph Clark: From St. Louis, by Fort Independence, Fort Laramie, Salt Lake City, or any other point named by the Department, to San Francisco; *semi-monthly, \$260,000, weekly, \$390,000; semi-weekly, \$520,000.*

Irregular (after time) bid: *William Hollingshead, President Minnesota, Nebraska, and Pacific Mail Transportation Company:* From St. Paul, by Fort Ridgely, South Pass, Soda Springs, Humboldt river, Honey Lake Valley, Noble's Pass, Shasta City, to San Francisco; *semi-weekly, \$550,000.*

On the 2d day of July, 1857, the Department, after full and mature consideration, made the following order in relation to the route selected, and the bid accepted:

"12578. From St. Louis, Missouri, and from Memphis, Tennessee, converging at Little Rock, Arkansas; thence, via Preston, Texas, or as nearly so as may be found advisable, to the best point of crossing the Rio Grande, above El Paso, and not far from Fort Fillmore; thence, along the new road being opened and constructed under the direction of the Secretary of the Interior, to Fort Yuma, California; thence, through the best passes, and along the best valleys for safe and expeditious staging, to San Francisco.

"The foregoing route is selected for the overland mail service to California, as combining, in my judgment, more advantages and fewer disadvantages than any other.

"No bid having been made for this particular route, and all the bidders (whose bids were considered regular under the advertisement, and the act of Congress) having consented that their bids may be held and considered as extending and applying to said route:

"Therefore, looking at the respective bidders, both as to the amount proposed and the ability, qualifications, and experience of the bidders to carry out a great mail service like this, I hereby order that the proposal of John Butterfield, of Utica, New York, William B. Dinsmore, of New York city, William G. Fargo, of Buffalo, New York, James V. P. Gardner, of Utica, New York, Marcus L. Kinyon, of Rome, New York, Alexander Holland, of New York city, and Hamilton Spencer, of Bloomington, Illinois, at the sum of \$395,000 (five hundred and ninety-five thousand dollars) per annum for semi-weekly service, be accepted. The contractors, however, to have the privilege of selecting lands, under the act of Congress, on only one of the roads, or branches, between Little Rock and the Mississippi river—the one selected by them to be made known and inserted in the contract at the time of its execution."

Subsequently, on reexamining the proposal,

the above acceptance was modified so as to fix the pay at \$600,000 per annum, that being the true amount of the bid.

Under strong representations that a better junction of the two branches of said road could be made at Preston than at Little Rock, on the 11th day of September, 1857, the following order was made:

"That whenever the contractors and their sureties shall file in the Post Office Department a request, in writing, that they desire to make the junction of the two branches of said road at Preston, instead of Little Rock, the Department will permit the same to be done by some route not further west than to Springfield, Missouri, thence by Fayetteville, Van Buren, and Fort Smith, in the State of Arkansas, to the said junction, at or near the town of Preston, in Texas; but said new line will be adopted on the express condition that the said contractors shall not claim or demand from the Department, or from Congress, any increased compensation for or on account of such change in the route from St. Louis, or of the point of junction of the two routes from Little Rock to Preston; and on the further express condition, that whilst the amount of lands to which the contractors may be entitled under the act of Congress may be estimated on either of said branches from Preston to St. Louis or Memphis, at their option, yet the said contractors shall take one half of that amount on each of said branches, so that neither shall have an advantage in the way of stations and settlement over the other; and in case said contractors, in selecting and locating their lands, shall disregard this condition, or give undue advantage to one of said branches over the other, the Department reserves the power of discontinuing said new route from St. Louis to Preston, and to hold said contractors and their sureties to the original route and terms expressed and set forth in the body of this contract."

In pursuance of the above orders and proceedings, on the 16th day of September, 1857, the following contract was entered into between the Department and the contractors whose bid had been accepted:

No. 12578.—Six hundred thousand dollars per annum. This article of contract, made the sixteenth day of September, in the year one thousand eight hundred and fifty-seven, between the United States (acting in this behalf by their Postmaster General) and John Butterfield, of Utica, New York, William B. Dinsmore, of New York city, William G. Fargo, of Buffalo, New York, James V. P. Gardner, of Utica, New York, Marcus L. Kinyon, of Rome, New York, Alexander Holland, of New York city, and Hamilton Spencer, of Bloomington, Illinois, and Danford N. Barney, of the city of New York, Johnston Livingston, of Livingston, New York, David Moulton, of Floyd, New York, and Elijah P. Williams, of Buffalo, New York, witnesseth:

That whereas John Butterfield, William B. Dinsmore, William G. Fargo, James V. P. Gardner, Marcus L. Kinyon, Alexander Holland, and Hamilton Spencer, have been accepted, according to law, as contractors for transporting the entire letter mail, agreeably to the provisions of Law eleven, twelfth, and thirteenth sections of an act of Congress approved March 3, 1857, (making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1858,) from the Mississippi river to San Francisco, California, as follows: from St. Louis, Missouri, and from Memphis, Tennessee, converging at Little Rock, Arkansas; thence, via Preston, Texas, or as near so as may be found advisable, to the best point of crossing the Rio Grande above El Paso, and not far from Fort Fillmore; thence, along the new road being opened and constructed under the direction of the Secretary of the Interior, to or near Fort Yuma, California; thence, through the best passes and along the best valleys for safe and expeditious staging, to San Francisco, California, and back, twice a week, in good four-horse post coaches or spring wagons suitable for the conveyance of passengers as well as the safety and security of the mails, at \$600,000 a year, for and during the term of six years, commencing the 16th day of September, 1857, and ending with the 13th day of December, 1864: Now, therefore, the said John Butterfield, William B. Dinsmore, William G. Fargo, James V. P. Gardner, Marcus L. Kinyon, Alexander Holland, and Hamilton Spencer, contractors, and Danford N. Barney, Johnston Livingston, David Moulton, and Elijah P. Williams, their sureties, do jointly and severally undertake, covenant, and agree with the United States, and do bind themselves: 1st. To carry said letter mail within the time fixed by the law above referred to—that is, within twenty-five days for each trip, and according to the annexed schedule of departures and arrivals; 2d. To carry said letter mail in a safe and secure manner, free from wet or other injury, in a boat, under the drivers' seat, or other secure place, and in preference to passengers, and to their entire exclusion, if its weight and bulk require it; 3d. To take the said letter mail and every part of it from, and deliver it and every part of it at, each post office on the route, or that may hereafter be established on the route, and into the post office at each end of the route, and into the post office at the place at which the carrier stops at night, if one is there kept; and if no office is there kept, to lock it up in some secure place, at the risk of the contractors.

They also undertake, covenant, and agree with the United States, and do bind themselves, jointly and severally, as aforesaid, to be answerable for the persons to whom the said contractors shall commit the care and transportation of the mail, and accountable to the United States for any damages which may be sustained by the United States through their unfaithfulness or want of care; and that the said contractors will discharge any carrier of said mail when required to do so by the Postmaster General; also, that they will not transmit, by themselves or their agent, or be concerned in transmitting, commercial intelligence more rapidly than by mail, other than by telegraph, and that they will not carry

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out of the mail letters or newspapers which should go by post; and further, the said contractors will convey, without additional charge, the special agents of the Department, on the exhibition of their credentials.

They further undertake, covenant, and agree with the United States, that the said contractors will collect quarterly, if required by the Postmaster General, of postmasters on said route, the balances due from them to the General Post Office, and faithfully render an account thereof to the Postmaster General in the settlement of quarterly accounts, and will pay over to the General Post Office all balances remaining in their hands.

For which services, when performed, the said John Butterfield, William B. Dinsmore, William G. Fargo, James V. P. Gardner, Marcus L. Kinyon, Alexander Holland, and Hamilton Spencer, contractors, are to be paid by the United States the sum of six hundred thousand dollars a year, to wit, quarterly, in the months of May, August, November, and February, through the postmasters on the route, or otherwise, at the option of the Postmaster General of the United States; said pay to be subject, however, to be reduced or discontinued by the Postmaster General, as hereinafter stipulated, or to be suspended in case of delinquency.

It is hereby also stipulated and agreed by the said contractors and their sureties, that in all cases there is to be a forfeiture of the pay of a trip when the trip is not run; and of not more than three times the pay of the trip when the trip is not run, and no sufficient excuse for the failure is furnished; and a forfeiture of a due proportion of it when a grade of service is rendered inferior to the mode of conveyance above stipulated; and that these forfeitures may be increased into penalties of higher amount, according to the nature or frequency of the failure, and the importance of the mail; also, that fines may be imposed upon the contractors, unless the delinquency be satisfactorily explained to the Postmaster General in due time, for failing to take from or deliver at a post office the said letter mail, or any part of it; for suffering it to be wet, injured, lost, or destroyed; for carrying it in a place or manner that exposes it to depredation, loss, or injury, by being wet or otherwise; for refusing, after demand, to convey a letter mail by any coach or wagon which the contractors regularly run, or are concerned in running, on the route beyond the number of trips above specified; or for not arriving at the time set in the schedule. And for setting up or running an express to transmit letters or commercial intelligence in advance of the mail, or for transmitting knowingly, or after being informed, any one engaged in transporting letters or mail matter in violation of the laws of the United States, a penalty may be exacted of the contractors equal to a quarter's pay; but in all other cases no fine shall exceed three times the price of the trip. And whenever it is satisfactorily shown that the contractors, their carrier or agent, have left or put aside the said letter mail, or any portion of it, for the accommodation of passengers, they shall forfeit not exceeding a quarter's pay.

And it is hereby further stipulated and agreed by the said contractors and their sureties, that the Postmaster General may annul the contract for repeated failures; for violating the post office laws; for disobeying the instructions of the Department; for refusing to discharge a carrier when required by the Department; for assigning the contract, or any part of it, without the consent of the Postmaster General; for setting up or running an express as aforesaid; or for transporting persons conveying mail matter out of the mail as aforesaid; or whenever either of the contractors shall become a postmaster, assistant postmaster, or member of Congress; and this contract shall in all its parts be subject to the terms and requirements of an act of Congress passed on the twenty-first day of April, in the year of our Lord one thousand eight hundred and eight, entitled "An act concerning public contracts."

And the Postmaster General may also annul the contract whenever he shall discover that the same, or any part of it, is offered for sale in the market for the purpose of speculation.

It is hereby further stipulated and agreed, that if obstacles, such as the want of water or feed, or physical obstructions, should be found between the points herein designated, so that time cannot be made, and a better line can be found between those points, the Postmaster General may vary the route to such better line.

And it is also further understood and agreed, that the contractors shall have all the rights of preemption, whatever they may be, secured by the twelfth section of the act of Congress aforesaid, approved March 3, 1857, on either of the lines from the Mississippi river to the point of their junction with the main stem, but not on both—the election to be made by them at any time within twelve months after the date of the execution of this contract.

In witness whereof, the said Postmaster General has caused the seal of the Post Office Department to be hereto affixed, and has attested the same by his signature, and the said contractors and their sureties have hereto set their hands and seals the day and year set opposite their names respectively.

AARON V. BROWN, [L. S.]
Postmaster General.

JOHN BUTTERFIELD,	[L. S.]	Sept. 16.
W. B. DINSMORE,	[L. S.]	"
WM. G. FARGO,	[L. S.]	"
J. V. P. GARDNER,	[L. S.]	"
M. L. KINYON,	[L. S.]	"
ALEX. HOLLAND,	[L. S.]	"
H. SPENCER,	[L. S.]	"
D. N. BARNEY,	[L. S.]	"
JOHNSTON LIVINGSTON,	[L. S.]	"
DAVID MOUTON,	[L. S.]	"
ELIJAH P. WILLIAMS,	[L. S.]	"

Signed, sealed, and delivered by the Postmaster General, in the presence of—

WM. H. DENNIS.

An I by the other parties hereto, in the presence of—

REVERLY JOHNSON,
ISAAC V. FOWLER.

I hereby certify that I am well acquainted with Danford N. Barney, Johnston Livingston, David Moulton, and Elijah P. Williams, and the condition of their property; and

that, after full investigation and inquiry, I am well satisfied that they are good and sufficient sureties for the amount in the foregoing contract.

ISAAC V. FOWLER,
Postmaster at New York, N. Y.

[Indorsement.]

Ordered, That whenever the contractors and their sureties shall file in the Post Office Department a request in writing that they desire to make the junction of the two branches of said road at Preston, instead of Little Rock, the Department will permit the same to be done by some route not further west than to Springfield, in Missouri, thence by Fayetteville, Van Buren, and Fort Smith, in the State of Arkansas, to the said junction at or near the town of Preston, in Texas; but said new line will be adopted on the express condition that the said contractors shall not claim or demand from the Department or from Congress any increased compensation for, or on account of, such change in the route from St. Louis, or of the point of junction of the two routes from Little Rock to Preston; and on the further express condition, that whilst the amount of lands to which the contractors may be entitled under the act of Congress may be estimated on either of said branches from Preston to St. Louis, or Memphis, at their option, yet the said contractors shall take one half of that amount on each of said branches, so that neither shall have an advantage in the way of stations and settlement over the other; and in case said contractors, in selecting and locating their lands, shall disregard this condition, or give undue advantage to one of said branches over the other, the Department reserves the power of discontinuing said new route from St. Louis to Preston, and to hold said contractors and their sureties to the original route and terms expressed and set forth in the body of this contract.

AARON V. BROWN,
Postmaster General.

SEPTEMBER 11, 1857.

Having furnished the above detail of facts, the Department does not consider it improper to submit a few observations in relation to the reasons which induced a preference for the route selected.

The law of Congress not being mandatory, the Department did not feel at liberty, in the exercise of a sound discretion, to select any route over which it was considered physically impossible to obtain the service within the time and by the mode of conveyance specified in the act. The trip was to be made within twenty-five days, in four-horse coaches, suitable for the conveyance of passengers as well as the safety and security of the mails. Applying these requirements to the extreme northern route proposed, from St. Louis by Fort Independence, Fort Laramie, Salt Lake, &c., the Department had the recorded experience of many years against the practicability of procuring anything like regular and certain service on that route. The United States had had a mail carried for years on that route, and the returns in the Department showed the most conclusive facts against its selection. The mails for November, December, and January, 1850-51, did not arrive until March, 1851. The winter months of 1851-52 were very severe. The carrier and postmaster reported that they started in time, but had to turn back. The mails of February, March, and December, of 1853, were impeded by deep snow. Those of January and February, 1854, on account of deep snow, did not arrive until the month of April. There was no improvement in the service even down to the November mail of 1856, which left Independence on the 1st of November, and, on account of deep snow, was obliged to winter in the mountains. The snow caused almost an entire failure for four months of the year. These actual experiments, made from the year 1850 to the present time, without referring to the concurring testimony of explorers and travelers, put this route entirely out of the question.

The next route to be considered was the one by Albuquerque—whether the same might start from Memphis or St. Louis. Is this route sufficiently level and exempt from snow, ice, and extremely cold weather, to give the promise that the required service can be performed with regularity and certainty throughout the entire year? And if it can be so performed, can it be done with reasonable safety and comfort to the passengers who are to be transported over it? The mere transmission of the "letter mail" was certainly not the sole object of the law. It looks expressly to the comfort of travelers in the stage, and doubtless to the millions of emigrants and others who, for ages, might pass to and from our Pacific States.

By an inspection of the general profile sheets accompanying the Pacific railroad reports, it will be seen that the mean elevation of the plateau of the Sierra Madre and Rocky Mountains is about 7,000 feet above the level of the sea near the 35th parallel, (Albuquerque route;) and near the 32d parallel (El Paso route) it is about 4,000 or 4,300

feet, (Lieutenant Parke,) giving a difference of 2,800 or 3,000 feet. This difference in elevation, in a climatological point of view, is very important, as will be shown by comparison of extremes of climate on these routes.

Next, with regard to the climate of winter, particularly along these routes, we present the following facts:

Albuquerque route.—At Albuquerque, according to the meteorological report of the medical department of the United States Army, the maximum and minimum temperatures, respectively, were, for the winter months of 1849 and 1850: in December, 53°, 50°; January, 49°, minus 12°; February, 57°, 17°. For 1850 and 1851: in December, 52°, minus 50°; January, 57°, 80°; February, 59°, 70°. For 1852 and 1853: in December, 65°, 210°; January, 65°, 190°; February, 66°, 130°. For 1853 and 1854: in December, 66°, 200°; January, 63°, 50°; February, 67°, 150°; and in December, 1854, 58°, 190°.

At Fort Defiance, about twenty miles north of Campbell's Pass in latitude, and from 300 to 500 feet higher, the maximum and minimum temperatures, respectively, were: for the month of December, 1851, 62°, 40°; 18 inches snow. For 1852 and 1853: in December, 50°, 20°; January, 55°, 70°; February, 56°, 60°. For 1853 and 1854: in December, 57°, 60°; January, 49°, minus 20°; February, 54°, 20°. For 1854 and 1855: December, 65°, 100°; January, 59°, minus 170°; February, 61°, 130°. For 1855 and 1856: December, 56°, minus 250°; January, 54°, minus 80°; February, 51°, minus 30°.

At Albuquerque, December, 1856, the maximum was 65°, minimum 50°; Rio Grande frozen over, so as to be passable, from 7th to 25th January, 1857; maximum 66°, minimum 40°; on the 9th, 10th, and 11th, the thermometer stood, respectively, minus 30°, minus 20°, minus 40°. February, 1857, maximum 72°, minimum 100°.

At Fort Defiance, December, 1856, the maximum was 500°, minimum minus 110°. On the 2d, the thermometer stood, at 9 p. m., minus 20°; on the 3d, at 7 a. m. and 9 p. m., minus 20°; on the 4th, at 7 a. m., minus 100°; on the 5th, at 7 a. m., minus 60°; on the 6th, at 7 a. m., minus 110°; on the 7th, at 7 a. m., minus 70°; on the 8th, at 7 a. m., minus 10°; on the 10th, at 7 a. m., zero; on the 13th, at 7 a. m., minus 90°, and at 9 p. m., minus 70°.

For January, maximum 540°, minimum minus 110°. On the 9th, 10th, and 11th, the thermometer stood, at 7 a. m., respectively, minus 70°, minus 110°, minus 110°; on the 10th, at 9 p. m., minus 40°.

For February, maximum was 600°, minimum minus 120°.

"On December 25, 1855, the thermometer at the hospital at Fort Defiance gave a reading of thirty-two degrees (32°) below zero at quarter past six, a. m. The hospital is not by any means in the coldest portion of the garrison. Two hundred yards distant, the mercury, in January, 1855, ranged from four to eight degrees below that at the hospital, and there is not the slightest doubt of the freezing of the mercury had the instrument been placed in the more exposed situation on the morning of December 25, 1855. A number of men on detached service had their hands and feet frozen, and some badly. The mercury was below zero four mornings in December, 1855; six mornings in January, 1856; three mornings in February, and on the mornings of the 1st and 2d of March, it was below zero.

"The table above will give a fair idea of the climate of the country. The winter of 1854 and 1855 was more severe than any one known for many years. The wintery weather commenced on the 1st of November, 1855, and has continued up to the present time, March 14, 1856. 'The Rio Grande, at Albuquerque, was frozen over, and with ice sufficiently strong to bear a horse and carreta. Those Indians who live habitually to the north of Fort Defiance were obliged to abandon that portion of the country and move south with their flocks and herds in quest of grazing, on account of the depth of snow, which, in the mountains at whose base the fort is situated, was over two feet in depth in March, 1855.'—Correspondence, J. L. Lehman, Assistant Surgeon, U. S. A.; Smithsonian Report, 1855, page 287.

On the 24th of December, 1853, Captain Whipple experienced snow storms and weather sufficiently cold to contract the mercury 3½° below zero, near the San Francisco mountains, and still further west, in the Aztec Pass, to 2½° below zero, when he experienced another severe snow storm. So much for the climate of winter on the Albuquerque route.

Let us compare this account of the climate, extracted from undoubted sources, with that along the more southern route selected.

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At Fort Fillmore, on the El Paso route, the meteorological report above referred to shows the minimum temperature at this place, up to 1854, to be but 10°.

At Tucson, February, 1854, Lieutenant Parke reports the minimum temperature 32°, and on one occasion, on the San Pedro, to be 12° at sunrise. We have searched in vain every source of information, and have yet to learn that snow ever lies upon the plains near the El Paso route, or that the thermometer ever descended below zero. The mean temperature of winter at Fort Fillmore is about 46.6°. The mean temperature of winter at Fort Webster, (copper mines,) north of *Ojo de la Vacca*, 6,350 feet above the sea level, is but 41.3°, while at Fort Defiance, a corresponding position, with reference to the Albuquerque route, it is 28.7°, and at Albuquerque it is 37°. At Fort Yuma (mouth of the Gila, on the El Paso route) the mean temperature of winter is 56.8°.

Although this superiority of climate on the El Paso route must be admitted, still it has been and may be argued that the degree of cold on the Albuquerque route is not greater than on many of the stage routes of the Atlantic States—not greater, perhaps, than between Philadelphia and Pittsburg, or between Baltimore and Wheeling. Without admitting the fact, at all events, so far as the latter route is concerned, it requires but little effort to remember how uncertain during the winter season was the transportation of the mails when the roads were in their natural state, and with what extreme suffering from the cold, staging used to be performed between those cities, with all the advantages of short and well-appointed stations for recruiting the energies of the benumbed and exhausted passengers.

But would Congress or the public be content with a route to California no better in point of climate than those by Harrisburg and Cumberland, when a more mild and favorable one could be easily procured? Imagine four stages to start out from St. Louis on the Albuquerque route with eight passengers in each, thirty-two in number. At the starting point the snow is eight or ten inches deep, which it often is for weeks together. They are to go day and night, the thermometer 10° or 15° above, not below zero. They progress westward, ascending every mile higher and higher, the cold increasing with every mile, for an entire week. At last they reach Albuquerque, an elevation of 6,000 feet, the mercury standing 40° or 50° below zero. Benumbed by the cold for more than a week, overcome by the loss of sleep, they begin another ascent to Campbell's Pass, the best on the route, about 7,000 feet in height, in the vicinity of which the thermometer is standing, by authentic and undoubted observations, from 20° to 32° below zero.

How can thirty odd passengers, men, women, and children, some feeble in health or delicate in constitution, be otherwise than in almost a dying condition? This is no picture of the imagination; it is one of those practical views which common sense will always suggest as to the sufferings and exposures of stage traveling under circumstances so inauspicious. But a truer picture of more intense suffering may be found in the groups of emigrants camped out amid the snows, or struggling to get on, when the mercury, as it very often happens, is down at or below zero—whether a few degrees above or below makes no difference, for a long-continued stage or emigrant travel, under circumstances of so much severe exposure, would, in a few years, mark every station with the fresh graves of its victims. Most emigrants are compelled to be *en route* in some portion of the winter months. Most families cannot well start from the Atlantic to the Pacific or interior States until they have first finished and disposed of the crop of the preceding season; at all events, it must be so far matured before they start that something approaching its value can be realized from it, in order to help in defraying the expenses of removal. Nor can emigrants linger too long on the way. They must go on, however much exposed to hardships, in order to reach their new homes in time to make a crop the next season. The poor cannot lose two crops in succession without being ruined. The southern or El Paso route is eminently com-

fortable and desirable for winter emigration, which the Albuquerque one cannot be, whatever might be said in its favor as a route in the summer season. The Department supposed Congress to be in search of a route that could be found safe, comfortable, and certain during every season of the year, as well for the transportation of the mails as for the accommodation of emigrants and the future location of a railroad to the Pacific.

In relation to the relative facility with which four-horse stage coaches can be run over the Albuquerque and El Paso routes, it must be remembered that this service was to commence within twelve months. The distance was more than two thousand miles, over many ranges of mountains, and nearly the whole distance uninhabited. There were no roads yet opened, and even the foot of the white man had not yet trodden many portions of the way which might finally be selected. Still, the stages must be running within twelve months. To do so it was evident that some route must be selected which was *naturally a good one*—such a one that, by cutting down some trees and blazing others, as mere guide posts, digging down occasional hill-sides, and building slight and temporary bridges, the work of transportation might begin within the brief period required by the law. It was not enough that, by great labor of years and by large expenditure of money, a graded turnpike could be made, or a railway constructed, at the end of some half dozen years, or even a longer period, but it must be over a surface of country naturally so favorable that stage coaches, with their mails and passengers, could be running within twelve months with a rapidity scarcely equalled on the best routes of the older States. To make the trip in twenty-five days they must go day and night, averaging about eighty miles each day. Now, which of these two routes presented the greatest probability of affording such a service? Captain Marcy explored both routes as far as the Rio Grande, and, after having examined both, he gave a decided preference to the southern or El Paso route. He says, on page 228 of his report, after a favorable description of the route from the Rio Grande to the Pecos:

"Our road from here runs across the Llano Estacado for seventy-eight miles, upon a perfectly level prairie, as firm and smooth as marble. It then descends from the high table land, about fifty feet, into a rolling prairie country, where the Colorado of Texas has its source. Thus far there is but little timber or water on our route, except at certain points noted upon the map; but these points can be made from day to day with loaded teams. As if, however, in compensation for the absence of other favors, nature, in her wise economy, has adorned the entire face of the country with a luxuriant verdure of different kinds of grama grass, affording the most nutritious sustenance for animals, and rendering it one of the best countries for grazing large flocks and herds that can be conceived of.

"Immediately after we descended from the high table lands, we struck upon an entirely different country from the one we had been passing over before. By a reference to the map it will be seen we kept near the plain upon the head branches of the Colorado and the Clear Fork of the Brazos. Here we found a smooth road over a gently undulating country of prairies and timber, and abounding with numerous clear spring branches for two hundred miles, and in many places covered with large groves of mesquite timber, which makes the very best of fuel. The soil cannot be surpassed for fertility. The grass remains green during the entire winter, and the climate is salubrious and healthy. Indeed, it possesses all the requisites that can be desired for making a fine agricultural country; and I venture to predict that, at no very distant period, it will contain a very dense population. It is only necessary for our practical farmers to see it, and have protection from the incursions of the Indians, to settle it at once.

"Soon after crossing the Rio Brazos, our road strikes out upon the high ridge lying between the waters of the Trinity and Red rivers; and it appears as if nature had formed this expressly for a road, as it runs for a hundred miles through a country which is frequently much broken up on each side with hills and deep ravines, and the only place where wagons can pass is directly upon the crest of this natural defile. It is as firm and smooth as a turnpike, with no streams of magnitude or other obstruction through the entire distance to near Preston, where we left it and crossed the Red river—from Preston to Fort Washita, and thence to our outward route upon Gaines's creek, the road passing through the Chickasaw country, which is rolling, and in many places covered with a great variety of large timber and well watered, with no mountains or high hills to pass over. Hence you will perceive that from Dona Ana to Fort Smith, a distance of nine hundred and ninety-four miles, our road passes over smooth and very uniformly level ground, crossing no mountains or deep valleys, and for five hundred miles, upon the eastern extremity, runs through the heart of country possessing great natural advantages. I conceive this to be decidedly the best overland wagon route to California, for several reasons."

We shall now call attention to the evidence of

Captain John Pope, Topographical Engineers, who has been stationed a long time in Mexico, and has seen a great portion of the plains between the thirty-second and thirty-ninth parallels. In chapter eleven, *Pacific Railroad Reports*, volume two, speaking of the general character of the country along the thirty-second parallel route, he says:

"In glancing at the topographical features of the immense plains which extend westward from the frontiers of Arkansas and Missouri, the first great peculiarity which strikes the attention is the remarkable interruption of their vast monotony, presented by the belt of country between the thirty-second and thirty-fourth parallels of latitude. The great deserts, commencing about the ninety-seventh meridian, extend over a distance of six hundred miles to the eastern base of the Rocky Mountains. In this whole extent they are badly watered by a few sluggish streams, which intersect them, many of which disappear altogether in the dry season, and are destitute absolutely of timber, except a sparse growth of dwarf cotton along the streams. From the northern part of the United States, at the parallel of 49°, this immense region of desert country extends without interruption as far to the south as the parallel of 34°. At this parallel its continuity is suddenly and remarkably interrupted. Between the thirty-second and thirty-fourth parallels of latitude a broad belt of well-watered, well-timbered country, adapted in a high degree to agricultural purposes, projects for three hundred and twelve miles, like a vast peninsula, into the parched and treeless waste of the plains, and at its western limit approaches to within less than three hundred miles of the Rio Grande at El Paso."

The same distinctive preference to the El Paso route (the one selected) over the Albuquerque route is given by Commissioners Emory and Bartlett, Lieutenant Parke, and A. H. Campbell, at the head of the Pacific Wagon Road office, Interior Department, who accompanied Captain Whipple over the Albuquerque route, and Lieutenant Parke over the El Paso, as principal engineer in 1853-54-55. The comparison of the two routes west of the Rio Grande the Department considered equally favorable to the one selected. Beside the fact of its being over a country about three thousand feet lower than the Albuquerque route, Congress had appropriated \$200,000 on this route to be expended in the construction of a wagon road between the Rio Grande and Fort Yuma, on the Colorado. So large a sum expended on a surface so favorable by nature will, doubtless, prove of an immense advantage in expediting the proposed service, both as to regularity and speed. Before this appropriation was made by Congress, Mr. Secretary Davis, who collected a larger amount of reliable information on this subject than any other person, reported to Congress that the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean was the one the Department has selected. Lieutenant Mowry, writing on this subject, since the route was established, says:

"For years, a mail has been regularly carried from San Antonio to El Paso without difficulty or danger, except from Indians. At present a monthly mail is carried from El Paso to Tucson, three hundred and forty miles west, by Government express, for the benefit of the troops in Arizona. This express has a military escort. Fort Yuma and San Diego, California, have for five years been connected by a semi-monthly mail, (Government express,) which, during my two years' service at Fort Yuma, was as regular in its arrival as the steamer from the east at San Francisco.

"The only part of the newly-selected route now opened by a mail is that from Fort Yuma to Tucson, two hundred and sixty miles; and this is almost daily traveled by the people of the Territory, by emigrants, and by Mexicans. Tucson is a growing town, and will afford all the grain needed for the road to El Paso. The Pimas villages, on the Gila river, will supply grain for the route to Fort Yuma, besides any quantity to transport to any desired point, or a depot of supply.

"At Fort Yuma, last year, a large quantity of corn was allowed to rot for want of a market, and there is grazing for ten thousand animals on the river banks. A few military posts, which would be necessary on either of the other routes, will make the southern route perfectly safe; and the immense mineral wealth, in silver and copper, will at once draw to Arizona a large population. It is the only available route at all seasons of the year. The route through the South Pass is as much closed by snow from four to six months in the year as if barred by a gate of adamant. During the winter of 1854-55, I was in the Salt Lake valley, and no mail from the east reached us from November to April. The mail was at that time transported on pack mules, and was in the charge of experienced men, who had spent their lives on the plains.

"If they could not get the mail through either way, how much less the chance is there for Concord coaches? The central route is no better. I refer to Colonel Fremont or Lieutenant Real to state, upon their reputation as travelers and 'mountain men,' how much dependence can be placed upon the regular transmission of a semi-weekly mail through the Cochetopee Pass in December, January, February, or March. The route by El Paso and Fort Yuma is

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open the entire year. On both the other routes artesian wells are necessary to get water at convenient distances, and this necessity upon the southern route is therefore no extraordinary argument against it. I may be allowed to remark that the impression so generally diffused in the eastern States, that Arizona Territory is a desert and a God-forsaken country, is entirely erroneous. It will be recollected that California, now celebrated as an agricultural State, was stigmatized with the same epithets, and said to produce nothing but gold. Arizona promises to convince the world that she is able to produce silver enough to supply all the demands of commerce, and to show to the emigrant in search of a quiet and fruitful homestead beautiful valleys and clear running streams, where he may cultivate his crops with a fullness of fruition only known to the virgin soil of our western possessions."

The scarcity of water has been often urged against the southern or El Paso route. There is no route between the Mississippi river and California against which the same objection may not be made. After much examination, we believe that the route selected is freer from this objection than almost any other. The statements of Lieutenant Mowry and Mr. Campbell are fully sustained by other authorities. The former, in a published statement, says:

"The country from El Paso to Tucson, three hundred and forty miles, is susceptible of early settlement, and is, moreover, one of the finest routes ever opened towards our western possessions. In no part of it there is a distance of over thirty miles without water, and it is often found at distances of ten and fifteen, with plenty of good grazing throughout the entire distance."

"From Tucson, the principal town of the Territory of Arizona, (throughout the whole length of which the route runs,) to the Gila river, ninety miles, there is no water in the dry season, and two artesian wells will be necessary. In the wet season there is plenty of water. This distance is traveled at all seasons with mule teams and oxen, without difficulty. Down the Gila to Fort Yuma, one hundred and seventy-five miles, there is plenty of water and grass. From Fort Yuma, on the Colorado river, to Carissa creek, and San Diego county, California, about one hundred miles, the route is heavy with sand, and water is found in but three places at all seasons of the year. In the wet season water is found every few miles. Twenty-four miles from Fort Yuma, or Colorado city, are Cook's wells, which, at an expense of \$1,000, can be made to furnish an ample supply. Twenty-six miles beyond are the Alamo Mucho wells, which can be enlarged, at the same cost, to any quantity desired. Thirty miles further on are the Indian wells, which will also yield an ample supply. Twenty miles further are the Sackett's wells, which are fed by a subterranean stream, and can also be made to supply any quantity of water."

"These two distances, from Tucson to the Gila and from Fort Yuma to Carissa, present the only difficulties on the route. United, the distance is but one hundred and ninety miles, and it is traveled at all seasons of the year by heavily-loaded teams."

"From Carissa creek into San Diego the route is well watered and affords excellent grazing. The distance is one hundred and twenty-five miles; but the supervisors of San Diego county are now engaged in laying out a new road, which will much shorten the distance."

Mr. Campbell, who, as we have before stated, traveled over both routes, has borne the most ample testimony "that between the Rio Grande and San Pedro river there are thirteen permanent water stations in about two hundred and twenty-four miles, giving an average of one in seventeen miles, and eighteen, including several fine rain-water stations, where water can be preserved, which will give an average of one in twelve miles."

We have submitted this letter of Lieutenant Mowry to Mr. Campbell. He confirms the statements of Lieutenant Mowry in every important particular, and further informs us "that the ninety miles *jornada* from the Tucson to the Gila is avoided entirely by following down the San Pedro and Gila rivers to the Pimas villages. The distance from the San Pedro, by either route, to the Gila, is about the same; and it is probable that, by following down the Arayappa, a tributary of the Gila, discovered by Lieutenant Parke's party, a distance of many miles can be saved; and in the Calitro mountains, along this route, there is an abundance of pure water in living streams, fine grazing, and oak, ash, walnut, and some pine timber. Deer, antelope, bear, and grouse abound there also, and many indications of gold were observed, and gold was found near the San Pedro river."

Captain Humphreys, in his report to the Secretary of War, and Lieutenant Parke, both testify that a sufficient supply of water can be had on the route for either a railroad or stage line.

In relation to the relative distance on the two routes, an examination of the map will exhibit the fact that the distance from Boston, New York, Philadelphia, Baltimore, and Washington, to San Francisco, is about the same upon both routes.

Albuquerque route.

Distance from San Francisco to Fort Smith, on the Albuquerque route, (see Captain Whipple's report, vol. 2, p. 76,).....	1,952 miles.
From Fort Smith to New York, (Captain Humphreys's report, Pacific Railroad report, vol. 1, p. 108).....	1,345 "
Total.....	3,297 "

El Paso route.

From San Francisco Bay (San José) to Fulton, Lieutenant Parke's report, 1855, (unpublished,).....	1,972 miles.
From San Francisco Bay (San José) to San Francisco.....	44 "
From Fulton to New York, (Humphreys's report, in Pacific Railroad report, vol. 1, p. 108).....	1,335 "
Total.....	3,351 "

Making a difference of only fifty-four miles in favor of the Albuquerque route, as shown by the Pacific railroad surveys—a difference too small to be a matter of grave objection. These and other estimates of distance cannot be expected to be entirely correct; but they approximate the precise distances as nearly as published surveys and explorations will allow of. The above difference of fifty-four miles, however, is reduced to four miles, if we estimate the distance from San Bernardino to San Francisco, via the Cajon pass, Cañada de los Uvas, and Estero Plain,* as in the following table, thereby avoiding the detour of Lieutenant Parke's route, via Santa Barbara and the Gaviote Pass.

From the latest authorities, for the respective routes from the Mississippi river at St. Louis, via Albuquerque, and at Memphis, via El Paso and Fort Yuma, to San Francisco, California, I find the most direct distances over which the mail should travel as follows:

Route from Memphis, via El Paso, &c.

From Memphis to Preston (a).....	375 miles.
From Preston to Waco Tanks (b).....	615 "
From Waco Tanks to Fort Fillmore (c).....	40 "
From Fort Fillmore to Pimas villages (d).....	306 "
From Pimas villages to Fort Yuma (e).....	167 "
From Fort Yuma to San Bernardino (f).....	180 "
From San Bernardino to San Francisco, via Cajon Pass, Cañada de los Uvas, and Estero Plain (g).....	420 "
Total.....	2,103 "

Route from St. Louis, via Springfield, Antelope Hills, or Canadian river, Albuquerque, &c., to San Francisco.

From St. Louis to head of Pajaro creek (h).....	860 miles.
From head of Pajaro creek to San Francisco via Canon Carnuel or San Antonio, New Mexico, and via Tah-cc-chay-pah Pass, California.....	1,246 "
Total.....	2,106 "

From St. Louis to Campbell's Pass, via Galisteo (i).....	1,080 "
From Campbell's Pass to San Francisco, as above (j).....	1,085 "
Total.....	2,165 "

NOTE.—As an interesting comparison between these two routes, take Captain Whipple's modified distance—1,952 miles—from Fort Smith to San Francisco, and add 250 miles in a direct line from Fort Smith to Memphis, from the general railroad map above referred to, and we have from the same initial point (Memphis) a distance to San Francisco of 2,202 miles.

Thus the difference in the distances of the two routes between the Mississippi river and San Francisco is too inconsiderable to become material.

As a pioneer route for the first great railroad that may be constructed to the Pacific, the Postmaster General has bestowed upon it all the labor

*See Birch's proposal.

(a) See General Pacific Railroad Map, in hands of engraver.

(b) See Captain J. Pope's report, 1854, H. Doc. 129, p. 61.

(c) General Pacific Railroad Map.

(d) Lieutenant Parke's report, unpublished.

(e) Major Emory's reconnaissance, 1846, and Pacific railroad profile, 32d parallel route.

(f) Lieutenant Williamson's surveys, H. Doc. 129, &c.

(g) Lieutenant Williamson, 1853-54, and Lieutenant Parke, 1854-55. unpublished map and report.

(h) General Pacific Railroad Map, &c.

(i) General Pacific Railroad Map and Captain Whipple's undistributed report.

(j) Captain Whipple's report and General Pacific Railroad Map, &c., &c.

and examination which the multiplied business of his Department would allow of. If all or a greater portion of the railroads from the large cities and the States east of the Mississippi had concentrated at any one point on that river, such point would have been selected for the overland route to California. But such is not the fact. They concentrate chiefly at St. Louis, Cairo, and Memphis. Cairo is mentioned in this connection because, through the Illinois Central, nearly all the railroads constructed for St. Louis may be said also to connect with the Mississippi at Cairo. Finding, therefore, no common center on the Mississippi, the next desirable object was to find some common point west of that river from which a main stem could be projected passing westward to California. If you started out from St. Louis west you must lose all the connections with the Cairo and Memphis railroads; but by starting out from St. Louis, and diverging south with her railroad now making to her Iron Mountain, you will presently receive the great railroad coming out from Cairo, so richly endowed that it is sure to be made at no distant day. Still bearing south-westward, we presently receive, at Little Rock, the other branch of the road from Memphis, connecting the line with all the great railroads of Virginia, South Carolina, Georgia, Alabama, Tennessee, and Kentucky. Not far from Little Rock the Vicksburg and New Orleans and Texas railroads fall in, bringing in, from almost every portion of the great river, all the connections which all the Atlantic States north and south can make to that great highway which we are trying to establish. Thus it is that we have found west of the Mississippi what we could not obtain on it—a common concentration of railroads to a single point from which the future railroad may commence, swollen and enlarged in its common stem by the contributions of the railways coming in from nearly every State of the Union.

This diversion of the route to a southern direction, by Little Rock or Preston, has, however, other advantages than any to which we have as yet adverted:

"By starting from St. Louis, the great western mart, and connecting at Little Rock or Preston with the line from Memphis, the two great sections of the country are accommodated."

"Instead of projecting this mail and its attendant benefits into the wilderness, from the frontiers of Missouri, to buffet with north winds and snows upon the plains of Kansas in winter, and drag over monotonous, waterless, treeless wastes in summer, it was located through the center of Missouri, of Arkansas, and throughout the western frontier of Texas. It will thus develop hitherto unknown resources in those States. It will open a vast agricultural and mineral region in Missouri; lend a helping hand to the young, growing, and unappreciated State of Arkansas; and conduct the hardy pioneer to the delightful woodlands and prairies of Texas. For nearly a thousand miles the traveler will be traversing a country abounding in beauty and in healthfulness, possessing a salubrious climate and a fruitful soil."

Nor should it be forgotten that the southern location of the route, especially if it shall be followed by the construction of a railroad, may serve a valuable purpose in reference to the neighboring Republic of Mexico. In time of peace it will shed its blessings on both nations, whilst in time of war it will furnish a highway for troops and munitions of war, which might enable us to vindicate our rights, and preserve untarnished our national honor.

I have the honor to be, very respectfully, your obedient servant,

AARON V. BROWN.

To the PRESIDENT OF THE UNITED STATES.

Report of the Secretary of the Navy.

NAVY DEPARTMENT,
December 3, 1857.

SIR: The naval force which has been employed during the past year has been sufficient to give adequate security to our commerce, and to the persons and property of American citizens in all parts of the world.

The home squadron, under the command of its flag officer, Hiram Paulding, has consisted of the steam-frigates Wabash and Roanoke, the sloops-of-war Saratoga and Cyane, and the war-steamer Susquehanna and Fulton. The unsatisfactory state of affairs in New Granada and portions of

Central America required the increase of this squadron, and the almost constant presence of a considerable force in the neighborhood, both on the Atlantic and the Pacific.

In January the *Wabash* returned from Aspinwall to New York, with the officers and crew of the *St. Mary's*; in April sailed for Aspinwall; in June returned again to New York, with one hundred and thirty-eight of the destitute and suffering American citizens who had been involved in the troubles of Central America; and on the 29th of July sailed again for Aspinwall, where she still remains.

In May the *Cyane* sailed from Aspinwall upon a short cruise, touching at Carthagena, thence to San Juan del Norte; in June received on board, and transported to Aspinwall, the men who were brought home by the *Wabash*, and proceeded herself to Boston with fifty-three of the sick and wounded. On the 2d of September she sailed on a cruise to the eastward, returned to Hampton Roads October 30, and on the 19th of November sailed for Cape Haytien to the relief of an American vessel and two American seamen, seized upon suspicion by order of the Haytien Government.

The *Roanoke*, while making her six months' trial trip at sea, was under the command of Captain Montgomery, temporarily attached to this squadron. On the 30th of May she sailed for Aspinwall, and returned on the 4th of August, with two hundred and five of Walker's men. It being necessary to put her in dock, she was sent from New York to Boston, and put out of commission.

All these men were brought home without previous orders; but such was their deplorable condition, that it was an act of humanity which could not and ought not to be dispensed with; and the Department approved it. The expense of providing for them necessary food, clothing, and medicine, while on shipboard, amounted to \$7,376 16, for which an appropriation is recommended.

The *Saratoga* having returned to Norfolk, in December, proceeded, on the 16th of January, on a cruise, visiting St. Domingo, St. Thomas, Venezuela, Curaçoa, Aspinwall, and San Juan del Norte; thence, by way of Aspinwall, the Island of Grand Cayman, Havana, and Key West, she returned to Norfolk, where she arrived on the 29th of April. On the 23d of May she left Norfolk for Aspinwall, and will soon be relieved by the *Susquehanna*.

The *Fulton* was put in commission in September, and sailed from Washington on the 14th of October for Mobile, New Orleans, and Chiriqui, in New Granada, for the purpose of intercepting and preventing unlawful expeditions from the United States against Costa Rica, Nicaragua, and Mexico. Instructions, having the same object in view, were given to Commodore Paulding at Aspinwall, and Commander Chatard at San Juan del Norte.

The *Susquehanna*, having been ordered from the Mediterranean to the home squadron, has doubtless arrived at Key West and proceeded to San Juan del Norte with similar instructions.

If any unlawful expedition from the United States against Nicaragua, Costa Rica, or Mexico, shall succeed in effecting a landing, it will be because it has been able to elude the vigilance of this squadron.

The *Jamestown* is now preparing at Philadelphia to join it, and will soon be ready for sea.

The force in the Pacific, under the command of the flag officer, William Mervine, has consisted of the frigate *Independence*, the sloop-of-war *St. Mary's*, John Adams, and Decatur, and the war-steamer *Massachusetts*. A large part of this squadron has been much usefully employed at Panama and on the coast of Central America, where its presence was deemed indispensable.

The *Independence* sailed, August 3, from Panama to San Francisco, to be stationed at the navy-yard as a receiving ship, and for the general purposes of the yard, under the command of Commander Fairfax. During her long stay at Panama, her officers, at intervals of leisure, were engaged in surveys and expeditions of much interest. A party was dispatched, in charge of Lieutenant James B. McCauley, to explore the timber resources about the Gulf of San Miguel, the mouth of the Darien, one hundred miles from Panama. The expedition was eminently successful.

The John Adams was ordered home, in September, to Norfolk.

The *Massachusetts*, having been stationed in Puget Sound to aid in preventing Indian disturbances, when her presence was no longer required was ordered to San Francisco; and, arriving there in April, was, in June, put out of commission.

The *Decatur* was also employed on the north-west coast in suppressing Indian hostilities, from which she proceeded to San Francisco, thence to Panama, and arrived there March 9. On the 1st of April the officers and crew were relieved by others, sent across the Isthmus. In June she sailed from Panama for Punta Arenas and San Juan del Sur; August 5 she returned to Panama, with twenty-five of Walker's men.

The *St. Mary's* sailed from Panama, in January last, with orders to touch on the coast of Central America, and thence proceed to Jarvis and New Nantucket islands, which were supposed to possess valuable deposits of guano. She was detained on the coast of Central America by the condition of affairs there, and did not continue her course to those islands until June. Commander Davis had instructions to visit them, to make soundings, to ascertain their location, and the quantity and quality of their guano deposits, to make other observations useful to navigation, and to return by the Sandwich Islands to San Francisco. She proceeded to Jarvis and New Nantucket islands, made the soundings, surveys, and examination which had been ordered, and, proceeding thence to Honolulu, arrived there on the 23d of September. Commander Davis reports that nothing resembling guano was found at either of those islands. He, however, procured several samples of the soil from a sufficient variety of places, fully to illustrate the character of the deposits. The American Guano Company having previously, under the act of August 18, 1856, given to the State Department the proper notice of discovery, and entered into the required bond, Commander Davis, no conflicting claims appearing, took formal possession of the islands in the name of the United States, and deposited in the earth a declaration to that effect, executed on parchment and well protected.

In view of the large fleet of whale ships, in number about two hundred, carrying seven thousand men, that usually visit the Sandwich Islands in the fall of the year, Commander Davis, at the earnest solicitation of the United States Commissioner, and of many of the principal American merchants, decided to prolong his stay there.

Commodore Mervine having been ordered home, and the *Independence* to San Francisco, Captain John C. Long has gone out to succeed him, sailing from Boston, October 17, in his flag-ship, the *Merrimack*. The steam-frigate *Saranac*, under Captain John Kelly, has sailed for the Pacific to supply the place of the John Adams. The *Vandalia* has recently left Portsmouth, New Hampshire, for the same station.

It was deemed necessary, as a measure of humanity and policy, to direct Commodore Mervine to give General Walker and such of his men, citizens of the United States, as were willing to embrace it, an opportunity to retreat from Nicaragua. Before these instructions were received, Commodore Mervine had sent Commander Davis, with the *St. Mary's*, to San Juan del Sur, with instructions to protect the persons and property of American citizens. With this authority only, Commander Davis negotiated with General Walker terms of capitulation, under which he surrendered with his men, and was conveyed to Panama, whence he proceeded to the United States. Commander Davis also received from General Walker the surrender of a small schooner which he had detained, called the *Granada*, and delivered her to the Nicaraguan authorities. The action of Commander Davis, so far as he aided General Walker and his men, by the use of the *St. Mary's*, to retreat from Nicaragua and return to the United States, was approved by the Department; but his interference with the *Granada*, and her transfer to the Nicaraguan authorities, by his intervention, was not approved. The whole number of men surrendered and carried to Panama was about three hundred and sixty-four. Commodore Mervine, finding his squadron suddenly incumbered with

these men, in the most wretched condition, suffering for the want of everything, and endangering the health of those under his command, had no mode of relief except by turning them adrift, which was impossible, or sending them by the railway to Aspinwall. Adopting the latter alternative, he was under the necessity of drawing on the Department, in favor of the railway company, for \$7,475, being the amount which would be due for transporting them across the Isthmus at the usual rate of charge. This bill has neither been paid, accepted, nor protested. The company voluntarily relinquished the personal responsibility of Commodore Mervine, and put the bill at the disposal of the Government. I submit it, with an expression of my conviction that Congress should make reasonable provision for it; and also for the expenses of providing these men while on shipboard with necessary food, clothing, and medicine, of which an estimate will hereafter be furnished.

The Mediterranean squadron, under its flag officer, Samuel L. Breese, was composed of the frigate *Congress*, the steam-frigate *Susquehanna*, and the sloop *Constellation*. The *Susquehanna*, having aided in the attempt to lay the telegraphic cable across the Atlantic, has been ordered home, as already mentioned, and attached to the home squadron; and Commodore Breese having been ordered, with his flag-ship, the *Congress*, to the United States, they will not be replaced by others until the opening of the spring, leaving the *Constellation*, under the command of Captain Charles H. Bell, to look after the interests of the United States in that quarter.

The vessels of this squadron have visited many ports in the Mediterranean, where their presence has had an important influence by giving a feeling of security to citizens of the United States residing there, and thus promoting our commercial interests.

The Brazil squadron, during the past year, has been under the command of flag officer French Forrest, and has consisted of the frigate *St. Lawrence* and the sloops *Falmouth* and *German town*. The *German town*, being ordered home, arrived at Norfolk February 9, and having been repaired, sailed for the East Indies on the 4th of August, to be employed as part of the force on that station. The *Falmouth* having been sent home by Commodore Forrest for repairs, which being completed, she was sent back at the earliest moment to rejoin the *St. Lawrence*. It is proposed, at an early day, to add the brig *Perry* to this squadron.

These two squadrons, the Brazil and the Mediterranean, have been able quietly and effectively to perform the duties required of them, respectively, without any act of direct interference.

The *Jamestown*, Cumberland, *St. Louis*, Vincennes, Dale, and Dolphin, have been employed on the coast of Africa. Commodore Crabbe, late in command on that station, arriving at Philadelphia with the *Jamestown*, on the 2d of June, was succeeded by the present flag officer of the squadron, Thomas A. Conover, who, on the 23d of the same month, sailed from Boston in his flag ship, the *Cumberland*. The Dale left Norfolk May 5 to relieve the Dolphin, which arrived at Boston July 22. The Vincennes left New York on the 20th November, to relieve the *St. Louis*. The sloop *Marion* is preparing to join the squadron. The force on the coast of Africa has fully accomplished its main object, by discharging the obligations we are under by the treaty of August 9, 1842, for the suppression of the slave trade.

The steam-frigate *San Jacinto*, Commander Henry H. Bell, and the sloop-of-war *Portsmouth*, Commander Foote, and *Levant*, Commander William Smith, have constituted the East India squadron, under flag officer James Armstrong. The duties of this squadron have been arduous, and the officers and men attached to it distinguished themselves on a memorable occasion.

On the 15th of November, 1856, as one of the boats belonging to the squadron was passing up the river to Canton with the American flag fully displayed, it was several times fired upon by the Barrier forts, endangering the lives of all on board. This outrage was promptly resisted and redressed by the capture and destruction of the forts, and razing their walls to the ground. These forts, four in number, commanding the approach

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to Canton, were among the strongest defenses of the Empire, mounting one hundred and seventy-six guns. The prompt and decisive course pursued by Commodore Armstrong, his officers and men, has caused the flag of the United States to be respected by the Chinese, contributed largely to the security of our citizens in China, and, during the troubles which followed, has probably been the means of saving many lives and much property.

The Portsmouth, in January, sailed for Shanghai, visited all the ports north of Canton open to our vessels by treaty, and in March returned to Hong Kong. In April she was dispatched to Singapore to look into the affair of the Dutch bark "Henrietta Maria," and having accomplished the object of her visit, she proceeded to Siam with Mr. Charles William Bradley, United States Consul at Ningpo, bearing a treaty of amity and commerce between the United States and Siam for ratification by that Government. While there she was visited by one of the Kings of Siam, a courtesy never before extended to a man-of-war of any nation. On the 17th of June she sailed with Mr. Bradley for Hong Kong, thence to Shanghai, from which port she sailed on the 29th of August for Simoda and Hakodadi, Japan.

The Levant, in February, was ordered to Manila with invalids of the squadron, to obtain a passage for them to the United States. She left Manila in March for Shanghai, was there docked, and on the 23d of June sailed for Hong Kong. Orders were sent out on the 16th September for her return to Boston.

The San Jacinto, at the latest dates, was at Shanghai, where she arrived on the 23d of June from Hong Kong, having in view the health of officers and crew which required a change of climate.

The open hostilities existing between the English and the Chinese, the consequent embarrassments of trade, and the prospect of obtaining much better commercial arrangements with China, rendered an increase of our naval force in those seas a measure of prudence, if not of necessity. Accordingly, the steam-frigates Minnesota and Mississippi, and the sloop-of-war Germantown were ordered to that station. The Minnesota sailed from Norfolk July 1, the Germantown August 4, and the Mississippi from New York August 19. The Hon. William B. Reed, Envoy Extraordinary and Minister Plenipotentiary from the United States to China, went out in the Minnesota.

The steam frigate Powhatan has been ordered to China to relieve the San Jacinto, and Captain Josiah F. Tattnall to succeed Commodore Armstrong as the flag officer of the squadron.

The late President of the United States, your immediate predecessor, having accepted the offer which you courteously extended to him of the use of a public vessel to convey him and his family to Maderia, the Powhatan will receive them on board at Norfolk and convey them to that island.

Besides the squadrons, other vessels have been in commission. The steamer Michigan, under Commander Charles H. McBlair, is upon the northwestern lakes.

The steam-frigate Merrimack returned to Boston, in March, from a successful trial trip of six months, under Captain Pendergrast; she has since gone out as the flag-ship of the Pacific squadron.

The sloop-of-war Preble, the practice-ship at the Naval Academy, under Commander Joseph F. Green, has, with the first and third classes of acting midshipmen, made the usual summer cruise, from which they have derived much practical information in their profession. The report of the cruise is herewith transmitted.

The store-ship Relief, under Lieutenant Cooke, returned to New York in January, having conveyed stores to the squadron on the coast of Brazil. The store-ship Supply, under Lieutenant A. F. V. Gray, performed a similar duty, sailing from New York in April, returning in August, and has since sailed with stores for the African and Brazil squadrons.

The bark Release, under Lieutenant Simms, dispatched in November, 1856, under the direction of the Department of the Interior, to Dem-

arara and Venezuela, to procure cuttings of sugar cane, returned to New Orleans in February, with three hundred tons of the cuttings. She landed her cargo, proceeded to New York, and arrived there March 19. In June, under Lieutenant Brasher, she sailed from New York for Aspinwall with stores for the squadron in the Pacific, and in August returned to Boston.

In accordance with the joint resolution of Congress approved August 23, 1856, the bark Resolute, late one of an English exploring squadron, abandoned in the Arctic seas, purchased by the United States from her salvors, and thoroughly repaired and refitted, was tendered to the British Government.

As stated in the last annual report, the Resolute, under the command of Commander Hartstene, sailed from New York for England November 13, 1856; she arrived at Portsmouth December 12, and on the 16th was delivered to the Queen of Great Britain in person. Commander Hartstene performed the duty assigned him to the entire satisfaction of the Department, and was received in England, both by Government and people, with every manifestation of the high appreciation with which they regarded this signal mark of courtesy and friendly feeling on the part of the Government and people of the United States.

The act of March 3, 1857, "to expedite telegraphic communication for the uses of the Government in its foreign intercourse," authorized the employment of two ships in laying down a telegraphic cable from the coast of Newfoundland to the coast of Ireland. The Niagara, then at New York, nearly ready for sea, was ordered to England to aid in the enterprise. She left New York, under the command of Captain Hudson, on the 23d of April, and arrived in England on the 12th of May. The Susquehanna, under Captain Sands, then in the Mediterranean, was also directed to proceed to England, and to accompany the Niagara across the Atlantic, rendering such assistance as she might require. These vessels, with those designated for the same purpose by the Government of Great Britain, assembled in the Cove of Cork, and on the 6th of August, the Niagara commenced laying down the telegraphic cable. After about three hundred and thirty-four miles of it had been laid, it parted, without fault of the officers or crew of the Niagara, and the fleet returned to Plymouth. The Niagara was ordered, after landing the cable, to return to New York, and has arrived. The Susquehanna returned to the Mediterranean. She has since received orders to join the home squadron, at Key West, and has probably, at that point, received her orders to proceed to San Juan del Norte, with the special instructions which accompanied them.

The act of March 3, 1857, making appropriations for the naval service, appropriated \$49,000 "to enable the Secretary of the Navy to arm and man the ordnance ship Plymouth, with a view to the improvement of ordnance and gunnery practice." She was accordingly put in commission, and, on the 7th July, sent to sea on a six months' cruise, under Commander Dahlgren. Her armament consisted of four nine-inch shell guns, one eleven-inch shell pivot gun, two twenty-four-pounder and one twelve-pounder howitzers. She was ordered to cruise by the Azores to Lisbon, along the coast of France to Amsterdam, and, returning, to touch at Southampton or Bristol and the Bermuda Islands.

Commander Dahlgren, having completed the cruise, has returned to this port, and will continue the drill necessary to perfect the training of such seamen as have been found capable of receiving it. The Plymouth encountered long-continued boisterous weather on her return homeward, with some heavy gales, during which the heaviest of the cannon were secured perfectly with ordinary lashings, and were as well under control in a rough sea, when cast loose for practice, as could be desired. One hundred and twenty-one shells were fired at sea, during the cruise, from the eleven-inch pivot gun, and "without experiencing any of the difficulties usually supposed to render such heavy ordnance nearly unavailable on shipboard."

The result of the operations of the Plymouth seems to dispel all remaining doubt whether the

heavy cannon which she carried would be manageable, and not only to justify the previous adoption of such ordnance in the steam frigates recently built, but also to render it expedient to extend this plan of armament. I earnestly recommend a renewal of the appropriation, and the permanent employment of a ship on this duty.

The act of March 3, 1857, making appropriations for the naval service, directed the Secretary of the Navy "to have prepared, and to report to Congress for its approval, a code of regulations for the government of the Navy." To aid me in the performance of this duty, I convened in Washington, on the 10th of August, a board of officers, consisting of a captain, commander, lieutenant, the lieutenant colonel of the marine corps, a purser, and a surgeon, to prepare a code of regulations conforming to the requirements of the act. They are diligently engaged in the work, and have made such progress that I shall be able to submit a report to Congress at an early day.

The same act appropriated \$25,000 to verify the survey of the Attrato and Truando rivers, with a view to a ship canal between the Atlantic and Pacific oceans. Measures were immediately taken by the War and Navy Departments to organize an expedition for this object. Lieutenant Craven, of the Navy, and Lieutenant Michler, of the topographical engineers of the Army, were, by your direction, assigned to this duty. The schooner Varina, of the Coast Survey, temporarily placed at the control of this Department, was prepared at the New York navy-yard for this special service, and, with suitable hydrographical and topographical parties on board, set sail on the 12th of October for the Gulf of Darien. When we consider the magnitude of the object; the influence it is destined to have upon commerce, if accomplished; its effect in binding together in closer relations the remotest parts of our Confederacy, we cannot fail to regard any hopeful enterprise having this object in view as fraught with the deepest interest. It is not without hope, founded upon reliable information, that this enterprise is undertaken.

By the same act of March 3, 1857, making appropriations for the naval service, the sum of \$25,000 was appropriated to extend and complete the exploration of the Parana and the tributaries of the Paraguay. Early in the season an arrangement was made with Mr. R. B. Forbes, of Boston, for the construction, at his own expense, of a steamer of suitable size and draught for the navigation of those rivers, to be delivered by him at some convenient point on the La Plata, and chartered by the Government for the time that will necessarily be occupied in the survey. The contract for the charter of the vessel has been duly executed. She is now nearly completed, and will soon proceed to the La Plata. It is proposed to send out Commander T. J. Page, with proper officers and men, to meet her there, and to enter upon the exploration authorized by Congress.

The Government of Paraguay having prohibited the navigation by foreign vessels of that part of the river Paraguay which lies within its jurisdiction, some difficulty may possibly arise in completing that portion of the survey; but there are many rivers embraced within the scope of the act, the exploration and navigation of which will probably develop great commercial advantages.

Commander Page informs the Department that four charts of the former survey have been already printed; that the greater portion of the remaining sheets are ready for the engravers; and that the construction and topography of the whole work will be completed in six months, if not delayed by them.

The work of publishing the survey of the late expedition to the North Pacific and Behring's Straits, under Commander Rodgers, is rapidly advancing. Engagements have been made with eminent professors in the various branches of natural history for describing the most interesting of the zoological specimens brought home by the expedition. A portion of the hydrographical work is in the hands of the engraver; the rest in a state of forwardness.

Congress, at its last session, authorized the enlistment of eight thousand five hundred men for the Navy, instead of seven thousand five

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hundred, the former limit. This increase enabled the Department to employ more vessels of war at sea; but the number of marines has not been increased, so that guards can be provided for them. To obviate this difficulty, under the authority of the naval appropriation act of March 3, 1849, you directed the employment of two hundred landsmen as marines, in addition to the two hundred authorized to be so employed by one of your predecessors. By this arrangement the number employed as privates in the marine corps amounts to thirteen hundred and sixty-eight, while the number of landsmen is thereby diminished. I would respectfully recommend, as has been done by my predecessors, that the privates of this corps be increased. Two thousand men are deemed necessary for the ordinary detail of the service.

Wishing to give greater efficiency to this important branch of the service, I have recently directed that there be furnished to the headquarters of the corps a battery of two thirty-two-pounders and four of Dahlgren's field guns, that the officers and men may be instructed in their drill before being sent to sea. They will then be able to act as infantry, serve a division of heavy artillery on ship-board, or the field pieces on landing.

The naval appropriation act of August 15, 1856, appropriated \$96,000 for the erection and completion of marine barracks at Brooklyn, New York, and \$60,000 for the same purpose at Pensacola, Florida.

The site for those at Brooklyn requiring piling and filling in, not yet completed, proposals have not been invited for the erection of barracks there. Proposals for those at Pensacola were invited by my predecessor; but as the lowest bid was beyond the limit of the appropriation, plans and specifications were directed to be made for smaller buildings, and on the 21st of September proposals were again invited. Seventeen were received, and those of Mahon & Gibbon for \$53,847, being the lowest, the contract was awarded to them.

The marine barracks at Boston, Philadelphia, and Norfolk, are represented to be contracted and entirely unfit for use; and the commandant of the corps recommends that provision be made to purchase ground and erect suitable buildings at those places.

I would respectfully invite your attention to General Henderson's report for the general condition of the corps.

Two appropriations, each of \$20,000, have been made for the construction and completion of a coal depot at Key West, in Florida. A wharf has been built, but the foundation having partially failed, it is deemed unsafe. A coal shed has been commenced, but is neither covered in nor paved. The constructing engineer reports that a similar one, parallel to it, is needed for soft coal, that having been designed for anthracite; that the sheds will be of little use without a substantial and permanent wharf from which vessels can receive their supply; that the site of the present wharf is excellent, having a depth of water of twenty-five feet; that the construction of two railway tracks from the wharf to the coal sheds will be necessary; and that to complete what he proposes, would require an appropriation of \$175,000, the former appropriation having been exhausted.

In view of the admirable position of Key West for conveniently supplying with coal the steamers of the home squadron, I would earnestly recommend that suitable provision be made, by legislation, for the completion, upon a proper scale and in an economical manner, of this important public work.

The act of January 28, 1857, authorized the President to purchase a site for a naval depot on Blythe Island, in the State of Georgia, and to erect such buildings, and to make such improvements, as may be necessary to repair vessels-of-war, and to afford them refuge. A board of officers, consisting of Captain McIntosh, Commander Hartstene, Lieutenant Brooke, and a civil engineer, Mr. Calvin Brown, were directed to examine the island and the adjacent waters. In pursuance of their report, about one thousand one hundred acres of the southern portion of the island have been purchased for \$130,000. The Attorney General having certified that the title is

good, and the State of Georgia having consented to the purchase, and thereby ceded the requisite jurisdiction, the purchase money has been paid. Immediate steps will be taken to prepare the site for the purposes expressed in the act of Congress.

The war steamer building at Hoboken by the executor of Robert L. Stevens was first authorized by the act of April 14, 1842. The present contract provides that Mr. Stevens should build the vessel on his own plan, and deliver her to the Government for the sum of \$586,717 84; and that, after the sum of \$500,000 should have been paid on account, she should be examined by a board; and if she could be completed for the balance of the appropriation, then it should be paid. This balance of \$86,717 84 has been appropriated by Congress to enable the Department promptly to make the payment when it should be due. On the 19th of February, 1856, a board was appointed; and, in their report of March 7, 1856, they estimate that, in addition to the sum of \$500,000 already paid, there will be required the further sum of \$812,033 63 to complete the vessel. The balance appropriated August 16, 1856, remains, therefore, in the Treasury.

Mr. Stevens and his executor have expended upon the vessel the sum of \$702,755 37. It is now proposed by the executor that the balance of the contract price—that is to say, the sum of \$86,717 84—be paid to him from time to time as an equal amount in work and materials shall hereafter be put upon the vessel, the same being secured to the Government by a pledge of the whole. As the vessel is already virtually owned by the Government, and will be of little value unless completed, it is deemed proper to invite attention to the inquiry whether it may not be expedient to authorize the application of the balance in aid of the means of the executor, and in the mode proposed, to the accomplishment of the work.

The Naval Academy, at Annapolis, now under the charge of Captain Blake, the successor of Captain Goldsborough in the administration of this important and delicate trust, is in a flourishing condition. It is to the Navy what the Military Academy is to the Army—an institution not merely of great utility, but of indispensable necessity, without which, in the present state of science, an accomplished and efficient corps of officers could not be secured. There are now attached to it, for purposes of instruction, one hundred and seventy-six acting midshipmen. At the close of the last academic year fifteen graduated, and eighty-nine have since been admitted.

The report of the last annual board of inspecting officers speaks in terms of high commendation of the discipline and police regulations of the institution; of the performance of the students in field artillery and infantry tactics; in the exercise of the great guns in battery, and in shell and shot practice at the target; of the admirable acquirements of the graduating class, and of the successful management of the academy, now no longer an experiment. It also proposes some measures deserving earnest consideration, and others which in due time ought to be carried into effect.

The joint resolution of March 3, 1857, directing the Secretary of the Navy to cause medals to be struck and presented to Dr. Kane, his officers and men, I have been unable to carry into effect, because Congress accidentally omitted to make an appropriation for that object.

When I entered upon my duties in this Department I found a naval court of inquiry already organized under the act of January 16, 1857. Deeming it important that the investigation directed by that act should be brought to an early conclusion, I immediately organized two additional courts. These three courts have prosecuted their labors with great assiduity. The result in many cases has been presented to you. As to all those cases in which the courts have recommended restoration to the active list, or to the service, or a transfer from furlough to leave pay, you have approved the action of the courts; and when you shall have presented corresponding nominations to the Senate, you will have done as to them all which this act has committed to your discretion. As to those cases in which the courts have recommended no change, the action of the President,

whether it be that of approval or disapproval, will not vary the result, but leave the parties *in statu quo*, as if there had been no inquiry. The President having no power to change the state of any person already in the Navy, except by dismissal, or by promotion with the advice and consent of the Senate, or to restore any person to it except by a new appointment, with the advice and consent of the same body, it is obvious that little could be done to remove or palliate the presumed evil which it was the object of that act to remedy, except by the prompt execution of the act itself. Unwilling to be drawn into any allegation against those officers who had been affected by the action of the retiring board, I examined the act of Congress to see if any such duty had been imposed upon me. I found that it admitted no latitude of construction. It directed a definite inquiry. It prescribed the exact limits of the investigation. It left in the Department no power to enlarge, or to restrict, or to modify. It directed the physical, mental, professional, and moral fitness of the officer for the naval service to be investigated by a court of inquiry. Accordingly the precept to the court in every case directed that precise inquiry. Instructions were given to the judges-advocate in every instance where the party desired it, to take the initiative, and to present all the evidence which they intended to introduce before the party should be called upon to respond to it, and then to give him ample opportunity. They were directed to consent to depositions when necessary or convenient. They were instructed, when reasonable objection should be made to any court, to give way to it, and to interpose no obstacle to the transfer of the case to another court, to which there should be no objection. These instructions were given to insure a fair, impartial, and faithful execution of the intentions of Congress.

The policy has been adopted of shortening the period of the cruise in all remote seas, and several ships have been ordered home in pursuance of it. The necessity of the change has been long felt. It will conduce to the preservation of the health of both officers and men. Long exposed to the enervating influences of hot climates, they are often broken down, or their usefulness in after life impaired. It will facilitate enlistments. Making the service more acceptable to seamen by more frequently returning them to their homes, it will make them more ready to engage in it. It will promote economy. The ships returning from a short cruise of two years, will be ready for sea again without being subject to those searching repairs to which they are generally subjected after one long absence, in view of another equally long. It will contribute to the increased activity, efficiency, and usefulness of the Navy, by making it more a school of actual experience to officers and seamen, and by presenting our ships more frequently wherever there shall be a American commerce or American citizens to be protected. These considerations have led to the adoption of this change, and it will probably be permanent, unless experience shall disprove its utility.

At the same time the proportion of landsmen and boys allotted to a national ship has been increased. There is often great difficulty in obtaining seamen, and still greater in obtaining American seamen—the best in the world for the United States service. The employment of landsmen and boys contributes much to remedy the inconvenience. They soon become trained and fit to take the place of seamen; and instead of being starving supernumeraries in the population of the larger cities, they become efficient and useful members of an improving and valuable class, without which neither a naval nor mercantile marine can be sustained.

Congress having, at its last session, authorized the building of five steam sloops, and appropriated \$1,000,000 towards the object, measures have been taken for their immediate construction. They will be built at Boston, New York, Philadelphia, Norfolk, and Pensacola—one at each of those places. That at New York will be built by contract, in the yard of Mr. Jacob A. Westervelt. The act having expressly authorized their construction by contract or otherwise, it has been deemed expedient to commit one of them wholly to private enterprise. The object is to open the

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way to improvement, by summoning the skill and genius of the country to contest the palm of superiority with the navy-yards in the endeavor to give the Government the best sloop-of-war that can be built. But as the Government has its own establishments, provided at immense cost, and thoroughly organized and supplied with the requisite materials, it was thought to be expedient, and, indeed, necessary, to employ them in the construction of the others. The Department, after having advertised for the best model, plan, and specifications, and received thirteen proposals, organized a board composed of the most experienced naval officers, naval constructors, and chief engineers, to aid in awarding the contract according to the terms of the advertisement. I am confident that the result, both as to the ship built by the private contractor, and those built at the navy-yards, will reach as high a point of excellence as is at present attainable. They will be constructed with water-tight compartments—an improvement in the mode of construction which, in case of disaster, will often save the ship from going to the bottom, and ought generally to be introduced where many lives are at stake.

The act authorizing the five sloops-of-war, having specified the class of vessels to be built, did not admit of the construction of small steamers of light draught, which are very much wanted in the public service. For some years past the Government has had no means of supplying its indispensable wants, except by hiring small steamers as occasion might require. At this moment, when much needed, we have no vessels which can penetrate the rivers of China. We have few that can enter most of the harbors south of Norfolk. Harbors which are the recipients of hundreds of millions of our commerce are not accessible to most of our public ships. This state of destitution is so remarkable that it should attract particular attention, especially as some of our greatest interests and most vulnerable points are thus left exposed. Besides, this class of steamers, of light draught, great speed, and heavy guns, would be formidable in coast defense. They cost but little in construction, and require but little to keep them in commission, and, for most practical purposes in time of peace, are as effective as larger vessels, and often more so. One or more of them should be at every point where we maintain a squadron. Three or four should be constantly employed on the Atlantic and Pacific coasts. Economy, efficiency, and utility, combine to recommend them as almost indispensable. Ten of them would be of incalculable advantage to the naval service, and would cost \$2,300,000.

Under the present small appropriation for testing improvements, several trials have been made; but the Department feels itself crippled by the limited appropriation. The sum of \$10,000 is not adequate to do justice to improvements which promise public utility. Men of inventive genius are so devoted to the one favorite pursuit that they are most frequently without the means necessary to test their inventions. Were Congress to appropriate tenfold the sum now allotted to this object for naval purposes, a single successful result, after a hundred failures, would reimburse the whole cost, while the influence of the measure in aiding the progress of improvement in the naval service could hardly be overestimated.

It is impossible, without doing injustice, to give a summary of the reports of the chiefs of bureaus of this Department. They have presented a full and detailed statement of the condition of the service in the respective branches committed to their particular charge; of public works prosecuted, of improvements introduced, of evils remedied, and many suggestions and recommendations which deserve the consideration of Congress. Their reports exhibit detailed statements of the expenditures of the present, and estimates for the ensuing fiscal year. I commend them to particular attention, as exhibiting a full view of the actual condition of the Navy and its auxiliary establishments, so far as they are under the immediate supervision of the bureaus.

The estimates for the support of the Navy and marine corps, and for all other objects under the control of the Navy Department, for the fiscal year ending June 30, 1859, are—

For the support of the Navy and marine corps\$9,749,515 01
For special objects..... 4,866,783 22

Making.....\$14,616,298 23

The aggregate estimates for the fiscal year ending June, 1858, were \$13,803,212 77, being \$813,085 less than the present estimates. This difference is principally caused by estimating \$250,000 for the armament for the five new sloops, \$350,000 more than last year for building the sloops, and by estimating for provisions and pay for one thousand additional men, authorized by the act of March 3, 1857.

The expenditures for the year ending June 30, 1857, for all purposes under the control of the Department, were \$12,632,696 81; of which \$4,343,698 14 being for special objects, the legitimate expenses of the Navy and marine corps for that period were \$8,288,997 67.

A review of the present condition of the Navy, and of the establishments connected with it, has afforded me great gratification. I see in them, taken in connection with our commercial marine and our immense resources, the means of promptly putting afloat a naval force equal to any exigency likely to arise in the history of the country.

It is not the policy of our Government to maintain a great navy in time of peace. It is against its settled policy to burden the resources of the people by an overgrown naval establishment. It is universally admitted to be inexpedient to endeavor to compete with other great commercial Powers in the magnitude of their naval preparations. But it is the true policy of our Government to take care that its Navy, within its limited extent, should be unsurpassed in its efficiency and its completeness, and that our preparatory arrangements should be such that no event shall take us altogether by surprise.

I have the honor to be, very respectfully, your obedient servant,
ISAAC TOUCEY,
Secretary of the Navy.

To the PRESIDENT.

Report of the Secretary of War.

WAR DEPARTMENT,

WASHINGTON, December 5, 1857.

SIR: I have the honor to submit the following report of the condition and operations of the Army during the past year.

The Army consists of nineteen regiments, divided into ten of infantry, four of artillery, two of dragoons, two of cavalry, and one of mounted riflemen. The whole strength of the Army, as posted, consists of about 17,984 men; and the actual strength, on the 1st of July last, was 15,764. In addition to the movements which the troops have been called on to make this year, which are set forth in a separate paper, prepared by the Adjutant General and herewith transmitted, this force is called upon to garrison sixty-eight forts of a large and permanent character, so far, at least, as it is possible to supply men for the purpose; and to occupy seventy posts less permanently established, where the presence of a force is absolutely required. The area over which these forts and posts are spread embraces a circuit of about three million square miles, and requires a journey of many thousand miles to visit the principal ones of them.

The external boundary of our country, requiring throughout a more or less vigilant military supervision, is eleven thousand miles in length, presenting every variety of climate and temperature, from the inclement cold of our Canada frontier to the tropical regions of southern Texas. But the occupation of this long line of frontier is a trifling difficulty in comparison with that of protecting the double line of Indian frontier, extending from the Lake of the Woods to the banks of the Rio Grande, on the east side of the Rocky Mountains, and from beyond the river Oregon, on the British frontier, to the head of the Gulf of California, on the western slope of those mountains. Superadded to these lines, requiring to be occupied, are the great lines of intercommunication between the valley of the Mississippi and the Pacific ocean, which imper-

atively demand that protection which only the United States troops can furnish. These lines are very long, and are now extremely important, whilst every year renders them more and more so. From our western frontier of settlements to those of northern Oregon the distance is about one thousand eight hundred miles; from the same frontier to the settlements of California, *via* Salt Lake, is one thousand eight hundred miles; from the frontier of Arkansas, at Fort Smith, by Albuquerque or Santa Fe, to Fort Tejon, is about one thousand seven hundred miles; and from San Antonio, by El Paso, to San Diego, near the borders of the white settlements, is one thousand four hundred miles; constituting an aggregate line of six thousand seven hundred miles which ought to be occupied, and which we pretend, in some sort, to keep open and defend.

This simple statement of facts demonstrates, stronger than any arguments could do, the absolute necessity for an increase of the Army.

The policy of our Government and the spirit of our people are alike opposed to a large standing army, and very properly so; but if an army is needful at all, it should be organized in such manner as to answer the purposes for which it is required. Its numbers should correspond with the service it is intended to perform. If from any disproportion in this respect it stops short of efficiency, it becomes insignificant, and entails upon the country expenditures wholly incommensurate with any service it can render.

It will not be denied that an army, properly organized and of sufficient strength, constitutes at once the cheapest and most efficient means by which the indispensable services it is designed to perform can be secured by the Government.

There is no substitute for an army; and to render it at once economical and efficient, adequate numbers are essential. If there is a higher duty than another devolved upon a well-regulated Government, it is to afford perfect protection to its citizens against outrage and personal violence; yet this great obligation is not performed by the Government of the United States. For a large portion of the year, scarcely a week elapses without bringing to us intelligence of some Indian massacre, or outrage more shocking than death itself; and it most frequently happens that these acts go unpunished altogether, either from the want of troops for pursuit, or from their remoteness from the scenes of slaughter, which renders pursuit useless.

In former times, when the hardy pioneer was allured away from the line of white settlements by fertile lands alone, he scarcely ventured so far as to be beyond succor and protection from those he left behind. But far different is the state of things at present. Our Pacific settlements, with their great inducements of rich lands, salubrious climate, and fabulous mineral treasures, present to the inhabitants of the Atlantic States temptations to emigration which the privations of an intervening wilderness and desert, and continual danger from roving bands of savages hanging upon their march for many hundred miles together, cannot deter them from undertaking. This migration strengthens the natural ties between the Atlantic and Pacific States, and adds immensely to the defensive strength of that remote region. Justice and humanity alike demand protection for these emigrants at the hands of our Government.

To render governmental protection to our vast frontier and emigration perfect, a very large augmentation of the Army would not be required. Five additional regiments would answer the purpose if properly posted.

It will be seen from a paper carefully prepared from reliable data by the Adjutant General, that no increase of our forces is so efficient, or near so cheap, as the augmentation of our regular Army.

A line of posts running parallel with our frontier, but near to the Indians' usual habitations, placed at convenient distances and suitable positions, and occupied by infantry, would exercise a salutary restraint upon the tribes, who would feel that any foray by their warriors upon the white settlements would meet with prompt retaliation upon their own homes. In addition to this means of defense, there should be concen-

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trated along our own frontier, at eligible points, large bodies of efficient horse, all or any portion of which could, upon the opening of spring and the first appearance of grass, march to punish aggression or repress any spirit of insubordination. These cantonments for cavalry should be established at points where corn and hay are abundant and cheap. The present is a favorable period for the choice of permanent locations, for the reason that upon a large portion of our northwest frontier, particularly, settlements have nearly reached the limits of cultivable lands, beyond which, while there are spots of rich soil and tolerable pasturage, they are not sufficient for extended settlement. Hence there is no likelihood of military stations being left, as heretofore, in the heart of a thickly-populated country, after the lapse of a very few years. The posts selected in the manner now indicated would become useless only when the Indian tribes ceased to be formidable, or disappear altogether, for they would be upon the line of permanent frontier, which has now been reached.

The concentration of these large bodies of horse at eligible points upon our borders would have the best influence both upon the discipline and effectiveness of the corps. Throughout the winter, when field operations were impossible, the men could be perfectly drilled, and the horses would be put in complete order for the most active and arduous service in the earliest spring. This double line of defense would constitute a perfect protection to the settlements, in the first place, and would soon prove for the most economical system of frontier protection, because it would greatly diminish and cheapen the transportation of military stores and munitions of war, which is now the chief source of our most unsatisfactory frontier expenditure. The infantry stations would not necessarily be large, and supplies could be furnished them from convenient points at very moderate rates.

For these reasons, and many others which readily suggest themselves, I venture to submit to you the propriety of asking from Congress an increase of the Army. I am strengthened in my convictions of its propriety from the recommendations of my predecessor, whose thorough knowledge of the Army and its requirements give his opinions great weight, and from the recommendations, also, of the General-in-Chief.

The Army has been very actively and constantly engaged in the performance of arduous and important duties. The Indian war in Florida claimed the attention of a strong force, composed mainly of the fifth infantry and fourth artillery, during the spring and early part of the summer. This war has been prosecuted with all the vigor which the character of the country and that of the enemy would admit of. The country is a perpetual succession of swamps and morasses, almost impenetrable, and the Indians partake rather of the nature of beasts of the chase than of men capable of resisting in fight a military power. Their only strength lies in a capacity to elude pursuit.

Exigent affairs in the West demanded the removal of those two regiments from Florida to the Territory of Kansas; but they have been replaced by volunteers, and the pursuit of the Indians has been continued by the latter troops up to the present time. The services rendered by these volunteer troops have been spoken of in terms of merited commendation in the reports of officers in command.

Two very important and momentous subjects forced themselves upon the attention of this Department at an early period of my incumbency. These were the complications growing out of the troubles in the Territory of Kansas, and the still more involved and difficult relations borne by the Territory of Utah towards this Government. The latter has recently assumed a very threatening attitude, of which I will presently speak.

The very anxious and earnest representations of danger to the public peace which were made by the Governor of Kansas, growing out of exasperations between the different political parties there, and his earnest call for a large body of troops, required the transfer of the tenth regiment

of infantry and fourth regiment of artillery to Fort Leavenworth, and also the recall of Colonel Sumner's command, then in the field, and that engaged in marking the southern boundary of Kansas, under the command of Lieutenant Colonel Johnson, of the first cavalry. From other quarters, likewise, troops were moved to Kansas, until a force was concentrated there sufficient, in the opinion of the Governor, to repress all insubordination and to insure the peace of the Territory. The result has fully answered the expectations of that distinguished functionary. The peace of Kansas has been undisturbed.

The requisite provision, however, for this desirable object, agreeably to the wishes of the Governor, necessitated a very important modification of the plans then already determined upon with regard to the movement of troops to Utah. A large portion of both horse and foot, intended for this distant service, was detached and remained behind, leaving the expedition to proceed with the fifth and tenth infantry, the batteries of Captains Phelps and Reno, with a part of the second dragoons, which followed long after the head of the column had set out on the march.

UTAH AND THE EXPEDITION THITHER.

This subject has very recently assumed so extraordinary and important an attitude, that I deem it proper to dwell upon it somewhat more at length than, under other circumstances, would have been required.

The Territory of Utah is peopled almost exclusively by the religious sect known as Mormons. From the time their numbers reached a point sufficient to constitute a community capable of anything like independent action, this people have claimed the right to detach themselves from the binding obligations of the laws which governed the communities where they chanced to live. They have substituted for the laws of the land a theocracy, having for its head an individual whom they profess to believe a prophet of God. This prophet demands obedience, and receives it implicitly from his people, in virtue of what he assures them to be authority derived from revelations received by him from Heaven. Whenever he finds it convenient to exercise any special command, these opportune revelations of a higher law come to his aid. From his decrees there is no appeal; against his will there is no resistance. The general plan by which this system is perpetuated consists in calling into active play the very worst traits of the human character. Religious fanaticism, supported by imposture and fraud, is relied on to enslave the dull and ignorant; whilst the more crafty and less honest are held together by stimulating their selfishness and licensing their appetites and lusts. Running counter, as their tenets and practices do, to the cherished truths of Christian morality, it is not to be wondered at that, wherever these people have resided, discord and conflict with the legal authorities have steadily characterized their history.

From the first hour they fixed themselves in that remote and almost inaccessible region of our territory, from which they are now sending defiance to the sovereign power, their whole plan has been to prepare for a successful secession from the authority of the United States, and a permanent establishment of their own. They have practiced an exclusiveness unlike anything ever before known in a Christian country, and have inculcated a jealous distrust of all whose religious faith differed from their own, whom they characterize under the general denomination of Gentiles. They have filled their ranks and harems chiefly from the lowest classes of foreigners, although some parts of the United States have likewise contributed to their numbers. They are now formidable from their strength, and much more so from the remoteness of their position and the difficulty of traversing the country between our frontiers and Great Salt Lake. This Mormon brotherhood has scarcely preserved the semblance of obedience to the authority of the United States for some years past; not at all, indeed, except as it might confer some direct benefit upon themselves, or contribute to circulate public money in their community. Whenever it suited their

temper or caprice, they have set the United States authority at defiance. Of late years, a well-founded belief has prevailed that the Mormons were instigating the Indians to hostilities against our citizens, and were exciting among the Indian tribes a feeling of insubordination and discontent.

I need not recite here the many instances in their conduct and history on which these general allegations are founded, especially the conduct they have adopted within the last twelve months towards the civil authorities of the United States.

It has, nevertheless, always been the policy and desire of the Federal Government to avoid collision with this Mormon community. It has borne with the insubordination they have exhibited under circumstances when respect for their own authority has frequently counseled harsh measures of discipline. And this forbearance might still be prolonged, and the evils life among them be allowed to work out their own cure, if this community occupied any other theater, isolated and remote from the seats of civilization, than the one they now possess. But, unfortunately for these views, their settlements lie in the great pathway which leads from our Atlantic States to the new and flourishing communities growing up upon our Pacific sea-board. They stand a lion in the path; not only themselves defying the military and civil authorities of the Government, but encouraging, if not exciting, the nomad savages who roam over the vast unoccupied regions of the continent to the pillage and massacre of peaceful and helpless emigrant families traversing the solitudes of the wilderness. The rapid settlement of our Pacific possessions; the rights in those regions of emigrants, unable to afford the heavy expenses of transit by water and the isthmus; the facility and safety of military, commercial, political, and social intercommunication between our eastern and western populations and States, all depend upon the prompt, absolute, and thorough removal of a hostile power besetting this path midway of its route, at a point where succor and provisions should always be found, rather than obstruction, privation, and outrage. However anxiously the Government might desire to avoid a collision with this or any other community of people under its jurisdiction, yet it is not possible for it to postpone the duty of reducing to subordination a rebellious fraternity besetting one of the most important avenues of communication traversing its domain, and not only themselves defying its authority, but stimulating the irresponsible savages hovering along the highway to acts of violence indiscriminately upon all ages, sexes, and conditions of wayfarers.

From all the circumstances surrounding this subject at the time, it was thought expedient during the past summer to send a body of troops to Utah with the civil officers recently appointed to that Territory. As the intention then was merely to establish these functionaries in the offices to which they had been commissioned, and to erect Utah into a geographical military department, the force then dispatched and now en route to the Territory was thought to be amply sufficient for these purposes. Supplies were abundant there, and the position was favorable for holding the Indians in check throughout the whole circumjacent region of country. It was hardly within the line of reasonable probability that these people would put themselves beyond the pale of reconciliation with the Government by acts of unprovoked, open, and wanton rebellion. It will be seen, however, from the documents accompanying this report, that flagrant acts of rebellion have been committed by them, in the face of positive assurances given them that the intention of the Government in sending troops into the military department of Utah was entirely pacific.

Great care had been taken, in preparing for the march to Utah, that nothing should seem to excite apprehension of any action on the part of the army in the least conflicting with the fixed principles of our institutions, by which the military is strictly subordinate to the civil authority. The instructions to the commanding officer were deliberately considered and carefully drawn; and

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he was charged not to allow any conflict to take place between the troops and the people of the Territory, except only in case he should be called on by the Governor for soldiers to act as a *posse comitatus* in enforcing obedience to the laws.

In conformity with this sentiment, and to assure these people of the real intention of the movement, an active, discreet officer was sent in advance of the army to Utah, for the purpose of purchasing provisions for it, and of assuring the people of the Territory of the peaceful intentions of the Government. This duty was faithfully performed; the chief men of the fraternity were assured that no violence was intended towards them or any one, and that nothing could be further from the intention of the Government or the army than to molest any one for their religious opinions, however abhorrent they might be to the principles of Christian morality. This officer found, upon entering the Territory, that these deluded people had already, in advance of his arrival, or of any information, except as to the march of the column, determined to resist their approach, and prevent, if possible, and by force, the entrance of the army into the valley of Salt Lake. Supplies of every sort were refused him. The day after his departure from the city, on his way back, Brigham Young issued his proclamation, substantially declaring war against the United States, and, at the same time, putting the Territory under martial law. The facts connected with this mission of Captain Van Vliet will appear more in detail from his reports, herewith transmitted.

In view of the menacing attitude of affairs in Utah, and of the importance of a prompt and thorough suppression of the spirit of rebellion reigning there, I must repeat my recommendation of five new regiments, which I am persuaded is the very smallest addition to the Army which the exigencies of the service will allow.

THE STAFF.

Attention has been repeatedly called to defects in the organization of the Army, and to various details in reference to several of its parts. As these evils increase with time and practice under them, I must again bring them before you.

The basis of our existing system is the British army as it served in the colonies before the Revolution, retaining many of the defects, since corrected in Great Britain, under the experience and necessities of long wars. Provisions inconsistent with the existing system, copied from other nations, and partial legislation designed for particular interests, have augmented these evils, and we have committed the fault of adapting our fundamental organization to a time of peace, instead of basing it on the exigencies of war.

One of the greatest errors of detail is the separate, independent character of our staff corps. This removes them from their proper position as aids or assistants to the commander, and constitutes them his equals. It contracts the sphere of observation and experience, and thus unfits the officer for change or advancement, and begets an accumulation of precedent and prerogative at war with the vital principle of military organization—the inviolable and undivided authority of the head. He is bound, as they are, by the law, and his construction of it should govern them, not theirs him.

Another defect is the uncertain and ill-defined rights of brevet rank. We have adopted the word, but not its signification, from the English rule, and applied it to circumstances not contemplated or existing when first established. Repeated decisions and imperfect legislation have only increased the evil by inviting new discussions and adopting new constructions.

We have retained another fault, abandoned, at least practically, in almost every service among civilized nations, even the most aristocratic and monarchical. This is promotion by seniority. Age and experience should bring excellence; but the test lies in the actual possession of the latter, and not merely in the circumstances which it is assumed should produce it. Seniority, with the requirements essential for position, ought certainly to give precedence; but without these, that

dignity and respect which belong to rank and command can never be secured.

All that has been urged in favor of retaining it with us is the danger of political or personal favor governing a selection. There may be danger from this source, but, by the rule of seniority, the *worst* officer of any arm *must*, if he lives, come to be one of the most important and responsible officers under the Government—the colonel of a regiment. By selection, it is possible that the very best may not be always chosen, though the chances are in favor of this hypothesis; but certainly the very worst never will be, and this is surely a gain on the present rule.

To correct these and other evils, I would urge so to provide by law for the construction of the regiments of horse, artillery, and infantry, as to approach them, as far as our circumstances require, to the practice of all nations long experienced in war, and so as to admit their contraction for peace and their reëxpansion in war without altering this basis.

This can be done without any increase of officers or men, or augmentation of expense, by merely arranging those already in service and the companies of each corps to suit the end proposed.

To place the staff in proper relation to the rest of the Army, the law should collect all the officers doing that branch of duty into one corps, to be assigned by authority of the President to such duties as each may seem to be best fitted for, securing to each the rank and relative position he now holds. But, as some staff corps are confined to duties requiring special instruction and long experience, their separate organization might be retained.

A general provision dispensing with the staff bureaus and giving the President authority to regulate the duties on the principles above stated, and to transfer, when necessary, officers to and from the line and staff, would restore the institution to its proper effectiveness. Thus, the staff near the War Department, representing the authority of the constitutional commander-in-chief of the Army and Navy, would bear the same relation to him as the staff attached to a corps in the field have to the colonel or general who commands it.

To avoid, for the future, the difficulties attending brevet rank, the best plan is to create, permanently, the general offices now exercised under brevets, making as many major generals and brigadier generals as the strength of the Army requires. This would afford promotion to many brevet officers of inferior rank, and thus absorb nearly all; as the strength of the Army requires these officers, and they have always existed under the brevet rank, no increase of expense would follow their being permanently established. The law should then provide that brevet rank should give no right, under any circumstances, unless by the especial assignment of the President in such case, retaining that rank as a mere honorary distinction, except in case of especial assignment, but at all times recommending the bearer as a worthy candidate for promotion.

Promotion may be made a reward of merit and an incentive to zeal by enacting that it shall take place by seniority in corps (unless in extraordinary cases) to the rank of captain, and beyond that by selection from the next grade in the same arm to that to be filled as far as colonel, inclusive. General officers to be at the choice of the President, as they now are.

Much has been said as to the propriety of separating the purchase of stores and supplies, and all moneyed accountability, from the officers proper of the Army.

This system has been adopted in France, but is objected to as giving to the civil officers thus employed an immunity from military control, injurious, if not fatal, to the interests of the service. This objection would be fully met by providing that this class of officers, without receiving military rank, or being entitled to command, should be amenable to military tribunals, and thus act under the same responsibility that the disbursing officer now does.

It is certain that an officer looking forward to military advancement and fame is tempted to incur risks on the field of battle, the fatal issue

of which might ruin his family, and some of his friends, and his own reputation, through the disorder which his sudden death might bring into his pecuniary affairs.

These proposed changes would restore our military system to that simplicity which would render such amendments as experience might recommend easy and well adapted to existing circumstances.

I concur with my predecessor in other proposed ameliorations, and especially in preparing for infirm and disabled officers a competent and tranquil retreat, and for the unworthy a substantial dismissal from the service; thus securing that efficiency of the Army which will entitle it to full respect from the country, and which the country have a right to demand.

This should be applied in two ways: First, on the application of the officer; and second, on the direction of the President, as if on accusation. A board of five officers of high rank to be detailed for each case, and the examination to be conducted as though on charges before a court martial; the President to decide on the report of the court. The disposal of the officer to be one of three kinds: First, an honorable release from duty, and from any corps to which he may be attached; remaining as a supernumerary officer with the pay and emoluments of his grade, as on leave of absence: Second, to be retired from the Army, without censure or disgrace, on his pay proper, unless he forfeits it by misconduct: Third, to be retired from the Army, without pay or compensation, except a gratuity of one year's, or six or three months' pay, to secure him from the evil consequences of absolute want.

REPORT OF THE GENERAL-IN-CHIEF.

I call special attention to the report of the General-in-Chief, and ask for his recommendations a favorable consideration. It is certainly true that to call ours a peace establishment is a mere abuse of terms. It is well known that the casualties of the battle-field bear a very small proportion to the loss of life from exposure and hardship encountered in long and perilous marches, and from protracted campaigns. In every particular, with the exception only of the battle-field, no hardships encountered by any army prosecuting any war are greater than those to which a very large proportion of our troops are constantly exposed; and the dangers of battle are far from being insignificant, as the reports of these constantly recurring conflicts will abundantly show.

The plan of regimental depots for recruiting, I am confident will be very advantageous to the service. It will produce a spirit of generous rivalry, conducive in the highest degree to good discipline and military bearing. The tone of the rank and file needs elevation extremely, and every means should be resorted to tending to effect it. If our troops were massed sufficiently to insure perfect drill and discipline; if they were made soldiers instead of day-laborers; if a feeling of pride instead of degradation resulted from their connection with the service, the *morale* of the Army would soon take that elevation which is most desirable in all armies, and which certainly ought to be preëminent in that of a great Republic. The habit of employing soldiers as laborers is extremely detrimental to the service. They feel degraded because they are deprived of both the emoluments and the sturdy independence of the laboring man, who feels that his vocation is honorable because it is independent and free. The soldier who enters the service with some degree of military aspiration, can but resent as a wrong the order which changes him from his legitimate vocation to that of a mere operative, deprived of his fair wages. I think it would conduce greatly to the elevation of the rank and file if promotion to commission was made readily and certainly attainable by the really meritorious men in the ranks. If our Army was put upon the proper footing, the anomalous spectacle of having two thirds of our rank and file composed of foreigners would certainly not be witnessed.

INDIAN HOSTILITIES.

The expenses of the Army have been and are constantly much augmented by the necessity of moving large bodies of troops, at the shortest

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possible notice, from remote points, to overawe or suppress Indian outbreaks. The temper and spirit of the Indians are entirely unknown to the War Department, except through communications from the Department of the Interior, which, of course, would never be made, except when forces are deemed necessary for the public safety. The system of defense proposed through the double line of posts, herein recommended, would, I think, in a very great measure, neutralize this evil.

RAILROAD TO THE PACIFIC.

The surveys heretofore ordered by Congress to ascertain the best route for the construction of a railroad from the western boundary of our States lying west of the Mississippi to the Pacific, have been carefully made, and the results elaborately set forth in eight large volumes. In the opinion of competent judges, there is now no controversy as to the most eligible route for the railroad, assuming that all the material facts in the case have been fully ascertained. The route from El Paso to the Colorado, besides being the shortest of all yet surveyed, possesses very decided advantages over others in several important particulars. The grades are lower, the climate milder, and the distance across the desert region, common to all the routes, is less upon this. Water, too, is sufficiently abundant upon the tract of this survey; so that in selecting a railroad route between the Pacific and the valley of the Mississippi, as far as our present information goes, that by El Paso would be chosen; but the consummation of this project, freed from all other difficulties, would require immense sums of money and a great length of time. Meanwhile, other military roads very urgently require special and prompt opening and occupation. If the railroad were, to-day, completed from El Paso to the line of California, a strong and urgent necessity would still remain for maintaining and keeping open at least two of the other routes, for the passage of emigrants and the transportation of military stores to vast regions of our country accessible only by these routes. Then, as these routes are to be opened in any event, true policy and economy would seem to indicate that it should be done at once.

A line of stockade posts upon two of these routes would not require a very large force to maintain them, and, if placed at proper distances apart, would furnish certain means of a safe and rapid transportation of the mails and perfect protection to a telegraphic line from one ocean to the other, which latter object would, in itself, be worth far more to the country than the cost of the posts, and the expense of maintaining them.

EXPLORATIONS AND SURVEYS.

There is no appropriation of equal amount, in charge of this Department, that is productive of more real and substantial benefit to the public service than that for military explorations and surveys. At this time we are actually ignorant of the geography and general character of large tracts of country lying between the valley of the Mississippi and the Pacific ocean. Every day is adding new and important facts to our present stores of knowledge upon this subject. And, much as has been accomplished within the last few years, it is hazarding but little to say that we have only begun to acquire what it is so useful for us to understand thoroughly.

Two expeditions have been fitted out expressly to explore tracts of country hitherto wholly unknown. The first was sent to the northwest, beyond the waters of the Upper Missouri, towards the "Black Hills," and will, no doubt, bring valuable information. The other is engaged in exploring the Colorado of the West, of which, to this time, nothing scarcely has been accurately known. I am not without strong hope that this exploration will result in discovering the best means by which the transportation of army stores can be effected to the interior of New Mexico and Utah.

But for the assistance rendered these explorations by the troops detailed for the purpose, the appropriations would prove wholly inadequate for any material results.

I transmit herewith the report of the Bureau

of Explorations and Surveys, for more detailed information of the expeditions fitted out for these purposes, and of the progress made in the experiment of artesian wells.

MILITARY ROADS.

The military roads heretofore in charge of this Department are progressing satisfactorily, under the superintendence of the officers having them in charge.

Amongst them is one from Fort Defiance to the mouth of the Mojave river, which deserves special notice from the plan adopted for its construction. The appropriation for this work was only \$50,000, whilst the length of the road was about five hundred and fifty miles. I directed Edward F. Beale, Esq., to whom I intrusted the construction of this road, to pass over and survey the route throughout the entire length, to lay out the road and make it passable for wagons at all difficult places.

With this party I sent thirty-five camels of those recently imported under the direction of my predecessor. This was intended as an experiment to test the efficiency of those animals as beasts of burden and transportation through the barren and difficult country of the great mountain range separating the Mississippi valley from the Pacific ocean. From the recent reports received from Mr. Beale, it would appear that the camels are likely to answer fully the high expectations entertained of them for military purposes by the honorable Secretary who introduced them into the country.

ARTESIAN WELLS.

Nothing worthy of special note has occurred since the last report upon the subject of artesian wells. I think there is not much doubt of the feasibility of procuring abundant supplies of good water by this means, and the benefits resulting from a successful prosecution of this enterprise are too palpable to require any illustration. For military purposes, these wells are altogether indispensable. The desert country, impassable now for want of water by any considerable military force, will, upon completion of the system of wells, be easily traversed from Fort Fillmore to Albuquerque, and from Fort Union to Santa Fé. The work is still under the direction of Captain Pope, who has hitherto had it in charge.

MILITARY RESERVES.

Several military reservations, heretofore established for the occupation of troops upon the Indian frontier, having become useless for any military purposes, and calculated to retard the settlement of the country, have been sold under a law passed at the last session of Congress. With the exception of the reserve at Fort Ripley, the prices offered for these lands were satisfactory. The bids for the lands of the latter reservation being considered too low, the sale was set aside, and the property retained.

MILITARY ASYLUMS.

Under a law of the last Congress directing the sale of the western military asylum at Harrodsburg, Kentucky, an effort was made to consummate it, but without effect. After due and extensive advertisement of the day of sale, and upon the assembling of bidders, the property was offered at public outcry, but the highest sum offered was considered by the agent for the sale so inadequate that the property was withdrawn.

The asylum in this District is, to a limited extent, answering the purposes for which it was established. It furnishes a quiet and abundant home for the invalid soldiers who are admitted to it.

NATIONAL FOUNDRY.

The importance to the public service of establishing a national foundry has been so often brought to the attention of Congress by my predecessors, that nothing but a conviction of its great consequence to the public and private interests of the whole country encourages me to mention it again.

A well-managed national foundry would very speedily develop and establish facts which would add immensely to our national wealth. It is scarcely to be credited that, with the infinite vari-

ety of iron ores and their boundless extent in the United States, we should not have yet discovered a mine capable of making the very best gun, or, if such be discovered, that there are no means by which the public service can be benefited by it; but such is the fact.

A national foundry would serve as a great laboratory at which the qualities and value of metals throughout the whole Confederacy would be tested and fixed. Every variety of iron, with its especial adaptation to particular uses, would, in a few years, be familiarly known to the country, and individual enterprise would be saved in experiments many times the amount which the works would cost, whilst a great national branch of industry might, by this means, receive a legitimate and efficient encouragement.

There is but little doubt that many American iron ores are equal at least to those of Norway; and yet the national armories are driven by necessity to purchase from abroad the Norwegian iron for the manufacture of small arms. Choosing to have the best quality of arms, we must go abroad for the best quality of iron. A national foundry would soon teach to improve the manufacture of iron, and we would be saved the mortification of bringing iron from abroad, and the money, too, we have to pay for it.

The cost of heavy guns would presently be diminished, and their quality would be, undoubtedly, very materially improved.

It therefore appears to me that every consideration of sound policy and economy demands the establishment of a national foundry, which I accordingly respectfully recommend.

ORDNANCE.

The report of the Chief of Ordnance will explain in detail the condition of that most important branch of the public service. Its general operations have, in the main, been satisfactory. The manufacture of small arms at the two national armories continues with very much the same results as heretofore. The arms fabricated are of the most superior quality, although it is more than questionable whether the rifled or grooved musket is any improvement whatever upon the musket of the pattern adopted in 1842 for the use of infantry in the field.

The valuable property at Baton Rouge belonging to the Government is being greatly injured by reason of the decayed condition of the wooden inclosure, which was constructed many years since. It is, therefore, advisable that some provision be made for building a substantial iron fence, and thereby preserving the buildings and grounds, which are now subject to serious damage and constant depredation.

I would also advise that, for the purpose of still further improving the grounds, authority be given to purchase a jut of land near the principal building, and to sell a piece of land at the extreme end of the property, of little value for Government purposes. For these objects a small appropriation will be required.

As a school of practice for the artillery is established at Fort Monroe, which is much needed by the service, it is very desirable that one or two small tracts of land in the immediate vicinity of the post, and directly affected by the target firing, should belong to the Government; therefore authority ought to be given to purchase this land, and thus remove all obstructions to the satisfactory establishment of the school at this important post.

THE NATIONAL DEFENSES.

The report of the Chief Engineer will inform you of the character and condition of our sea-coast defenses. It will be seen that these works are gradually, but certainly, advancing towards completion, and, when finished, will constitute a system of maritime defenses formidable in extent, and of great magnitude.

New York, the great heart of commerce on this continent, where more and greater interests concentrate than at any point on our Atlantic coast, may be considered as impregnable from any attack from the sea when the fortifications now in progress shall be finished. The fortifications will be better, the guns heavier and more numerous than those of Sebastopol.

35TH CONG....1ST SESS.

Report of the Commissioner of the General Land Office.

SENATE & HO. OF REPS.

Upon the general system of sea-coast defense, it is hardly necessary to say a word at this day. The policy of the Government seems to be fixed in that respect; and wisely, too, no doubt, if the works be prosecuted with a wise economy. Fortifications are now very justly esteemed the cheapest and far the most effectual means of defense for every important commercial point: with the heavy guns of the present day no fleet can match a fortification; and, when completed, these works can be kept in perfect repair at a very trifling cost until needed for actual service. A fortification costing not much more than double the sum necessary to build and equip a first class line-of-battle ship, will constitute a formidable defense for a harbor, and will continue to do so throughout any length of time. The value of this mode of defense is becoming more apparent every day. As our population increases, and the facilities for intercommunication are multiplied, a military force of any extent can, with more and more readiness, be concentrated at any given point in the shortest possible time. Fortifications, which will naturally retard the landing of a foreign foe, must give time to concentrate a force at any given point equal to any emergency. A larger force could be thrown into New York in two weeks, by means of internal communication, than could be brought there from abroad in a year by all the means which any European Power could possibly command.

Our ramified system of railroads, spreading throughout the whole country—those sinews of iron which bind with indissoluble ties the commercial interests of our community—confer upon the nation a capability for defense which obviates forever the necessity of standing armies, or of a navy more numerous than is necessary to give protection to our ships in the prosecution of our extended commerce.

PENSIONS.

The attention of Congress has been frequently called to the glaring discrepancy between the enactments regulating the pensions of soldiers and those of sailors. There is an invidious distinction between these two arms of service which rests upon no principle of reason or justice. It would, beyond doubt, conduce to the interest of the Army, and the public service, too, if pensions in the Army were put upon the same footing precisely with those of the Navy. The recommendation of the General-in-Chief I commend to your favorable notice and to that of Congress.

MILITARY BANDS.

The importance of regimental bands to the service admits of no doubt in the estimation of military men. In European armies great attention is paid to the subject, and great excellence exists in this department. Heretofore, in our service, the bands have been supported by contributions from the men in the shape of savings from the ration. Under the new regulations of the Army, this fund, which is certainly the property of the soldier, has been returned to him in the shape of more palatable addition to his subsistence, particularly when complaining from indisposition. The bands will be broken up, unless some means are set apart for their maintenance. This can readily be done by appropriating a sufficient sum for the purpose out of the fines and forfeitures of the Army. This fund could not be devoted to a more desirable object.

OREGON AND WASHINGTON CLAIMS.

By a law passed the 18th day of August, 1856, a commission was directed to be appointed for the purpose of ascertaining the sum of money fairly due to the volunteers of Oregon and Washington Territories for their services in the Indian wars which threatened to lay waste those Territories. In compliance with this law, Captain Smith, of the first dragoons, Captain Rufus Ingalls, of the quartermaster's department, and Lafayette Grover, Esq., of Salem, Oregon, were appointed to examine the accounts and claims, and to make a report in conformity with the law and upon the facts as they existed, so far, at least, as it was possible to ascertain them.

These officers entered upon their duties on the 10th day of October, 1856, and seem to have labored with great assiduity and patience in dis-

charge of them until the 20th day of October last, when they were brought to a close. I have examined this report very carefully, and conclude that, from the data they adopted for their guide as to the prices of stores and subsistence, and time of service rendered by the men, it is not probable a more just or accurate result could be attained than these gentlemen have arrived at. The amount ascertained to be due is a very large one, and Congress will have to make provision for its payment if it is intended they shall be liquidated, of which I presume there can now be no doubt.

BREECH-LOADING ARMS.

The appropriation for the purchase of the best breech-loading rifle has been nearly all expended for arms of different construction—some for experiment in the field, thought to be far the best test, and some have been purchased for use in the Army, having been already approved by trials in the hands of troops in actual service.

I think there existed no arm of the sort at the time the appropriation was made which has not been materially improved since; and much of this improvement has taken place since the trial made of this sort of arm last summer, at West Point, under the direction of a board of officers appointed for the purpose. The variety of breech-loading arms is extremely great, and the ingenuity exhibited in constructing them highly creditable. Some of these arms are best for one sort of service, whilst others answer best for another, and the purchases made have been determined with a view to this object. Improvements are still going on in the construction of this particular arm, and, with some further encouragement, valuable results will no doubt be attained.

Some of these arms combine, in a very high degree, celerity and accuracy of fire, with great force, at long range.

TOPOGRAPHICAL BUREAU.

The clear and complete reports from this bureau will fully apprise you of its labors during the past year, and its present condition.

AQUEDUCT, CAPITOL, AND POST OFFICE EXTENSION.

These works are still under the direction of the officer heretofore in charge of them, and his report will show the progress made in their prosecution, as well as his estimates for money to carry on the work in the future.

QUARTERMASTER GENERAL'S BUREAU.

The operations of this department for the past year will fully appear from the Quartermaster General's report, herewith transmitted.

The sums expended in this branch of the public service are extremely large, but the duties performed are very great, and the necessities for the payment of immense sums of money in this department seem unavoidable. This vast expenditure will cease to be a matter of surprise to any one who, with proper information, reflects fully upon the extent and character of the country over which our military operations are conducted.

We are not apt to carry along, as an element of reflection in drawing a contrast between the present and former expenditures, the enormous increase of distances to be traversed, and the difficulties which multiply themselves from transportation over a wild, barren, sterile, uninhabited waste.

Our territory lying between the Mississippi river and the Pacific ocean is about twelve hundred miles in length from north to south; its breadth from east to west, in latitude 49°, is fifteen hundred miles; in latitude 38°, eighteen hundred miles; and in latitude 32°, fifteen hundred miles; the area being about two million square miles.

The meridian of 105° west longitude divides this territory into two nearly equal parts. The eastern half is a great plain rising gradually from the Mississippi river to the foot of the mountains along the meridian of 105°, where its elevation, near the northern boundary, is two thousand five hundred feet; in the middle latitude, six thousand feet; and near the southern boundary, four thousand feet above the sea. The western half is a

mountain region, the chains of which, so far as yet known, have, generally, a direction north and south.

If we draw a line nearly coinciding with the meridian of 99° west longitude, dividing the great plain into two nearly equal parts, we shall find that portion east of this line differing entirely from that west of it. The eastern part is fertile, the western arid and sterile. The width of the fertile district is from four to five hundred miles; of the sterile, from three to four hundred miles. The surface of this uncultivable region, along the routes generally traveled, is sandy, gravelly, and pebbly. It supports no trees, except a few willows and cotton-woods along the streams, to which mezquite is added in the southern latitudes. The grass is sparse; numerous varieties of cactus are abundant. Portions of the river bottoms (where the soils of the different strata become mixed, and where water can be had for irrigation) are, to a limited extent, cultivable. The minor streams frequently disappear in the sands.

On the western border of the plain the mountains rise abruptly from it. The routes explored by the Pacific railroad parties entered the mountain region through the lowest known passes, whose altitudes vary from four to ten thousand feet above the sea. The mountain ridges and peaks rise above these passes from one to six thousand feet. Nearly the entire distance to the Pacific is occupied by mountains separated by desert plains or basins. The two great chains forming the east and west border of the mountain region have the greatest elevation, inclosing, as it were, the others.

Great aridity and sterility characterize the mountain region, except the Pacific slopes of its western border, and generally the aspect is dreary and desolate in the extreme.

To be sure, at the foot of the western slopes of the highest mountain chains and spurs, fertile soil and the means of irrigation are often found. And there are small mountain valleys that are cultivable, and also river bottoms; but the plains may be called barren, and, with rare exceptions, the soil can only be cultivated when the means of irrigation are at hand. Occasionally belts of forest are found among the mountains, but the instances are exceptional.

The great uncultivated belt, including plain and mountain region, through which all routes to the Pacific must pass, has a width near our northern boundary of eleven hundred miles; in latitude 38°, of twelve hundred miles; and near the southern boundary, of one thousand miles. The length of the roads through the belt is of course greater.

Over nearly this whole region, and over distances quite as great as these, the quartermaster's department is called upon to furnish transportation and supplies for our troops, who are keeping up a continual patrol of that vast territory, and a great portion of the time engaged in warfare with the numerous and hardy savages who range perpetually over those boundless wilds. Heavy expenditures cannot be avoided in the quartermaster's department as long as we keep up a military organization in the West.

I have the honor to be, very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

To the PRESIDENT OF THE UNITED STATES.

Report of the Commissioner of the General Land Office.

GENERAL LAND OFFICE,

November 30, 1857.

SIR: I have the honor to submit the following report of the operations of this office for the fiscal year ending June 30, 1857, and for the quarter ending September 30, 1857.

The quantity of land surveyed and ready for market, and not advertised, on the 30th of September, 1857, exclusive of lands withdrawn on account of railroad grants, embraces an area of 57,442,876 acres. Of this quantity, there was surveyed and returned to this office during the five

quarters ending September 30, 1857, 22,889,461 acres.

The particulars are presented in the following tabular exhibit:

Exhibit of the quantities of Public Lands, exclusive of school lands, prepared for market and not advertised for sale, on June 30, 1857; the quantity advertised for sale during the fiscal year ending June 30, 1857; also, the quantities prepared for market during the quarter ending September 30, 1857; the quantities advertised for sale during the same period; and the quantities of unoffered surveyed Public Land on hand September 30, 1857; and an estimate of the probable quantities which will be prepared during the fiscal year ending June 30, 1858.

States and Territories.	Quantities of unoffered surveyed land on hand June 30, 1856.	Quantities, plats of surveys of which have been received during the fiscal year ending June 30, 1857.	Quantities advertised for sale and not postponed during the fiscal year ending June 30, 1857.	Quantities prepared for market, and not advertised for sale, on June 30, 1857.	Quantities, plats of surveys of which have been received during the quarter ending Sept. 30, 1857.	Quantities advertised for sale and not postponed during the quarter ending September 30, 1857.	Quantities of unoffered surveyed public land on hand on September 30, 1857.	Estimate of the probable quantities which will be prepared during the fiscal year ending June 30, 1858.
	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.
Ohio.....	-	-	-	-	-	-	-	-
Indiana.....	-	-	-	-	-	-	-	-
Illinois.....	-	-	-	-	-	-	-	-
Missouri.....	443,591	-	-	443,591	-	443,591	-	100,000
Alabama.....	90,530	-	-	90,530	-	-	90,530	-
Mississippi.....	-	-	-	-	-	-	-	-
Louisiana.....	2,553,132	17,047	-	2,572,179	-	-	2,572,179	150,000
Michigan.....	609,701	237	-	609,938	-	-	609,938	-
Arkansas.....	733,278	-	-	733,278	-	-	733,278	-
Florida.....	3,329,195	70,225	-	3,399,420	-	-	3,399,420	1,000,000
Iowa.....	4,584,531	749,118	1,328,156	4,005,493	85,780	-	4,091,273	830,000
Wisconsin.....	2,880,279	1,085,432	-	3,965,711	175,388	-	4,141,099	874,000
California.....	10,365,561	10,690,046	-	21,055,607	-	2,235,624	18,819,983	2,500,000
Minnesota Territory	7,690,116	1,513,149	-	9,203,264	300,346	-	9,503,610	1,452,000
Oregon.....	2,713,233	506,152	-	3,219,385	21,828	-	3,241,213	1,738,000
Washington.....	678,477	122,270	-	800,747	17,954	-	818,701	600,000
Kansas.....	1,510,214	2,253,636	-	3,763,850	1,107,322	-	4,871,172	2,574,000
Nebraska.....	168,899	1,723,402	-	1,892,301	562,671	-	2,454,972	3,520,000
Utah.....	208,049	1,779,531	-	1,987,580	-	-	1,987,580	-
New Mexico.....	-	107,928	-	107,928	-	-	107,928	100,000
	38,560,786	20,618,172	1,328,156	57,850,802	2,271,289	2,679,215	57,442,876	15,438,000

This statement shows an activity in our surveying operations, during the time mentioned in this report, beyond that of any preceding period; and that the quantity of new lands now liable to be disposed of exceeds, by many million acres, the surveyed lands of any former period.

During the fiscal year ending 30th June, 1857, there were sold for cash.....	4,142,744.48 acres.
Located with military bounty land warrants.....	6,283,920.00 "
Making a total of.....	10,426,664.48 "
Reported under swamp land grant.....	2,962,493.96 "
Estimated quantity covered by railroad grants of March, 1857.....	5,116,000.00 "
Making an aggregate of.....	18,505,073.44 "
For the quarter ending 30th September, 1857, there were sold for cash.....	1,157,805.83
Located with military bounty land warrants, 1,097,090.00	
Reported under swamp-land grants.....	400,067.00
Being for the quarter.....	2,654,962.83 "
Making an aggregate for the five quarters ending September 30, 1857, of..	21,160,036.27 "

It is estimated that three fourths of the sold and located lands were taken for actual settlement. The estimated quantities covered by railroad grants, by the acts of May, June and August, 1856, and other internal improvements, as stated in last annual report, amount to 15,680,875 acres.

CASH RECEIPTS.

For the fiscal year ending 30th June, 1857, the receipts from the sales of the public lands amount to, \$3,471,522 99	
The receipts for the quarter ending September 30, 1857, amount to.....	754,385 19
Making a total, for the five quarters, of..	\$4,225,908 18

Upon comparison of the foregoing with the statistics of the last annual report, it is found that the lands sold and located, during the five quarters ending September 30, 1857, fall short of the quantity sold and located during the period embraced in the last report by more than six million acres, and that the cash receipts have fallen off in a still larger proportion. This diminution is attributable to the withdrawal of the extensive bodies of public lands along the lines of the railroads, in the States and Territory to which grants of land were made during the last

grants, during the fiscal year ending June 30, 1857, and the quarter ending September 30, 1857:

Total five quarters.	During fiscal year ending June 30, 1857.....	During the third quarter, ending September 30th, 1857.....	Number of acres sold for cash at and above the minimum price, \$1 25.	Amount received therefor.	Number of acres sold at graduated prices.	Amount received for the same.	Number of acres located with military warrants.	Number of acres approved under Swamp Land grant.	Total amount received for lands sold for cash at all prices.	Total number of acres sold for cash and otherwise disposed of.
2,076,247.73	1,022,729.93	453,517.85		\$2,993,781.34	2,520,014.55	\$1,044,639.21	187,467.63	1,097,090	\$3,471,522.99	11,567,755.29
3,224,302.53	2,520,014.55	704,287.98		\$1,232,136.84	3,224,302.53	6,283,920	7,381,010	648,002.07	724,385.19	2,902,897.90
14,470,653.19	11,567,755.29	2,902,897.90								

Condition of the Bounty Land business, under acts of 1847, 1850, 1852, and 1855, on 30th September, 1857.

ACT OF 1847.						
Grade of warrant.	Number issued.	Acres embraced thereby.	Number located.	Acres embraced thereby.	Number outstanding.	Acres embraced thereby.
160 acre.....	80,181	12,828,960	73,966	11,834,560	6,215	994,400
40 acre.....	7,534	301,360	6,033	241,320	1,501	60,040
Total.....	87,715	13,130,320	79,999	12,075,880	7,716	1,054,440
ACT OF 1850.						
160 acre.....	27,402	4,384,320	25,822	4,131,520	1,580	252,800
80 acre.....	57,684	4,614,720	50,626	4,050,080	7,058	564,640
40 acre.....	103,908	4,156,320	87,678	3,515,120	16,030	641,200
Total.....	188,994	13,155,360	164,326	11,696,720	24,668	1,458,640
ACT OF 1852.						
160 acre.....	1,221	195,360	906	144,960	315	50,400
80 acre.....	1,696	135,680	1,345	107,600	351	28,080
40 acre.....	9,062	392,480	7,368	294,720	1,694	67,760
Total.....	11,979	693,520	9,619	547,280	2,360	146,240
ACT OF 1855.						
160 acre.....	73,078	11,692,480	32,430	5,188,800	40,648	6,503,680
120 acre.....	93,447	11,213,640	56,836	8,620,320	36,611	4,393,320
100 acre.....	5	500	3	300	2	200
80 acre.....	47,076	3,766,080	28,019	2,241,520	19,057	1,524,560
60 acre.....	330	19,800	154	9,240	176	10,560
40 acre.....	453	18,120	240	9,600	213	8,520
10 acre.....	5	50	3	30	2	20
Total.....	214,394	26,710,670	117,685	14,269,810	96,709	12,440,860
SUMMARY.						
Act of 1847.....	87,715	13,130,320	79,999	12,075,880	7,716	1,054,440
Act of 1850.....	188,991	13,155,360	164,326	11,696,720	24,668	1,458,640
Act of 1852.....	11,979	693,520	9,619	547,280	2,360	146,240
Act of 1855.....	214,394	26,710,670	117,685	14,269,810	96,709	12,440,860
Total.....	503,082	53,689,870	371,629	38,589,690	131,453	15,100,180

35TH CONG....1ST SESS.

Report of the Commissioner of the General Land Office.

SENATE & HO. OF REPS.

During the year ending September 30, 1857, scrip has been issued upon Virginia military warrants, pursuant to the act of August 31, 1852, amounting to.....52,476 acres.

During the same time warrants have been filed
for.....30,479 "
Upon which scrip has issued for.....18,500 "
Leaving suspended.....11,979 "

In addition to the quantity mentioned above as suspended, warrants amounting to 112,000 acres are on file, which are also suspended for defects in the chain of title, and other causes.

The recommendation of the last annual report, in reference to the mode of disposal of the vacant lands in the Virginia military district, in Ohio, is renewed.

During the year ending September 30, 1857, seventeen patents have been issued for lands in that district, embracing 2,144 acres; and twenty-eight patents have been issued on warrants for services of soldiers of the war of 1812, pursuant to the act of May 6, 1812, for 4,460 acres. Scrip for 300 acres, pursuant to the act of May 30, 1830, has been issued in satisfaction of United States military warrants issued under act of September 16, 1776.

The time limited by the act of 3d March, 1855, for the survey of entries, in the Virginia military district, expired on the 3d March, 1857. It is

recommended that the time be extended to enable parties to perfect their entries by survey, and obtain patents. Also that authority of law be given for perfecting certain Virginia military records as mentioned in last report; and further legislation is desired, extending the act of 8th February, 1854, for the issue and location of warrants for services in the war of 1812, and for United States revolutionary or continental services.

The time limited by act of 7th January, 1853, for exchanging bounty lands for services in the war of 1812, where found unfit for cultivation, expires 30th June, 1858. An extension of time is recommended, and an enlargement of the statute, to embrace the heirs of the deceased soldier.

Under the acts of 1849 and 1850, granting the swamp and overflowed lands to the States within which they lie, there have been selected and returned to this office 54,174,281.76 acres; of which there have been approved 40,133,564.51 acres, and patented to the States 24,060,396.07 acres. The selections reported during the year ending June 30, 1857, amount to 2,962,408.96 acres. The quantity approved during the same period amounts to 1,141,090 acres, and the quantity patented, of old selections, during the same period, amounts to 11,186,147.53 acres.

The particulars are presented in the following tables:

NO. 1.—SWAMP LAND.—Exhibiting the quantity of Land selected for the several States under the acts of Congress approved March 2, 1849, and September 28, 1850, up to and ending 30th September, 1857.

States.	4th quarter, 1856.	1st quarter, 1857.	2d quarter, 1857.	3d quarter, 1857.	Year ending June 30th, 1857.	Total since date of grants.
Ohio.....	-	-	-	21,999.99	-	54,438.14
Indiana.....	-	4,896.67	-	-	19,532.68	1,334,732.50
Illinois.....	-	-	40.00	-	40.00	3,235,273.48
Missouri.....	77,011.39	409,597.64	121,044.78	110,893.85	*711,335.73	4,184,682.79
Alabama.....	-	-	-	-	-	2,595.51
Mississippi.....	6,587.79	43,613.29	30,015.99	2,293.09	80,217.07	2,836,383.76
Iowa.....	-	639,789.35	-	12,791.14	639,789.35	1,752,296.29
Louisiana, act of 1849.....	21,510.74	107,332.64	94,329.31	87,329.94	314,376.95	10,473,258.49
" " 1850.....	-	-	1,387.63	815.65	15,739.19	525,678.72
Michigan.....	-	-	-	-	-	7,273,724.72
Arkansas.....	†193,919.29	28,662.47	-	†154,790.70	341,843.80	8,529,792.50
Florida.....	-	-	-	153.35	839,534.19	11,630,424.86
Wisconsin.....	-	-	-	-	-	2,350,000.00
California.....	-	-	-	-	-	-
	290,029.31	1,316,822.06	246,817.71	400,067.01	2,962,408.96	54,174,281.76

* Lists received since 3d March, 1857, embracing 258,715.93 acres of this amount, returned to surveyor general for examination.

† Previously reported in surveyor general's lists "C," and embraced in former aggregates.

NO. 2.—SWAMP LAND.—Exhibiting the quantity of Land approved to the several States under the acts of Congress approved March 2, 1849, and September 28, 1850.

States.	4th quarter, 1856.	1st quarter, 1857.	2d quarter, 1857.	3d quarter, 1857.	Year ending June 30th, 1857.	Total since date of grants.
Ohio.....	-	-	-	-	-	25,640.71
Indiana.....	-	-	-	22,431.89	-	1,250,937.51
Illinois.....	-	-	115,403.32	1,893.22	115,403.32	1,393,140.72
Missouri.....	-	373,316.50	231,498.38	-	604,814.88	3,615,966.57
Alabama.....	-	-	-	-	-	2,595.51
Mississippi.....	99,273.39	369.92	-	129,563.94	99,643.31	2,894,796.11
Iowa.....	-	-	-	-	-	-
Louisiana, act of 1849.....	-	-	-	-	-	7,379,994.23
" " 1850.....	-	-	-	-	-	221,541.23
Michigan.....	-	-	-	-	-	5,465,232.41
Arkansas.....	-	-	-	-	-	5,920,024.94
Florida.....	-	321,229.30	-	494,143.02	321,229.30	10,396,382.47
Wisconsin.....	-	-	-	-	-	1,650,712.10
California.....	-	-	-	-	-	-
	99,273.39	694,915.72	346,901.70	648,002.07	1,141,090.81	40,133,564.51

NO. 3.—SWAMP LAND.—Exhibiting the quantity of Land patented to the several States under the act of Congress approved September 28, 1850.

States.	4th quarter, 1856.	1st quarter, 1857.	2d quarter, 1857.	3d quarter, 1857.	Year ending June 30th, 1857.	Total since date of grants.
Ohio.....	-	-	-	-	-	25,640.71
Indiana.....	-	-	-	-	191,133.54	1,211,042.91
Illinois.....	95,331.92	-	31,542.73	-	691,111.68	691,111.68
Missouri.....	-	98,112.77	406,955.41	-	1,622,059.60	1,915,021.83
Alabama.....	-	-	-	-	-	2,595.51
Mississippi.....	133,517.10	169,125.73	197,893.37	-	837,986.99	4,955,588.47
Michigan.....	121,995.12	-	-	-	1,909,737.77	2,358,370.59
Arkansas.....	1,720,539.33	-	1,433,730.45	764,534.91	6,054,193.69	9,523,107.13
Florida.....	726,780.01	152,117.74	-	†34,910.75	878,897.73	1,674,585.29
Wisconsin.....	-	-	-	-	-	-
	2,850,163.48	419,353.24	2,073,121.35	799,445.69	11,166,117.53	21,663,396.07

* Two hundred and forty acres of this amount relinquished by State.

† Special patent No. 1, issued under second section of act of March 2, 1855.

Prior to the passage of the act of 3d March, 1857, the adjustment of the swamp grant was greatly retarded by applications filed on the part of individuals, to contest the right of the State to the lands selected. That act, by confirming the selections with exceptions, put an end to the individual contests, and the adjustment is now rapidly progressing. The character and extent of the contests then pending appear in the last annual report.

The recommendation of the last report is renewed, that a limit be fixed to the time within which swamp selections must be made.

During and since the year 1850, grants of land have been made to ten States and one Territory, to aid them in the construction of fifty railroads, of an extent (part estimated) of 8,647 miles, amounting (part estimated) to 24,247,335 acres. The grants to the States of Illinois, Missouri, and Arkansas, for eight roads, have been adjusted. The grantees have accepted the grants of 1856 and 1857, except the States of Alabama and Louisiana. The Legislature of Alabama has not been in session since the date of her grant. The State of Louisiana has accepted the grant made to her in part; the residue is rejected. The attention of this office has been given to the adjustment of these grants, so far as the prerequisites have been furnished by the authorities of the grantees. The adjustment of these railroad grants involves an amount of official labor at least equal to the sale of that quantity of land, the surface to be operated on being a strip of thirty miles broad, along the route of each road, within which previous sales, locations, and preemptions, have to be carefully examined and adjudicated under new rules peculiar to these grants, with a view to equal justice to the grantees, the settlers, and purchasers.

The mode of proceeding in this branch of business is as follows: The lands falling within the probable limits of the railroad grant are, upon application, withdrawn from sale or location; the act of Congress is communicated to the Governor of the State; plats of the road are called for; and the general practice has been for the State to accept the grant, and transfer the same to incorporated railroad companies. Then the maps of the road, duly certified by the Governor under seal, and by the company, are returned to this office, generally on a scale of an inch to a mile, indicating the connections with the sectional lines of the surveys; showing, also, the exact dates of the survey, and staking off the road on the ground; because, from these dates, which must be established by the affidavit of the engineer of the road, the title to the State has legal inception, according to the late Attorney General's opinion.

If there is a material deflection in the route of the road, an explanation is required; and unless it satisfactorily appears that the line taken is the most practicable route between the termini, it is rejected. If the route does not deflect too much between the termini, the map is accepted as the basis of adjustment. The line of the road is then laid down upon our official township plats, with the six and fifteen-mile limits of the grant. Then proper diagrams are prepared for office use in the adjudication of preemptions sales, bounty-land locations, swamp selections.

These diversified interests falling within the railroad belt are required to be examined, and their validity or invalidity tested in connection with the State title under the State grant. The ledgers, or tract books, where all these interests are required to appear, must be posted up to date, and then we begin the preparation of the lists descriptive of the lands which inure to, and are to be certified to, the State—the indemnity selections being, under the decision of this office, limited to the State to which the railroad grant is made. When the granted lands for railroad purposes are ascertained and reported, then the residue remaining to the Government are to be brought into market; and this it is the purpose of the Department to effect with all practicable speed.

The particulars touching these grants are more fully presented in the following table:*

The following is an exhibit of the grants of lands for railroads by Congress, from the year 1850, showing the States to which the grants

* See table at the foot of next column.

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were made, dates of laws, miles of road, quantity granted, if vacant within fifteen miles, and quantity inuring under each grant; the quantities of those made by acts of 1856 and 1857, not yet adjusted, being estimated:

The acts of 8th August, 1846, 2d March, 1849, 3d August, 1854, and joint resolution of 3d March, 1855, granted lands to the State of Wisconsin, for the improvement of the Fox and Wisconsin rivers, under which the State became entitled to.....684,269.00 acres.
Of which there have been actually certified and approved.....589,387.84 "

Leaving a balance to be adjusted of.. 94,881.16 "
On account of this balance there have been selected, first.....60,832.00 acres which are rejected as being upon unoffered lands and within the limits of the original reserve for this grant.
Second, selections on our files, made at Menasha, in May and December, 1856, of.....14,299.60 "
75,131.60 "

Leaving a balance of.....19,749.56 "
to be approved, exclusive of the illegal 60,832-acre selection, mentioned under the first head.

A proposition was made in September last, in behalf of the State, to select other lands in lieu of the aforesaid 60,832-acre selection. The proposal was favorably considered, and the purpose entertained to recommend the introduction into market, by the President's proclamation, of the rejected selections.

On the 16th October, the party appearing for the State filed a communication, withdrawing his previous proposal, on the ground of want of authority, and asking a suspension of action.

It is now recommended that the rejected selections be held in suspense until after the close of the next session, to afford time to Congress to legislate in the premises, with the understanding that if no further act of legislation is had before the expiration of that time, the rejected selections be introduced into market.

DES MOINES RIVER GRANT IN IOWA.

Under act of Congress approved 8th of August, 1846, the account under this law stands as follows:

Quantity approved by the State as per exhibit in last annual report.....725,283.92 acres.
To this add list approved March 10, 1852...143,908.37 "
Making total approved for the grant of.....869,192.29 "

Table referred to in the preceding column.

States and Territory.	Dates of laws.	No. of roads and branches.	Miles of road.	Area of grant.	Estimated vacant land or quantity granted.
Illinois.....	Sept. 20, 1850	2	676	2,395,053	2,395,053
Missouri.....	June 10, 1852	3	566	1,815,455	1,815,455
Arkansas.....	Feb. 9, 1853	3	549	2,107,939	2,107,939
Michigan.....	June 9, 1856	7	1,075	2,128,000	2,128,000
Wisconsin.....	June 3, 1836	3	660	2,150,400	2,150,400
Iowa.....	May 15, 1836	4	1,125	3,455,000	3,455,000
Louisiana.....	June 3, 1856	3	455	1,747,200	1,747,200
Mississippi.....	Aug. 11, 1836	4	330	1,307,200	1,307,200
Alabama.....	May 17, 1836	4	1,264	4,833,760	4,833,760
Florida.....	June 3, 1836	10	1,814	2,419,200	2,419,200
Alabama.....	May 11, 1836	4	630	1,814,000	1,814,000
Florida.....	May 17, 1836	2	75	1,025,280	1,025,280
Minnesota Territory.....	March 3, 1857	6	1,150	4,416,000	4,416,000
Total.....		50	8,347	33,102,473	33,102,473
					29,927,325

NOTE.—Eight roads adjusted in Illinois, Missouri, and Arkansas. Forty-two roads to be adjusted.

The question as to the extent of this grant, under the decision of your predecessor, has been fully considered in the Attorney General's opinion of 29th May, 1856, (Opinions, vol. 7, p. 69;) and the conclusion at which he arrived, as sanctioned by your immediate predecessor, is to this effect:

That a proposition be made to the State of Iowa and its assigns, to acquiesce in and accept the decision of Secretary Stuart as final, which gives to the State the lands along the course of the Des Moines up to the northern boundary of the State; provided the State, or its assigns, agree to acquiesce in and accept that decision as final.

The Attorney General further holds, that if the State declines the propositions, the Secretary is discharged from any obligation to act on the decision of Mr. Walker and Mr. Stuart, and must fall back on the first decision of the Government, and refuse to approve any more selections above Raccoon Fork. No final action on the part of the State authorities in the matter has yet been filed in this office.

The lands above the Raccoon Fork are intersected by three of the railroad grants under act of 15th May, 1856.

SURVEYS.

Michigan.—The original surveys of the islands in the western part of the lower peninsula have been made—four thousand and ninety-five miles of resurveys have been reported during the past year; and, in obedience to the act of March 3, 1857, the office at Detroit has been transferred to St. Paul, Minnesota, and the greater portion of the archives relating to the public surveys in Michigan have been handed over to the authorities of that State; the remainder, not being in a condition for transfer, were removed to the surveyor general's office at St. Paul, and are now in course of preparation for delivery to the Michigan authorities.

Illinois.—The archives of the surveyor general's office are now ready for transfer to the State authorities. This, as the Governor has advised, will be done as soon as suitable provision is made by the Legislature of that State for their reception, in conformity with the act of Congress approved January 22, 1853.

Missouri.—The field work has been confined chiefly to the overflowed lands in the southeastern part of the State, pursuant to an arrangement by which the United States are to pay for the survey of such portions of these lands as may be arable and fit for agricultural purposes; and the counties representing the swamp grant to the State are to pay for the survey of such of the lands as may fall within the swamp grant. Under this arrangement 46,000 acres have been returned during the past year, all of which proved to be swamp land, and the expense of the survey of the same has been paid by the counties in which the lands are situated.

The surveying operations in this State are so nearly completed, that it is anticipated the archives will be in readiness for transfer, and the office of the surveyor general closed by the end of the year 1859.

Wisconsin.—Surveys have progressed with great rapidity; three hundred and sixty-eight miles of township lines, and four thousand two hundred and thirty-nine miles of subdivisions and meanders, have been reported, embracing the difficult surveys of the Apostle Islands, in Lake Superior, the correction of the fourth principal parallel, east of the fourth principal meridian in the Michigan State line, thus affording the basis for all the surveys north of it. All surveys south of the third correction parallel, except two townships, have been completed.

Iowa.—Owing to the severity of the surveying season, and depredations on the part of the Indians, but little has been done in the northwestern part of the State. But nine hundred and eighteen miles of subdivisions and meanders have been reported.

Minnesota.—The new surveying district of Minnesota.

Field operations for the establishment of the principal lines and subdivisions of the public surveys have been commenced in the northeast district on Lake Superior, and in the country south of the northwest district, north of Iowa, to the extent of four thousand and fourteen miles; but,

owing to the limited time within which operations have been prosecuted from 23d May last, when the opening of the office of surveyor general took place, no returns of surveys have yet been received at this office from this new surveying district.

Wisconsin and Iowa.—The summary of field work presented by the surveyor general for the surveying district of Wisconsin and Iowa, of which the Territory of Minnesota formed a part prior to the act of 3d March, 1857, has been very satisfactory, embracing the establishment of guide meridians and standard parallels, township and subdivision lines, to the extent of seven thousand and twenty miles. Such portion of the archives of this district appertaining to the Minnesota surveys have been duly turned over to the surveyor general at St. Paul.

Arkansas.—The resurveys ordered in this State are now nearly completed, and the surveyor general is engaged in preparing the land records, with a view to the transfer of them to the State authorities upon the closing of this office, which may take place during the fiscal year ending June 30, 1859, should no further resurveys be found indispensable.

Louisiana.—The surveying operations of this State are nearly complete. The work now consists principally of resurveys, of surveys of private claims, and of lands which have been supposed to be overflowed, but now found to be agricultural.

Florida.—In consequence of the Indian hostilities, no surveys have been carried on. Should the Indians be removed to the West, the suspended contracts could be completed by the expiration of the fiscal year ending June 30, 1859.

New Mexico.—The surveys have been executed to a very limited extent, owing to the Indian hostilities, and have been confined chiefly to the region known as the "Valles" lying northwest of Santa Fe, and west of the Rio Grande.

No surveys have been made of "private land claims" in New Mexico, none having been yet confirmed by Congress. The surveyor general recommends that a board of commissioners be appointed for the adjudication of titles, and that the period be limited for the presentation of claims. A summary, prompt, and final adjudication of Spanish and Mexican claims in the Territory is of great importance; not only to settle titles, but enable the Department to separate private property from the public lands, so that the latter may be disposed of without danger of conflict.

Forty-eight "donation" claims, under the provisions of the act of 22d July, 1854, have been filed in the surveyor general's office since his last annual report, eleven of which are recommended for recognition, the period of four years' settlement having expired.

Twenty-six "private land claims" have been filed since his last annual report, making fifty-seven since the opening of his office at Santa Fe, New Mexico, of which sixteen are recommended by the surveyor general.

The extensive discoveries of the precious metals in New Mexico suggests the propriety, in legislating for the disposal of the public lands in that Territory, of excluding what may be found to be strictly mineral lands from general sales or locations.

Kansas.—The surveys have been prosecuted with energy, returns having been made to the extent of seventeen thousand miles.

Nebraska.—Owing to the late period at which the sixth principal meridian was established, the extent of the surveys are not so great as was expected; yet seven thousand miles of field-work have been returned, and the work is now being rapidly prosecuted, and it is expected that the surveys east of the sixth principal meridian will be closed by the 30th June, 1859.

Utah.—The surveys of the public lands had rapidly progressed before the surveyor general abandoned his position, owing to reported hostilities on the part of the Mormon authorities at Salt Lake City.

This happened early last spring, since which time we are advised of the forcible disbanding of the clerks in the surveyor general's office, but are uninformed as to the safety of the archives of that office.

Representations have been made unfavorable

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to the surveys which have been executed in that Territory, but we have no means of judging of the correctness of these statements without actual examination on the ground.

The extent of the surveys, since the beginning of the operations in Utah, exhibits a sphere of field-work embracing 2,000,000 acres, and the work executed at a cost of \$90,000.

California.—The surveying operations have been pushed forward during the last year to a degree beyond the anticipation of this office, the liabilities incurred by the late surveyor general on that score having reached an indebtedness of upwards of \$220,000 to the United States deputy surveyors, over and above the appropriations. These accounts for surveys under contracts with the surveyor general, have been certified by the latter, and could not be paid for the want of funds applicable to that service. With a view to provide means as early as possible to liquidate that indebtedness, I have, by your direction, ascertained the amount, and submitted a deficiency estimate, so that speedy appropriation may be obtained.

The summary of the field operations in California since the commencement of the service in 1851 to the present time, consists of 82,000 miles of lineal surveys, embracing an area of upwards of 20,000,000 acres, at the aggregate expense of more than \$1,000,000; of which there were surveyed during the last fiscal year, ending 30th June, 1857, 20,000 miles—equal to 9,000,000 acres.

Oregon.—The progress of the surveys of the public lands and donation claims have been to such an extent that it is expected the portion of the Territory between the Cascade Mountains and the Pacific ocean will be completed by the operations of another year. The extension by law of the surveying system east of the Cascades is recommended.

Washington Territory.—Owing to hostilities of the Indians, the remoteness of the surveying region, sparseness of settlements, and the arduous and perilous nature of the service in that district, but limited progress in surveying has been made during the past year; yet the duties devolved upon the surveyor general at Olympia have required all his attention.

That officer renews the recommendation of increase in mileage to deputy surveyors to indemnify them for the obstacles encountered in the density of timber, high wages, and cost of transportation of supplies.

These facts considered, and in view of the remoteness of this surveying district from commercial communities, his recommendation is concurred in, with the suggestion of increase also in his compensation.

Statement of the surveying operations of the Public Lands during the year ending 30th September, 1857.

States or Territories.	Quantities, the plats of surveys of which have been returned to the General Land Office.			Estimated quantities, the plats of surveys of which were expected to be returned in 1858.
	Resurveys.	Original surveys.		
	Miles.	Chains.	Links.	Acres.
Ohio.....	-	-	-	-
Indiana.....	-	-	-	-
Michigan.....	4,095 12 79	-	-	236.87
Illinois.....	132 61 57	-	-	240.15
Wisconsin.....	-	-	-	1,106,058.08
Iowa.....	-	-	-	334,882.67
Minnesota.....	-	-	-	1,753,193.93
Missouri.....	120 41 69	-	-	46,698.00
Arkansas.....	1,726 67 96	-	-	-
Louisiana.....	3,029 45 89	-	-	17,047.00
Mississippi.....	-	-	-	-
Alabama.....	-	-	-	-
Florida.....	-	-	-	70,225.00
California.....	-	-	-	9,134,098.00
Oregon T.....	-	-	-	278,580.30
Washington T.....	-	-	-	137,083.29
Kansas T.....	-	-	-	3,645,690.11
Nebraska T.....	-	-	-	2,420,062.83
N. Mexico T.....	-	-	-	114,329.73
Utah T.....	-	-	-	1,258,432.04
	9,104 69 90			20,316,864.00
				15,400,000

This table shows the aggregate from 30th September, 1856, to 30th September, 1857. The statement in the first part of this report is for the fiscal year ending 30th June, 1857.

At the last session of Congress the following new land districts were created:

In Kansas, the "Delaware," "Osage," and "Western" districts.

In Nebraska, the "Nemaha," "South Platte," and "Dakotah" districts.

In Wisconsin, the "Chippewa" district.

There were also the "northeastern" and "northwestern" districts in Minnesota Territory, established by act of July 8, 1856.

For all these offices the tract books have been prepared and opened here, all the necessary instructions written out, and the blank forms of various kinds transmitted, by mail and express, to the respective offices for the above districts, the registers and receivers for which have entered upon the performance of their duties.

GEOLOGICAL RECONNOISSANCE IN OREGON AND WASHINGTON TERRITORIES.

In March, 1851, it was determined by the Secretary of the Interior, under the third section of the act of 27th September, 1850, pointing out the manner of making surveys in Oregon, to connect, with the land surveys in Oregon, a geological reconnaissance and exploration. With this in view, a transfer from a fund for similar service in the northwest was ordered, of \$3,500; and Dr. John Evans was directed, on the 22d March, 1851, to proceed overland to ascertain the general geology of the country west of the Missouri river, toward the Rocky Mountains; to reconnoiter for practicable wagon routes leading to Oregon, over the Rocky Mountains; and, when there, to aid the surveyor general in obtaining the elevations of the country along the principal base and meridian lines, with the latitude and longitude at the intersection of those lines, and to keep his expenditures within the limits of the means placed by the Department under his control.

On the 3d March, 1853, Congress made two separate appropriations—one of \$11,984 25 for expenses incurred in a geological reconnaissance in Oregon, undertaken in 1851, and another of \$5,000 for completing that geological reconnaissance; whereupon on the 19th April, 1853, the geologist was instructed to complete the service under the latter appropriation, and make his final report thereon; both of which appropriations amounted to \$16,984 25; and on 3d March, 1855, Congress appropriated for this purpose the additional sum of \$23,560; making an aggregate of \$44,044 25.

One item of the last appropriation was \$5,692 25, on account of excess of his expenditures over and above the \$5,000, per act of the 3d March, 1853; another item of \$13,000 25, for the completion of the geological explorations in Oregon and Washington Territories. In placing the latter item under the control of the geologist, on March 20, 1855, he was instructed to complete the work, make final report, and not to exceed it in his disbursements.

The estimates on which the appropriation of \$23,560 was based included a third item of \$4,867 50, which had been expended by Dr. Evans in coöperating with the expedition, under the authority of the War Department, for making the extreme northern railroad exploration from the Missouri to Washington Territory, thereby reducing to this extent the amount which has been appropriated for geological service in Oregon and Washington to \$39,776 75.

In the adjustment of Dr. Evans's accounts to the 4th March last, it is found that he has again exceeded the amount appropriated for the completion of the work, and incurred an additional liability of \$3,574 70, to the liquidation of which there are no means applicable under existing laws.

The geologist, in a communication of the 13th November, 1857, states as follows: that "rich deposits of semi-bituminous coal have been discovered cropping out at various points from the British possessions to near the boundary of California, and are almost inexhaustible in quantity, and accessible to sail and steam navigation."

"Ores of iron, lead, platinum, and copper, have

been discovered; also, marbles, other limestones, and valuable rocks for building purposes. The analysis of the coals, limestones, and minerals, is completed; also, of many of the soils."

One hundred and five illustrations, and two hundred and seventy-seven pages of manuscript are completed, ready for the engraver and printer. "All the illustrations and analyses are in sufficient progress to keep the engraver constantly employed until the completion of the report."

The illustrations and manuscript referred to, he has filed in this office; but the complete report, which antecedent instructions required at his hands, has not yet been made. He further states that "the report will be about two thirds the size of Dr. Owen's report, and will cost, if published in the same style, \$26,526, including the cost of preparing all the maps and other illustrations."

This sum, together with his claimed balance on account of his expenditure over and above the last appropriation, he states, "will amount to \$30,000."

The facts in regard to the origin of this service, and the appropriation for its completion at different times, with the progress in it, as reported by the geologist, are respectfully submitted for the consideration of Congress.

LANDS ON THE ALABAMA AND FLORIDA LINE.

Plats have been prepared of the strip of lands in Alabama between the *Florida* line and *Coffee's* line. These to be certified by the Commissioner, as *ex officio* Surveyor General, will be furnished to the authorities of the State of Alabama, and similar plats to the register and receiver at Sparta, within whose district the lands are situated; and hereafter a considerable body of lands which has been held in suspense on the southern boundary of Alabama will be restored to market.

In the northeastern or Columbus district, Mississippi, there are about 32,000 acres of land, the title to which has been held in suspense for more than twenty years, because of the indebtedness of the late Gordon D. Boyd, as receiver.

The mode of proceeding determined upon in this class of cases is to cancel the sales and restore to market about one half of the quantity above mentioned, on which no money was paid; and as the purchasers of the residue at marshal's sale shall pay up for the same, to issue the patents.

INDIAN RESERVES—TRUST LANDS.

The necessary instructions having been issued, and steps taken for the location within the Half Breed, Dakotah or Sioux reserve, of 320,819.48 acres in Minnesota, of the scrip authorized by the act of 17th July, 1854, and a sufficient time, in the judgment of this office, having elapsed for satisfying claims in the reserve, a proclamation, pursuant to the third section of said act, was issued, bearing date the 16th September, 1857, for public sales to take place in March next of the *unlocated* tracts within the limits of said reservation.

Under the preliminary management of the Indian office, the township embraced in the *eastern* portion of the Delaware trust lands in Kansas, certain town lots and blocks in Jacksonville, Delaware, Hardville, Lattaville, and Leavenworth City, were offered for sale in November last under proclamation by the President.

The initiative having been taken also at the same office in regard to the lands within the reserves of the Ioways, the western part of the Delaware and the Peorias, Kaskaskias, Piankeshaws and Weas, these lands were offered under proclamation for sale in June and July last.

The Office of Indian Affairs having requested the aid of the General Land Office in selling the Indian trust lands, instructions, prepared with great care, dated 29th September, 1856, in regard to the first sale, were transmitted to the register and receiver at Leecompton, directing them to coöperate with the special commissioner on the part of the Indian Office in selling the lands in question.

At the second sale, the land officers at Doniphan and Leecompton were, on the 10th May, particularly instructed as to the manner in which the sales were to be conducted jointly by themselves and the special commissioner on the part of the Indian Office; and those sales were held and duly closed accordingly.

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Only a portion of the returns of these sales have yet reached this office from the Office of Indian Affairs, such portions have been preliminarily examined, so far as to enable us to make an adjustment of the accounts of sales of the Peorias, Weas, &c., and the eastern part of the Delawares; which adjustments were effected on the 2d and 7th October, 1857, and reported to the First Comptroller of the Treasury.

GRADUATION.

Under the provisions of the act of 3d March, 1857, more than one hundred and fifty thousand entries for settlement and cultivation, &c., under the graduation act of August 4th, 1854, have been confirmed; a large portion of them have already been patented, thus relieving the office of a vast amount of labor which, without legislative intervention, would have been required in the final adjustment of these cases.

The act of 3d March, 1857, however, is retroactive, and has no application to any entries subsequent to its passage. Therefore, in regard to all such subsequent entries, the registers and receivers have been instructed to notify purchasers, at the time of making them, that the proof of actual settlement and cultivation would be required within one year from the date of entry, to entitle them to patent. Under this rule, all entries subsequent to act 3d March, 1857, will be held up for one year from their date, unless proof of settlement and cultivation should be sooner produced. In default of such proof, there is no authority to carry them into patent, unless Congress shall otherwise order by further legislation.

I deem it proper again to suggest the necessity of further legislative action to give the proper construction to the act of 20th April, 1818, as recommended in our last annual report, so as to restrict the compensation commission of registers and receivers to a quarterly *pro rata* allowance of the maximum of two thousand five hundred dollars per annum, their compensation both for salary and commissions to commence and be calculated from the time they enter upon the discharge of their duties. By the rule adopted for the computation of commissions under the construction given to the said act by the Supreme Court, it sometimes happens, as was the case at the Plattsburg office, Missouri, that the same register or receiver, under different commissions, or different incumbents of the same office, have received commissions amounting in the aggregate to the sum of \$10,000 in a calendar year; which, in the opinion of this office, could never have been contemplated by Congress.

The fees allowed to the register and receiver for locating military land warrants, under the second section of the act of 22d March, 1852, are required, under the existing rule of this office, to be paid into the hands of the receiver of public moneys, who is held accountable for the same, as in the case of moneys received for ordinary sales of land; and the commission on warrant locations is restricted by law, according to the ruling of the Department, to an amount which, added to the commissions on lands sold, will not exceed, in the aggregate, the maximum of \$2,500 for any one official year.

In the last annual report of this office, it was stated that a most liberal policy had been adopted, and ought to be continued, in the disposal of the public domain towards those making settlements thereon; that "except so far as Congress may make grants to the land States and Territories in aid of educational and internal improvement purposes, it is believed to be the true policy of the Government to secure the public lands to actual settlers thereon, and withhold them, as far as practicable, from speculators."

The wisdom of the preemption policy is no longer the subject of controversy. It is established by the history of every neighborhood and settlement throughout the West. This is said in full view of the fact that many fraudulent preemption claims are established by evasion and perjury; and that such will be the case, even under the most diligent administration of this and the local offices, especially during periods such as that through which we have recently passed, when the spirit of speculation has possession of the public mind. But this class of cases, when compared with the

great body of honest claims, made by men living upon the lands, is too inconsiderable to weigh against our policy. The title to the lands should pass immediately from the Government to the men who are to cultivate the soil. So far as it may be avoided, the speculator should not be allowed to intervene.

With a view to a complete and practical policy, an amendment of the preemption laws was recommended to the last Congress, to the effect that a time should be fixed, within which the settler upon unoffered land should complete his entry by the requisite proof and payment. The proposed amendment was not adopted, and the preceptor of unoffered land may make payment at his own pleasure, provided it be done "before the time fixed for the public sale of the land." To compel payment and the consummation of the entry, it is necessary to proclaim the land for public sale. Numerous and extensive settlements in Kansas, Nebraska, Minnesota, and in portions of Iowa, Wisconsin, and Michigan, formed during and prior to 1856, have so far matured, and the lands have been so long occupied, as to justify the Government in expecting and requiring payment.

It is recommended that preceptors upon unoffered surveyed lands shall have one year from the date of settlement, and those upon unsurveyed lands shall have one year after the return of the township plats to the local office, within which to pay for the same; and that the right of preemption upon unsurveyed lands be made general, so that the law in this respect may be uniform, the privilege being limited, under existing laws, to California, Oregon, Washington, Minnesota, Kansas, Nebraska, and New Mexico.

The twelfth section of the act of 22d July, 1854, relating to Kansas and Nebraska, requires notice of the tract claimed by preceptors to be filed within three months "after the survey has been made in the field." It is recommended that this provision be so modified as to give the three months after the survey has been made and returned, thus assimilating it to the other statutes on the same subject. Where two or more persons may have settled upon and improved the same tract before the survey, the entry should be made by them jointly, and the maximum quantity of one hundred and sixty acres to each allowed on adjacent legal subdivisions of unoccupied lands. Legislation to this effect is recommended.

The recommendation of the last annual report is renewed, that the act of 3d March, 1853, be so amended as to render United States reserved sections along the line of railroads liable to preemption, as well when the settlement may have been made after as before the final allotment; that is, at any time before the public sale.

The general law of 3d March, 1855, and the special act of 3d March, 1857, granting preemptions to contractors carrying the mails through the Territories west of the Mississippi, have engaged the attention of the Department; and to facilitate operations under these laws, a circular letter of instructions has been prepared, in which, as regards the general statute, it is held, that to constitute a right of preemption, the mail route on which the claim is based must form a part of a system stretching laterally across the territory, being a link in or part of a connected route from the line of the States west of the Mississippi to the Pacific, and that no benefit or privilege is conferred by the said act on routes stretching lengthwise in a northerly or southerly direction in the Territory, and forming no part of said connected route.

PRIVATE LAND CLAIMS.

The class of titles known as "private land claims," which had their origin under the Governments that preceded us in sovereignty over the different sections of country now constituting our territory, are constantly coming before this office for examination in all their diversity of forms; and those finally confirmed and properly surveyed are carried into patent. Under this head, individual Indian reserves also are referred, and are passed into patent after a critical examination of the whole basis of title, as resting on treaties and statutory provisions.

A class of claims at the Sault Ste. Marie, Michigan, of which official cognizance had been taken

under the act of Congress approved 26th September, 1850, has been thoroughly examined at this office. Eighty-four of these have been finally confirmed; for thirty-two of these, the payments required by law have been made, and patent certificates have been returned to this from the local office.

Returns of the surveys, with the necessary transcripts, showing the final confirmation and survey of ranchos and other claims in California, are coming in, and are subject to critical examination, and carried into patent where found complete in all the proceedings. Eight of these titles have been carried into patent, including an aggregate area of over 190,600 acres, and covering one hundred and seventeen pages of record.

In connection with the geological reconnaissance which has been made in Oregon and Washington, alluded to in the foregoing, and the discovery of extensive coal fields in those Territories, the attention of this office has been drawn to the immense growth and great value of the timber for naval purposes in the Pacific slope.

It is reported that the red fir for masts, roots of the white-oak, cedar, and various kinds of fir, are suitable for ship knees. On Hood's canal, in the vicinity of Fort Gamble, and at Steilacoom, white pine is found in great abundance, and of excellent quality.

The facilities for the transportation of timber from Washington Territory are great; the harbors in Puget Sound being reported deep and quite accessible, admitting ships of the largest draught.

As an incidental matter connected with the disposal of the public lands, this office, in the elder land States, has instituted a system susceptible of extension to any part of the public domain, operating through the instrumentality of the local land offices, for the protection of the public timber.

This system, both simple and economical, has been found efficient in suppressing, to a great extent, the mischief of waste, and has operated in a most salutary manner in constraining trespassers to purchase lands which otherwise would have remained unsold. The evil will be, to a great extent, obviated by an early introduction into market of the pineries which have attracted the attention and stimulated the cupidity of depredators.

With great respect, your obedient servant,
THOMAS A. HENDRICKS,
Commissioner.

Hon. JACOB THOMPSON, Secretary of the Interior.

Abstract of the Annual Report of the Commissioner of the General Land Office.

GENERAL LAND OFFICE,
November 30, 1857.

SIR: Pursuant to the resolution of the Senate of the 25th February, 1855, the following is submitted as an "abstract, or compendium" of the annual report from this office, bearing even date herewith.

This report treats of the following subjects, and is accompanied by the usual statistical tables of the lands surveyed, exposed to market, sold, granted, and otherwise disposed of, to wit:

1. The quantity of lands ready for market and not advertised—surveys returned—aggregate annual statement of sales and lands disposed of.
2. Bounty land warrants—acts of 1847-50-52, and 55—annual statements, with views respecting Virginia military claims.
3. Swamp land grant—statements, and a renewal of recommendation of further legislation.
4. Statement in relation to railroad grants.
5. Grants in Wisconsin—Fox and Wisconsin river grant—Des Moines river grant in Iowa.
6. Synoptical views of the operations of the surveyor general.
7. New land districts created in Kansas, Nebraska, Wisconsin, and Minnesota.
8. Geological reconnaissance in Oregon and Washington.
9. Land on the Alabama and Florida line.
10. Lands in the northeastern or Columbus district, Mississippi.
11. Indian reserves—trust lands.
12. Reference to graduation act and the number of entries confirmed under the same.

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Report of the Commissioner of Indian Affairs.

SENATE & HO. OF REPS.

13. Legislation recommended touching the measures of compensation to land officers.

14. Reference to operation of preemption laws—further legislation recommended.

15. Private land claims—and means adopted to protect the timber growing upon the public lands.

With great respect, your obedient servant,

THOMAS A. HENDRICKS,

Commissioner.

Hon. JACOB THOMPSON, Secretary of the Interior.

Report of Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,

OFFICE INDIAN AFFAIRS, Nov. 30, 1857.

SIR: The accompanying reports and statements from the several superintendents, agents, and teachers, furnish valuable and interesting information in regard to the condition and prospects of our various Indian tribes, and exhibit in detail the operations of this branch of the public service during the past year.

The New York Indians continue gradually to improve; they have generally adopted agricultural and mechanical pursuits, and, to a considerable extent, the habits and customs of their white brethren. A treaty recently entered into with the Tonawanda band of Senecas, should it receive the favorable consideration of the Senate, will, it is hoped, terminate the complicated and embarrassing difficulties which, for some years, have materially interfered with their happiness and welfare.

The treaties of July 31 and August 2, 1855, with the several bands of Indians in Michigan, provided for a material change in their condition and relations. They were relieved from the obligation to remove west of the Mississippi river, secured limited but sufficient quantities of land, to be held in severalty, and were provided with ample means for educational purposes. Under the liberal legislation of the State they can attain to citizenship; and it is hoped that, by a discreet and judicious supervision of their affairs on the part of the General Government, and such coöperation as may be requisite by the authorities of the State, aided by the kindness and benevolence of her citizens, they may soon be prepared for the enjoyment of that high privilege.

The treaty of 1854 with the Menomonees, and that of 1856 with the Stockbridges of Wisconsin, released those tribes from their engagements to emigrate west of the Mississippi, to which they were opposed, and located them in other positions within the State, where it is hoped they will improve, and eventually become fitted for and invested with citizenship.

The small band of Oneidas, formerly of New York, remain in the vicinity of Green Bay, where they were placed by the treaty of 1837. They are advanced in civilization, and there is no good reason why they should not thrive and prosper, if the State authorities would rigidly prohibit the traffic with them in ardent spirits.

By the treaties of September 30, 1854, and February 22, 1855, the great Chippewa tribe, residing in Wisconsin, Minnesota, and the northern peninsula of Michigan, ceded nearly the whole of the lands owned by them to the Government; there being set apart for the different bands, however, a suitable number of reservations, limited in extent, where it should be the policy to concentrate and confine them, and every exertion used to induce them to adopt the habits and pursuits of civilized life.

As stated in the last annual report of my predecessor, we have no treaty arrangements with the Red Lake Chippewas, and a few other scattered bands of Indians next to the British possessions, and in the valley of the Red River of the North. They are poor and need assistance, and it would be good policy to extinguish their title to lands in that region, and to locate them on a small reservation, where they could be suitably and humanely provided for.

The other Indians in Minnesota consist of the various bands of the Dakota, or Sioux, and the Winnebagoes; the latter located in the southern portion of the Territory, and reported to be doing well. The agent is, however, of opinion that their reservation is too large, and that it would con-

tribute materially to their advancement to reduce it, and to assign them a limited quantity of land in severalty, so as to give them an idea of individual property, and a greater incentive to personal exertion and industry.

The principal body of the Sioux consist of the four bands of Med-a-wah-kan-toans, and Wah-pah-coo-tahs, known as the Lower or Mississippi Sioux, and the Wah-pah-toans and Se-see-toans, or Upper Sioux. These are located on two reservations set apart for them by the treaties of July and August, 1851, where strenuous efforts are being made to induce them to improve their habits and condition.

It was a small outlawed and reckless band of these Indians that committed the murders and outrages at the white settlement at Spirit Lake in March last, but who, on the requirement of the Department, have since been severely punished by their brethren for their lawless and atrocious conduct; this having been determined to be a better course than to cause the chastisement to be inflicted by our troops.

A portion of the Indians embraced within the two agencies for the tribes on and in the vicinity of the upper and head waters of the Missouri river have, within the past year, been severely scourged by the small-pox—as many as two thousand of them having, it is estimated, been carried off by that disease; otherwise, nothing of an unusual character has taken place amongst them. These Indians comprise eight different bands of restless and wandering Sioux, with the Arickarees, Gros Ventres, Mandans, Assinaboines, and Crows, all within the lower, and the Blackfeet, who are within the upper agency. But small portions of the country occupied by them are suited for agricultural pursuits; and so long as the buffalo and other game within their reach afford them subsistence, it will be difficult, if not impossible, to break them of their wandering and unsettled habits. The agent reports that the Sioux, to whom General Harney promised presents of clothing for their soldiers, are very much dissatisfied with the non-compliance with that promise, and he recommends that Congress make provision for its fulfillment. An estimate for \$200,000, to be placed at the disposal of the Department for that purpose, was presented by your predecessor to Congress at the last session of that body; but as no appropriation was made, concurring in the propriety and importance of the measure, I respectfully recommend that the amount necessary to carry it out be appropriated.

Pursuant to the act of March 3, 1853, providing for negotiations with the Indians west of Missouri and Iowa, for the purpose of procuring their assent to the settlement of citizens of the United States on their lands, and of extinguishing their title thereto, in whole or in part, treaties were made during the preceding Administration with the Ottobas and Missourias, Omahas, Delawares, Shawnees, Ioways, Sacs and Foxes of the Missouri, Kickapoos, Miami, and the united tribes of Kaskaskias, Peorias, Weas, and Piankeshaws. The title of these Indians was thus extinguished to all the lands owned and claimed by them, except such portions as were reserved for their future homes; the lands so acquired for occupancy by our citizens in Kansas and Nebraska amounting to about 13,653,000 acres, and the lands retained for the use of the Indians to about 1,342,000.

The lands ceded by the Delawares, except the strip known as the outlet, for which they were allowed a stipulated amount, and those acquired from the Ioways and the united tribes of Kaskaskias, Peorias, Weas, and Piankeshaws, were to be, and have been, sold for their benefit. The amount realized for those of the Delawares is \$1,054,943 71; for those of the Ioways, \$184,437 85; and for those of the four united tribes, \$335,350. From these amounts is to be deducted the cost of surveying and selling the lands; and the remainder in each case is required to be invested in safe and profitable stocks, except so much as the President may deem proper to be applied to relieve the temporary necessities of the Indians during the time of their becoming settled and established on their reservations. The interest derived from the investments is to be annually paid over to them, or judiciously applied for their benefit.

The treaty of January 31, 1855, with the Wyandott Indians residing at the junction of the Missouri and Kansas rivers, provided for their investment with citizenship and a division of the tribal lands amongst them. This division, it is understood, has been made, and resulted in giving to each soul about forty acres. This measure, the agent reports, has been attended with good results, a spirit of improvement having manifested itself beyond anything of the kind previously known amongst the Wyandotts. My personal observation enables me to concur in the report of the agent.

During the past summer an important and necessary treaty was also made with the Pawnees, through the operation of which, should it be approved by the Senate, the department hopes to be able to place these restless and lawless Indians in a settled location, to control them there, and to adopt effective measures for securing their material improvement. There is the like necessity for a similar treaty with the Poncas, who inhabit and claim a region of country on the Missouri and L'eau qui Court, or Running Water rivers.

No conventional arrangements have been entered into since the act of March 3, 1853, with the following tribes residing in Kansas, viz: the Pottawatomies, the Kansas or Kaws, the Sacs and Foxes of the Mississippi, and the Osages. The policy of that act and the welfare, if not the very existence of these Indians, require that new and different arrangements be made with them as soon as possible.

I concur fully with those of my predecessors who have stated that there have been two great and radical mistakes in our system of Indian policy—the assignment of an entirely too large body of land in common to the different tribes which have been relocated, and the payment of large money annuities for the cessions made by them; the first tending directly to prevent the Indians from acquiring settled habits and an idea of personal property and rights, which lie at the very foundation of all civilization; the second causing and fostering a feeling of dependence and habits of idleness, so fatally adverse to anything like physical and moral improvement. With regard to the Indians in Nebraska and Kansas especially, it is all important that these mistakes shall not be perpetuated or repeated. They are in a critical position. They have been saved as long as possible from the contact and pressure of white population, which has generally heretofore been regarded as fatal to the Indian. They are now becoming rapidly surrounded by such a population, full of enterprise and energy, and by which all the surplus lands, as far west as any of the border tribes reside, will necessarily soon be required for settlement. There is no place left where it is practicable again to place these tribes separate and apart by themselves. Their destiny must be determined and worked out where they are. There they must advance, and improve, and become fitted to take an active part in the ennobling struggles of civilization; or, remaining ignorant, imbecile, and helpless, and acquiring only the fatal vices of civilized life, they must sink and perish like thousands of their race before them. A solemn duty rests upon the Government to do all in its power to save them from the latter fate; and there is no time to be lost in adopting all necessary measures to preserve, elevate, and advance them.

With large reservations of fertile and desirable land, entirely disproportioned to their wants for occupancy and support, it will be impossible, when surrounded by a dense white population, to protect them from constant disturbance, intrusion, and spoliation by those on whom the obligations of law and justice rest but lightly; while their large annuities will subject them to the wiles and machinations of the inhuman trafficker in ardent spirits, the unprincipled gambler, and the greedy and avaricious trader and speculator.

Their reservations should be restricted so as to contain only sufficient land to afford them a comfortable support by actual cultivation, and should be properly divided and assigned to them, with the obligation to remain upon and cultivate the same.

The title should remain in the tribe, with the power reserved to the Government, when any of them become sufficiently intelligent, sober, and

industrious, to grant them patents for the land so assigned to them, but leaseable or alienable only to members of the tribe, until they become so far advanced as to be fitted for the enjoyment of all the rights and privileges of citizens of the United States. Their annuities should be taken and used for the erection of comfortable residences and requisite out-buildings, and otherwise in gradually improving their farms.

Manual-labor schools should be established, where they could learn how to conduct properly their agricultural pursuits, and especially where the boys could be educated as farmers and the girls in housewifery and the dairy, and where also there could be imparted to both the rudiments of a plain and useful education.

Mechanics shops should also be established where necessary, and where as many of the boys as possible should be placed and trained to a knowledge of the mechanic arts suited to the condition and wants of their people.

It is, if possible, more important that the Indian should be taught to till the soil and to labor in the mechanical shops than to have even a common school education.

The adult Indians should be encouraged to cultivate the lands assigned to them, each to have the exclusive control, under the tribal right, of his own possessions, and of the products of his own labor; and, to encourage them to part with their children willingly to be instructed at the manual-labor schools, and in the mechanical shops, the surplus productions of the one, or profits of the other, should be divided among the parents of the children who aided to produce them. All these arrangements should be under the exclusive control of the department, as well as the annuities, so far as they can be withdrawn from that of the tribe, and applied to accomplish the objects mentioned.

No white person should be permitted to obtain any kind of possession or foothold within the limits of the reservations, nor even to enter them, except in the employ or by permission of the Government, and none should be employed except such as would be actually necessary for the instruction of the Indians. Power should be conferred on the agents to eject summarily all intruders from the reservations. They should also be clothed with executive and judicial authority in matters pertaining to their agencies, and appeals from their decisions be allowed to the superintendents, and thence to the department. But to carry out the system successfully it would be necessary to relieve the Indians from the example of the worthless idlers and vagrants of the tribe, as well as those whose wild habits and roving dispositions would preclude them from settling down quietly and orderly. All such should be colonized by themselves in such positions as not to admit of much, if any, communication or intercourse with the settled portions of their tribes. For such colonies places could be found somewhere about Bent's Fort and the heads of the Arkansas and Platte rivers.

This plan is applicable at present only to such Indians as those located in Nebraska and Kansas. The wilder tribes could not be brought at once within the entire system, as they could not at first brook the restraint and confinement. They must undergo a preliminary training, being gradually induced to abandon their nomadic and wandering habits, and to settle down on larger reservations, where, for a time, they would have to be influenced to make the necessary exertions to support themselves by cultivating the soil.

The settlement of the questions arising under various treaties in which reservations have been granted in severalty to Indians in Kansas and Nebraska, presents many difficulties which I know of no way of overcoming except by Congress authorizing the department to sell the lands, and to control the proceeds thereof in such manner as to render them effective for the assistance and benefit of the reserves.

The reports in regard to the four great southwestern tribes—the Cherokees, Creeks, Choctaws, and Chickasaws—are very favorable. Their regularly-organized and stable governments and laws well suited to their condition and circumstances, their general devotion to industrial pursuits, and their comparative national and individ-

ual prosperity, evince a most creditable and gratifying degree of advancement in the fundamental elements of civilization. Some, if not all of them, appear to be expecting and preparing for an important change in their political and municipal relations with the United States, and there is no doubt that suitably-organized territorial governments may, with great propriety and advantage, be extended to them at an early day. Until such a change shall become expedient, it is recommended that there shall be United States courts established at suitable points within the territory of these Indians, for the trial of cases arising there under our laws. The embarrassments and expense to which they are subjected, in being compelled to attend the Federal court in Arkansas, and the difficulty of securing the attendance of witnesses, give rise to cases of great hardship, amounting to a denial of justice.

I submit herewith a copy of the late annual message of John Ross, principal chief of the Cherokees, to their national council, which is worthy of special attention, as presenting, doubtless, a correct view of the general condition of the tribe, as well as important questions for the consideration of the authorities of the United States.

For several successive years the tribes in the southern superintendency suffered extremely from drought. During the present season, however, they have had timely and abundant rains, have consequently raised fine crops, and are amply supplied with all the necessities of life.

It is expected the Seminoles will soon remove and settle within the district of country provided for them by the treaty with them and the Creeks of August, 1856, and that having a separate country, and enjoying the right of self-government, with ample means for the improvement and support of the whole tribe, their brethren in Florida can be induced peaceably to emigrate and join them. Both the Creeks and Western Seminoles have manifested an entire readiness to comply with their obligations under the treaty, of co-operating with the Department in its efforts to effect the peaceful removal of the Florida Seminoles; and large delegations of both tribes, in charge of the superintendent for that district, will soon be on their way to the scene of operations for the purpose of endeavoring to accomplish that object. This movement has been somewhat delayed in consequence of the superintendent having been charged with the disbursements of the moneys payable to the several tribes within his superintendency. This service was imposed upon him in conformity with the regulation adopted by the President in March last, to carry out an apparent wish of Congress, as evinced by a proviso in the act making appropriations for the Indian department, passed at the last session, that the moneys due to Indians should be paid by the superintendents, instead of by the agents, as heretofore. The proviso, not being obligatory, was not necessary, as the President had already the power to require the superintendents to make such payments whenever he deemed it proper, and as had been repeatedly done. The President having directed the change, it has been tried, but found to be impracticable without great injustice to the Indians and injury to the public service. It devolves an undue amount of labor and responsibility upon the superintendents, while it leaves comparatively none to the agents, and destroys all their influence for good with the Indians. One tribe has to wait till another is paid, which causes jealousy and ill-feeling; and it requires so much time to pay them in succession, that those last reached receive their money long after it should have been paid to them. It necessarily runs the later payments into mid-winter, when the Indians cannot be assembled without subjecting them to great exposure, hardship, and certain danger of fatal diseases. It is also attended with much greater expense, in consequence of the guards and assistants which the superintendent is compelled to employ for the safety of the moneys while traveling about with them in the Indian country from tribe to tribe, or in providing for those which he has to leave behind. I therefore recommend that the system be abandoned, and that the duty be reimposed upon the agents, with such checks and guards as may be requisite to secure its proper and faithful performance.

It being necessary that the southern superintendent should proceed to Florida on the duty referred to before completing the payments in his district, he was, with the sanction of the President, directed to turn over the unpaid moneys in his hands to the agents for the tribes to whom they belong for payment.

While on the subject of payments to Indians, I beg leave to call attention to the evil effects of *per capita* payments, which system has been in force for some years. The great body of Indians can be managed only through the chiefs. The *per capita* system breaks down the latter, reduces them to the level of the common Indians, and destroys all their influence. It thus disorganizes, and leaves them practically without a domestic government; lessens their respect for authority, and blunts their perceptions of the necessity and advantages of any proper and effective system of governmental organization; turning them backward, instead of leading them forward, in the scale of advancement. With the diminished control and influence of the chiefs there is increased lawlessness on the part of the members, and hence the greater number of outrages on the persons and property of other Indians and our citizens. Nor is the *per capita* payment system of any protection or advantage to the individual Indian. His share of the annuity is known beforehand, and it is an easy matter to induce him in advance to gamble it off, or pledge it for whisky or articles of no material use to him, and at or after the payment to take or collect the amount from him. The distribution of the money should be left to the chiefs, so far at least as to enable them to punish the lawless and unruly by withholding it from them, and giving it to the more orderly and meritorious. They should be allowed to report on the conduct of the individuals of the tribe, being as far as possible held responsible therefor; and the agent to pay the money according to a graduated scale, having reference to the industrious habits and good conduct of individuals, as he should find to be just, reserving to him the right to inquire into the action of the chiefs whenever complaint shall be made, and to change or modify such action whenever he may discover that they have dealt unjustly with any member of their tribe.

It is respectfully suggested that some definite action should be had upon the treaties heretofore made with the Quapaws, the Senecas, and the Senecas and Shawnees, residing adjacent to the southwestern corner of Missouri, which were submitted for the consideration of the Senate at the session of 1854-55.

If not such as should be ratified, others of a proper character should be negotiated; this being necessary for the welfare of the Indians and to carry out the objects of the act of 1853. A treaty should likewise be entered into with the Cherokees to acquire from them the eight hundred thousand acres of land in the same locality known as the "Neutral Ground," on which settlements are already being made, contrary to our obligations to the Cherokees, and which tract they are willing to dispose of, in order to obtain the means of liquidating their considerable national debt, and to augment their insufficient school and orphan funds.

A large tract of land in Kansas was years ago set apart for the New York Indians, who were then expected to remove there; but subsequent arrangements have settled the great body of them on reservations in the State. Such of them as have removed should be assigned the three hundred and twenty acres promised to them, and the remainder of the lands be brought into market for the benefit of our citizens who are so rapidly filling up the Territory.

Preliminary measures have been adopted for colonizing, as soon as possible, on the tract of country leased from the Choctaws and Chickasaws for the purpose, the Wichita and other Indians intended to be located there.

The colonization of the Indians of Texas on the reservations set apart by the State for that purpose is progressing favorably, and as rapidly as the difficulties and obstacles incident to such a measure will permit. The supervising agent represents with much confidence that the several colonies will soon be in a condition to support

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Report of the Commissioner of Pensions.

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themselves. In the mean time there will be a gradual and material decrease of expense. The amount requisite for the next year is \$91,707 50. The same officer estimates that that for the succeeding year will not be so great by about \$30,000.

This is the only practicable system for redeeming the wild, lawless, and roaming tribes within our borders. It is expensive at first, because the Indians have to be subsisted and otherwise provided for and made comfortable until they gradually settle down and commence to work for their own support, which experience has demonstrated they can be induced to do. In the end it is the most economical course; but, however great the expense, it is one which both humanity and good policy require should be incurred.

The resources of these Indians from the chase are rapidly failing them, caused in no slight degree by the extension of our settlements, and their country being traversed in every direction by our people. Many of them are compelled to live by plunder, and hence the frequent outrages against other Indians and the whites. In their dispersed condition the numerous military posts that have to be kept up, and the costly expeditions that have frequently to be undertaken to hold them in check, together with the sums which the Government is bound to pay for losses sustained from their depredations, probably involve an amount of expense far greater than would be necessary to collect and colonize them.

The Indians of New Mexico are beginning to have some understanding and appreciation of our power and resources, and the necessity of their preserving peace with one another, and with the whites. They are generally willing to be settled on reservations, which is essential to their preservation and welfare, as well as for the interests and security of our frontier citizens. A favorable commencement has been made, and liberal appropriations by Congress are necessary to carry out the policy in regard to them.

The Pueblo Indians hold the tracts which they occupy and cultivate, by grants from the Spanish or Mexican Governments, and immediate steps should be taken to have them surveyed and set apart from the surrounding lands. This has become the more necessary in the case of the Pimos and Maricopas Indians, since the establishment of mail routes through their country, which will induce and increase white settlements that may conflict with their rights, and incite them to hostility. For a brief description of the character and situation of these peculiar and interesting people, and the views of this office as to the importance of protecting them from such encroachments, I respectfully refer to the accompanying copy of my report of 28th May last.

Under an act approved March 3, 1857, an agent was appointed for the Indians in the territory purchased from Mexico by the last treaty with that Government; but, from circumstances beyond his control, he has not yet been able to furnish the department with much information in relation to them. To supply this deficiency I submit an interesting communication upon the subject from Lieutenant S. Mowry, of the Army, who has for some time been stationed in the country, and appears to be well informed in regard to the character and disposition of the Indians inhabiting it.

The Indians of the plains within the Upper Arkansas and Upper Plate agencies, and embracing the Apaches, Arapahoes, Camanches, Cheyennes, and Kioways, have, with the exception of the two latter, been quiet and peacefully disposed during the year. The Cheyennes have been in open hostility, and committed many outrages, and though they were chastised during the summer by a body of troops under the command of Colonel Sumner, of the Army, it is feared that they are not yet sufficiently subdued to expect that they will abstain from further lawless acts when opportunities offer of indulging their feelings of hostility. In consequence of their bad conduct their proportion of the annuity presents sent out for them and the other Indians of the Upper Arkansas agency was not delivered to them. Nor should the Kioways, who have also manifested a decidedly hostile disposition, have received their share; but the agent was compelled to let them have it to prevent their taking it by force.

To keep the tribes inhabiting and roaming through the country on the Upper Arkansas under proper subjection, and to protect our communication with New Mexico, it would seem to be essential that there should be a military post established at some proper point in that region.

The scanty information we have in regard to the Indians of Utah is not reliable or satisfactory. It is much to be feared that they have been tampered with, and their feelings towards the United States alienated to such an extent by the Mormons that in any difficulties with the latter a large portion of them may be found on the side of those enemies of our Government and laws. Such a state of things has been apprehended by this office for some time, as will be seen from the accompanying copies of reports upon the subject from the acting Commissioner of Indian Affairs to your predecessor in 1855.

The superintendent for California reports that universal peace prevails among the tribes throughout the State, "that not a hostile sentiment is entertained by the Indians in any portion of the State, and a general feeling of security pervades the entire white population." He further states that "the progress of the reservations is attended with as great a degree of success as could be expected or desired by the most sanguine friend of that system;" that "the Indians perform with entire willingness all the labor required;" and that "the progress they have made in acquiring a knowledge of the pursuits of industry is remarkable and in the highest degree encouraging to the friends of the system of subsisting Indians by their own labor." Among other interesting evidences of this good result, he cites the fact that at the Nome Lake reservation the wheat crop of this year, consisting of over ten thousand bushels, was entirely harvested, threshed, sacked, and hauled to the storehouse by the Indians, attended only by two white men as overseers.

An extreme drought has cut off the crop on the reservations in the southern part of the State, and additional expense may have to be incurred to save the Indians from suffering from that cause, which every effort is being made to prevent.

Five reservations in all have been established, viz: Sebastian or Tejon, Klamath, Nome Lake, Mendocino, and Fresno Farm, on which about eleven thousand two hundred and thirty-nine Indians have been colonized, and are in course of being successfully trained to habits of industry. From the representations of the superintendent, there must be a marked difference in the habits and condition of those who have settled on the reservations and those who have not yet submitted themselves to this beneficent plan for their preservation and improvement. A most reprehensible practice has prevailed to some extent in California of kidnapping Indian children and selling them for servants. This practice has been confined to a few persons, and I am happy to say that it has been condemned and discountenanced by the great mass of the people. There have, however, been some difficulties growing out of it; but energetic measures having been adopted by the Government to suppress it, and some of the parties engaged in it having been convicted and sent to the penitentiary, it is believed that there will not be a renewal of these troubles. A large number of claims have been presented for payment for supplies furnished the Indian service in California during the years 1851 and 1852, which have not been paid for want of appropriations, but which have been constantly pressed on this office. Attention was called to this matter by Commissioner Lea, on the 7th April, 1852, in a communication to the Secretary of the Interior, in which he recommended that an appropriation should be made to enable the Department to investigate the claims. On the 13th of the same month, in response to a resolution of the Senate, he renewed this recommendation, but no action was taken by Congress in reference to it until 1854, when, by the act of 29th July of that year, a special appropriation of \$183,825, with interest thereon from the 1st day of June, 1851, at the rate of ten per centum per annum, was made to pay John Charles Fremont, who was one of the claimants; Congress having thus acknowledged the validity of these claims. I beg leave to renew the recommendation of Commissioner Lea, that

they should be investigated with a view to their final settlement. As the matter stands at present, some of the commissioners are charged with large sums of money, and as they allege that they were surrounded with such a state of affairs as to make these expenditures necessary in order to avert an Indian war, and that their action did have that effect, it is proper that their conduct should be investigated, and, if found justifiable, that they should be relieved from such heavy liabilities, and have their accounts adjusted with the Government.

I would invite special attention to the report of the superintendent for Oregon and Washington, from which it appears to be manifest that our relations with the Indians in those Territories are in a very critical condition, and that under the existing state of things there is a constant liability to a general outbreak on their part from any disturbing cause, which must involve the expenditure of millions to subdue them, as well as the most lamentable loss of life and property, by the insufficiently protected white inhabitants. The non-ratification of the treaties heretofore made, to extinguish their title to the lands necessary for the occupancy and use of our citizens, seems to have produced no little disappointment, and the continued extension of our settlement into their territory, without any compensation being made to them, is a constant source of dissatisfaction and hostile feeling. They are represented as being willing to dispose of their land to the Government, and I know of no alternative to the present unsatisfactory and dangerous state of things but the adoption of early measures for the extinguishment of their title, and their colonization on properly located reservations, using and applying their consideration agreed to be allowed to them for their lands to subsist and clothe them until they can be taught and influenced to support and sustain themselves. The losses and damage to the Government and to the citizens resulting from another general outbreak on the part of these Indians would, probably, fully equal, if not exceed in amount, what would be necessary to buy out and colonize them, so that they could be effectually controlled, if not improved and civilized.

Our settlements, as well as the friendly Indians along Puget Sound and the waters of Admiralty inlet, suffer materially from the predatory incursions of the Indians from Vancouver's Island, and the other adjacent British and Russian possessions. They are an enterprising, warlike race, and generally make their expeditions by water in large boats or canoes; some of them large enough to carry a hundred men, which they propel with much swiftness. To afford the necessary protection to our people from their frequent depredations, the employment of a light-draught armed steamer in those waters, to intercept and chastise them, is essential.

Referring to the report of the superintendent for the southern superintendency, who has elaborately and ably discussed the subject in its application to the Indians of his district, I urgently repeat the recommendation of my immediate predecessor, that there be an early and complete revision and codification of all the laws relating to Indian affairs, which, from lapse of time and material changes in the location, condition, and circumstances of the most of the tribes, have become so insufficient and unsuitable as to occasion the greatest embarrassment and difficulty in conducting the business of this branch of the public service.

All of which is respectfully submitted by your obedient servant,
J. W. DENVER,
Commissioner.

Hon. JACOB THOMPSON, *Secretary of the Interior.*

Report of the Commissioner of Pensions.

PENSION OFFICE, October 19, 1857.

SIR: I have the honor to submit to you the following report of the operations of this branch of your Department for the past year. The duties with which, under your supervision and direction, it is charged, are comprised under two general heads, viz: pensions and bounty lands. Under the first, it has been customary, of late years, to confine the annual reports of its labors to the last

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preceding fiscal year; and, under the second, to the year ending the 30th of September. For convenience and readiness of comparison, I have adhered to this plan.

PENSIONS.

The accompanying table, marked A, exhibits the number of original claims for Army pensions and applications for increase of those previously granted which have been admitted during the fiscal year ending the 30th of June last, and the aggregate annual amount of the same in the several States and Territories.

Table marked B, shows the amount of arrears of pension allowed and payable at the date of allowance in the several States and Territories during the same period.

Table marked C, is a statement of the number of Army pensioners on the rolls 30th June last, in the several States and Territories, and the aggregate yearly amount of their pensions.

Table marked D, shows the amount paid for Army pensions in the several States and Territories during the last fiscal year.

Table marked E, exhibits the balance in the hands of each of the agents for paying Army pensions on the 30th June last.

Table marked F, has exclusive reference to Navy pensions, and shows—

1. The number and yearly amount of original applications and number of claims for increase of Navy pensions admitted during the last fiscal year.

2. The number of pensioners on the rolls in the several States and Territories, on the 30th June last, and the aggregate yearly amount of their pensions.

3. The amount paid for Navy pensions in the several States and Territories during the last fiscal year.

4. The balances in the hands of the several agents for paying Navy pensions, at the close of the fiscal year.

The whole number of original Army pension claims admitted during the year under the act in force, was eight hundred and seventy-two, involving the aggregate annual sum of \$64,619 03; and the number of pensions previously allowed, which have been increased, was one hundred and seventy-seven, amounting to the sum of \$8,950 48. The total amount of arrears of pensions involved in these admissions, and which were payable at the date of issuing the certificates, was \$230,501 72. The whole number of original Navy pension claims allowed during the same period was seventy-five, amounting in the aggregate to the annual sum of \$9,464 50; and the number of pensions increased was four, for the sum of \$121 25. The aggregate sum of the arrears due and payable at the time of issuing the certificates, was \$10,833 68. The total amount paid for Army and Navy pensions at the several agencies during the past fiscal year, was \$1,365,717 54. The whole number of pensioners on the various rolls on the 30th June was thirteen thousand one hundred and eighty-six, whose annual pensions amounted to the sum of \$1,136,386 50.

The sum of the balances in the hands of the paying agents on the 30th of June last was \$174,346 08, being \$53,754 03 less than at the close of the preceding fiscal year. This results from the care taken to prevent the undue accumulation of funds in the hands of the agents by unnecessarily large advances to them.

Of the \$230,501 72 arrears in virtue of Army pensions admitted during the last fiscal year, the sum of \$19,658 was allowed under acts granting invalid pensions; \$52,162 59, under the acts of 15th May, 1828, and 7th June, 1832, granting pensions to revolutionary soldiers; \$125,682 93 under the several acts granting pensions to the widows of revolutionary soldiers; and \$32,998 20 to the widows and minor children of deceased officers and soldiers who have been pensioned for service subsequent to the revolutionary war.

The first act of general application, granting pensions for revolutionary services, was that passed on the 18th of March, 1818, which gave a pension to all officers, non-commissioned officers, privates, musicians, mariners, and marines, who had served in the *Continental Army or Navy* to the close of the war, or for a period of nine consecutive months—an allowance to commis-

sioned officers of twenty dollars, and to non-commissioned officers, privates, &c., of eight dollars per month, "if, from reduced circumstances, they should be in need of assistance from the country for support." The amount paid out under this act, to the 30th of June last, was, in round numbers, \$22,320,000.

The next in the series of revolutionary pension acts was that of 15th of May, 1828, which, without qualification as to property, gave, in effect, to all officers and soldiers who served in the *continental* line of the Army to the close of the war, or, in the case of officers, if they became supernumerary, the amount of their full pay in said line, not to exceed in any case, however, the pay of a captain in the line. Under this act, the amount paid to 30th of June last was \$2,601,000.

Then came the more comprehensive act of 7th of June, 1832. The provisions of this act embraced all persons who had been engaged, in a military capacity, in the revolutionary war, whether in the militia, State troops, the navies of the several States, or in the *continental* line, provided the term or terms of service aggregately amounted to as much as six months—a service of two years entitling the party to the full pay of his grade, and a shorter period of service to a proportionate allowance. The amount expended under this act, to 30th of June last, was \$18,090,960.

Then followed a series of acts granting pensions to the widows of revolutionary soldiers.

The first of these acts—that approved 4th July, 1836—granted for life to widows of revolutionary soldiers the same amount of pension their husbands would have been entitled to receive under the provisions of the act of 7th June, 1832, provided their marriage had taken place prior to the expiration of the last period of their husband's service. The amount paid out under this act, to 30th June last, was \$6,183,581.

The act of 7th July, 1838, granted to those widows whose marriage took place subsequent to the expiration of the last period of their husband's service, but prior to the 1st of January, 1794, a like amount of pension, but for five years only. These pensions were renewed for a further period of five years, by the acts of 3d March, 1843, and 17th June, 1844. The amount expended under these three acts was \$7,045,317.

By the act approved February 2, 1848, the class of pensions created by the act of July 7, 1838, was placed upon the same footing as to duration as the class provided for by the act of 4th July, 1836, viz: for life; and by the act of 29th July, 1848, like provision was made for those widows whose marriage took place at any time prior to the year 1800. The amount paid under these two acts up to 30th June last was \$3,275,166.

The last of this series of widows' acts, as they are called, is that of February 3, 1853, which created still another class of pensioners, viz: those widows of revolutionary soldiers who had been married at any time subsequent to the year 1800; and under this law there had been paid, to 30th June last, the sum of \$1,798,596.

It will be perceived that, under the acts enumerated, upwards of sixty-one million dollars in pensions have been paid on account of revolutionary services, either to the soldiers themselves, their widows, or their representatives.

You have recently decided, in accordance with the legal views of the Attorney General, that the practice which has heretofore prevailed—but not wholly without interruption or question as to its legality—of permitting the children or other representatives of such deceased persons as might have got themselves placed upon the pension rolls, to present and establish such claims, and receive the pensions the soldiers or their widows might have enjoyed during their lives, was without warrant of law; and, by your direction, the practice has been discontinued. What portion of the vast amount above stated was paid to others than the soldiers and their widows could only be ascertained by an examination of all the numerous claims heretofore admitted. This would involve a length of time and amount of labor which would not be justified by any practical result to be obtained. In order, however, that some idea might be formed on the subject, I caused a partial examination to be made, and found, of the aggregate amount of arrears allowed and paid during

the fiscal year ending June 30, 1856, under all the acts granting pensions to the widows of revolutionary soldiers, (excepting the act of 3d February, 1853,) one half was allowed after their decease, and paid to their representatives; and that, of the \$232,498 96 allowed and paid under the acts of 15th May, 1828, and 7th June, 1832, as arrears during the four years intervening between the 1st July, 1853, and 30th June, 1857, \$199,454 03 (being about six sevenths of the whole amount) was paid to the representatives of deceased soldiers.

Although these facts do not furnish correct data by which to arrive at the proportion paid at earlier dates under the pension laws to revolutionary men and their widows on the one hand, and to their representatives on the other, still they conclusively show that a very large amount has heretofore been paid the latter. At this late day, but few, if any, valid original claims can be presented by revolutionary soldiers or their widows, except those widows of the class provided for by the act of 1853. If, therefore, the practice of permitting the representatives of those parties to establish and recover such claims should be legalized, they would become, in future adjustments of pensions, with but a fractional abatement, the sole recipients of the bounty granted by Congress to the beneficiaries designated in the various pension laws as the proper objects of the beneficence of the nation.

In view of the possibility that the practice in question may be revived by law, and extended so as to entitle grandchildren or other representatives where no children of the soldiers or their widows survive, I deem it proper to state, in advance, that not even an approximate estimate could be made of the additional amount which would be required under it, as the office could have no information as to the number of cases outstanding, and which have not been presented in any form because of the well-known fact of the exclusion of representatives other than children, by the rules of the Department, from any benefits under the pension laws.

When it is considered that the large amount herein shown to have been paid out by the United States in the form of pensions on account of revolutionary services, is exclusive of the disbursements made to revolutionary invalids; of the pensions granted by private acts and paid out of special appropriations; that it is exclusive of the amount paid to the officers of the Revolution as commutation in lieu of half pay for life, (estimated to have been \$5,000,000,) and of the amount paid under the provisions of the act of July 5, 1832, by which the United States assumed the obligations incurred by Virginia to a portion of her State troops; that it is exclusive also of land bounty provided by the United States, and of pensions as well as land bounty provided by the several States; and exclusive, as matter of course, of all sums which will hereafter be paid to pensioners now on the rolls and to those who may hereafter be placed thereon, it can no longer be justly charged that the Government has been unmindful of its obligations towards those patriotic men of the past who willingly sacrificed, in their country's cause, everything but their honor.

Attention has frequently, and in various ways, been invited to the discriminations between the invalid and half-pay pensions provided for the Army, and those for the Navy, whether as regards the rates, the conditions under which granted, or their duration. For instance: in cases of total disability, the highest rates of pension are, in the Army, \$30 per month; in the Navy, \$50. The lowest rates for the same are, in the Army, \$8 per month; in the Navy, \$3; and in the marine corps, \$3 50. Can any just reason exist for these discriminations against the higher grades of the Army, and the lower grades of the Navy and the marine corps?

But as regards the half-pay pensions to widows and orphans, the inequalities are still more striking, as well as more numerous. As an illustration: Two officers, or others, one of the Army, the other of the Navy, die whilst in the service. The widow of the latter only is pensioned, because in Navy cases it is sufficient if the husband shall have died of wounds or disease incurred in the service, and in the line of duty; whereas, in

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the Army cases, death must not only have resulted from the same causes, but such causes must have originated in time of war. On the other hand; the death of the Navy officer must have occurred in the service, while, as to the Army claimant, it is immaterial whether the death occurred in or out of the service. Again, as to the duration of half-pay pensions: Army pensions to widows are for the term of five years, renewable for a second term of five years. If terminated by marriage, the right thereto is revived by subsequent widowhood. Navy pensions to widows are during life or widowhood; and if terminated by marriage, are not renewable upon recurrence of widowhood.

These discriminations are obviously unjust, and ought to be removed; and the pension system so modified as to make equal provision for the officers and men of both arms of the service, (having proper regard to their relative rank,) and for their widows and orphans.

I would also particularly invite your attention to the insufficiency of the lower grades of pension to afford, what was doubtless the benevolent intention of Congress, the means of support. It cannot be supposed, for example, that \$3 50 per month would support either an invalid totally disabled, or a widow; especially should she have, as is often the case, helpless children depending upon her; and as disability is the meritorious ground of claim upon the country for assistance, the relief afforded should commence and end with the disability, and be subject to corresponding mutations, and be increased or diminished accordingly; but no person holding a Federal office, or in the receipt of a regular salary, should be allowed at the same time to draw pension as an invalid; nor should any officer, &c., of the Army or Navy be permitted to draw a pension whilst in the service and in the receipt of pay equal to that of the rank held at the time of becoming disabled.

BOUNTY LAND.

The several acts of Congress granting bounty lands to certain of the officers and soldiers of the Revolution, of the war of 1812, the war with Mexico, and the various Indian wars since 1790, which were passed prior to that of 3d March, 1855, had then been so nearly executed that it seems useless longer to recapitulate the annual operations of the office under them.

On the 30th September, 1856, the number of bounty land claims on the files, under the act of 3d March, 1855, which had been examined and suspended, and were awaiting explanation or additional evidence, and, therefore, constantly liable to be called up for reexamination with a view to their admission, or to answer inquiries relating thereto, was..... 43,740

The number then in the office, or in the various offices where the rolls are kept, and which had never been examined, was..... 41,449

The number of claims received at the office, registered and referred during the year ending 30th September, 1857, was..... 23,600

Making the whole number of claims before the office during the last year..... 108,789

During the year 41,483 warrants have been issued, requiring to satisfy them 5,952,160 acres of the public domain, as follows:

29,314 warrants for 160 acres each, requiring 4,690,240 acres.	
7,302 " " 120 " " " 876,240 "	
4,764 " " 80 " " " 381,120 "	
13 " " 60 " " " 780 "	
87 " " 40 " " " 3,480 "	
3 " " 100 " " " 300 "	
41,483	5,952,160 acres.

The number of claims on the suspended files on the 30th of September last, was 59,190; so that, at that time, the whole number of claims in the different offices where the rolls are kept, and those undergoing some of the various processes in this office prior to final action, was 8,116.

The quantity of land granted under operation of all the bounty land laws of the United States, to the 30th September last, is as follows:

REVOLUTIONARY WAR.

2,955 warrants to the commissioned officers of the continental lines of the revolutionary army, for quantities varying from 150 to 1,100 acres, and being, in the aggregate.....	828,520 acres.
12,636 warrants to the non-commissioned officers, &c., of the revolutionary war, for 100 acres each, making..	1,263,600 "

War of 1812.

28,069 warrants to the non-commissioned officers, &c., for 160 acres each, making.....	4,491,040 "
1 warrant under a special act, for..	480 "
1,102 warrants under the act of December 10, 1814, for double bounty, or 320 acres each, making.....	352,640 "
276 warrants to commissioned and non-commissioned Canadian officers, for, in all.....	75,792 "

Mexican War.

80,181 warrants to non-commissioned officers, &c., for 160 acres each, making.....	12,828,960 "
7,534 warrants for 40 acres each, making.....	301,360 "
Under act 28th September, 1850, and amendatory act of 22d March, 1852.	
200,973 warrants of all denominations, calling for the aggregate quantity of..	13,848,880 "
Under act of 3d March, 1855, and amendatory act of 14th May, 1856.	
214,394 warrants, covering, in the aggregate.....	26,710,670 "
Making the entire quantity of public land donated by the United States for military service.....	60,704,942 "

During the past year ten persons have been convicted, and are now undergoing punishment, for the presentation to this office of false and forged bounty land claims, for the purpose of defrauding the United States. Others are under indictments yet pending; and there are several others against whom the evidence of guilt was so conclusive that steps have been taken for their arrest. The quantity of land involved in these fraudulent applications is about sixty-three thousand acres, all of which will doubtless be saved to the Government by the timely entry of caveats against the issuing of patents in cases where warrants had issued before the frauds were discovered. But while the office has been fortunate enough in most cases to detect the fraud in time to prevent loss to the United States, it has not always been able to do so in time to institute the proper judicial proceedings within the period of two years fixed by the statute of limitation. If any change in the statute of limitations, in respect to frauds or offenses generally, be repugnant to justice or sound policy, it is, nevertheless, respectfully suggested whether the ease with which frauds may be perpetrated against this office, and the difficulty attending the collection of the proofs, should not constitute an exception to the general policy.

There is another class of frauds, but for which, it has been decided in the United States circuit court in the State of Ohio, punishment cannot be inflicted under existing laws, viz: the imitation or counterfeiting of bounty-land warrants or certificates. The office is aware of recent attempts to renew this kind of imposition, but to what extent, or with what success, is not known. The attention of Congress was invited to this subject by your immediate predecessor; but no remedy for the evil having been provided, it is thus brought to your notice for such further action as you may deem necessary and proper.

The labors of the office under this head during the past year do not compare favorably with those of the preceding year, if we look alone at the number of bounty land claims received and warrants issued. It should, however, be borne in mind that the reexamination of suspended claims involves greater care and more patient investigation than original or new claims do; that with the lapse of time since the passage of the act, the impatience of parties to learn the fate of their claims increases the number of inquiries to be answered by letter and otherwise; that a considerable portion of the clerical force of the office is now engaged in reexamining and correcting the old temporary registers, and in the preparation of new and permanent ones; and that, withal, the number of clerks employed was reduced during the first six months of the year from one hundred and thirty-five to eighty-seven, and the expenditures on account of clerk hire from \$195,640 to \$129,240, besides material reductions in the contingent expenses.

The business of the office is generally as nearly up to date in its various branches as its nature will permit.

I cannot, with justice, close this report without bearing willing testimony to the fidelity and zeal

manifested by the officers connected with this bureau, in the discharge of their various duties.

I have the honor to be, with great respect, your obedient servant, GEO. C. WHITING,

Commissioner.

Hon. JACOB THOMPSON, Secretary of the Interior.

Report of the Commissioner of Public Buildings.

OFFICE COMMISSIONER PUBLIC BUILDINGS, October 15, 1857.

SIR: I am required by the fifteenth section of the civil and diplomatic act approved August 4, 1854, to report to you annually the operations of this office, and the manner of applying the appropriations to be disbursed under its direction, in time to accompany the President's message to Congress, and I now respectfully proceed to discharge this duty.

In addition to the usual annual repairs of the Capitol, I have been obliged to repair the heavy damage it sustained from the great hail-storm that occurred on the 21st of June. Every skylight in the building was broken, not only the exterior, but the costly interior glass; and the copper roof was materially injured. The roof also unavoidably suffers much damage from the work going on in rebuilding the dome, but by carefully watching it, and making repairs as soon as needed, I think it can be preserved from leaking. I have also caused such portions of the wood and iron work about the Capitol as was likely to be injured from exposure to the weather to be repaired. The chandeliers in the Senate Chamber and Hall of Representatives, which had become much defaced and out of order from long use, have been thoroughly repaired and renovated, and all the gas fittings throughout the building are now in good condition. The annoyance occasioned by the frost in the winter and spring of 1856, in frequently preventing half the lamps from burning, induced me to send an agent last fall to the northern cities to inquire into the manner of lighting, and the means of preventing the troubles which were the source of so much complaint in this city. His inquiries resulted in the ascertainment of much interesting and useful information in regard to the whole subject of gas lighting. He was enabled to apply an effectual remedy to the evils of which we complained, and ever since there has been no interruption to the lights from the effects of frost. The roof of the President's house has also suffered much damage from the hail-storm. The copper was perforated in many places, and the joints generally loosened. The consequence was, the roof had to be overhauled, thoroughly repaired, and painted. This involved a considerable expenditure, which was not taken into account in preparing my estimate for the usual annual repairs of the house and grounds.

The green-houses in the President's garden were likewise very much damaged by the hail: more than five thousand panes of glass were destroyed.

The ceiling of the east room and the wood-work of the principal stories have been appropriately painted. Many other improvements have been made in and about the building, which were absolutely necessary, and with which it would not be proper to lumber this report. I will, however, mention that a ventilating flue was built from the basement to the upper story, which has evidently produced a great improvement in the atmosphere of the house, which before was pent up and damp whenever the windows were closed for a few hours.

The new stable for the President's house has been erected, and is ready for use. A conservatory has been built on the west terrace, and is so near completion that in a few days the plants may be transferred to it. The President's house, as is well known, is in a very unhealthy location. Its inmates are subject to intermittent fever, which of late years has proved obstinate and difficult of cure. The knowledge of this fact has frequently elicited the suggestion that a country residence, convenient to the city, ought to be provided for the President, where he could take up his abode during the sickly months of summer and fall.

A new building in some other part of the city

would doubtless obviate the objection to the present location, but none so central and convenient could be found. The cost of a summer residence for the President would be inconsiderable in comparison with the object desired to be attained.

The frequent and heavy rains with which the city has been visited during the past summer operated very much to retard work of every description. There were often days together when nothing could be done, either from the constant fall of rain or from its effect upon materials which rendered them unfit to be worked. The out-door works, such as grading streets and public grounds, were very much damaged by the rains, which added considerably to their cost. Since the weather has become more settled, the various works in progress have been urged forward with the utmost speed consistent with a due regard to stability, and much more has been accomplished than could reasonably have been anticipated from the unfavorable circumstances that attended the greater portion of the working season.

The following works, which were stated in my last report to be then in progress, have been finished, viz: the repairs, improvements, and extension of the seed-room and green-house in the botanic garden; the grading and improvement of the mall, between Twelfth and Fourteenth streets; the trapping of the mouths of the sewers on Pennsylvania avenue; the extension of the culvert on Indiana avenue, and the alteration of the District court-room. In regard to the sewer traps, it affords me pleasure to inform you that they answer the purpose admirably for which they were intended. Before they were constructed, the offensive odor that arose from the sewers was a constant source of complaint, but now not the slightest unpleasant smell escapes from them. The traps ought to be frequently cleaned out, and especially as there is no ordinance of the city to prevent the litter of the stores, such as paper, straw, and the like, from being swept into the gutters, which is soon floated by the slightest stream of water into the cylinders of the traps, and collecting and becoming impacted prevents the water from flowing freely through them. A very small appropriation would keep them unobstructed.

An addition to the green-house in the botanic garden has been erected in conformity with the adopted plan of the building, and is supplied with water from the Capitol, in pipes, as provided for by an appropriation of the last session of Congress. Two additional propagating houses have also been built.

A lot was purchased last fall on which to erect an engine-house for the Franklin Fire Company, but possession could not be obtained until the spring. A large, commodious, and substantial building has been reared upon it, which, in a few days, will be turned over to the company.

New Jersey avenue has been graded and graveled from D to I streets, and the curb set and the gutter paved on the west side of it. From I street to New York avenue it has been graded, and fifty feet in the center graveled. It will be necessary to curb and gutter the whole length of the avenue, on both sides, to prevent its being washed by the rains. This was not included in the estimate submitted to Congress. More than was contemplated has been accomplished by the appropriation.

The work for continuing the improvement of the mall is now progressing rapidly in that portion of it on which the armory is situated. I am in hopes of having the grading finished by the termination of the working season. The plan that has been adopted harmonizes with the object for which the armory was erected, and will doubtless add very much to the appearance of the mall, which is destined to be one of the most interesting features in the plan of the city.

The footway on the south side of Lafayette square has been taken up, under-drained, and relaid. Lamp-posts and lamps have been set upon the three sides of the square which have not been heretofore lighted, and they show the square to great advantage. As an evidence of the favor in which Lafayette square is held by the public, it is only necessary to direct attention to the crowds that visit it on every fair evening.

All the footways across Pennsylvania avenue, which were very much broken, and in many of

them whole pieces of the flagging were removed, have been repaired. Workmen have been for some time and are still engaged in repairing the carriage-way. It is difficult to keep the avenue in good condition, as the cobble-stones of which it is paved are easily started from their beds by the momentum of the heavy vehicles that run over them.

Congress at the last session made an appropriation of \$5,000 for repaving Pennsylvania avenue, at the intersection of Seventh street, on the plan known as "Belgian pavement," and one thousand square yards of the avenue have been paved with that description of pavement, at an expense of five dollars per yard. It was intended as an experiment. The part of the avenue selected subjected the experiment to the severest test, as it is more traveled over by heavy vehicles than any other portion of the avenue or any other street. The pavement was laid in June, and up to the present time it remains firm and compact, and I have not the slightest doubt of its durability. It is claimed for the Belgian pavement that it is as durable as any other, and possesses great advantages over all others. The Russ pavement in New York is said to have proved a failure; it soon wears smooth, and becomes so slippery that horses in traveling upon it frequently fall, and in wet weather they can scarcely be kept upon their feet with every possible care. The Russ pavement is laid upon a concrete bottom, which prevents any drainage except such as is conveyed off by the gutters, and the consequence is, the evaporation from the surface frequently occasions very offensive effluvia. Another great objection to the Russ pavement is the difficulty of removing it, when necessary to open it for laying pipe or other purposes, and the still greater difficulty of replacing it in anything like the condition in which it was before disturbed.

Iron pavements are represented to be very injurious to the feet of horses. They are dusty in dry and dirty in wet weather, owing to the space between the prongs being filled with earth. I understand that it is necessary to file them frequently.

None of the objections that exist against the Russ and iron pavements can be urged against the Belgian pavement. The rock of which it is constructed is broken in size adapted to the feet of horses, which affords them a firm foot-hold without injury, and does not wear smooth. It is laid in sand, can easily be removed and readjusted when necessary to open the street, is thoroughly drained, free from everything offensive, and perfectly clean. So far as my information extends, I believe it is much cheaper than either the Russ or iron pavements. If it should be determined to repave Pennsylvania avenue, I do not think as good a pavement could be selected for the purpose as the Belgian.

The flagging of the main entrance to the Congressional burying ground has been finished as far as the Government vault. The estimate was made for flagging the whole avenue, but by some inadvertence in wording the appropriation it was made to stop at the vault. Doubtless Congress will rectify the mistake by authorizing the balance of the appropriation to be applied in extending the flagging the whole length of the avenue, as was originally intended.

The appropriation for erecting a bridge across the canal in a line with Maine avenue, has not been used, as the language of the appropriation requires a double track to be made, which would seem to indicate that it was a bridge intended to be for the accommodation of carriages and other vehicles. The canal forms the eastern terminus of Maine avenue, and as Canal street is only forty feet wide, a sufficient elevation could not be given to the bridge to allow of the passage of boats under, and of vehicles over it. The appropriation might be usefully applied to the erection of a foot bridge, and I incline strongly to the opinion that Congress intended it for that purpose, as the slightest examination of the location will render it obvious that no other description of bridge is practicable.

The central avenue in the botanic garden, and the walks leading from it to Maine and Missouri avenues, will be paved with flagging, as provided for by an appropriation of the last session of

Congress, on or before the first of next month, unless prevented by unfavorable weather or some disappointment not now anticipated.

The injury sustained by the Potomac bridge from the tremendous and unusual flood of ice at the breaking up of the last winter, was well nigh putting an end to that means of communication between the two shores. Several sections were swept away entirely, and most of what was left was so much damaged that it was a matter of surprise the whole had not been carried off. The interruption of this medium of intercourse between the District and Virginia shores was immediately felt in the markets of the city by a diminution of supplies and an enhancement of prices. The difficulty and expense of reaching the city through other channels of communication not only deprived the producers, who have to cross the river, of the benefit of the increased price of products, but actually reduced the profits on the products of their labor so low as scarcely to make it an object for them to come to market. This state of things was regarded by the citizens of Washington and Alexandria county as a great grievance, and they earnestly appealed to you to remedy it, by directing me to use such means as might be applicable to the object for the immediate reestablishment of travel across the bridge. In view of the action of Congress at the last session, which was fully apprised of the condition of the bridge and failed to make an appropriation for the reconstruction of the portion that had been carried away, and of the doubt that was entertained as to the sufficiency of the usual appropriation for casual repairs to place it in anything like a safe and permanent traveling condition, you decided that it would not be advisable in me to attempt to repair it in its then condition.

The Corporation of Washington, finding that the Government would not undertake to repair the bridge, and yielding to the demands of public sentiment, made an appropriation to reconstruct it, at least so far as to reestablish communication between the shores, to be expended under the direction of the Mayor and a committee of one member from each board of the city councils. The breaches in the bridge were accordingly closed, and other portions of the structure strengthened, so as to allow of the usual travel over it. I did not consider it my duty to interpose any obstacle to the accomplishment of the object the corporation had in view, and therefore made no attempt to arrest the work; but as soon as the bridge was thrown open to public travel, and I was notified by the Mayor that he had withdrawn his workmen, it then became necessary for me to resume charge of it, and to make such additional repairs as were deemed important to render it perfectly safe.

Congress, at the last session, refused to make the usual appropriation for paying the draw-keepers of the bridge, which imposed upon me the necessity of assuming the responsibility of employing them, as otherwise the navigation of the river above the bridge would have been closed to vessels destined for the port of Georgetown and that portion of the canal that passes through the city. The great inconvenience and loss which the public suffered from the interruption of travel over the bridge demonstrates the importance of keeping up the present structure until a new bridge shall have been erected.

The Navy-Yard bridge was also very much injured by ice, which has been repaired in as substantial a manner as it would admit of, having been originally built of bad materials, and in a very slight manner. The bridge requires new piles from one end to the other, as there is scarcely a sound one in the whole fabric. There are two short roads connected with this bridge, which were made by the company from which the Government purchased it, and they were a part of the appurtenances of the bridge. For several years after the purchase, they were kept in repair by the Commissioner of Public Buildings, and the expense was paid out of the appropriation for the repairs of bridges. It was, however, a few years since decided that no part of the appropriation could be applied for that purpose, and that it must be confined to objects within the plain meaning of its language. The levy court of the county declined exercising jurisdiction over the roads, as they belong to the Government; and the conse-

35TH CONG....1ST SESS.

Report of the Commissioner of Public Buildings.

SENATE & HO. OF REPS.

quence has been, they are now in such bad condition that it is with the utmost difficulty they can be traveled. It is due to the public who travel across the bridge that these roads should be repaired by some authority or other. My own opinion is, that they should be placed under the control of the levy court, which has jurisdiction over all the other highways of the county. It would not be just, though, to saddle the county with them in their present condition; and I would, therefore, respectfully recommend that an appropriation be made sufficient to put them in first rate order, which shall be paid to the levy court on condition that the court agree to take charge of them, and forever keep them in repair.

The Anacostia bridge is in good condition. The usual annual repairs will, without an accident, preserve it sound for many years.

The grading of Judiciary square has progressed as far as was contemplated by the appropriation for that purpose, but much still remains to be done before the grading is completed. I, however, think the work, preparatory to ornamenting the square, has proceeded to such an extent that due notice ought now to be given the Corporation of Washington to remove the school-house standing upon it, and I the more incline to this opinion as opportunity ought to be afforded for the erection of another building for the accommodation of the school before it is deprived of the use of the one now in its occupancy.

Eighty-one lamps have been set up in Georgetown, and are now regularly lighted with the other lamps of the town. They give great satisfaction, and are duly appreciated as an evidence of the kind interest which the Government takes in the town. The appropriation was not sufficiently large to allow of as many lamps being put up as would fully light the streets. Thirty lamps more would accomplish that object, which will cost \$810, all complete. It is no fault of mine that the appropriation was not large enough, as I was not called upon for an estimate. The information was derived from other sources, usually very reliable, but in this instance incorrect. I carefully regarded in my expenditures the restriction of the proviso to the clause making the appropriation. The lamp-posts and lamps cost considerably less than those on Pennsylvania avenue, and I pay the same price for the gas consumed by them.

The west wing of the Patent Office building, with the exception of the saloon, which will soon be finished, has been completed, and is now occupied. The portico has also been erected. It affords me pleasure to assure you that the whole work of this wing has been constructed in the most substantial and satisfactory manner, and that great credit is due to Mr. Clark, the architect, for the intelligent and vigilant superintendence he has exercised over it. In order to overcome, in some measure, the great depression in the square at the corner of F and Ninth streets, it will be necessary, in laying the pavement on Ninth street, to set the curb as high as possible, consistent with the proper grade of the street. This will devolve upon us the necessity of filling up Ninth street at least two feet, which will not, however, raise it above the established grade.

Contracts have been made for the granite and marble work of the north front of the building. The sub-basement has been set, and workmen are now engaged in preparing the granite and marble, so as to be ready to take advantage of the earliest opening of spring to press forward the building. We hope, at the close of the next session, to make a handsome show of the amount of work that has been done.

The floods occasioned by the heavy rains of the past summer have proved that the plan adopted for the protection of the botanic garden against the violence of Tiber creek was ineffectual. The walls of the creek having been laid dry on foundations not sufficiently deep and solid, the water percolated them, and, washing out the earth from behind and beneath them, they were in many places thrown down. The work ought to be reconstructed on a timber foundation similar to that under the culvert across Indiana avenue, which should extend from Pennsylvania avenue to the canal, and, instead of dry walls, they should be laid in full cement. The plan I most approve

would be to raise the walls two feet above high water mark, from which a very flat slope, well sodded, should extend to the general surface of the grounds. This plan would afford a larger bed for the stream when swollen, diminish its force, and lessen the chances of its doing mischief, and it would unquestionably present a much more elegant appearance than the present one.

I beg leave to renew the recommendations contained in my last report for the improvement of Franklin square, of the triangular spaces formed by the intersection of New York and Massachusetts avenues and Tenth and Twelfth streets, of the triangular spaces on Pennsylvania avenue between Eighteenth and Nineteenth streets, and of the space on the south side of Pennsylvania avenue between Twentieth and Twenty-first streets; the grading of North Capitol street, of Sixteenth street west, and of Delaware avenue; the removal of the naval monument from the Capitol grounds; the purchase of a lot, and the erection of a house for the keeper of the upper Eastern Branch bridge, and the reorganization of this office.

East Capitol street is directly in front of the center building of the Capitol, and in stepping on the portico it immediately arrests attention. It should be graded and graveled. This improvement is not only required for public convenience, but is necessary to give the Capitol proper effect in approaching it from that direction, and to present a fine vista in looking out from its main portico.

Boundary street extends from Rock creek to the Anacostia, around the entire northern portion of the city. The remainder of the city is bounded by water courses. All of the large avenues run out to Boundary street, with the exception of Pennsylvania and Virginia avenues. It is skirted nearly its whole length by beautiful groves of forest trees, and if opened and graveled, would make a pleasant ride around the city, which is at present very much wanted.

As it was doubtless intended for the benefit of all residents and sojourners in the city, and cannot be of any special advantage to those who live in its immediate vicinity, it would seem that Boundary street is one of those that present peculiar claims to the favorable consideration and liberality of the Government.

The Supreme Court of the United States has decided that the fee simple to all the avenues and streets in the city is in the Government. The aggregate length of the streets is one hundred and ninety-nine miles, and of the avenues sixty-five miles. The city has taken upon itself to open and grade the streets under authority given to it by the Government, but is unwilling to do anything to the avenues, unless absolutely necessary for public convenience, and Congress will not make provision for them. This unwillingness proceeds from a want of ample means, and a strong conviction that the Government is bound in justice, as its share, to construct the avenues. Most of the streets have been opened and graded, and the work is prosecuted as fast as the revenue of the city will justify, but still it lags far behind the march of the improvements.

Massachusetts, New York, New Jersey, Pennsylvania, and Maryland, are the only important avenues that have been opened and graded, and they only partially so.

The grand jury having repeatedly condemned the jail as unsafe and in all respects unsuited for the purposes of a prison, the Interior Department was called upon by the Senate for estimates and a plan for such a building as would meet the demands of the public. A plan was accordingly prepared with great care and submitted at the last session of Congress. The estimated cost of erecting the building was \$150,000. There was, however, no definite action had upon the subject.

The present jail is situated on Judiciary square, in the very heart of the city, which is certainly a most improper location for a prison.

The judges of the several courts of this District, and the members of the bar, addressed a communication to your predecessor setting forth the great want of suitable accommodations for the criminal court and the important records of the clerk's office, and earnestly requesting him to bring the matter to the attention of Congress. Their re-

quest was complied with, and a plan was prepared for the extension of the court-house portion of the City Hall in harmony with the general plan of the building, the cost of which, including furniture, heating apparatus, inclosure, &c., was estimated at \$30,000.

The orphan's court and the office of register of wills occupy very contracted and inadequate rooms in the city's portion of the same building. If the extension of the building should be made, which I think is very necessary, suitable provision can be made in it for the accommodation of the orphan's court and register of wills.

I ask your attention to the fifteenth section of the city charter, approved May 15, 1820, and the twelfth section of the amended charter, approved May 17, 1848. You will perceive that they require of me to make certain improvements, and to pay the expense of the same out of the proceeds of the sales of city lots belonging to the Government. All the Government lots that could command a purchaser have been sold. The few remaining lots are so situated that they would not bring their very low assessed nominal value. I could not, when recently offered at public sale, obtain a purchaser for them at any price.

The improvements provided for in the sections to which I have asked your attention are indispensable, and as the source from which the means to pay for them were to flow has dried up, it strikes me that there is no alternative but for the Government to make a small annual appropriation for the purpose.

The great nuisance heretofore complained of as occasioned by the Center market-house, has in some respects been mitigated. Commodious sheds have been erected in the rear of the market-house, on Canal street, for the accommodation of vendors, and consequently, the misshapen shanties which used to disfigure Pennsylvania avenue have been removed. Wagons and other vehicles which attend market, are no longer permitted to occupy and obstruct the avenue, and it is now free of the litter they produce, which, for a series of years, had been complained of as an abominable nuisance. But the old white-washed, moss-covered market-house still remains to mar the beauty of the avenue, and to excite the wonder of strangers that such an unsightly building should be permitted to occupy so conspicuous a position. Unless the corporation shall soon make provision to have it taken down, and to erect in its stead some more appropriate and imposing building, the Government ought, in my opinion, to resume control of the reservation, and not suffer it any longer to be occupied as a market-place.

The time is at hand when the work of extending the Capitol grounds ought to be commenced. The extent to which they should be enlarged is a matter for Congress to determine, and, therefore, it does not become me to express any preference between the various plans that have been suggested. I may, however, be permitted to express a hope that some plan will be adopted in the early part of the approaching session, and an appropriation made to carry it out, so that the work may be commenced as soon as the spring opens.

It is well known that great numbers of strangers are attracted to this city in pursuit of different objects. Many of them are taken sick, and not a few are destitute of the means of procuring the necessities of life and medical treatment. It would be unjust for the city to be saddled with the expense of taking care of this class of persons. To provide for its own destitute sick is as much as can be expected of it. Congress, actuated by a humane and benevolent spirit, annually makes an appropriation for the admission of eighteen sick non-resident paupers in the Washington Infirmary, where they are well provided with every necessary comfort, good nurses and skillful physicians. It will be perceived, on reference to the report of the resident physician, hereto appended, that during the year ending the 30th of June last, one hundred and nineteen patients were medically treated in this institution on the charity of the Government, of which number eighty-nine were discharged as cured or improved, only eleven died, and nineteen still remained under treatment. It is useless to make any comments upon this report. It tells for itself of the great amount of human suffering relieved and of human life preserved.

This field of benevolence might be greatly enlarged by an increased appropriation, as I have vastly many more applications for admission than the number I have a right to send to the Infirmary. Judging from the favor with which this charity has heretofore been regarded by Congress, I have every reason to believe that the sphere of its usefulness will be cheerfully extended.

The drainage of the city is mainly accomplished above ground, and the consequence is, the streets are overflowed whenever there is a heavy fall of rain, from the incapacity of the gutters to receive and carry off the vast quantity of water that seeks an outlet through them. It is almost impossible to keep streets clean that are subject to be overflowed; and the sediment which is left in them when the water passes off soon becomes offensive to the smell on exposure to the sun. The fact is well established, that countries liable to inundation are generally sickly, owing to the alluvial deposits; and the same cause might reasonably be expected to produce disease in cities. Washington, however, seems to be an exception to the rule of induction; for, notwithstanding the frequent overflow of the streets from heavy rains, medical statistics prove beyond a doubt that it is one of the healthiest cities in the country. To obviate the inconvenience resulting from the overflowing of the streets, and to prevent the possibility of sickness arising from this cause, a judicious system of sewerage should be adopted and carried into effect. In most of our large cities great attention has been bestowed upon the arrangement and construction of sewers, and they have reaped the benefit of them in the purification of the atmosphere, and a corresponding improvement in health. The Government has constructed several large sewers in this city, and the corporation a like number, but still there is a great deficiency for the wants of the city. What has already been done in the way of sewerage is but the beginning of what is needed, and speedy attention should be given to the subject, not only for sanitary purposes, but to provide for the disposal of the greatly increased quantity of water that will be used for bathing, washing pavements, cleaning streets, and other similar objects, when the aqueduct shall have been finished, and shall introduce into the city an abundant supply from the Great Falls of the Potomac.

To construct the necessary sewerage will require a large outlay of money, and considering the interest the United States have in property in the city, it may be deemed but just that the Government should bear a fair proportion of the expense. It is important that Congress should take this matter into consideration at the approaching session, and provide in some way for its accomplishment.

I hereto append a statement of receipts and expenditures for the fiscal year ending June 30, 1857.

Very respectfully, your obedient servant,

JNO. B. BLAKE, *Commissioner.*

Hon. JACOB THOMPSON, *Secretary of the Interior.*

Report of Lieutenant General Scott.

HEADQUARTERS OF THE ARMY,
NEW YORK, Nov. 20, 1857.

Sir: As the immediate commander of the army, under the President, I have the honor to submit the usual annual report on its general condition and wants.

Our regiments, horse and foot, including artillery, (serving mostly as infantry,) are, as I have remarked in former reports, anything but a peace establishment. For years they have been almost constantly in pursuit of hostile Indians, through swamps and mountains, in heats and snows, and with no inconsiderable loss of life from frequent combats, and a still greater mortality from excessive labor, deprivation and disease. In other wars those hardships are occasionally broken by rest and comfort, now long unknown to nine tenths of our troops; and hence another great evil—the numerous desertions which daily thin their ranks.

As a partial illustration of the extraordinary
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activity and sufferings I have spoken of, I beg leave to annex copies of two of my orders—Nos. 4 and 14—of the present year.

To mitigate those evils, and to enable us to give a reasonable security to our people on Indian frontiers, measuring thousands of miles, I respectfully suggest an augmentation of at least one regiment of horse, (dragoon, cavalry, or riflemen,) and at least three regiments of foot, (infantry or riflemen.) This augmentation would not more than furnish the reinforcements now greatly needed in Florida, Texas, New Mexico, California, Oregon, Washington Territory, Kansas, Nebraska, and Minnesota, leaving not a company for Utah. If the reinforcements should be authorized as early as January, it would be easy, in the present unfortunate want of profitable employment for the thousands of able-bodied men to be found idle in every populous district of the country, to make the number of recruits needed, and in time for them to reach the theaters of military operations in the summer and autumn of 1858. Of the relief which the measure would afford to our general population I may not speak in a military paper; but to the Army, and exposed frontiers under its protection, it would be immense.

It is eminently desirable, by all the reasonable means at the disposition of the Government, to attempt the moral elevation of our enlisted men—that is, all below commissioned officers. In physical comforts, whether they are sick or in health, the justice of Congress in respect to physicians, medicines, hospital stores, the pay, clothing, and subsistence of everybody, has scarcely left anything to be asked for. (The subject of quarters will be noticed in the sequel.) So, too, in respect to religious instruction; through some twenty and odd military chaplains—considering the great number of sects and the habitual dispersion of the troops—I have nothing practical to suggest. But to render the service honorable, so that citizens may freely enlist without the fear of harsh, arbitrary, or capricious treatment at the hands of any superior, some additional legislation seems indispensable. I allude to a revision of the rules and articles for the government of the armies of the United States, particularly the forty-fifth, sixty-fifth, sixty-sixth, sixty-seventh, and ninety-ninth of those articles—all respecting the administration of justice. In order, among other things, to provide for the legal punishment of petty offenses, substituting, when necessary, courts consisting entirely of sergeants, so as to deprive commanders of small detachments and isolated companies of all pretexts—the want of officers to compose courts, &c.—for taking the law into their own hands, accordingly I recommend that the subject be in the first instance referred to a board consisting of intelligent officers of great experience with troops, and if their report be approved, that it next be submitted to Congress. The same board might, with great benefit, revise the general regulations of the Army and the conflicting systems of infantry tactics now in force.

In connection with penal justice, it is due to all good men in the ranks to say that they are directly interested in the suppression of crimes, disorders, and neglect, prejudicial to good order and military discipline, inasmuch as offenses hurt the just pride of the corps, and every offender put under guard or in arrest increases the duties and fatigues of his meritorious companions of the same class or rank.

I have a word to say in respect to quarters for troops on the sea-board. In our regular fortifications we have but little shelter, other than casemats for fighting siege guns, and these arches are too damp and otherwise uncomfortable for the lodgings of the troops. In respect to the Indian frontiers, except at one or two interior points for reserve, the troops are—when they chance to be allowed short rests—either in tents, winter as well as summer, or such miserable bush and mud huts as they have hastily constructed for the moment. Hence another cause of desertion, disease, and mortality. It is true that the frontiers are constantly shifting by the extension of settlements, and hence a great difficulty in providing permanent quarters, except for reserves, and we are far from having a regiment, or even a company, to be so posted.

The instruction of our artillery regiments in their appropriate duties with light and heavy batteries has been much neglected of late years—first, by capriciously dismounting several of the light companies, and sending others to the most unsuitable posts, in respect to supplies and health; and, second, by the necessary employment, from deficiency in other troops, of the greater part of each regiment as infantry on the Indian frontiers.

A school of practice, however, for garrisons, sea-coast, and siege artillery, is now being organized, on a small scale, at Fortress Monroe, to be enlarged as the regiments may be withdrawn from the Indian frontiers, when—also on regarrissoning our principal fortifications—each may be made a subordinate school. In the mean time, respectfully ask that the light companies remaining on foot be remounted, as authorized by law.

Of recommendations in former reports I beg leave specially to recall two:

1. A system of recruiting by and for the respective regiments, which it is conceived would create and nurture the *esprit du corps*—a family feeling in each—always highly conducive to moral elevation and military efficiency.

2. A revision of the pension laws, so as to place the Army on a like footing with the Navy, volunteers, and militia in this respect, as there can be no conceivable reason of any sort for a discrimination to our prejudice.

Please see vol. 2, p. 229, of the President's message, &c., December, 1856.

I have the honor to be, sir, with high respect, your most obedient servant,

WINFIELD SCOTT.

Hon. J. B. FLOYD, *Secretary of War.*

NICARAGUAN AFFAIRS AND THE LECOMPTON CONSTITUTION.

SPEECH OF HON. L. Q. C. LAMAR, OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES;

January 13, 1858.

[WRITTEN OUT BY HIMSELF.*]

The House being in Committee of the Whole on the state of the Union, and having under consideration the President's annual message—

Mr. LAMAR said:

Mr. CHAIRMAN: It is not my purpose to discuss the various questions involved in our Central American relations. Should I avail myself of a future occasion to do so, I may be forced reluctantly to dissent from some of the views so ably presented by my distinguished colleague, [Mr. QUITMAN.] However painful this may be to myself, I nevertheless feel confident of his generous indulgence, especially when he sees in my course only the reflex of his own spirit of independence; a spirit which runs like a stream of fire through all his acts and writings: which enabled him a few years since to light up the ardor of a thousand patriots, to fire his countrymen to the assertion of their rights, and at this day enshrines him in the hearts and affections of the people of his State, without distinction of party.

Mr. Chairman, any proposition which has for its object the advancement and progress of southern institutions, by equitable means, will always commend itself to my cordial approval. Others may boast of their widely-extended patriotism, and their enlarged and comprehensive love of this Union. With me, I confess that the promotion of southern interests is second in importance only to the preservation of southern honor. In reading her history and studying her character, I delight to linger in the contemplation of that stern and unbroken confidence with which the South has always clung to the integrity of her principles and the purity of her honor. In that unfortunate division which has separated our country into sections, natural causes, beyond our control, have assigned to her the weaker section. A numerical minority finds safety and protection alone in the power of truth and invincibility of right. The

* For the original report, see page 279 Cong. Globe.

South, standing upon this high ground, has ever commanded the respect of her friends, and defied the assaults of her enemies. When ruthless majorities have threatened wrong and injustice, their hands have been stayed only by the deference which the worst spirits unconsciously pay to the cause of justice. In the long and bitter contests which have marked our internal struggles, the South has made but one demand—the Constitution of our common country, the claims of justice, and the obligations of States; and it is our boast to-day, that we can present a record unstained with a single evidence of violated faith or attempted wrong. The same regard for truth, justice, and honor, which characterizes our intercourse with the various sections of our own country, furnishes the safest rules for our dealings with other countries. As the Constitution is the law of our conduct at home, so let good faith be the rule of our conduct abroad.

If I could do so consistently with the honor of my country, I would plant American liberty, with southern institutions, upon every inch of American soil. I believe that they give to us the highest type of civilization known to modern times, except in those particulars dwelt upon so elaborately and complacently by the gentleman from Massachusetts, [Mr. THAYER.] In that particular form of civilization which causes the population of a country to emigrate to other lands for the means of subsistence, I concede to the North great superiority over our section. [Laughter.] There can be no doubt that New England, and especially Massachusetts, is a splendid country to emigrate from, and, in this respect, stands unrivaled, with perhaps the single exception of Ireland. [Laughter.] And right here I desire to express my acknowledgments to the gentleman for the very apt and classical comparison which he instituted between his section and the *officina gentium*. It never occurred to me before; but since he has mentioned it, I must confess to the resemblance, in many respects, between the recent emigration from New England and the irruption of the Goths and Vandals. [Laughter.] It is also due to candor that I should say that the gentleman's vindication of the emigrant aid societies places the objects and motives of that enterprise upon more defensible grounds than we of the South supposed to exist. For one, I am perfectly satisfied that the thing was demanded by necessity, and has resulted in benefit to all the parties concerned; that the country was benefited by getting rid of the population, and the population greatly benefited by leaving the country. [Laughter.]

To return from this digression: while I am a southern man, thoroughly imbued with the spirit of my section, I will never consent to submit the fate of our noble institutions to the hands of marauding bands, or violate their sanctity by identifying their progress with the success of unlawful expeditions; and most especially, when I see them receiving the countenance and sanction of a distinguished Senator, whose course on the Kansas question is so fresh in our recollection.

Before I consent to any new schemes of territorial acquisition, to be effected, as usual, by the prowess of southern arms, and the contribution of southern blood and treasure, I desire the question of the South's right to extend her institutions into territory already within the Union, practically and satisfactorily settled by the legislation of this Congress. These territorial acquisitions, so far, have been to the South like the far-famed fruit which grows upon the shores of the accursed sea, beautiful to sight, but dust and ashes to the lips. We learn from the President's message, that the people of Kansas, having reached the number that would justify her admission into the Union as a State, she has, by her duly constituted authorities, taken all the steps necessary to the attainment of this object, and will, in a short time, demand the redemption of the pledge of the Government, that she "shall be admitted, with or without slavery, as her constitution may prescribe at the time of such admission." But in advance of her application, we are informed by the distinguished author of the Kansas bill, and gentlemen upon this floor, that her case has been prejudged, and her claims rejected. This presents a question

before whose colossal magnitude the wrongs of Walker and the criminality of Paulding sink into insignificance.

I propose to examine into the grounds upon which this violation of plighted faith is attempted to be justified. The ground principally relied upon is, that the constitution which she presents was framed by a convention not called in pursuance of an enabling or authorizing act of Congress, but on the mere motion of the Territorial Legislature. Now, sir, apart from the practice of the Government, which has not been uniform on this subject, I, for one, admit, to the fullest extent, the propriety and importance of such an act of Congress. I have always held that the sovereignty over these Territories was vested in the people of the United States; that the power of legislation in reference to them belonged to Congress, and that this power was limited only by the Constitution and the nature of the trust; and that before the inhabitants of the Territory are competent to form a constitution and a State government, it is necessary that Congress should first withdraw its authority over the Territories. The necessity of an enabling act I concede to the fullest extent. Whenever individuals in a Territory undertake to form a State government, without the previous assent of Congress, they are, in my opinion, guilty of gross usurpation and flagrant disregard of the rights of the United States and the authority of Congress. Under such circumstances, it becomes a question purely of discretion with Congress, whether to remand them to their territorial condition, or to waive the want of authority, and to ratify the proceedings as regular and lawful. The question now presents itself, do the circumstances attending the application of Kansas for admission into the Union present such a case?

Was the convention at Lecompton an unauthorized and revolutionary assemblage, usurping the sovereignty of the State, and throwing off, unlawfully, the authority of the United States? I hold that it was a convention of the people called by the regularly constituted authority, and with the previous assent of Congress. I hold that the Kansas bill was an enabling act, vesting the Territorial Legislature with power to call such a convention. In analyzing the provisions of that noble law, we find that it looks to higher objects and more enduring results than the mere organization of temporary territorial governments for Kansas and Nebraska. It looks beyond the territorial status; it provides for its admission as a State; and in express terms pledges the faith of Government that it shall be received into the Union "with or without slavery, as its constitution may prescribe at the time of such admission." It also declares the "intent and meaning of this act" to be, "not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their institutions in their own way, subject only to the Constitution of the United States, and the provisions of this act."

Now, had the bill stopped here—had it gone no further—there might be some ground for the objection that additional legislation by Congress is necessary. For the bill might guaranty to the people admission as a State, and the right of forming their constitution, and yet reserve to Congress the all-important power of determining when the people had attained a sufficient maturity and growth to fit them for the enjoyment and exercise of this highest and most glorious right of self-government. It might reserve to itself the power of determining who should constitute such a people—who should be the qualified voters—and in short, of prescribing all the steps preliminary to a call of the convention of the people. I say Congress might well have reserved all these high and delicate discretionary powers to herself, and there might be some ground for claiming them in behalf of Congress, had the bill stopped with the clause which I have quoted.

But, unfortunately for the enemies of Kansas, the bill does not stop here. It goes on to confer the most ample powers on the Territorial Legislature. In section twenty-two, after providing for the first election, it says:

"But thereafter the times, places, and manner of holding

and conducting all elections by the people, shall be prescribed by law."

Again, after providing for qualifications of voters for the first election, it says:

"But the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Territorial Legislature."

In section twenty-four, it is further enacted that the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the constitution.

These clauses, taken together, embrace the entire subject in dispute, and vest all powers connected therewith in the Territorial Legislature. What can be a more clear and rightful subject of legislation than to determine the time when a people shall emerge from their condition of territorial pupillage into that of State sovereignty, of calling a convention of the people, prescribing the qualification of voters, and arranging the usual details preparatory to the application for admission as a State. Indeed, sir, according to the well-settled maxims of civil law, no people can undertake to form or abolish a constitution, except in obedience to the summons or invitation of the existing legislative authority. It was in this view that Congress has delegated these high and important matters of legislative discretion to the territorial government. You may take up any enabling act passed by Congress, and you cannot find a provision in it which is not involved either in the specific grants or general delegation of powers contained in the Kansas bill.

The conclusion which the language of the bill authorizes is strengthened and sustained by its history. When this bill was first reported, it contained the usual power, which you find in all territorial bills, of congressional veto, revocation, or repeal of the territorial laws; but it was stricken out, and the bill became a law, with no reservation of power to Congress touching this point, limiting the broad grant of jurisdiction to the Territorial Legislature "over all rightful subjects of legislation." If the language of the bill and its history could leave any doubt as to the correctness of this construction, it would at once be removed by a recurrence to the debates when the bill was pending in Congress. The speeches of both friends and foes are replete with the proof of what I say. I could quote from the author of the bill, and from its supporters in this House, to show that their object was to transfer to the people of Kansas the entire control over her internal affairs, including slavery, untrammelled by any congressional legislation. But, sir, it is not necessary.

It may be said that, if this construction be true, the bill embraced two entirely distinct and dissimilar subjects: one organizing a Territory, and the other providing for the admission of a State. Well, sir, if I am not mistaken, this very objection was made, to wit: that the bill was against all regular parliamentary procedure. And a distinguished gentleman from Missouri, after exhausting his powers of invective, like a man in a fight, reserving his most potent weapon for the last blow, threw at the bill an immense word, which sent our venerable Secretary of State, stunned and reeling, to the dictionaries. He said it was "amphibological." But the framers of that bill were not after parliamentary symmetry or harmony of outline. Their object was to settle great questions of strife which threatened the integrity of the Union; to bind in one compact and durable structure, the equality of the States, the authority of Congress, and the glorious right of self-government; to build a platform on which the rights of every section in the Union might rise above the turbulent waters of sectional strife, and proudly defy all the attacks of fanaticism. In confirmation of the view I have taken, I desire to invoke the authority of the distinguished publicist and jurist who is now lending his influence to the enemies of the South and of Kansas. Mr. Robert J. Walker, in his inaugural address, as Governor of Kansas, speaking of the Lecompton convention, says:

"That convention is now about to be elected by you, under the call of the Territorial Legislature created, and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legis-

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lature, then, in assembling this convention, were fully sustained by the act of Congress."

Again he says:

"The people of Kansas, then, are invited by the *highest authority known to the Constitution*, to participate, freely and fairly, in the election of delegates to frame a constitution and State government. The law has performed its entire function when it extends to the people the right of suffrage; but it cannot compel the performance of that duty. Throughout our whole Union, and wherever free government prevails, those who abstain from the exercise of voting authorize those who do vote to act for them in that contingency; and the absentees are as much bound, under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as though all had participated in the election."

It is true that the distinguished author of the bill denies that it confers any such power. And yet the very ground upon which he rests his opposition to the admission of Kansas seems to break the moral force of this denial. His position is, that the Kansas bill intended that the constitution, when adopted, should be submitted to a direct vote of the people; that this was its intent and meaning. Now, sir, if the bill went so far as to prescribe the *mode of adopting* the constitution, it certainly contemplated the framing of it. A constitution cannot be *submitted* to the people until it is formed.

Having demonstrated that this convention, assembled to form the constitution, possessed every attribute heretofore regarded requisite to complete the work effectually, it is easy to refute the objection that before it can present a valid title to this Congress, it should be first submitted, for adoption or rejection, to the people; not to the people whose delegates framed it, but to them and such settlers as may have come into the Territory during its progress to completion! In order to show how empty and ridiculous are the pretexts for rejecting Kansas, I propose to give this argument in the language of its author. Speaking of what the President says of the convention at Lecompton, the distinguished gentleman to whom I refer [Mr. DOUGLAS] says:

"The President does not say, he does not mean, that this convention had ever been recognized by the Congress of the United States as legal or valid. On the contrary, he knows, as we here know, that during the last Congress I reported a bill from the Committee on Territories to authorize the people of Kansas to assemble and form a constitution for themselves. Subsequently, the Senator from Georgia [Mr. TOOMBS] brought forward a substitute for my bill, which, after having been modified by him and myself in consultation, was passed by the Senate. It is known in the country as the 'Toombs bill.' It authorized the people of Kansas Territory to assemble in convention and form a constitution, preparatory to their admission into the Union as a State. That bill, it is well known, was defeated in the House of Representatives. It matters not, for the purpose of this argument, what was the reason of its defeat. Whether the reason was a political one; whether it had reference to the then existing contest for the Presidency; whether it was to keep open the slavery question; whether it was the conviction that the bill would not be fairly carried out; whether it was because there was not people enough in Kansas to justify the formation of a State; no matter what the reason was, the House of Representatives refused to pass that bill, and thus denied to the people of Kansas the right to form a constitution and State government at this time."

Proceeding then to discuss the power of the Territorial Legislature to call a convention, he concludes as follows:

"If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was null and void from the beginning; you find the Legislature could confer no power whatever on the convention."

Upon a subsequent occasion, defending his position, he says, as follows:

"In other words, I contend that a convention constituted in obedience to an enabling act of Congress previously giving assent, is a constitutional body of men, with power and authority to institute government; but that a convention assembled under an act of the Territorial Legislature, without the assent of Congress previously given, has no authority to institute government."

"This was my position in regard to the effect of an enabling act. I then went on to show that, there having been no enabling act passed for Kansas, the Lecompton convention was irregular."

It is rather late in the day for this gentleman to begin to rectify such irregularities. We need go no further back than California. She was begotten by a military general, and forced into the family of States by the Cæsarean operation of an executive *accoucheur*. [Laughter.] Yes, sir, without any previous assent of Congress, without even the authority of a Territorial Legislature;

without any census; a land of roaming adventurers was lugged into the Union over all law and precedent, as the coequal of the oldest State in this Union, because it happened to be a free State. What then said this stickler for enabling acts? How spoke the putative father of these latter-day doctrines? Mr. DOUGLAS said, in 1850:

"I come now to consider California as a State. The question is now presented, whether we will receive her as one of the States of this Union; and, sir, why should we not do it? The proceedings, it is said, in the formation of her constitution and State government, have been irregular. If this be so, whose fault is it? Not the people of California, for you have refused, for the period of two years, to pass a law in pursuance of which the proceedings would have been regular. Surely you will not punish the people of California for your own sins—sins of omission as well as of commission."

"It will be recollected by every Senator present—I trust the fact will not be forgotten—that more than one year ago I brought in a bill to authorize the people of California to form a State constitution, and to come into the Union. Had that bill passed, the proceedings would have been regular."

"Well, the bill was defeated, and the people of California, acting upon those suggestions, and relying upon the precedents cited, have formed a constitution and presented themselves for admission. Now they are to be told that they cannot be received, because Congress failed to pass a law, and the proceedings are irregular without it. I do not precisely understand what is meant by the irregularity of these proceedings. I have examined the precedents in all the cases in which new States have been admitted into the Union, from Vermont to Wisconsin. I will not go over them in detail," &c. "Those precedents show that there is no established rule upon the subject. There are several cases in which there have been no previous assent of Congress, no census taken, no qualifications for voters prescribed. There is no rule, and consequently can be no irregularity."

"I hold that the people of California had a right to what they have done—yes, they had a moral, political, and legal right to do all they have done."

How different is his language to Kansas! The very refusal of Congress to pass an enabling act for California is urged as a justification of her monstrous proceedings, and is presented as her strongest title to admission. But when Kansas applies, the same action by Congress is relied upon as an insurmountable obstacle to her admission. The California convention had the perfect right, moral, legal, and political, to do what they have done. But the Kansas convention, although acting under an act of Congress which pledged the faith of the nation to her admission as a State, acting under a regular and legal call of her people, every safeguard provided, is held to have no power to do any act as a convention forming a government, that the act calling it was null and void from the beginning, and that Congress, in refusing to pass an enabling act, (no matter what the motive,) denied to the people the right to form a constitution and State government.

Sir, how are we to reconcile such glaring inconsistency? There is but one solution, and every day is riveting it in the southern mind; and that is, where a State applies for admission with a constitution excluding slavery, no irregularity can be too enormous, no violation of precedent too marked, no disregard of constitutional procedure too palpable, no outrage can be too enormous for its admission as a State into the Union; but when a State applies for admission with slavery in its constitution, no excuse can be too trivial, no pretense too paltry and ignoble, to keep her out. Sir, the direct tendency, and with some the avowed object, of all this opposition, is to delay the admission of Kansas until she becomes a free State. I do not charge this on that gentleman. But why does he pursue this course? It is but an offshoot of that damnable policy which has been preying upon the vitals of the South for the last forty years—that of buying peace from the turbulent and fanatical at the expense of the quiet and orderly. When Missouri applies for admission, Abolitionism gets up an excitement about slave territory. For peace sake Congress overleaps the Constitution, and marks out a line beyond which slavery shall not go. Abolitionism raves to be heard in Congress about slavery generally, and for the sake of peace, Congress allows it to fill the Capitol with abolition petitions, which it has no power on earth to grant. Abolitionism hires armed bands to go and drive slaveholders out of Kansas, and Robert J. Walker, for peace sake, would hand it over to them. To pacify a band of rebels, reeking with the blood of southern men, women, and children, to whom he is indebted for all he is,

he turns against his benefactors, he violates his pledge, abuses his trust, disgraces his office, truckles to the vile, tramples on the just, and scatters the firebrand of discord throughout Kansas, the Union, and the Capitol. And STEPHEN A. DOUGLAS, who was for lassoing California and dragging her into the Union over all law and precedent, and the violated rights of fifteen of the sovereign States of this Union, would now subject Kansas to all the rigors of the Inquisition to keep her out of the Union.

But we are told that it is a contempt of the authority of the people of Kansas—that it is an inroad upon popular sovereignty to withhold from them a revision of their constitution. Sir, the authority of the people is fully recognized; popular sovereignty, as a principle, is fully enforced when an opportunity is afforded to the legal voters to deposit their votes for delegates to a convention. Sir, are not those delegates the people's agents? Is there a lawyer present who would teach his client that the acts of an authorized agent are invalid if not submitted for ratification to the principal? Would he tell them that such acts unsubmitted would be insulting to the principal's dignity, or intrusive upon his prerogatives? Would you say that no respect should be paid to the acts, or to the principal himself, if he suffered them to go forth as his own, unratified? The truth lies just in the opposite direction. "The right of electing delegates to a convention," in the language of the profoundest writer on the philosophy of government, "places the powers of the Government as fully in the mass of the community, as they would be had they assembled, made, and executed the laws themselves without the intervention of agents or representatives."

The people act in their sovereign capacity when they elect delegates; and the delegates thus elected, and convened, are, for all practical purposes, identical with the people. Sir, I take higher grounds. I hold that the highest embodiment of sovereignty, the most imposing political assemblage known to our Constitution and laws, is a convention of the people legally assembled, not *en masse*—for such an assemblage is unknown in our representative system—but by their delegates, legally elected. When such a body, with no declared limitation upon their powers, are deputed to form a constitution, and they execute their trust, the constitution, *ipso facto*, becomes the supreme law of the land, unquestionable and unchangeable by any power on earth, save that which ordained it. This is no novel doctrine. It has the sanction of the wisest and greatest men known to American history. Mr. Calhoun, speaking of a convention of the people, says it implied "a meeting of the people, either by themselves, or by delegates chosen for the purpose in their high sovereign character. It is, in a word, a meeting of the people in the majesty of their power—in that in which they may rightfully make or abolish constitutions, and put up and down government, at their pleasure."—(Calhoun's Works, volume 2, page 612.) Our present Chief Magistrate, in standing by the action of the Lecompton constitution, is only acting in accordance with his opinions, long since recorded. In the debate on the veto power, he said:

"The Senator [Mr. Clay] asks, why has not the veto been given to the President on acts of conventions held for the purpose of amending our constitutions? If it be necessary to restrain Congress, it is equally necessary to restrain conventions. The answer to this argument is equally easy. It would be absurd to grant an appeal through the intervention of the veto to the people themselves against their own acts. They create conventions by virtue of their own undelimited and inalienable sovereignty; and when they speak, their servants—whether legislative, judicial, or executive—must be silent."

Such was the convention of Lecompton, and the constitution it presents was established under laws, Federal and territorial, to which every man in Kansas (except rebels) has given his consent. These laws direct the election, prescribe the order of it, the qualification of voters, and the times of holding the meeting, and the duties and qualifications of the presiding officer. In this way the delegates were elected. They met, and upon mature deliberation framed a constitution—a constitution republican in form, and securing to the people of Kansas all those great institutions of freedom which have ever been regarded as the only

and surest bulwarks of civil liberty. Violating no law, inconsistent with no principle of the Federal Constitution, it preserves and guaranties to the people of Kansas all the great agencies of freedom, the right of *habeas corpus*, trial by jury, freedom of the press and speech, and liberty of conscience, as inviolate and pure as when they were first given to us, baptized in the blood of our revolutionary fathers. Now, sir, can a greater insult be offered to the understanding of the American people than to say that a constitution thus established would gain anything of credit or sanctity by a ratification like that contended for? I grant that the people, through the Legislature, may reserve to themselves the right of ratification, or the delegates may recognize it in the constitution itself; and in either case a ratification would become necessary to the validity of the instrument; but without those terms it would become absolute as soon as sanctioned by the delegates.

I go further. I boldly maintain that wisdom, prudence, and policy demand that the delegates should be entirely untrammelled in framing the fundamental law. The people in mass cannot deliberate upon a constitution, adopt what is good, and amend what is faulty in it. They must adopt or reject it in the entire; and thus, on account of objections to a single clause, they might reject the most admirable constitution ever devised by the wisdom of man. The radical error which underlies the whole argument of these gentlemen is this: they assume that there is a general agreement of opinion, a collective sentiment of the people, as a unit, as to what shall be the principles and provisions of their fundamental law, and that this common sentiment is to be ascertained only by a direct vote of the people. And yet, sir, such a course might result in a grave and capital delusion. If a method could be devised for collecting the opinion of each citizen, upon each clause of a constitution, the diversities of sentiment would be equal to the number of voters, and, perhaps, greater. The theory of ratification, however, does not allow to the people the right of framing a constitution, or even offering amendments and modifications. They can only, like a witness on cross-examination, answer "yea" or "nay." And I repeat, a constitution which might stand an imperishable monument of human wisdom, could be voted down by an immense majority, of which each individual member might be in an actual minority on the particular subject-matter of his dissent. Such a process, so far from evoking the general pervading sentiment of a people as to what shall be their fundamental law, may signally fail in eliciting the true view of a single individual.

Sir, I admit that a direct vote of the people is a fair test of their will, when you submit to them a single isolated proposition, such as the question of excluding slavery, submitted by the Kansas convention. But whether it is the best mode or not, depends upon circumstances. It depends, for instance, upon the number voting on the question of ratification, as compared with the number who vote for delegates. Now, so far as I have observed, the elections in which the people manifest the least interest are those in which they are called upon to pass upon constitutions and constitutional questions. It is not the way the people choose to exercise their right of self-government. In the ancient city of Athens, where democratic absolutism existed in its purest form, the number of citizens entitled to vote amounted to about twenty-five thousand persons; and yet not more than five thousand were generally given on the most interesting questions. And on questions of ostracism, six thousand votes were sufficient. If you will consult the poll-books of the different States of this Union, where men and propositions claim the suffrages of the people at the same time, you will generally find that the men get three votes where the proposition gets one. I could call attention to numerous instances of this kind, which have fallen within my own observation.

We accordingly find that nearly all writers on governmental and social science, representing every class of opinion, (except a few run-mad red republicans of Germany and France,) unite in condemning this theory of direct appeal to the

people. Montesquieu, in his "Spirit of Laws," speaking of democracy, says:

"The people, in whom reside the supreme power, ought to do of themselves whatever conveniently they can; and, what they themselves cannot rightfully perform, they must do by their ministers."

"The people are extremely well qualified for choosing those whom they are to entrust with a part of their authority."

"Should we doubt of the people's natural ability, in respect to the discernment of merit, we need only cast an eye on the continual series of surprising elections, made by the Athenians and Romans, which no one surely will attribute to hazard. But are they able to manage an intricate affair; to find out and make a proper use of places, occasions, moments? No; as most citizens have a capacity of choosing, though they are not sufficiently qualified to be chosen, so the people, though capable of calling others to an account for their administration, are incapable of the administration themselves."

A distinguished Senator has laid down the proposition that, under the power to admit new States, Congress is forced, by a paramount duty, to see that the constitution of a State asking admission into the Union imbeds the will of the majority of the people. Sir, I hold that a constitution presented by the regular and legally constituted authority, is conclusive upon Congress as to the will of the people. We will not allow any such issue to be presented. We assert the right of the people to form their government; but we hold, and I think I have already shown, that the highest and purest exhibition of their sovereign will, is a people acting by their own chosen delegates in convention assembled. The Federal Government, and half of the States of this Union, were formed in this way, and they need no improvement from the constitutional tinkering of this day.

To object that the convention may have abused its powers, and that the constitution should be submitted to a direct popular vote, in order that it may be ascertained whether it accords with the will of the people, is to beg the question, and to strike at the very root of all constitutional and legal authority. It is an objection not to the constitution of Kansas alone, but to the very genius and framework of all representative government. Upon the same ground that a constitution framed by delegates should be submitted to the people, it may also be demonstrated that every law enacted by Congress, or by a Legislature, and that every verdict by a jury, or decision of a court, should likewise be submitted for the approval of the people. Sir, a delegate may misrepresent the people; a Senator or Representative may misrepresent his constituents; but the remedy does not lie here in this central power of the Republic, (more liable to abuse than any other;) it lies in the hands of the local constituency, to whom the representatives are immediately responsible. And here lies the efficacy and power of our form of Government. The direct responsibility of our rulers to their constituents, the right of suffrage among the people, aided by that great moral engine of freedom, the liberty of the press, are the *vis medicatrix nature* of our political system, sufficient to remedy every disorder and throw off every impurity, without resorting to violent irregularity and revolutionary action.

When a State applies for admission, Congress is bound to subject her to no restrictions except such as Congress may constitutionally impose upon the States already composing the Union. There is but one limitation which you are bound to impose, and that is, that her form of government should be republican. But, under the power to guaranty a republican form of government, you have not the right to range with unlimited discretion through every provision of her constitution, interfere with her internal and local distribution of political power, adjust questions of majority and minority, lay down arbitrary rules of your own as to what constitutes republican government, and, by compelling her to conform to them, to substitute the will of Congress for hers as to what shall be her fundamental law. Are not the constitutions of the original thirteen States pretty fair tests as to what constitutes republican government? Can any one say that the Kansas constitution, tried by this test, the only one which you can rightfully apply, is not a republican form of government? Where is the feature in it contrary to our republican institutions, or repugnant to the paramount Constitution of the Union?

We are told by a distinguished gentleman that he would "pass over forms, ceremonies, and organizations, to get down deep to the will of the people." Sir, the will of the people can only be obtained through these forms, ceremonies, and organizations; and the structure of our Government is intended to provide these forms and organizations, through which the people can speak authentically and authoritatively. What can he mean by passing over and disregarding these forms? The Constitution of the United States is a form. Times, places, and manner of holding elections, and qualifications of franchise, are but forms, through which the people exercise their power. This matchless Government, springing from the Constitution and the division of power between the Federal and State Governments, is but an organization. Would he pass over all these to get down to what he sees proper to consider the will of the people? The doctrine is monstrous, dangerous, and disorganizing. It gives to the action of the regular government no more authority than belongs to an ordinary, voluntary assemblage of citizens, outside of the Constitution and law. If these views be correct, we had better, at once, tear down this splendid fabric of American architecture, and discard conventions, legislatures, and Congress, as inconvenient, cumbrous superfluities, and resort at once to the democratic absolutism of Athens. The doctrine has been in Europe omnipotent for pulling down forms, ceremonies, and organizations, but powerless for reconstruction; like those serpents in the East, which, while they inflict a death-blow, breathe out their own life in the wound of their dying victim.

We were told by the gentleman from Ohio, [Mr. Cox,] that the constitution is not republican in form, because it prohibits amendment, alteration, or change, until after 1864, and then hampers the perfectly free action of the people by requiring a majority of two thirds of the Legislature to concur before they will allow the majority to call for amendment. But the climax of anti-republicanism is the provision that "no alteration shall be made to affect the rights of property in the ownership of slaves;" a doctrine that would tumble into irretrievable ruin the Federal Constitution, and the constitutions of half the States in the Union, including that of the gentleman's own State; for there is not one of these which does not contain as stringent and dilatory limitations as are found in this Kansas constitution. The argument by which he supports this view is, that the "Democracy, as taught in Ohio, believes in the repeatability of everything by the popular voice." Do the Democracy of Ohio consider the clauses of the Constitution securing all those great rights—such as freedom of speech, freedom of the press, liberty of conscience, inviolability of property—repealable by the popular will? Do the Democracy of Ohio believe in the repeatability of that clause guaranteeing the right of a State to equality of representation in the Senate of the United States? This may be Democracy in Ohio; but I hope it is a Democracy confined to Ohio alone. It may be republicanism, but it is not the constitutional republicanism of America; it is the red republicanism of France. The very tenure by which the gentleman exercises the privilege of uttering these objections against the Kansas constitution, is an oath to support a Constitution liable to them all; a Constitution imposing the heaviest restrictions on the power of amendment; a Constitution whose framers intended it, not as an instrument of power, but as an instrument of protection against power.

It would be well for these gentlemen to consider when, and by whom, this particular mode of adopting a constitution, which they insist is the only true mode, was first established. It was not by the fathers of this Republic—the men of 1776. The Federal Constitution was not submitted for adoption to a direct vote of the people, nor were the constitutions of the Old Thirteen. The first instance in modern times, so far as my researches go, was the constitution of 1799, which was submitted to the people of France, and accepted by a vote of three million to fifteen hundred. This was in accordance with the teachings of Rousseau—the doctrine of unlimited, indivisible, undel-

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erated power of the people—a doctrine almost identical in terms to that upon which the opposition to the admission of Kansas rests. What was the result? The sovereignty of the people was established and recognized, the King was beheaded, the nobility were banished, the religion abolished, property confiscated, and France converted into one moral and political volcano, from the conflict of whose discordant elements arose the demon of centralization and military despotism, the rod of whose power smote down all the valuable rights of the people, and the cherished interests of humanity. It was during the progress of this fanatical and bloody drama, that one of its most conspicuous and sanguinary actors, appalled by the magnitude of the power which he had invoked, exclaimed, "Do you not see the project of appeal to the people tends but to destroy the representative body? It is sporting with the sovereign majesty of the people to return to it a work which it charges you to terminate promptly."

The new constitution submitted to the people was the consular constitution of 1802—only three years later—making Napoleon Bonaparte Consul for life, and conferring on him the power of naming his successor and the Senate; in other words, a despotism. It was submitted to the vote of the people of France, and accepted by three million five hundred and sixty-eight thousand eight hundred and eighty-five against eight thousand three hundred and seventy-four. And from that time the unlimited sovereignty of the people has been the potent instrument by which the Napoleons have fastened upon France a despotism more grinding and debasing than that of the Autocrat of Russia. The fathers of our Republic proceeded on principles totally opposite. Adopting as a fundamental dogma that all political power springs from the people, they insisted, and incorporated it into their organic law, that this power should not be unlimited and absolute. They accordingly established our grand system of representative government, with its checks, balances, guarantees, and organic laws—the noblest political institution that adorns the pages of the history of civilization, and which experience has shown to be the only means of securing and diffusing among the people that broad, civil liberty which constitutes the distinguishing features of the American and British Governments. I say British Government; for the statesmen of 1776 founded our institutions, not upon Utopian theories, but upon those great fundamental principles of the common law inherited from our Saxon ancestors, which guaranteed to English freemen the right of personal security, personal liberty, and private property, with their judicial safeguards and protecting forms, as inviolable and irrepealable by any power on earth.

The convention in Kansas, having declared in their fundamental law that the right of property in slaves, already existing, shall not be interfered with, has only given a constitutional sanction to a principle as old as the foundations of free government. And, sir, Congress is bound by the most solemn obligation that honor can impose, to admit her with this very clause in her constitution. Sir, we of the South demand the redemption of your pledge. The issue is boldly tendered, and we are ready to go before the great Areopagus of the American people upon it. And when the enemies of Kansas shall attempt to justify their opposition to her by invoking a principle which has deluged Europe in blood, only to sink her into more degraded despotism, we will justify her admission upon the principles which lie at the foundation of our Republic. We will call upon the people to stand true to the traditions of our ancestors and the practice of the Government when Washington was President, and the men of the Revolution ministered at the altars of liberty.

One word on the bill introduced into this House by a member from Massachusetts, [Mr. Banks,] calling another convention in Kansas for the purpose of framing a second constitution to be submitted to the people for acceptance or rejection. Mr. Chairman, Congress has no more right to call a convention of the people of Kansas than it has to call such a convention in New York. By the act of Congress, and the action of her people, the entire relation of Kansas to this Government

has been changed. It is no longer a Territory of these United States. She has, by your own authority and permission, thrown off the habiliments of territorial dependence, and stands now a State, clothed with all the attributes and powers of a State, and asks admission as an equal in this noble confederation of sovereignties. You may reject her application, if you will; but it will be at your own peril. To remand her to her territorial condition you cannot, any more than you can roll back to their hidden sources the waters of the Mississippi. Kansas is a separate, organized, living State, with all the nerves and arteries of life in full development and vigorous activity. Between your laws and her people she can interpose the broad and radiant shield of State sovereignty, and may laugh to scorn your enabling acts:

INCREASE OF THE ARMY.

SPEECH OF HON. JEFF'N DAVIS,
OF MISSISSIPPI,

IN THE SENATE, February 10 and 11, 1858.

[REVISED BY HIMSELF.*]

The Senate having under consideration the bill to increase the military establishment of the United States, and the pending question being on the motion of Mr. TOOMBS to strike out the first section, in the following words:

"That there shall be added to each of the regiments of dragoons, cavalry, infantry, and of mounted riflemen, two companies, to be organized in the same manner as the companies now composing these arms respectively, and to receive the same pay and allowances, and to be entitled to the same provisions and benefits in every respect, as are authorized by the existing laws; they shall be subject to the rules and articles of war, and the enlisted men are to be recruited in the same manner as other troops, with the same conditions and limitations."

Mr. DAVIS said:

Mr. PRESIDENT: The proposition before the Senate is to strike out that section of the bill which provides for adding two companies to certain regiments of the Army, being those regiments which now have but ten companies. I hope the Senate will decide to retain that section, for reasons which I will offer at this time.

I think the organization, as I stated on a former occasion, will be more complete, because it will give regiments divisible into three battalions of four companies each. It will give the power to divide regiments without dividing battalions so as to garrison three posts by each regiment, or, if you please, six posts, without reducing any post to a single company. I will here say to Senators as a military question, that it is a very great disadvantage to troops to separate them into garrisons consisting of a single company, and that that disadvantage is not to be overcome by multiplying the rank and file. You must have the number of officers to perform the duties that devolve on commissioned officers, and cannot advantageously be intrusted to anybody else. To maintain discipline and to perform the duty in a responsible manner, you require at least the number of officers that will be afforded by two companies. You cannot, therefore, without injury to the public service, rely on one company to constitute a garrison instead of two, though the rank and file may have been doubled.

That is one reason. Another is, that by increasing the number of companies, you give that advantage which the Senator from Texas [Mr. Houstons] has illustrated in stating his opinion of the present defect in the Army—the want of an opportunity of promotion and inducement to the rank and file. These additional companies not only increase the number of non-commissioned, but also the number of commissioned officers. They give an increased opportunity to worthy men, who enter the ranks of the Army by enlistment, to rise to the grade of commissioned officers. They give additional nucleus on which, in time of war, you can aggregate the raw material of recruits, and increase the power of the standing Army of the United States.

Here I would say to the Senator from Texas, that he was egregiously mistaken in his argument that a law had grown up by usage, which, for the benefit of the graduates of the Military Academy,

now excludes the rank and file from promotion in the Army. He said it is not as it was in the war of 1812. I wish to correct that error; for, in the wisdom of Congress upon the recommendation of the last Administration, the two Houses of the last Congress, adopted a provision, for the first time in this Government, which made it quite easy for the Executive to provide for the certain promotion of a non-commissioned officer who proved himself worthy. For the first time, I say, since the organization of our Army, the last Congress did provide for conferring brevets on non-commissioned officers, and thus made them certain of promotion, though the graduates of the Military Academy should be equal to all the vacancies which should occur within the ensuing year. The Senator, therefore, was mistaken in assuming that the door to promotion had been closed against the rank and file of the Army.

Another Senator (the Senator from Georgia [Mr. Toombs] I think it was) asserted that, for a great number of years, no such promotions had occurred. There the mistake was equally great; such promotions have been made from time to time.

Mr. TOOMBS. The Senator is mistaken; I expressed no opinion on that point.

Mr. DAVIS. It was not, then, the Senator from Georgia, but somebody else; but as I am making points, not on individuals, but on the merits of the question, it makes no difference who it was. Whoever it was, it is erroneous. Promotions of that kind have been made by nominations to the Senate, and confirmations by the Senate. Those who had been sergeants were also appointed to the grade of commissioned officers in the new regiments that were provided for three years ago; where no vacancies exist for an appointment, the recent law authorizes promotion by brevet; and never before, in the history of the Army, has the rank and file had so wide and open a door, during peace, to enter into the grade of commissioned officers as now. Nor is this opportunity for promotion rendered illusory and impracticable of attainment for the want of that high degree of education which the standard of West Point requires of its graduates. A military examination is required, and is necessary to prevent the attainment of such promotion by favoritism only; but that examination requires only the elements of a common school education; no more than is necessary for the proper discharge of a subaltern's duties. This proposition to increase the number of companies is but widening that door which admits the rank and file to rise to the grade of commissioned officers. It increases the number of commissioned officers who will serve in detached posts, thus relieving them from the danger and the toil of a responsibility which they cannot properly meet if reduced to the small number of two or three, to perform, not only their regular duties, but all the staff duties of a garrison.

I hope, therefore, that the Senate, if they think that the addition of the thirty companies and the increase of the maximum of the strength of each company to ninety-six will give more troops than are required, will prefer rather to keep down the maximum, as it is now, to seventy-four, and give the additional companies. I believe it will create a more effective force than is to be obtained by increasing the maximum of the rank and file of the Army—a measure which will have really but little effect, on account of the power of the War Department to send out unattached recruits, and thus bring them to the distant posts at a time when the company has been wasted below the maximum of seventy-four.

If, then, the purpose of the Senate be to limit the size of the Army to any certain standard, it is suggested to them that they shall, in consideration of the great interest which is involved, strike from the bill the second section, taking the numerical strength away which that would confer, and leave the first section, which perfects our system and enables us to occupy the great number of posts we now have with our small Army, without reducing the number of commissioned officers at each post below that which will enable them efficiently to perform every duty.

On account of the statements which have been made in relation to the strength of the Army, so greatly exaggerated beyond the reality, I have

* For the original report, see pages 643 and 667 Congressional Globe.

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thought it necessary to make an exact statement of what the Army is. It is now composed, including all arms of the service which go into the field, (not including engineer soldiers or ordnance soldiers,) of one hundred and ninety-eight companies, which, according to the fixed establishment of the Army, to be found in a table in the Army Register of this year, at page 41, gives a number of privates equal to nine thousand and sixty-six, supposing every company to be full up to the organization of the peace establishment; adding non-commissioned officers and musicians, you get the total of enlisted men eleven thousand eight hundred and thirty-eight. In 1850, on account of the necessity of troops on the frontier, Congress provided that at distant stations, and on the emigrant routes, the President should have authority to increase the privates in any company so employed to seventy-four; and this is the number which is taken from the Secretary of War's report. It is not the peace establishment; it is not the fixed establishment of the Army; but it is the increase authorized by Congress to be made in certain contingencies. The Army being now stationed almost entirely on the frontier, an authorized and actual strength is casually obtained as set forth in the report of the Secretary of War. If every company in the Army was on frontier duty, or in campaign, there would be a still higher possible number. It might in that contingency go up to about nineteen thousand.

Mr. IVERSON. The Senator will allow me to interrupt him. I have an authentic statement from the Adjutant General's office, showing the present numerical distribution of the Army by military departments. The department of the east, including forts and fortresses, has eight hundred and sixty-nine men; the department of Florida, three hundred and thirty-seven; Kansas, Nebraska, Minnesota, and Arkansas, three thousand six hundred and seventy-six; the department of Texas, two thousand and forty-nine; New Mexico, two thousand two hundred and forty; the department of the Pacific, two thousand five hundred and seventeen; the army of Utah, one thousand eight hundred and eighty-seven; making the total of the Army of the United States at present only thirteen thousand five hundred and seventy-five. That is the whole Army at present.

Mr. DAVIS. That is in consequence of the wasting which occurred after the month of June, when the actual force was stated in the report of the Secretary of War, which has been so often read to the Senate. The actual number is a fluctuating number; and the only thing upon which any calculation can be made in relation to the broader question of the policy of the Government, is the fixed or legal establishment—not how many men may happen to be in the service to-day, or may be to-morrow, fluctuating under the sliding scale established by the act of 1850, but what it is proper to have for a permanent peace establishment. That should be determined by principles of statesmanship much broader than the mere question of how many men are necessary to chase down some Indian tribe. The policy of our military establishment was framed by men who stood upon a higher pedestal, and looked over a wider sphere. It was to carry out the policy proclaimed by Washington, "in peace prepare for war." It was enabling our Government to move step by step, and keep easy progress in military science with foreign nations with whom we might be involved in war.

A certain portion of the Army was from the beginning employed in the defense of our frontier settlements, then an easy task. As that task increased in difficulty, the Army was increased, and past attempts at reduction have proved unfortunate. It has been very well established that the war with the Sacs and Foxes, commonly known as the Black Hawk war, which extended over two campaigns, resulted from the fact that we had not a sufficient number of troops in a position to prevent the first acts of aggression. It has equally well been established in regard to that long and vastly expensive war in Florida, where, *per capita*, more money has been disbursed than one would deem it possible could have been fairly expended on a worthless Indian tribe; that if

one, or at most two regiments had been in position when the first movement commenced, those expensive wars of 1838 and 1842 might have been avoided.

But, as already stated, our predecessors had a broader policy than merely protecting the frontier settlers. They had the policy of keeping our Army instructed in all that belongs to civilized war; training artillery, and other arms of service in that science of war which is not to be learned merely by campaign duty.

The necessities for frontier service, outstripping the augmentations of the Army which have been made, have caused its whole disposable force to be thrown to the interior of our territory, and scarcely any are left to hold the great fortifications along the sea-board, and there to learn those lessons in artillery practice that would be so essential to us in war. We have no dragoons or cavalry in schools of instruction or practice. They are kept constantly on the frontier; and only so much as may be learned in winter cantonments, in long marches, and after hot pursuits of Indians in occasional encampments with jaded horses, can be taught the cavalry arm of the United States. It is not the increase of the Army, but the refusal to keep up those garrisons where military instruction may be perfected, which is the great departure from the policy of our fathers.

According to the report of the Secretary of War, we now have one hundred and thirty-eight posts. According, also, to his report, we have an exterior boundary of eleven thousand miles; and of emigrant routes requiring military supervision by the military force, we have six thousand seven hundred miles; giving a total of seventeen thousand seven hundred miles. From this aggregate is excluded the whole amount of our Indian frontier, being two lines, extending from our northern to our southern boundary, and the whole amount of the reservations where, by the reports to the Secretary of the Interior, from his agents in different parts of the country, it is made apparent that the fulfillment of our obligations to the Indian tribes require the establishment of new posts. This may be taken as quite equal to the amount stated in the report of the Secretary of War; and then we have seventeen thousand seven hundred miles stated, which may be considered as about half the demand; and for which we may possibly have, by posting them as stated, an army of seventeen thousand five hundred men, or less than one man to the mile; or if you include the Indian frontier and the Indian reservations, less than one man to two miles. That is the Army the augmentation of which is considered so great as to become dangerous to the peace and liberty of the country! Taking the posts at merely the number we now have, one hundred and thirty-eight, the companies of the Army being one hundred and ninety-eight, it follows that you have not companies enough in the Army to establish two companies at each post; and less than two never should be the garrison of any post. It destroys discipline; it impairs responsibility; it greatly depreciates the efficiency, and I might say respectability, of the troops, to segregate them into such small detachments, and leave them, like mere policemen, to a round of fatigue duties which wear out all military ardor.

The main argument in opposition to an increase of the Army, as I understand it, has been that there has been no showing of the necessity. I have, therefore, referred to what is to be drawn from the report of the Secretary of War, and the report of the Secretary of the Interior; and without wearying the Senate to read from it extensively, will merely refer to a single passage at page 62 of the report of the Secretary of the Interior, where he reports the number of Indians three hundred and twenty-five thousand, of whom three fourths belong to the hostile and roving bands. Two hundred and forty-three thousand five hundred of our Indians belong to bands of that roving and hostile character which requires the interposition of military supervision. Where Indians of friendly temper have been drawn into reservations, I have, in looking hastily through this volume, found, in a great majority of cases, that the report of the sub-agent superintending the reservation says there is a necessity for the establishment of a military

post to perfect the plan of the Government for bringing these Indians to an agricultural condition, and to give them that protection which is essential for their future progress. This is all in addition to what is contained in the report of the Secretary of War. These reports, too, are further sustained by the report of the Commanding General and of the Adjutant General, and in each of them it is shown, as I think, very conclusively, that the necessity exists for a force greater than we now have, and that economy is best to be promoted by increasing the regular army of the United States.

Thus it is that in urging this measure I do not make it rest on the necessities of the expedition against Utah, nor the necessity of keeping troops in Kansas. I did not say, as sometimes represented, that no troops were necessary for Utah, or for Kansas. I assumed no such position, nor proposed an increase of troops for that purpose; because I believe if those difficulties were ended to-day the troops would be necessary; and that now they can be used in one or both of these places, only by withdrawing them from other purposes for which troops are required. I have not said that there is no necessity for the use of troops in either of those Territories, and decline now to enter into the question as to whether the campaign should have been commenced against the Mormons or not.

I hope the anticipations of the President, that in a contingency which he expects soon to occur, troops will no longer be required in Kansas, may be realized; but, at the same time, it is due to candor to say that I do not entertain the hopes which the President expresses, having yet seen no evidence that the reign of terror in Kansas is to terminate in any contingency now foreseen. It seems more probable that the lawless are to continue their aggressions; that men are to be intimidated for political ends, their houses to be burned, and assassinations to occur all over the Territory, the moment the strong arm of the Federal Government is taken away. I cannot go to the extent of the Senator from Georgia, and refuse to give a man to preserve peace. I cannot go to the extent which would declare that I prefer that civil war should rage in the land, rather than to increase the Army and maintain order by the presence of troops in the Territories of the United States. In the first place, I should be willing to use troops anywhere to put down civil war and insurrection within the United States, when a contingency, such as is contemplated by the law, arises.

In the next place, I do not hold that the Territories occupy the same position as States. I do not admit, as I have never subscribed to the doctrine of squatter sovereignty, that the Government of the United States has no more power in a Territory than in a State. I hold that the Territories are dependencies of the Federal Union; they are in a condition of pupillage, to be governed by the States; the property of the States; and that if men, either foreign or native, should aggregate themselves upon a Territory of the United States, and raise the standard of rebellion against the Government, and in defiance of its laws, it is not only within the power, but it is the plain, palpable duty of the Government to put down such an insurrection, and to compel obedience.

I am at a loss to understand how any one entertaining the doctrine that this Government has power to acquire territory, can at the same time deny that it has power to control it. If we may acquire a Territory with a population not comprehending our institutions, having no attachment to them, can we admit at the same time that we have no more right to use coercive measures within the limits of that Territory than in one of the equal States of the Union? It would be the Dead Sea fruit ashes on the lips of those who gathered it. The population might at once erect a government anti-republican, destructive of all the great principles that lie at the foundation of our Constitution. If we may acquire an island, or a Territory, or a subjugated State, the whole population of which were in a State of barbarism, or from education attached to monarchical government, will it be contended, after we had expended thousands of lives and millions of treasure, that the population should be allowed to do what they please

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within their own limits, and the Government that has acquired the Territory by conquest or by purchase have no authority to exercise control, and preserve civil order among them?

The use of troops in a Territory of the United States does not stand in the same relation to constitutional questions as the use of troops in a State of the Union. I deny, as emphatically as any one, the power of this Government to coerce a State. That is a question which was discussed in the convention that formed the Constitution, and which was so powerfully stated by Mr. Hamilton to be a proposition, not to form a Union and preserve the States, but to provide the means for the destruction of the States. A State may, through its Legislature or its Governor, invoke the aid of the Federal Government, and of the other States; but the Federal Government has no power to invade the limits of a State, there to attempt the coercion of its people.

With this broad distinction I think the whole argument falls, except in the minds of those who still insist that the inhabitants of a Territory have all the political rights of the people of a State. I belong not to that school.

As a natural consequence of denying the right to use the troops as heretofore, it is said that in a period of profound peace, and of financial embarrassment, the startling proposition is made to increase the military establishment of the United States! Peace, it is true, exists between our country and all foreign countries, and I hope long may continue; but, in the mean time, we are engaged in frequent hostilities with Indian tribes. All around that vast territory which lies between the Pacific settlements and those of the Mississippi valley, is a constant succession of conflicts with roving bands. If this is our condition in profound peace, when but eight hundred and sixty-nine men, officers and enlisted soldiers, can be left to garrison all the great fortifications on our seaboard, what, I pray, would it be in war? That proportion was left during the war with Mexico; and is altogether inadequate for the purposes for which those fortifications were built. It is not a state of peace so far as the Army is concerned.

The financial embarrassments of the country, the diminution of revenue because of a failure of the usual supply from duties on imports, constitutes no sufficient reason for not discharging any of the duties that belong to this Government. I wish your great army of retainers and your numerous palaces for customs purposes were all disbanded, all evacuated, and that we would go back to that simple process of collecting money from the people themselves. Then would the people look to the mode in which it was expended.

Proceeding to answer the objections in their order, the next was, that the Indians, by removal to the west of the Mississippi, had had their strength broken; that they had no power to resist us; and the next, in connection with it, was, that by the improvement of communication twenty-five thousand men had been made equal to what one hundred thousand were twenty-five years ago. Is it true that the concentration of the Indians on the west side of the Mississippi has diminished their strength? Is not the reverse true? When they were separate tribes, living surrounded by an active, intelligent population, driven themselves, by the small amount of territory they inhabited, to agricultural pursuits, when they lived in towns and villages where they could always be found, when they were dependent on their crops, the destruction of which must always bring them immediately to submission, it was an easy matter to control them, compared with the condition in which they now exist. On a wide extent of territory, brought into contiguity with each other, no longer surrounded by white population, driven to the chase for subsistence, returning every year more and more to their roving and original habits, these people have not only been made stronger, but they have been made more disposed to hostility than they were in their former position.

Again, by the acquisition of territory, and the extension of our settlements into territory long since acquired, we have been brought into contact with those tribes which, heretofore unacquainted with the white men, must go through the same process which had rendered the eastern In-

dians, before their removal, harmless in their contiguity to the whites. Not only this, but our population has poured over the mountains, and commenced extending from the Pacific as a front; our people have pressed the Indians back from the fertile valleys they inhabited, and from the soft climate where they were reared in proximity to the coast, and have driven them into the mountains—into a country so arid that a large portion of it can only be cultivated by irrigation. They have thus again reduced them to the chase for subsistence, and those Indians may well look on the valleys, and, like the Gaels in the Highlands, claim the right to redeem from the plain and the valley the means of subsistence as long as one sheaf of grain shall stand, or herd shall stray along the heritage from which they have been driven. These forays have been and are to be perpetrated, until a new state of things shall be brought into existence. During that period of transition, when the Indians may be gathered from these vast hunting grounds on reservations which they will and can cultivate, it will be necessary to preserve a military force sufficiently large to rule them by coercion; and this is the opinion of every intelligent sub-agent whose opinions I find recorded in the volume which contains the report of the Secretary of the Interior.

These are facts on which the Senate might reach the conclusion that the recommendations of the President and the Secretary of War have not been made without some due consideration. These volumes have been but recently printed, and laid on the tables of Senators. I trusted that as they progressed in the examination of them, many of those objections and doubts which were expressed two or three days ago would vanish. I believe the increase which is proposed by the committee to be the least which the present exigencies of the country will permit. If the Senate had indicated a purpose to adopt the recommendation of the Secretary of War, the committee were ready at any time to withdraw their bill and allow the Senate to pass the other; but on the vote it was made apparent that that was impossible; it was not within the view of the Senate, getting but eight votes, and some of them hostile to any increase of the military force, and therefore given for parliamentary advantage.

I know that the Senator from Texas, [Mr. Houston,] whose familiarity with Indian character I do not doubt, has proposed to us a remedy which every man's heart would respond to as much more desirable, if it were attainable. He proposes an Indian policy which is to substitute kindness, justice, and generosity; from which one might suppose that the Government had pursued a different policy; but his remarks put it out of the question that he meant the Government had pursued any other policy than this, except through the regular Army. Now, sir, I believe that the argument of the Senator from Texas is somewhat answered by the argument of the Senator from Georgia, [Mr. Toombs.] The Senator from Georgia says that the regular Army is entirely harmless as against Indians; so that if the Senator from Texas thinks they are dangerous, I must refer him to his friend from Georgia, who assures him that the Army is quite harmless in relation to the Indians.

He proposes to appeal to the high motives and the generous character of the Indians to remove the necessity for any military force. The efficacy of the theory is answered by those who speak from observation. In the first place, Indian agents do not seem to entertain that idea. In the next place, the officers of the Army, who are the frontier men, and know more of the Indians than anybody else, dissent; and much as the Senator himself has seen of Indian tribes, I should say he had not seen as many weeks of Indian service as every field officer of the frontier regiments of the Army has seen years. I do not think, therefore, his opinion is to outweigh, when put in opposition to that of the sub-agents of Indian affairs, and that of military officers who have served on the Indian frontier the greater part of their lives.

I have no confidence in the high principles that are ascribed to the Indians. They have a certain sort of morality—a certain sort of religion, if you may so call it; they are in some things good. Take them as a mass, they are as deceptive, as blood-

thirsty, as treacherous, as cowardly a race of men as are to be found on the globe. If our frontier inhabitants have sometimes committed aggressions on them, where is the frontier settlement that does not record the most cold-blooded and cowardly murders of women and children? Where is the frontier settlement that does not bring with its traditions, tales of torture at the stake of prisoners when powerless in the hands of a hostile savage band? Are these the high principles to which the Senator appeals? Are these the noble qualities that are to make the Indian an exception, and lift him at once out of barbarism to shine as an example of those qualities which man is to possess when the millennium shall come? In the mean time I rely, as everybody connected with the Indians, as every frontier inhabitant whose wife and children are exposed to be tomahawked by these Indians, relies, on force of some kind as the only means for giving that protection which the Government owes to its people.

Thus we proceed to inquire what the character of the force should be; and, in this connection, the regular troops of the Army have been pronounced as ineffective. It is said they do not kill the Indians; but that the volunteers become excited, and do kill them. The Senator from Texas says, that if regular troops ever did pursue the Indians, they might become excited and possibly do the same thing. I am not to be put in the attitude of depreciating the volunteer force of the country; nor shall I engage in recrimination against the volunteers. My relation to the volunteers and the regular troops is the same. At one time or other, in the course of my life, they have both been my companions. My remembrance of both brings to mind many associations, the dearest of my life. I have seen all that adorns the American soldier in the ranks of both regulars and volunteers. Why should this unfriendly comparison be made between these forces? Shoulder to shoulder they stand upon the battle-field; together they bleed, even exchanging men from one kind of force to the other, when it is necessary. There, when the flag of their country required them to do their utmost in the presence of a hostile foe, these jealousies and depreciations of one by the other did not arise. They were left for the debate in the Senate, and for a time of piping peace, and for places remote from the battle-field where they fought for a common cause, inspired by common sacrifices, for a common country.

But the Senator from Texas says, surely with entire sincerity, that he has not heard of any pursuit of Indians by regular troops; that all that has been done, has been by volunteers. Well, sir, in the volume which has been laid upon his desk, the report of the Secretary of War, he will find some cases cited—not all, but some which have been cited because of their prominence. They have been cited to show that the Army as it now exists is not on a peace establishment; to show the constant active service on which it is engaged. Not only is it to be found in this volume, but it has been circulated over the country in general orders from the head-quarters of the Army as long ago as November 13th last. Not only that, but some of the brilliant acts of service, therein recited, occurred within the limits of the Senator's own State. Let me read some of these instances from the general order to which I have referred:

"1. On the 17th of February, 1856, Captain James Oakes, with a part of his company C, second cavalry, from Fort Mason, Texas, after a pursuit of six days, and on the ninth day from his post, overtook a party of seven or more Indians, killed one and wounded several others; capturing all their animals and other property; sergeant Reis and private Kuhn, severely wounded. The troops were exposed to very cold and wet weather, and for more than seven days subsisted on two days' allowance of bread and coffee, such game as they could kill, and the flesh of horses they were obliged to abandon."

That sounds to me something like pursuit; and it was a pursuit of a party that invaded the Senator's own State. Again, the seventh case recited in this order is:

"VII. On the 13th of April, 1856, a party of fifty-five Indians were overtaken on the head waters of the Nueces, by detachments from companies B and D, mounted riflemen, and F, first artillery, from forts McIntosh and Duncan, Texas, under the command, respectively, of Captain Thomas Claiborne, junior, and Brevet Captain George Granger, mounted riflemen, and Second Lieutenant George

H. Elliot, first artillery. One Indian killed and four made prisoners, their camp and all their animals captured.

"The vigilance of the Indians, and the character of the country, which enabled them to discover pursuit at a great distance, prevented a more complete success. In this case, from the time of leaving their posts until the termination of the pursuit, the troops marched three hundred and fifty miles in eight days. They suffered from want of water; and for four days, two in the pursuit and two after its termination; had no provisions but a small allowance of rice and coffee, accidentally obtained in crossing the El Paso road.

"The mayor of Laredo, Señor Don Santos Benevidas, Mr. Edward Jordan, and some twenty-five other citizens of that place, participated in this pursuit, and are represented as having rendered valuable service."

Again:

"XII. September, 1856. A detachment of troops from Fort Clark, Texas, commanded by Captain James Oakes, second cavalry, and composed of Captain Charles C. Gilbert and eighteen men of company B, first infantry; Second Lieutenant Henry W. Closson and twelve men of company I, first artillery; and Second Lieutenant James B. Wetherill and thirty men of company C, second cavalry, penetrated the country between Fort Clark and the mouth of the Pecos, western Texas, hitherto not visited by troops, and considered very difficult of access. The expedition was conducted with so much judgment and energy that, in the operations of a day, three parties of Indians were surprised between the Rio Grande and Pecos, near their junction. Four of the Indians killed and four wounded. Their animals and other property taken or destroyed."

The Senator from Texas knows Indians well enough to know the difficulty of surprising an Indian camp. He understands that men, ignorant of the frontier and its service, as he described the Army to be, would never surprise an Indian camp, and yet here is a gallant soldier who three times surprised Indians in one day. Then again:

"XIV. November 30th, 1856. A detachment composed of men of company G, first dragoons, and company C, mounted riflemen, in all twenty, commanded by Second Lieutenant Horace Randal, first dragoons, followed a party of fifty warriors of the Gila Apaches, and after a chase of three hundred and, in one day, of eighty, miles—going over mountains and plains of snow, the trail frequently obliterated, without water for three days and nights—overtook the enemy and attacked and drove them from the position of their own selection, recovering all the captured animals."

That sounds something like pursuit—a pursuit in which fortitude, skill, and all the knowledge that could enter into such service, were exemplified in the highest degree, and that too by one of those very young men against whom so many of the Senator's remarks this morning were directed. Again:

"XIX. April 4th, 1857. First Lieutenant Walter H. Jenifer, second cavalry, with thirteen men of Company B, of that regiment, after a search of thirteen days, and a march of nearly three hundred miles, came upon a fresh trail of Indians, near the head of the north fork of the Nueces river, Texas; and as the trail led into a rocky country, almost impracticable for cavalry, he dismounted, left his horses with a guard, and continued the pursuit with only seven men. After a tedious march of four miles, he suddenly came upon a camp, occupied by from eighty to one hundred Indians. Approaching it, under cover, to within two hundred and fifty yards, and he and his little party being discovered, they were attacked by all the warriors in the camp, and threatened. At the same time, by a party returning to it with horses. He repulsed the Indians, with a loss to them of two killed and one wounded. It being then night, he withdrew his men, rejoined his horses, and returned to the attack the next day; but, in the mean while, the Indians dispersed. For the last three days this detachment had no rations; having been out seventeen days."

I could go on with these instances. I have other cases marked which I might cite. There are twenty-five recited in this single order—one of them a case where the Indians were drawn up in position, and waited to receive an attack of cavalry, when they were gallantly attacked by Sumner, leading his men and charging in the same manner in which he charged the Mexican forces at Molina del Rey. He drove them from the field, and their safety arose simply from their ability, with their light horses, to cross a stream, the bed of which was composed of sand.

The Senator, then, has done injustice; and if he will take this order, I will give it to him, that he may see how great is the injustice he has done to the Army in thus proclaiming to the country that they have rendered no part of that duty which devolves upon them for the protection of the frontier. If he will read the report of the Secretary of War, he will find that this is but one of the two orders that recite such deeds, illustrating the services which have been rendered by our gallant little band on the frontier, and answering the reflection which the Senator has, I am sure unconsciously, cast on those who are, mean time, encountering service more severe than it has often fallen to the lot of troops to bear.

Then the Senator, in the course of his remarks, (for I find that, as my opponents are pressed to a change, I must change also,) took the ground that, on one occasion, the Army had been effective; for, said he, they had killed one hundred and thirty women and children; and the Senator from Maine [Mr. HAMLIN] said dragoons had been raised, under the pretext of defending the frontier against the Indians, and all he heard of their doings was their having killed some squaws and children. I do not know what number he meant, whether the same one hundred and thirty or not; but he explained that he meant the same place. The report of General Harney, in reference to the action referred to, is to be found in the second volume of the President's message and accompanying documents for last year, at page 49. He sets forth the whole case; and, according to his report, and the accompanying reports of the officers who were serving under him, the number of killed was eighty-six, and wounded, five—not one hundred and thirty women and children, but eighty-six Indians were killed, and five wounded; about seventy women and children captured, and fifty mules and ponies taken, besides an indefinite number killed and disabled. In a report made by Colonel Cooke, which I shall not weary the Senate by reading, he explains that the women dressed and armed so much like the men, as sometimes to be almost undistinguishable from them. They fired upon his men; and, in one instance, wounded a sergeant who had passed a woman because he perceived she was one.

Then, again, the report of Lieutenant Warren, who was the topographical engineer accompanying the expedition, gives distinctly the whole circumstances and topography of the ground which caused the killing of, I think, seven women and three children. After the first attack, on the Blue Water, a part of the Indians escaped across the plains, and were pursued by the mounted troops. A part of them, being on a hill, had fled into a sort of a cave, where the rock hung down near to the ground, and furnished a loop-hole through which they fired upon the troops as they approached. This fire was returned by the troops. A cry was heard from the interior of this cave, and one of the interpreters said there were women in it, and the officer who commanded them (and who, by the way, the Senator from Maine would have found, if he had inquired, was a worthy representative of his own State) immediately halted, told the interpreter to advance, and called on the women to come out. They did come out, surrendered, and were not hurt; and all who were killed were those who had been shot in the cave, where they could not be seen, and only then after the troops had been fired at from the cave. That, according to the history of the case, is the foundation of this charge of killing one hundred and thirty women and children.

The commander of that expedition, General Harney, might compare his knowledge of Indians and of Indian character favorably with the Senator from Texas, or anybody else. That stroke, which he gave the Indians on the Blue Water, was the most successful blow that was ever struck on that frontier for the preservation of its future peace; and if peace shall be enjoyed by the people of Nebraska, it will be attributable more to that one great movement of Harney's than to anything else which has ever happened there. Then, moving on, with that knowledge of Indian character, and that intrepidity and devotion to his duty which characterize the man, he went forward, disregarding all difficulties, until he reached the Missouri river, and there held a council with the Indians, and formed with them an agreement, which stands in my judgment as a model for all treaties with Indian tribes. He there established among them an organization, which, if anything could be effective to preserve these restless people in order, would conduce to that result. It has had the good effect, so far as I can learn, thus far to keep the Indians who have hitherto been hostile, in a state of peace, and approximating to that end of which the Senator speaks.

But, sir, in answer to some remarks which have been made by myself and others, replies have been offered, which would indicate that there had been an intention to signify that volunteers were wan-

tonly cruel. I have no disposition to shrink from the responsibility of what I said; or if I did not say it, what I thought. I thought, and I now say, that if you bring men out with border animosities, men who have had past injuries, who come with grievances to redress, they will exceed the limits of justice; they will exceed the limits of humanity and forbearance; they will kill without justifiable cause. I have no disposition to cite cases, though it would be easy for me to do so. Volunteers—the word is used because others use it; militia is the strict term—the militia are the people of the United States, and so are the soldiers of the regular Army. They are all volunteers. Thank fortune we live under a Government where all, who enter the military service, do it voluntarily. Militia may be coerced by draft; the regular soldier is always a volunteer; his is always a voluntary enlistment; he is emphatically, under all circumstances, the volunteer. But using the term in the sense in which it has been used, militia, if drawn from a distance, would be exactly like those enlisted in the regular service; the whole difference being the degree of discipline, and that disparity constantly vanishing in the progress of a long campaign, bringing them at last to precisely the same standard; being the same materiel at the start, and reaching the same result if they are carried through the same process.

The whole of the cases which were referred to, and which have been somewhat warped in the argument, were those which resulted from border animosity and from partisan feeling. I think I said—and if I did not, I intended to say—that if the militia of California were called out against the Mormons, coming there with the hostility resulting from their contact with them, justifiable, if you please, but coming with that preconceived hostility, they would exercise a severity in their treatment of them which would not belong to men brought from a distance. That is my opinion. It is very likely, that if the appeal was made to the men themselves, they would say: "Yes, that is true, we do feel it; and we are likely to exercise it." I am sure I have never seen a body of militia in the field, called from the neighborhood of a settlement on which Indian depredations had been committed, which did not come with the spirit of extermination, and justify themselves by arguments drawn from what they had suffered.

We have also had the argument presented to us, that the militia will always respond to the call of the country; that they always have been the effective force which has fought the battles of the country; and that they are the reliable strength of the country. Grant it. Who denies it? The militia have responded, and they always will respond, when there is occasion; but the militia never have been called out to hold frontier posts; and they will be found to be very restless troops if they should ever thus be employed. It would be at a great sacrifice of the other interests of the country, if the militia were so called out. Men useful in the ordinary avocations of life, detached from them and from their families, to perform the duty of private sentinels at a frontier post, would be such a waste of valuable material, that it would deserve to be called anything else than economy, even if it did not cost a dollar.

But, sir, as to the relative efficiency of the two species of troops, I have some brief points to which I will refer; and the first is the "Vital Statistics" of Dr. Coolidge, a review of which work will be found in the American Journal of Medical Science, for January last, and a table from the work alluded to, will be found at page 92 of the Journal. It is a table showing the proportion of the invalid and disabled troops in the different services. First, he takes the British army, giving a percentage of 0.65 per month; then the regular Army of the United States, giving a percentage of 0.53; and then the additional force raised in the war with Mexico, being regular troops, 0.52; then the volunteers, 1.25 per month. That is to say the men, who became diseased and disabled by the contingencies of the camp, were about double, in the volunteer forces, what they were in the regular army. Why was this? In the first place, the volunteers did not know how to take care of themselves; they did not know how to shelter themselves; they did not know how to

cook their provisions; and in the next place, their habits were suddenly changed, and this waste of life was the result of the sudden change before the animal economy had been accommodated to it. If you were to take an Osage and put him on a simple rice diet, you would as surely kill him as if you were to take a Hindoo and put him on a meat diet alone. Either of the two extremes would bring about the same result, and be destructive to the efficiency of the Army.

Next I refer to the report of the Surgeon-General of the Army, of November 9, 1846, in which he says:

"From the best information which has been received at this office, it is believed that the extent of sickness among the volunteers on the Rio Grande has been fourfold to that among the soldiers of the regular Army, with a corresponding excess of mortality in the ranks of the former."

"But this is not all; the presence of a numerous body of invalids seriously embarrasses the service; for, besides consuming the subsistence and other stores required for the efficient men, they must have an additional number of surgeons and men to take care of them, and a guard to protect them, which necessarily lessens the disposable force, the available force, for active operations in the field."

These are the two statements on which I would rely as to the relative efficiency of the two species of troops; and these reasons apply with fourfold force to the circumstances of the expedition to Utah. They will be there further removed from civilization; they will be there more deprived of the comforts to which they have been before accustomed. The casualties resulting from the employment of militia in such a service as that, by their being disabled by disease, exposure, and the vicissitudes of the camp, will greatly exceed anything we have heretofore encountered in the cases from which these results have been drawn.

There might, however, be circumstances which would justify us in meeting all these objections. If I believed, with the Senator from Texas, that the cavalry of the United States Army was necessarily wholly inefficient, a mere tax which never did and never would do anything, certainly I would say we must look out for some other character of troops; but some of the hard rides read to him to-day, some of the successful pursuits, defying all privations of food, cold, and thirst, should somewhat convince him that the Army may be effective for the purpose for which he proposes to employ a volunteer force. He says he wants troops; but he wants a different kind of troops than the Army can furnish; he wants men who are able to take care of their horses; men who know something about frontier service. Where will he find them out of the Army, comparable to our dragoons? Where will he find men who have so often encamped under the blue vault of heaven, and relied on grass to support their marching column, as in the Army of the United States? Where will he find men who know so much of the topography of the country? If his objection be that the recruits are not sufficiently instructed, the remedy is to give us more force; not to require that every man, the instant he is enlisted, shall be thrown on to the frontier for immediate service; but give us enough troops to keep some in camps of instruction and in schools of practice, where they may be educated for those duties which the Senator desires to have them perform.

But he makes the argument of economy in that connection, and uses it in several other connections; and among others, the Senator from Georgia first asserts and the Senator from Texas indorses it, that Texas used to be better protected by four companies of rangers, than she is now by five regular regiments. To that there are two answers: First, there are not five regiments there; and second, if Texas ever was protected by four companies at the early period referred to, those four companies might have been quite adequate to protect the settlements which, at that time, were not equal to one twentieth, or perhaps one hundredth part of what they are now. Four companies were sufficient to protect a single ranch; they were more than sufficient to protect a single man; and they may have been sufficient to protect the whole amount of border settlements Texas then had.

It is further to be remembered that the Indians then lived upon fertile valleys with abundance of

game, and that the prosperity and progress, which to me is most gratifying, of the people of Texas, has now driven the Indians from the fertile plains into the arid region where but little game is to be found; and now, by necessity, they commit forays for plunder in order that they may obtain food, which is not to be found in the haunts to which they have been driven.

Then, again, it is to be remembered that Texas did not occupy to the boundary of the Rio Grande. I contended in 1850 that that was her territory. I contended for it a great way up the stream; but nevertheless it is true that she did not maintain posts on the borders of that river overlooking the territories of Mexico. A portion of the force in Texas is to be accounted for by manning those posts which mark the boundary of the Rio Grande, and which Texas never occupied with a regular force.

Now, sir, the question of economy is to be answered in several forms. As I understand the argument, the basis of it, and it was so stated by the Senator from Georgia, is, that the cost, whilst in the service, of a militiaman and of a regular is the same. He made some slighting remarks about the skill of regulars in making out accounts, to which I have no reply to make, but he said the pay and allowances were the same; overlooking the fact, that the more frequently you change the force the greater its cost. He has neglected the law which gives to the militiaman fifty cents a day for his own subsistence, and twenty-five cents for that of his horse, whilst he is going to and getting back, and twenty-five cents for the use of his horse while he is in service. It is a fact that we have been able to get very few volunteers otherwise than mounted. It has become steadily more and more so with each year. The late Adjutant General Jones used to say, that he recollected the time when the song was, that a man was to shoulder his musket and march away, but now it was to get upon a horse and ride away. His complaint was then that he could not get militia to serve on foot. He could not get militia in Florida to serve on foot. It was not so much that they required to ride, as that they would not serve for the poor pay given to the private soldier of the United States; they required the pay of mounted men, pay and allowances for their horses; and the indemnity for their horses, which always follows, in a heavy train, behind the allowance for permission to use the horse at all.

All these matters have been reduced to calculation; we have had reports on them. It is hardly necessary to argue that the traveling allowances, the clothing which is on the ratio of the first year's services, and the pay for the use of the horses, constitute the items that make up the very great expense of the employment of volunteers. These have all been stated in tables, which have heretofore been prepared, presented, and published for the use of the Government. The Senator from Florida [Mr. MALLORY] this morning referred to the letter of Mr. Poinsett. That letter communicated a report of the Paymaster General, who went beyond the limits of the then Secretary of War. He refers to the disparity between the cost of the two forces as nearly six to one, because, he says, the horses that are employed are merely to carry the men from place to place, and really impede the march of the column. Then he goes on to state that—

"This enormous disparity in the expenses of the two forces is not owing to the extravagant allowances made to volunteers; for, except in the article of clothing, they are not better paid than regular troops, and altogether insufficiently compensated to reimburse them for the pecuniary sacrifices they make in leaving home and employment, to say nothing of the danger and hardships they encounter. It is caused principally by expenses for traveling to and from the place where the services of the volunteers and militia are required; to the hire, maintenance, and indemnity for horses; and to furnishing them a full supply of clothing as a bounty, without regard to length of service. The statements also show the expense of volunteers serving on foot, and of militia. The term of service of the latter never exceeds three months, unless specially provided for."

"There is one comparison that would place the contrast between the expenses of regular and irregular troops in a much stronger light, if I had the data to enable me to state it in figures; and that is, the comparative loss and destruction of military stores and public property by the two forces."

He presents his tabular statement in which he shows, on the basis of the companies, that for six

months the cost of a company of United States dragoons was \$13,573, and for the mounted volunteers \$22,575. That is the ratio to which the attention of the Senator from Georgia is called before he again assumes the position that the expense is the same.

The Senator announced, in the course of his argument, that the cost per man of the Army, was \$1,000 per annum; but the Senator from Maine, I think, says it is \$1,500. The Senator from Louisiana [Mr. BENJAMIN] says it is \$1,000; and thus it seems to be a question between the gentlemen whether it is \$1,000 or \$1,500. I am quite at a loss to know by what process of calculation they reach that result. Surely the Senator from Georgia, when he states the cost per man during the time Mr. Calhoun was Secretary of War, to be \$273, has not based his calculation on any data which will lead him to decide that \$1,000 is the cost of a man now. Whatever process of calculation is adopted, it must be different for the one case and the other to reach these results. It is utterly impossible to obtain them by any one process of calculation.

Mr. TOOMBS. I can refer the Senator to my authority. In 1842, the Secretary of War, Mr. Spencer, of New York, I think, was called upon to compare the estimate of expenditures. He puts it at that amount on the same basis by dividing the expense by the number of men and officers. The report I stated from recollection was that it was \$273. That is where my information is derived from.

Mr. DAVIS. The report of 1820 is to be found in the American State Papers, volume 2, pages 46-7; and in it is stated the strength of the Army at different dates, and the annual expense per man, including officers; and this report states it to have been, in 1809, 1810, and 1811, \$383 60; in 1820, \$336 56, per man; and that the reduction of nearly fifty dollars has been ascribed, and I think with much justice, though I do not believe it is wholly due to that cause, to the increase of the Army which, in the mean time, had taken place. The Army had been increased on the peace establishment by six thousand men, and the expense per man had sunk nearly fifty dollars.

Now, sir, I have had a calculation made on the present basis to ascertain what a regiment of infantry will cost; and I have asked that it shall be a regiment of infantry to be raised, including the whole expense for recruiting, the first years' clothing, all the camp and garrison equipage, so as to bring it as nearly as possible into a fair comparison or parallelism with a volunteer force raised for the same time. It is the same table which was furnished to the Senator from Texas, but which could not have been in his possession when he made his remarks. The pay during twelve months of a maximum infantry regiment, eight hundred and seventy-eight strong, (that includes all the field and staff, and includes the additional men granted by the act of 1850,) including officers' subsistence, clothing for their servants, and forage for the horses of the field and staff, subsistence of the enlisted men at the price which has been estimated for the Utah expedition, clothing for the enlisted men, with camp and garrison equipage for the officers and men, make the total amount of maintaining for one year such a regiment, \$293,784 39. If to this be added the maximum cost of raising such a regiment, \$14,630, we shall have an aggregate of \$308,414 39; and this divided by eight hundred and seventy-eight would give us the cost per man for the first year, \$351 24. The cost of raising a regiment would of course be excluded from all subsequent calculations. The estimate for clothing would be greatly lessened the second year; and the estimate for camp and garrison equipage would disappear.

We have had an estimate lately sent in to us, of \$385,000 required by the pay department alone for twenty companies of volunteers for six months. That would be equal to ten companies for twelve months; and taking it and comparing it with this estimate of a regiment for a year, adding the cost of rations, which is \$77,015, it would give a total of \$462,015, (including merely the cost of rations and the pay,) or \$526 21 per man. It follows, then, that a regiment of volunteers would, for one year, cost \$153,600 61 more than a regular regi-

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ment of the same strength; or an individual volunteer during the same period, \$174 97 more than an individual regular soldier. It will be remembered, however, that these volunteers are mounted.*

Mr. BENJAMIN. In my statement as to the cost per man of the Army, I took from the estimates submitted by the War Department what the Secretary of War himself states as to the expenses of the Army proper. I find the estimates as follows: First, expenses of recruiting, transportation of recruits, &c., \$110,000; next, pay, commutation of officers' subsistence, commutation of forage, payments to discharged soldiers for clothing not drawn, payments in lieu of clothing for officers' servants, subsistence in kind, clothing of the Army, supplies for the quartermaster's department, incidental expenses of that department, barracks, transportation of officers' baggage, transportation of troops and supplies, purchase of horses, contingencies of the Army, medical and hospital department, contingent expenses of the adjutant-general's department, expenses of the commanding general's office,—the whole making, together, as the expenses of the Army proper, \$14,776,619 49.

Now, if we take, according to the statement of the honorable Senator from Mississippi, the cost of raising a regiment, and count that only as added to the pay and rations, undoubtedly he may bring the expenses per man to four or five hundred dollars; but have we any assurance that all the other expenses and all those other branches of the Army service are not to increase proportionately to the Army, and consequently that the sum total of the appropriations will still remain about a thousand dollars per man? I do not profess to be acquainted with these details, but I take the report of the Secretary of War, and he says he wants \$15,000,000 for the Army proper, which now averages about fifteen thousand men, making \$1,000 per man.

Mr. DAVIS. I am obliged to the Senator from Louisiana for his explanation, and think it is easily answered. It is a process of calculation which always leads to error. There are some methods of computation which will occasionally be right, and sometimes wrong; but that is a process which is always wrong, and cannot be right. I will put the two cases that result from that process. I will suppose that fortifications cease; that the manufacture of arms ceases; that your staff is disbanded; that you swell the companies to the maximum limit; that you have additional regiments; that you raise an army to that magnitude which might even frighten the Senators who have spoken

of the dangers of a standing army; and yet, according to this process of calculation you would bring forward a beautiful sheet of economy. You would have lopped off the vast expenditures which do not depend on numbers; you would have multiplied the lower grades where the smallest pay is received, and, *per capita*, you would bring up a sheet demonstrating a most economical administration. Now, let us take the other case: suppose that, following in the footsteps of our fathers, and profiting by the experience of the time which has intervened from their day to this, we think proper to maintain, in time of peace, a large staff; we think proper to go on with fortifications for the contingencies of war; we think proper to go on with the manufacturing of arms, so that the whole militia may be supplied at any moment; we think proper to cut down the companies to the small number necessary for duty in time of peace; we think proper to maintain a large number of regiments in proportion to the whole number of the rank and file; and then, *per capita*, you have the greatest expenditure you could possibly show, yet you have the wisest economy, according to the theory of our military system, which could be adopted.

Mr. BENJAMIN. In the list of expenditures to which I have just referred, I carefully excluded everything having reference to the manufacture of arms, and to fortifications. That list has no reference to them at all. They are excluded. If we include these and other items, the expenses would reach twenty millions.

Mr. DAVIS. But you include all the vastly expensive portions of the Army in your estimate. You include the staff, which would not be increased by adding to the number of men, and which, on our theory, is maintained in time of peace because it is essential in time of war; because it is a part of that arrangement by which you render effective, with the small nucleus preserved in time of peace, a large army in the field.

Besides, it will be remembered that by special legislation you have sometimes increased the pay of particular officers, general and staff; you have raised it to a magnitude which bears no relation to that of the soldiers; and this is an argument adduced against the increase of companies, against the increase of privates in the Army; but it has resulted from the pay which you have bestowed with a liberal hand on some officers in the service. I say such a process of calculation leads to error, and cannot lead to any other result. It never can evolve the truth. It may vary the one side or the other, just in proportion as the Administration multiply the troops and diminish the size of the staff, or the reverse; but it is false, work it out as you may.

In the argument of Mr. Calhoun, in his report of 1820, in answering then the very same objections which are made now, as to the expensive character of our peace establishment, he pointed out the unfairness of including the staff in such an argument, and running a parallel between the staff of our Army and others. A nation of Europe keeping on her peace establishment an army equal to her war purposes, and having it concentrated, and with a staff exactly commensurate to the size of that army, forms no standard of measure for a country like ours and an army like ours, where we preserve, in time of peace, a staff suited to the vast augmentation of our force, by bringing the militia into the field in time of war. The same argument which he made then is applicable now; but I shall not detain the Senate longer on this point.

I am not arguing that the expense of our military establishment is not great, or more properly the expense of protecting our frontier; but arguing rather that the whole theory on which the opposition rests is wrong. They contend that, in proportion as you increase the number of men, you will increase the expenses of the Army. It is not so; because, if you use one regiment to perform the duty of five, you add to the expense of that regiment the transportation to the places where five would be stationed, and you increase the expenses of that regiment just in proportion as you move it over great distances. Then the expense comes in, as this year, in the form of transportation. It comes in exactly as that deficiency which was cited by the Senator from Maine, and which

he argued should be included in the expense *per capita*. That is an expense which is proportionately great as you reduce the number of men. The transportation increases from the want of ability to station the men wherever they are; and that is compensated for by taking the same man and using him at a number of places. Never, in the history of any nation, were such extensive marches and movements made, and over plains so desert and so totally destitute of all supplies by the way, as those made by our Army in the last two or three years.

This brings me to the argument of the Senator from Georgia, that on account of the improvements which have been made, an army of twenty-five thousand men is equal to what one hundred thousand would have been twenty-five years ago. Sir, twenty-five years ago we had none of these long marches to make which are reported by the Secretary of War. Twenty-five years ago our Indian frontier was within reach of supplies which could be sent on navigable water. It has been since that time that our Indian frontier has been pressed outward, the settlements advancing from navigable waters, throwing our military operations into a country where everything has to be transported at a vast expense, and where nothing is to be obtained, either on the road or at the place of destination. These are the elements of increasing expense, and the expense is not to be diminished by making speeches about what has been done in former times, and what might be done now. It requires the coöperation of the legislative and executive branches, to reduce the expenses of the Army, or any other branch of the public service. Reforms have been asked, from year year, to improve the administration of the Army, but they have not been granted. The last two Administrations, as well as this, have recommended to Congress changes in the organization which would be conducive to economy and efficiency. Congress has not heretofore responded. Whilst it does not so respond, it seems as idle, as it is easy, to make declamation against the expenses of the military establishment.

We are told by the Senator from Georgia that he takes the standard of Mr. Calhoun, and he made the argument—which I am willing to pass over—that Mr. Calhoun left ten companies to the regiment, and therefore he was retaining the theory of Mr. Calhoun, against the invasion of that theory by the proposed bill. Sir, the theory of Mr. Calhoun was not any certain number of officers to the regiment; it was not any certain number of men to the company; it was not even any certain number of officers to the Army. He says, in his report, that those were things which varied with different countries, and must vary in the same country, at different times. He presented what he believed to be a good organization of the staff. What I claim respect for in relation to Mr. Calhoun's theory of organization, is the great principle on which it rested; not the details, which were to vary with circumstances, but the mighty truth, which his mind, contracting all light like a moral lens, brought on the subject. It was the truth of this theory of a skeleton army, in time of peace, for purposes of instruction and organization, with a staff adequate to the vast number of militia which would be called into the field whenever we should be engaged in a foreign war.

That theory he presented; that theory he defended; that theory has been justified by practice and experience from that day to this. That theory is not violated by changing the number of men in a company, or the number of men in a regiment, or the number of companies in a regiment. The number of companies in a regiment varies from twelve to eight. It is not violated by increasing or reducing the Army. It would only be violated by establishing, as a rule, that we would on our peace establishment keep a certain number of companies required for frontier service, and swell them up to the war or maximum standard, and then, when we get into war, be compelled to meet its contingencies by raising new troops, or, as Mr. Calhoun said, introducing a new element, instead of expanding the old one.

The Senator from Texas says there is a want of respectability in the rank and file of the Army, and he draws that want of respectability from

* Table furnished from the Adjutant General's Office.

Pay during twelve months, of a maximum infantry regiment (878 strong), including officers' subsistence, clothing for their servants, and forage for horses of the field and staff.....	\$167,125 30
Subsistence of the enlisted men, at twenty-five cents per man, (estimated rate for the Army in Utah).....	77,015 00
Clothing for the enlisted men, with the camp and garrison equipage, for officers and men..	49,643 89
Leaving for the whole amount of maintaining, for one year, a stationary infantry regiment (878 strong).....	\$293,784 39
Add to which the cost of raising the same.....	14,630 00
	\$308,414 39

It is to be observed, that the above sum of \$293,784 39 is a full and minutely exact estimate of the whole amount required for the pay, clothing, subsistence, and personal equipment (exclusive only of arms) of a maximum infantry regiment, supposed to be full, at the beginning of the year, and to be kept full throughout the whole succeeding twelve months.

It is moreover to be observed, that the estimates for clothing is for a first year's supply, which is considerably greater than that for either of the subsequent four years; the proportional cost of an infantry soldier's allowance for the five years, being, according to the last table published to the Army, in 1855, as follows: first year, \$41 03; second year, \$23 61; third year, \$36 67; fourth year, \$23 61; fifth year, \$31 52.

The allowance of camp and garrison equipage, herein included, is expected, besides, under ordinary circumstances, to last throughout the whole five years.

The estimated cost of raising a regiment is not to be counted in the same year with that above furnished for maintaining it; not only, because, as already stated, the latter completely covers the year, but for the reason that many items of expense included in the former, and which cannot easily be separated from it, are also included in the latter.

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their inability to obtain promotion. I answered him on that point this morning, and showed him that, at least, recent legislation had removed his argument, had opened the door wider than ever before, and the rank and file were in a better condition now than they were at the time to which he referred, so far as promotion was concerned. I endeavored—I will not say successfully—to controvert his idea that the present object was to diminish that opportunity, and sought to show, and I believe did show, that the first section of this bill was to increase the opportunities for the promotion of the rank and file, both to commissioned and non-commissioned officers.

But he repeated, this morning, something like the argument he made the other day, when he averred that there was an impassable barrier between the rank and file and the commissioned officers, and he ascribes it all to the Military Academy as the root of the evil. He says these are political appointments. He seems to have a very bad opinion of a man because he has been instructed in a particular branch. He seems to reach the conclusion that it follows, as a necessary consequence, that if a man has been educated for a particular profession, he is utterly unfit for it. Therefore, the lawyer, who gets a license, must be unfit to go into court; the surgeon, who has walked the hospitals, must be unable to perform an operation. It seems to me that the test to which they are applied ought to bring anybody's mind to a different conclusion.

I propose to notice that, in connection with his argument, that this is political favoritism. I claim that on the theory which at present exists, we have the most democratic basis which could be incorporated into the Army. How are your cadets appointed? It is true the law leaves to the Executive the power to appoint; but it is well known that the practice is, and for many years has been, for the member of the congressional district in which a vacancy occurs, to nominate whomsoever he pleases from that district, and the Secretary of War always appoints the person so nominated. Then these appointments are political only in the sense that they represent every shade of political opinion which is represented in the House of Representatives, and that every political party, which can have a voice in the House of Representatives, has a representative in the Military Academy. Is that objectionable? If so, how is it proposed to be cured?

Then, again, the large number appointed, say one hundred per annum, exceeds the number who are commissioned, say forty or fifty, more than two to one. Thus double, or more than double, the chances are given to the youth of the country to get into the Academy, that are offered to get places in the Army. I say you multiply the opportunities; and how is this brought to bear? From each congressional district a nomination may be made. The cadet so nominated enters the Academy, and there it depends on himself whether he shall go through and obtain a commission or not. When he attains that commission, he feels that he has something which he has won by his own effort; something he does not owe to the favor of any one, save so far as he may run back to the early favor he received from the member who nominated him to an office, which was so small that the member had probably forgotten it. If, then, I say, there is any mode by which you could leave the officer of the Army without any political bias of character; any mode by which you could leave him independently to feel that he might entertain whatever opinions he pleased, it is that which you have adopted, and which enables him to reach a commission by his own effort, in contact with the struggling many by whom he is to be surrounded.

If you were to increase that Academy twofold in number, you would but render its principles more democratic; you would but increase the chances to youth to get position; you would but increase the struggle which would be required to obtain a commission, and give him additionally to feel that whatever he attained he owed to his country, and not to man; to himself, and not to mere political favoritism.

The Senate proceeded to the consideration of executive business, and then adjourned.

THURSDAY, February 11.

Mr. President, having already consumed the time of the Senate to a greater extent than I had anticipated, I shall endeavor to close my remarks very soon. Yesterday, in the progress of a review of the various objections made to the bill, I noticed those points that relate to efficiency and economy. I undertook to show, at that time, that it was better all the duties of our peace establishment, as it is called, should be performed by regular troops, than by the frequent calling out of the militia. I endeavored, also, to indicate at that time the sources of the increase in the expenditure of the Army, and to show that this was the result of the remote points at which the Army was serving; it was the result of the vast expense of transportation to those remote points; it was the result of the increased cost of everything which entered into the consumption and the active employment of the Army.

I do not recollect whether or not I stated another very essential difference: being that, whilst at the time the comparison of which I spoke was instituted, we had no mounted force except a small amount of light artillery, we now have nearly one third of the amount of the Army mounted; and that portion of the Army almost constantly in active service. Horses which at that time were worth sixty or seventy dollars, cost last year \$176; forage has risen in the same proportion; and, as the loss of horses in the service of the United States has been referred to, I invite attention to the cases which I cited yesterday, and others of a like kind, where Indians had been pursued by troops for hundreds of miles without cessation, passing over sixty, and sometimes even eighty miles, almost, scarcely without drawing the rein, in pursuit of an enemy as wily, as brave, and, mounted on horses, nearly as fleet as the Arabs of the desert, over a country quite as inhospitable, and in which it is equally difficult to obtain water or food necessary to sustain a horse. Undergoing this severe fatigue under excessive heat, is it matter of surprise that horses, drawn immediately from the farms where they have been purchased, and forced into such service as this, should sink under the trial—should require to be renewed, and that the expenditure should be great, as they must be supplied not only at the high rates of the market, but at the accumulated value they have when transported to these remote points?

The distribution, which is to be made of the gross amount of expenditure according to the statement read by the Senator from Louisiana, [Mr. BENJAMIN,] is not a distribution upon the heads of the soldiers. For a fair comparison, reference must be had to the different character of troops; and it will be readily seen that the simple division of a gross sum to be applied to a variety of objects cannot give a result which will express the cost of the soldier truly. The sum he has stated is, I believe, perhaps about that which a mounted soldier costs in the Army. Taking the troops serving at these remote points, engaged in these expeditions, and taking the cost of forage, and the supplying of remount horses, I believe it will amount to what he stated, \$1,000 per capita; but this surely is not to be taken as the average cost of the Army, it being not the man only, but the horse also, and the cost of both depending on the locality of service. Equally delusive is the comparison made between the cost of this date and that selected, there being no cavalry at the former period, and the posts being then convenient to the great markets of the country, and contiguous to productive settlements.

I have never, I believe, either in my former or present service in the Senate, referred to any criticism in a newspaper, or to a newspaper article, and I do not intend to do so now in that character; but the Senator from New Hampshire, [Mr. HALE,] yesterday, introduced a newspaper article, which, at that time, I had not read. Since it has been introduced by a Senator to the Senate, I will notice it; but otherwise I would not have done so. It is a flippant article contained in the Union of yesterday, in which the writer undertakes to arraign the Committee on Military Affairs of the Senate, and presumptuously, also, to arraign the Senate, and, committing the most egregious blunders, to state what, under certain con-

tingencies, the Senate would have done. He announces, after speaking of the wants, and delay the Senate had made in attending to them:

"Strange as this delay is, its causes are yet stranger. The increase recommended was by regiments. That recommendation came first from the Lieutenant General commanding the Army, indorsed by the Secretary of War, and finally approved by the President. It can scarcely be doubted, had the Military Committee, without delay, reported a bill in conformity with these suggestions, it would at this moment have been the law of the land, the regiments in a forward state of recruiting, and arrangements in progress for their early march to their places of destination."

So far as that delay occurred in the committee, it occurred during the period the committee were collecting information and investigating the subject, to reach a result and bring that result to the Senate. Then, sir, as to what the Senate would have done, that is not a matter of speculation. The substitute presented by the Senator from California, [Mr. GWIN,] the very proposition of the War Department, was voted upon, and it received but eight votes in the Senate; and of those eight votes, some Senators voted for it because they felt it was a proposition so easily killed that they had better substitute it for the bill of the committee, with no desire that it should pass, with no intent to sustain it, but simply adopting it as a means of readily disposing of the whole question.

This article proceeds to deal with military matters, and informs the Senate and the committee that all the knowledge on military affairs is at the other end of the avenue; and then the writer proceeds himself to launch out a little. Speaking of the Army organization, he says:

"Indeed, on inquiry, we learn that two of each of the twelve artillery companies are intended for light field artillery, and are not integrals of the garrison organization, which conforms to the other regiments, is of long standing, is the basis of our system, State and Federal, and of the systems of the European armies."

If he had happened to know a little about the organization of the European armies, of which he speaks so confidently, he would have understood that the artillery organization there is for a wholly different purpose—a purpose for which ours should be—and conforms to the idea which I once presented to the Senate, when in the War Department, to make our artillery organization for the use of large guns, and not as they are now—in infantry, merely wearing a different uniform. The article proceeds:

"In fact, but a hasty glance at the books shows but one established system of regimental organization in all these different arms, and we find the entire tactical system based on battalion, squadron, regimental drill, and army evolutions, contemplating ten companies to each regiment."

The "glance" must have been "hasty" indeed—hastier than a "plate of soup;" and it must have been oblique as well as hasty; otherwise it certainly must have occurred to the writer of this article, who, it is apparent, is not as ignorant as he is inclined willfully to misrepresent, that so far from this being a uniform organization, it is an exception in every army of Europe; that so far from ten companies being the universal organization, so far from the tactics depending on the number of companies, he will not find in any system of tactics the word "regiment" used. All our tactical organization is on the basis of the battalion; and a battalion in the European armies usually consists of some fraction of a regiment. A regiment may consist of one, two, three, four, or six battalions, and in some circumstances it does. There are, in some services, regiments running up from six to twenty-four companies. The idea of ten companies being the basis recognized all over the world as necessary for the tactics, is an absurdity which a man who shows as much knowledge of the affair of which he writes as the writer of this article, cannot have committed with an honest purpose. Then he says:

"The mischief would not end in deranging the fixed Army basis, but would result in fundamentally changing the militia organizations in all the States of the Union, as they have adopted the Army plan, and must always look to it for its system of drill and instruction. Here would be incalculable mischief and confusion."

Inc calculable mischief and confusion by changing the number of companies in a regiment!—a change that has been frequently made in our own history, and which, in its reference to the tactics, is not found to bear any relation at all, the whole being intended for a certain number of companies.

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constituting a battalion; and it merely so happening that, when the tactics were prepared, ten companies did constitute a regiment; and, therefore, in assigning the captains to their posts in line, they are assigned numerically on the basis of ten companies to a regiment.

I wish it to be understood, sir, that it is because the Senator from New Hampshire has introduced this subject in the Senate, that I have departed from what is the course I have heretofore pursued, and stop to notice newspaper criticism on the action of the committee, or of the Senate, or of myself. In times past I have defied such criticism, and I expect to do it in the future. I rely upon the intelligence of the people to discriminate between the scribbler who arraigns a public man for the manner in which he performs his duty, and the justice that truth requires, as it is to be elaborated by their own intelligent minds.

I pointed out, in my remarks yesterday, the distinction between a State and a Territory in relation to the power of this Government to use its military force. This brings me to a brief notice of a remark in the President's message which refers to the withdrawal of the troops in Kansas in case Kansas should be admitted as a State. The President sees, no doubt, that troops are required elsewhere; and I agree with him, that if Kansas becomes a State, she ought then to provide for the execution of her own laws; and that if she requires extraneous aid, it ought to be sought only in the manner provided in the laws made in conformity with the Constitution. I agree with the President, that troops ought not to be quartered in the State of Kansas, or any other State, with a view to preserve civil order, and that the troops will be disposable when Kansas shall be admitted as a State. Whether peace will follow, I do not know. That depends on whether the people of Kansas are now fit to be a State. If they are fit to form and maintain a State and take their place as equals in this Union, then they do not require troops to be quartered in their midst in order to preserve civil order. That is a question which belongs to the future. In the mean time, I take it for granted that the President will withdraw the two thousand men heretofore kept, under the requisition of Governor Walker, to preserve peace in Kansas, and to suppress insurrection in the event of her admission into the Union.

That, then, renders two thousand men disposable for other service; but I submit to the Senate whether it will justify us in keeping our troops down to the present establishment. The long lines to be occupied, the numerous posts required, in addition to those we now have, demand an additional force. The committee have adopted a plan which gives us an increase of the integral parts of the Army. It was believed to be the most economical which could be adopted for that purpose, avoiding the very high expense that belongs to the higher grades of officers in the regimental organization; preserving the present efficiency, and opening in the future (when that future shall come and which I do not pretend to foresee) a convenient mode of reducing the Army by striking one battalion off each regiment; and if then, the President possess the power, on a declaration of a war, to restore this third battalion, it will render each regiment one third larger on the war than on the peace establishment, and they will go into the service with that efficiency and reliability which belong to discipline and instruction.

During the time I was particularly charged with the administration of the War Department, troops were kept in Kansas when I desired to get them out, not that I did not believe occasions were occurring where they might be useful—and they proved more useful than I believed they would be—but on account of the difficulties which then existed on our frontier. The campaign which had been projected against the Cheyennes was paralyzed by the keeping of troops in Kansas. Those troops were wanted on the frontier to preserve peace; they were wanted on the frontier to punish Indians who had committed acts of hostility; but they were detained in Kansas from day to day, from month to month, and year to year. We looked to the time when peace in Kansas would relieve the Government of the necessity of keeping them there. Time rolled on, and the ne-

cessity still continued. When those necessities are to cease, I am not able to foretell.

In the mean time you are aware that a small army has been thrown forward to preserve order and maintain the laws in the Territory of Utah. I shall not follow Senators in a discussion of the propriety of making that expedition against Utah. I believe, and I will say so much now, that the elements of disintegration were in the community of Mormons established in Utah; I believe that physical causes and moral causes were conjointly working together to break up that people. I believed, then, and I am rather inclined to the opinion now, that if we had stood still they would have separated; that it required the compressive force of active movements against them to bring them into submission to their great leaders, to bring in the colonies that had been thrown off from the mother settlement at Salt Lake, back to the grand church, and to unite them under a bond of fanaticism that now makes them effective against any military force that you can probably send there.

But these are questions which belong to the past, and speculation upon which cannot guide our conduct at the future. The Government of the United States has thrown forward its troops on the trail of the Salt Lake. They are in the mountains now, a small body of men; perhaps sufficient, if they had started in time to have gone through to Salt Lake, to discharge their duty; but, checked in the mountains, it is probable that before spring arrives, their animals will have been so reduced, so many will have been lost, that they will be without the ability to move. If the commander of that expedition, Colonel Johnston, has the transportation which will enable him to move, he will subdue resistance with the force he has. I speak it with a confidence which grows out of a long acquaintance, both in the garrison and in the field; but my apprehension is that he will not have the power to move, for the want of transportation; that he must stand where he is until he is reinforced.

Now let us see what is necessary to reinforce him. The column with which he moved, was no larger than was necessary for its own security and the security of its supplies. Then the column that goes to reinforce him, if it were only with provisions and animals of draught, must be as large as the original column, and it must be larger still, because the train will be increased; and thus you will go on from year to year with every additional train of supplies you send out; sending a detachment of troops at least equal to, I believe it must be larger than, the original column which went forth under the command of Colonel Johnston. Year by year, then, as you delay, you will continue to increase the expenditure and increase the column that you are annually to send out. A column may come back, but the expense will not be the less for that reason. Your expenditure is to grow annually until this matter is terminated in one way or the other. If it is to be terminated by bringing the Mormons to submission to the Government of the United States by force, clearly, then, wisdom, both in relation to treasure and the honor of the country, requires that an efficient force should be thrown forward at once, and that the act should be accomplished in the first months of the ensuing summer.

On the other hand, it may be that they will make no armed resistance; that they will fly to the mountains, hang in the gorges to harass trains and cut off emigrants. We then stand but in the same category. This army of occupation still is to be maintained; it is still to be supplied—supplied by a column capable of covering its lengthy train over the long march it must make through that arid, desert country, and thus annually you incur the same expense, if the object be merely to hold possession; whilst the rebels of the settlement at Salt Lake are scattered through the mountain passes, and lying in wait to capture the emigrant trains or the trains of Government supplies.

What other means may be in the power of the Administration to adopt to terminate this difficulty, is not within my knowledge. It may be that these people would be willing to withdraw from the controversy with the United States, and not being willing, on account of their religious

oaths, to submit to the laws, and to surrender their hierarchical government, yet might be willing to leave the limits of the United States, and go to some remote region, if they had the means so to migrate; for I hold all speculation founded on the supposition that they are to go away in the spring to parts unknown, must prove entirely deceptive. No community ever had the transportation that would carry the whole body-politic to some remote country, and bear with them supplies to sustain them until other supplies could be grown in the country to which they had gone. They have no people waiting with open arms to receive them.

Wherever they go, they are probably to meet with the hostility of the Government into whose country they enter. Unless they seek some island in the Pacific, I know of no place they can go where the Government will open its gates to receive them. Then they go not to find shelter, not to receive supplies; but they go bearing with them the supplies that are to support them, not merely during the march, but for at least six months after they have arrived at the place of destination. Is it not, then, apparent that they cannot go without the aid of the United States? If they wish to go, I would not only acknowledge in them the right of expatriation, if, indeed, they be citizens of the United States, but I would willingly give as much money, and more, too, than the campaign would cost, thus to get rid of them. I would much rather pay money to let them go peaceably than pay money to drive them away by shedding the blood of American inhabitants on American soil by American arms. Deluded fanatics—criminals they may be—I want not their blood shed by the Government of the United States.

Passing to the next supposition, if they shall retire, a force will be required to keep in check the Indians who surround them, already stimulated to hostility, holding a mountain region which can never be possessed by an agricultural people; indeed it required such associated labor as fanaticism only could command ever to enable the Mormons to support themselves in the valley of Salt Lake. Through that country our emigrant routes require constant military protection; and if the Mormons were out of the United States, still a force must be kept along those routes, or moving at stated periods across the continent to give protection to our emigrants traveling from the valley of the Mississippi to the slopes of the Pacific.

I do not see how we are to look forward, from any possible conclusion of this Mormon difficulty, to a reduction of the Army; and it was because of these and other things, with which I will not weary the Senate, (for I have already occupied too much of their time,) that I stated, in a very early period of this debate, that I did not propose a temporary increase, and that I could not anticipate the day when the reduction would come. This was the honest avowal of opinions which resulted from a somewhat careful examination of the subject.

During the last year I was in the War Office, an examination of the condition of that country and of the emigrant routes, and of the probable future, induced me to project a campaign which was to have started last spring, and to have gone across by the Salt Lake and through the Klamath valley, which was known to be filled with hostile Indians, to the slopes of the Pacific in the Territory of Oregon. That campaign was broken up; and the only reason I have ever known was, that it was thought to be too late for it to start. Provisions had been thrown forward as far as Fort Laramie, and every disposition had been made to render the campaign certain of success. Whenever they start, they will have to start later than the period when the order for that campaign was countermanded.

Among the amendments to the bill which have been suggested, one is to reduce the establishment at the termination of this campaign. I will offer no objection to that, because that is merely referring the question to the wisdom of the future. I have not, in any remarks that I have made, intended to offer any objection to a proposed reduction further than this: I deemed it due to myself to declare that I could not say that I believed, at that time, we could agree to a reduction. If the Senate decide it now, I have no objection to the

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provision being made now; no more than postponing it to that time. Whenever the time comes that the Army can be reduced, I shall be as ready to vote for its reduction in any form which may be practicable, with our theory of a skeleton peace establishment, as any one. I have no particular objection to the amendment which the Senator from Ohio [Mr. PUGH] has proposed; though I will say to him, in relation to the additional surgeons, that that does not depend on the size of the Army; it depends on the number of posts. The number of surgeons that may be required will depend on the manner in which the Army is distributed and administered.

When the four regiments were asked by the last Administration, no increase of the medical staff was asked, because the policy of that Administration was to concentrate the troops into larger bodies, relying for the control of the Indians more on campaigns than posts, and thus to diminish the number of medical officers who would be required, which does not depend on the number of troops, but on the number of parts into which you divide your Army. We now have some forty-two private physicians employed. They are generally employed at remote points, without any possibility of knowing whether they are competent or not; and the soldier, prostrated by disease at a point where he cannot possibly get a physician on private account, is turned over to somebody whom the Department cannot know. That is the present condition. We ask or an increase of fifteen assistant-surgeons, which is only a part of the whole number of private physicians now employed; but by employing those private physicians at recruiting stations and at posts near to cities, it will be possible to avoid the evil which is felt when the necessity occurs of employing a private physician on the Army frontier. It will be economy. You get not only persons of whose competency you have the power to judge, but you get them at a much lower rate than it is possible to hire private physicians.

Looking hopefully forward to the end of all present difficulties, Senators have proposed to fix a time and manner of reducing our military establishment. There are many practicable methods of reduction. I have mentioned one this morning—cutting off a certain number of companies from each regiment, and leaving the regimental organization entire, so as to give the readiest increase in time of war. Reduce the number of companies to eight, which gives you the battalion; our present system being, in a regiment of ten, to call eight battalion companies, and two flank companies; sometimes the two are called light companies; sometimes the two are called one light company and one grenadier company; but the ninth and tenth companies are flank companies; they are not companies of the battalion at all. Our organization is the battalion.

But we have been told that there is not the power to reduce the Army; and why not? The Senator from Texas says it is on account of the graduates of the Military Academy, and that it is necessary even to increase the Army to make places for them. That is a question of figures. The number of graduates did not equal the number of casualties that occurred last year; a number of appointments were made from civil life and one from the ranks of the Army. There were vacancies which occurred in the Army after absorbing the brevets which had been attached to the Army during the previous year, showing that the class of the previous year did not equal the casualties of the year. But have we not power to reduce the Army, and have the young gentlemen educated in the Military Academy such political puissance that the Senate dare not brave them? The officers of the Army, the class in the community that have no vote, thrown out on the frontier so far that if they were to speak their voice would not be heard, how are they to control the action of the Senate? It is a reflection on the Senate, more degrading to it as a body than the depreciatory terms which the Senator applied to the Army. I believe we can, and I believe we will, when we find the interest of the country justifies it, cut down this or any other part of our governmental establishment; and I only wish that the same scrutiny could be applied to other portions of the expenditures of the Government of the United States.

In this connection I believe I did not allude to one point, which I will not at this time press, for I have already consumed too much time. The fact that no small part of the expenditures incurred in connection with our Indian troubles results from the administration of the Indians being under one Department, and the military affairs under another. The Interior Department and the Army are thus brought into conflict on the frontier. The Government pays both the contestants. The Government, through the Interior Department, sends arms and ammunition to the very Indian tribe whom the next month the War Department may send troops to subdue. Thus discontent and distrust arise between the two branches of the public service. The Interior Department sends presents to the Indians, and those Indians receive the presents after they have committed a foray on a settlement, and been chased for hundreds of miles by the troops; and thus they find their Great Father sending them these tokens of peace and good will, notwithstanding their misdeeds. It results from the organization, and it will continue until the control of the Indians is transferred back to the War Department. Then you bring the whole in connection; then a change from the peaceful to the hostile relation does not change the Department with which the Indians bear their connection. Then they will understand, after they have been subdued by force, that they are treating with the same power that subdued them, and their very narrow comprehension will then see that the Government of the United States is one, whereas now it presents itself to their view as divided.

A few remarks now upon the general subject will, I believe, enable me to relieve the Senate. In various phraseology, it has been charged that the Army everywhere is the enemy of liberty, the instrument of despotism. One Senator even arraigned the Executive as wishing to use the Army to subvert the liberty of the country. An old man, who has attained the highest station his country could confer, and that the highest station in the world, rising to it through the beneficial character of our institutions, which has enabled an obscure boy to become the Chief Magistrate of a great people, must now turn, according to this idea of the Senator from New Hampshire, and make war with the Army upon the liberty of the country to which he owes whatever he is—identified with which has been the whole course of his public life; associated with which is his every achievement; and the destruction of which would only save him from oblivion by preserving him for ignominy. What object could he have? His highest ambition, the highest ambition which earth offers, having been attained, he must now seek to crush the very steps by which he has ascended! Can it be so?

But, sir, suppose a Chief Magistrate to be so wicked and so silly as this, how could he use the Army for such purpose? Refugees, to some extent, from other countries, who have come here to enjoy liberty, weary of the despotism of the land in which they were born, and natives of the United States, cradled by mothers who would, themselves, have met a despot if he had come to the threshold of their houses, and with their own feminine arms have repulsed tyranny from the land of their birth—commanded by men who have been selected in their boyhood from the various conditions of the people and sections of our country, educated in the service of the Government, accustomed to look up to it as not only a temple beneath which they found shelter, but to uphold which, in all its beauty and its strength, was the great end and aim of all their earthly ambition—trained to love, to respect, and to follow a flag emblematic of that Union which makes us a confederation of sovereignties, following from year to year, upon a poor pittance which barely sustains life, a profession to which they have been educated and to which they are attached, looking through it only to promotion and that reputation which is to be gained by the peril of their life, if an opportunity should offer, in the cause of their country—educated gentlemen, drawn from every section of the Union, from every condition of life, are suddenly, because they bear commissions and have sworn to sustain the Constitution and to serve their country against all enemies whatsoever, to be converted into the mere instrument which a tyrant

may use for the overthrow of the country's liberties. And yet further, sir, these men, such as they are, segregated into little bodies of forty or fifty, or two hundred at a place, thousands of miles apart—he who was born in the South stationed in the North, and he who was born in the North stationed in the South, or he who was born in the South stationed in the land of his birth, and enjoying communion with the people who gave to him his first impressions, and so of him of the North—how are these men, in these little detached handfuls, all over our wide-spread country, to combine against the liberties of the Union?

In this connection, sir, I wish to read a single remark of Mr. Calhoun, for this is not a new subject. I read from a letter of his, addressed to the House of Representatives, December 14, 1818, to be found at page 779 of the State Papers, Military Affairs, volume 1:

"I have not overlooked the maxim that a large standing army is dangerous to the liberty of the country, and that our ultimate reliance for defense ought to be in the militia. Its most zealous advocate must, however, acknowledge that a standing army, to a limited extent, is necessary; and no good reason can be assigned why any should exist but which will equally prove that 'he present is not too large.' To consider the present Army as dangerous to our liberty partakes, it is conceived, more of timidity than wisdom."

He then goes on to speak of the condition and character of the Army. We are told, however, and told truly, that republics have been overthrown by military organizations; but when did such a Republic as ours exist? Is Rome to be compared to this country? Rome is cited as an example to point the future destinies of the United States. Hers was an empire. When she had the name of a republic she was yet but a consolidated empire, with dependent provinces won by conquest, and governed by pro-consuls. Is this to be assimilated to our great family of States, each governing itself, each independent of all others, but all connected together for the common welfare, the common glory, and the general good?

Then we are cited to cases in Europe, where despotism is maintained by standing armies; but suppose the despot had an American army to rely upon, would they be faithless to their first impressions, faithless to the free blood which runs in their veins and which descends from the bold barons of Runnymede? or would he not find when he came to review the line of his army, on every brow set the seal of inborn equality and independence, and would not some private in those ranks thunder in the ear of the despot, like Patrick Henry, the warning of the fate of Caesar and of the fate of Charles?

Is it to be inferred that a man who is a freeman at his birth, who has all the spirit of republicanism in his heart; is to lose it by entering the military profession? Is it true, as the Senator from Texas has told us, that service in the Army stultifies young men? It cannot be. He is a bright example of the reverse himself. It was his proud fortune to rise from the ranks by his own merit to a commissioned officer, to serve in the Army, and there to acquire many of those qualities, endowments, and graces, which have adorned this Chamber. He stands in himself a brilliant example of how little the Army stultifies, and how much it may exalt the youth contained in its ranks.

We have other and great examples. Did Washington become the fit instrument of a despotism? was he stultified because he entered the service of the United States in his youth? That great mind which comprehended the whole condition of the colonies; that heart which beat sympathetically for every portion of his common country, feeling equally for Massachusetts and South Carolina, for New York and Virginia; that great arm which smoothed the thorny path of revolution, and led the colonies from rational liberty up to national independence, and laid the foundation of that prosperity and greatness which have made us a people, not only an example for the whole world, but a protection to liberal principles wherever liberty asserts a right—was he stultified by service in the Army? Jackson too, the indomitable Jackson, who when a boy and a captive spurned the insult of a despot, and for asserting his personal dignity received a wound, the scar of which he carried to his grave—was he by service in the Army when yet a minor, by brilliant exploits in middle age,

rendered the fit instrument of despotism? If it be said these were men drawn from the pursuits of civil life and only occasionally employed in the military service, what, then, shall be said of the great, the good, the heroic Taylor? for a hero he was, not in the mere vulgar sense of animal courage, but by the higher and nobler attributes of generosity and clemency. His was an eye that looked unquailing when the messengers of death were flying around him; but in the ward-room, over his wounded comrade, was dimmed by the tear of a soldier's love and compassion. His was a self-reliant, resolute heart, which rose under accumulated difficulties, and hardened by contact with danger; but that heart melted to a woman's softness at the wail of the helpless or the appeal of the vanquished. He was a hero, a moral hero. His heart was his country's, and his life had been his country's own through all its stages. Was he the fit instrument of a despot to be used for the overthrow of the liberties of the United States?

Shall I prove my proposition by going on and multiplying examples; or is it not apparent that whatever may be true of the history of Rome, whatever may be true of the condition of Europe, the United States stands out its own founder and its own example? No other people like our own ever founded a State. No other people like our own have ever thus elevated a State to such greatness in so small a space of time. If there be evidence of decay, that decay is not to be found in the spirit of your little Army, but is to be hunted for in the impurities of your politicians. It therefore does not become the politician to point to our little and gallant and devoted Army, as the incipient danger which is to overthrow the liberties of this country.

If I have succeeded, Mr. President, in impressing upon Senators the principal truths I have endeavored to advance, I have succeeded in showing that the plan of increase which we propose is the most economical and efficient within our reach. If their judgment, however, shall decide otherwise, I then have performed my duty. I have argued this question earnestly because I am thoroughly convinced of the advantages of the bill which is before us. If I am in error it is fortunate for me that the majority of the Senate will correct it. If I am right, the future will sustain my opinion, even though it be now overruled. I am, therefore, content with whatever fortune may befall the bill.

KANSAS AFFAIRS.

SPEECH OF HON. S. M. BURROUGHS,

OF NEW YORK.

IN THE HOUSE OF REPRESENTATIVES,

February 23, 1858.

[WRITTEN OUT BY HIMSELF.*]

The House being in Committee of the Whole on the state of the Union—

Mr. BURROUGHS said:

Mr. CHAIRMAN: It is with a good deal of diffidence and embarrassment that I rise now to address the committee, because I have seen a number of gentlemen on my side of the House attempting in vain, within the last twenty-five or thirty days, to obtain the floor—gentlemen who would have discussed the question which I propose to consider with much more ability than I can hope to bring to the subject. Still, I entertain the hope that some points pertinent to the question may be found in the suggestions which I have to make, and will proceed to the question.

Sir, I have felt myself exceedingly mortified, from time to time, in this House, at the remarks that have been made on the left side of the Hall, to the effect that the Republican party was a sectional party. We have not unfrequently been charged with the grossest selfishness. We have been repeatedly charged with having attempted to carry measures which were calculated to break the last ties which bind together the States of this Union.

The gentleman from Mississippi, [Mr. LAMAR,] in his speech some days ago, gave utterance to this sentiment, and several other speeches from his side of the House have reiterated the senti-

ment. It would seem that their love of the Union is exhausted, and that their patriotic devotion has fled forever.

Sir, from my earliest days I have learned to love this Union. I have learned that it was my first duty as an American and as a citizen, if need be, to lay down my life for the Union and our liberties, purchased at the cost of so much blood and treasure; and I had hoped that the ties which bound us together, and which taught us the great doctrine of brotherly love and fraternity, would not so soon have been forgotten by Americans. I believe, sir, that the union of these States is demanded by every consideration of interest, patriotism, and historic renown; and if gentlemen, who seem just now discontented with their position in the Union, will consult our past history, they will find abundant examples of high patriotism and noble magnanimity in the conduct of the northern portion of the Confederacy.

It is part of my purpose this morning to introduce some few reasons here to satisfy those gentlemen that they ought to take back these unjust charges of "sectionalism and injustice." I shall endeavor to show that the country which we possess was purchased by the blood and treasure of the whole people, and should be distributed with reference to the wants, prosperity, and happiness of all. It is a cardinal doctrine of our Government, lying at its very foundation and constituting the soul of its vitality, that it shall be so administered as to "promote the greatest good of the greatest number." This, sir, is Democratic doctrine. Yes, sir, it is Democratic doctrine as our fathers taught it. It is the doctrine for which our fathers fought, and it is the doctrine by which, I hope, the Republic of America will ever stand.

Now, sir, let us look into this subject. We have at the North a population of something over thirteen million, most of them white men; you have at the South, gentlemen, but a little over six million white men. I do not take slaves into account, because they have been denominated property. You have, in the fifteen slave States, eight hundred and thirty-eight thousand square miles of land; we have, in fifteen free States, four hundred and forty-seven thousand nine hundred and ninety square miles of land. We have got more than double your population, but we have got less than half the amount of land that you possess. I tell gentlemen that this is not a sectional question. It is simply a question whether we shall have homes for our children; and I propose to address myself to that view of it. You have in the South, or had in 1850, a population of six million four hundred and twelve thousand six hundred and five; we have in the North, or had in 1850, a population of thirteen million three hundred and forty-two thousand and eighty-nine. I say nothing about the slaves. You, gentlemen, have your negroes who till and cultivate your soil; but we have our cattle upon a thousand hills, and an industrious yeomanry. I propose now to ask who paid for the land we have, and how we came by it, and what would be a fair, honest, and equitable division of it? Why, sir, I recollect that that little strip of land upon your southern coast, Florida, was bought at an expense of something over three million dollars, if not over five million. You recollect, also, that we purchased Louisiana at a cost of \$15,000,000, besides what we have paid for the extinction of Indian titles. The gentleman from Alabama, [Mr. SHORTER,] who spoke the other day, and who is one of those who made this charge of sectionalism and injustice, lives in a State upon which we have expended untold millions—yes, sir, and northern blood, too—in her Indian wars. I hope the gentleman will be magnanimous enough, when he looks into the facts, to take back the charge of sectionalism and bad faith. We profess to be friends of the Union, and friends of every human being in the Union, black as well as white; and we do not like to be charged with bad faith and illiberality and injustice.

But again: we got into a war about Texas. Do gentlemen know how we got into that difficulty? We admitted Texas into the Union, and took upon ourselves the war with Mexico; and in carrying on that war we expended nearly two hundred million dollars, to say nothing of the precious blood which men of the North and men of the

South shed upon the battle-fields of Mexico. All the wars in which this country has been engaged for the last twenty-five years have been on our southern frontier and in Mexico; and I beg gentlemen to remember that it costs, in times of peace, about twenty-five million dollars to support our Army, which is almost wholly occupied in their defense and protection.

The Black Hawk war of 1832 was attended with but trifling cost. Since that period, the expense of sustaining our Army has been about six hundred million dollars; and this enormous sum has been expended almost exclusively for the protection of our southern frontier. If gentlemen will take the pains to examine into the subject, they will find that since the purchase of Florida we have expended on the purchase of lands from foreign Governments, from Indians by treaty, and in various other modes of expense, over eight hundred million dollars—a sum which would purchase some of the States of this Union, with all the property within them, real and personal.

Now, sir, I propose, in a spirit of kindness, to ask gentlemen who make this charge of sectionalism against us, to tell us where this money—this eight hundred millions—came from? Where did the money come from? I have facts and figures here to satisfy any gentleman where it came from. Look to the importing and tax-paying States of this Confederacy. In the State of New York we have a population of over three million, nearly half as much as the population of the whole southern States.

Sir, I have not time to-day to present the careful calculations by which I arrive at the fact that the northern fifteen States of this Confederacy have paid three fourths of the entire amount expended for the purchase of these lands, and in sustaining the Mexican, southern border, and Indian wars. Six hundred million dollars have been paid in the form of indirect taxes for these purposes. I make this now simply as a general statement; and tell gentlemen that if they doubt the correctness of the statement, I will, at a future time, present the facts and estimates in careful detail.

Well, sir, I now come here with the complaint that the northern States have not quite half the territory you of the southern States have; and I say further that our land is not as good as yours. I know it, for I have been upon your southern soil; I have been over most of the States of this Union, and gathered the means of forming a correct opinion, and believe that, with the exception of the mountain ranges of the South, you have much better lands than we possess. You have a genial climate—ten thousand fields of beauty, surpassing the valley of the Mediterranean in fruitfulness, richer than the fabled gardens of Hesperides or the Paradise of Sardis; and yet you would deny to us Kansas, and call us sectional and selfish and aggressive, if we do not yield to your demands. This we can never do. Our interest is against it. The voice of the rising generation against it demands our attention, and our honor forbids that we should suffer a country to be wrested from us, long since recognized as rightfully ours, and decreed as our inheritance forever by the most solemn compact which our fathers could make.

But I do not propose just to dwell upon Kansas, but will mention one other reason why we cannot surrender it to slavery, and drive away northern freemen from their own rightful country. We have paid for it, and we claim Kansas as our country upon high grounds of justice and equity—upon the ground that the North is entitled to a fair portion of the lands of the country, as the separate inheritance of freemen; and this because the white man must be paid for his labor, must be rewarded for his toil, and cannot live in the same community with the unpaid negro slave.

I need not make an argument to prove that slave labor, being cheaper, crowds out the laborer who has social and domestic wants to supply, which cannot be attained at the cost of negro slave labor.

It is the rightful ambition of northern men to have homes of their own—good homes—and to be surrounded by all the institutions of religion, learning, and moral elevation, which are possessed at the North. A gentleman from Mississippi, not now in his seat, [Mr. LAMAR,] a few days ago,

* For the original report, see page 814 Cong. Globe.

35TH CONG...1ST SESS.

Kansas Affairs—Mr. Burroughs.

HO. OF REPS.

uttered a sentiment which I feel at liberty to notice. I read from his speech:

"If I could do so consistently with the honor of my country, I would plant American liberty, with southern institutions, upon every inch of American soil. I believe that they give to us the highest type of civilization known to modern times."

And the gentleman from Georgia, [Mr. GARTRELL,] following in the same track, attempted to bring to our notice all the patriarchal sanctions and glories of slavery; and not satisfied with resting the question upon its mere ground of civilization, went into the consideration of patriarchal usage. He said that the time had gone by for making apologies for slavery; that the time had come for defending it upon high grounds. I listened to his remarks with pleasure, and I have ever since felt to appreciate the ability, the skill, and the genius with which he managed the subject. I was pleased with his speech for its frank and manly tone: he went back to earlier times to find arguments and a foundation for the peculiar institution which exists in the South—he might have found examples, also, of another institution, which exists in Utah Territory. But we live in an age when we have in some portion of the country been led to cultivate a different degree of civilization. I do not propose, in running a parallel between northern and southern civilization, to offend the most sensitive feelings of any man. I introduce it simply for the purpose of illustration, and in order that gentlemen looking over the subject candidly may see whether our views deserve their consideration; whether we are right or wrong. Not intending to go over the whole field, (I find myself with a mass of figures, which I shall not be able to present to-day,) I shall bring only a few facts to the notice of the House. When the gentleman from Georgia [Mr. GARTRELL] addressed the House about the patriarchal institution, and the gentleman from Mississippi [Mr. LAMAR,] in reference to those existing at the South, as presenting the highest form of civilization known to modern times, I felt called upon, as a student of civilization, to look into the facts and ascertain the basis upon which they rest that high claim.

I took the census report of 1850, and I beg the attention of gentlemen while I introduce a few facts, and ask gentlemen themselves to mark the contrast.

I desire to call the attention of the House first to public schools. The district represented by the gentleman from Georgia [Mr. GARTRELL] has one hundred and eighty-eight public schools, one hundred and eighty-nine teachers, and five thousand five hundred pupils. In the counties which compose my district we have three hundred and six public schools, three hundred and seventy-five teachers, and nineteen thousand seven hundred and seventy-eight pupils. This, in my poor judgment, is some evidence of the comparative civilization of our respective districts.

Now let us turn our attention to the district of the gentleman from Mississippi, [Mr. LAMAR,] in that district there are one hundred and forty-four public schools, one hundred and forty-seven teachers, and two thousand nine hundred and sixty-six pupils. I have already told you how many of each my district contained—I refer, of course, to the public schools as classified in the census report.

I next turned my attention to another item—school libraries, not libraries in academies and colleges, but school libraries; accessible to all the people. In my district there are two hundred and eighty-five school libraries, containing thirty-six thousand three hundred and twenty volumes. In the district of the gentleman from Georgia there is one school library only, containing five hundred volumes. In the Mississippi district referred to, not one library of this class.

Again: 1, in the next place, looked a little to the value of church property in the respective districts. The total value of church property in the district of the gentleman from Mississippi, is \$118,285; in that of the gentleman from Georgia, \$127,520; and in my own district, \$276,850. In one county of Mississippi, constituting a part of the gentleman's district, I found but one single church, which church was worth one hundred dollars. This county, (Tunica,) has a population

of three hundred and ninety-six whites, and nine hundred and seventeen slaves.

Running this parallel a little further, I propose to call the attention of gentlemen to some other facts.

Mr. QUITMAN. Will the gentleman from New York state what district in Mississippi he refers to?

Mr. BURROUGHS. I do not know the number of the district. It is that represented by the learned and eloquent gentleman on my left, [Mr. LAMAR,] who addressed the committee a few days ago.

Mr. QUITMAN. If the gentleman from New York will permit me, I will state, for the correction of the statistics, that in our section of the country we act individually; and I will venture to say, that if the gentleman and myself occupy seats on this floor at the next session of Congress, I can show him then that there are more books in the libraries of private individuals, in my district, than there are in those of private individuals in his district.

Mr. BURROUGHS. I cannot extend any more of my time to the gentleman, though no one respects him more than I do. I wish, sir, that the gentleman could point me to libraries for the use of the people.

I have already given the number of the white population of the fifteen southern States. The slave population is three million two hundred thousand. The number of public schools in the fifteen southern States I find to be nineteen thousand four hundred and eighty-eight. In my own State alone the number is ten thousand eight hundred and two. The number of persons—native white population—in the fifteen slave States who cannot read and write is five hundred and sixty-eight thousand two hundred and forty-eight. The number of native population in the fifteen free States who cannot read and write is two hundred and seventy-eight thousand three hundred and seventy-five.

Now, passing these figures, I desire to call the attention of the committee for a moment to some other facts; and in passing, I wish to make a reference to the State of Texas. I hold in my hand a paper characterized certainly by very great simplicity of language, and no doubt entitled to receive the consideration of every member of the House. Here is a State which came into the Union in 1844.

Mr. REAGAN. In 1846.

Mr. BURROUGHS. In 1846. I had 1844 in my mind, because I recollect very well that I labored on the stump for "Polk and Texas" that year. I expected, when Texas came into this Union, that she would have had the kindness to bear with our section of the Union a little. Twelve years ago, when Texas was young, and needed our help, we bought her lands and fought her battles; but now she has grown to be a Hercules, and says that, unless we admit slavery into Kansas under the Lecompton constitution, she will not live with us any longer. That would be a nice speculation for her, to get us to expend \$200,000,000 on her account, and then to back out of the Union, and complain of our sectionalism and selfishness. Here, sir, is an example of gratitude! magnanimity! without a parallel in history—without a parallel among the nations of the world, Christian or savage.

Mr. REAGAN. Will the gentleman allow me?

Mr. BURROUGHS. I would be glad to oblige the gentleman, but I cannot yield. I have no time to spare. Texas, I was going on to say, has passed resolutions; I will not say they are defiant, I will not say they are threatening, I will not say that Texas will not come down on us with an avalanche of some sort, if we do not admit Kansas into the Union under the Lecompton constitution. Texas will do—I know not what. Certainly, she has adopted resolutions, and is going to be represented in the southern convention (if held.) What that southern convention is to do, I do not know.

I did not intend, Mr. Chairman, to have made a long speech to-day; but at the hazard of wanting time for other points which I wish to present, I must refer to these Texas resolutions; and trust to the magnanimity of gentlemen to extend my time

as I was happy to do in the case of the gentleman who preceded me, [Mr. CLEMENS.] I intended to present some few facts on which to base the justice of our cause. I intended to present these few facts, and to claim for them magnanimous consideration. We have got twice the amount of population that you have, and have got but half the quantity of land. This land was bought by the common treasure, North and South; and it should be fairly divided. I might rather say that the earth belongs to the people on it; and that no one section has a right to monopolize and keep it to the exclusion of every other class. You have in the single State of Texas territory equal to six times that of the State of New York. On that territory you can support no less than fifteen million human beings. You have got there territory large enough for four States, on which there are comparatively no white settlements; and yet you now stand in your place in the halls of your Legislature and say that you cannot live in the Union with the North unless we consent to let Kansas come in as a slave State.

I cannot make any comment on this. It does not tally with my notions of justice and propriety, and I believe that when you come back to the sober second thought you will agree with us in our opinion, and you will say that we are entitled to these lands in Kansas.

"Proceedings of the Democratic State Convention.

"Austin, Texas, January 8, 1858.

"On motion of Colonel L. T. Wigfall, the following platform was adopted:

"Resolved, That the Democratic party of the State of Texas heartily concur in, and unanimously reaffirm, the principles of the Democratic party of the Union and the Constitution, as embodied in the platform of the national Democratic convention, held in Cincinnati, in June, 1856, and the State convention of Texas, at Waco, on the 4th of May, 1857, as a true expression of their political faith and opinion, believing them to embrace the only doctrines which can preserve the integrity of the Union and the equal rights of the States.

"Resolved, That recent events in the United States Senate create in our minds a serious apprehension that the great doctrine of non-intervention, as set forth in that platform, is in danger of being repudiated by Congress through the instrumentality of members of the national Democratic party, distinguished alike for their political influence over the public sentiment of the North, and their past declarations in favor of said doctrine; and that we now consider it our duty to set forth to the country the course that we shall be compelled to take in that serious and deplorable emergency.

"Resolved, That we request the representatives of the people of Texas, in Legislature assembled, to provide, at the present session, for the Executive of the State appointing suitable delegates to a convention of the southern States, which may be hereafter assembled for the purpose of consultation and advice for the general welfare of the institutions of the South.

"Mr. Brown offered the following resolution:

"Resolved, That the chairman appoint one member from each judicial district as members of the State Democratic committee.

"Pending which, the convention, on motion of Mr. Britton, adjourned to Monday, three o'clock, p. m."

"MONDAY, three o'clock, p. m.

"Convention met—roll called—quorum present.

"The Chair announced that the question before the convention was the motion of Mr. Brown appointing the State Democratic committee.

"Mr. Rainey moved to amend by adding, 'the chairman of which shall reside in the city of Austin.' Adopted.

"Mr. ——— moved that each judicial district meet and designate the name of the party they wish to act for their respective districts; which motion, it was moved, should lie on the table; but the president informing the convention that he wished that course pursued, it was adopted.

"General T. J. Chambers offered the following resolution:

"Be it resolved by the Democratic Convention of Texas, now assembled in the Capitol of the State, That whereas, the integral parts of the Federal Government of the United States of America, are free, independent, and sovereign States, which, for special purposes, have delegated to that Government a portion of their sovereignty, reserving to themselves, or to the people, all rights and powers not specially delegated; and whereas, one of the reserved rights is that of resuming the power delegated to that Government whenever they may be perverted to the injury or oppression of any of the States, or whenever any of the States may consider that their happiness, their prosperity, or their safety may require it; and whereas, that Government, in the admission of new States, has no power to interfere in any manner with the domestic institutions or internal organization of such States, except to guaranty to them a republican form of Government; and whereas, the people of Kansas have formed and adopted a State constitution, securing to themselves and to their posterity the blessings of a republican form of government, with the domestic institution of slavery; therefore this convention solemnly declares that any action upon the part of the Congress of the United States tending to embarrass, delay, and defeat the admission of that new State as a member of the American Union, under any pretext whatever, referable to the question of slavery, would be a usurpation of power, and a violation of the compact of the Union; and in such event, our Senators and

Representatives in the Congress of the United States, are requested to give notice of our intention to take the necessary step to prepare the free, independent, and sovereign State of Texas to resume the powers delegated by it to the General Government, and to withdraw from the Union, as being no longer productive of the great objects for which it was established; and we invite our sister States, attached to the benign domestic institution of slavery, to join with us in this important measure, so that we may present to the enemies of our institutions an unbroken and defiant front, and thus secure our safety, our liberties, and our independence, by prompt and united action.

"Be it further resolved, That the president and secretary of this convention be instructed to communicate these resolutions to the legislative and executive departments of each of the States of the American Union, and to the President and Congress of the United States.

"On motion, the convention adjourned until eight o'clock, p. m."

I have not time to read these Texas resolutions; but I will have them printed in connection with my speech. If I had time, I would say something about Kansas, as a justification for myself and for every northern man who votes against and opposes the admission of Kansas into the Union as a slave State.

A gentleman now in my eye has several times asked members on my side of the House whether they would vote to admit Kansas as a slave State, if it was well ascertained that a majority of her people were in favor of slave institutions. I can answer that question without any difficulty. I would not vote to admit Kansas as a slave State under any possible circumstances; and I place my justification on the ground that that country belongs to the North. Slavery has got all the genial climate of the United States, and by what right? There is hardly a non-slaveholding State where we can settle and find a genial climate. Will you allow us no spot for our invalids, for our consumptives? Perhaps you will point us to Cuba for relief; but if it were ours you would insist upon establishing your "institution" there also.

Now, I want to say here to gentlemen from Missouri—and I want them to recollect it, and carry the fact home to their constituents—that, if the people of that State would give away every negro they have got to-day, and adopt a free constitution, they would enhance the value of their lands thirty per cent. within two years. If you are successful in making Kansas a slave State, we shall look upon it as depriving us of the only country which has a genial climate suitable for northern labor.

Now, I need not tell you that northern men do not like your sensitive property. They are seriously prejudiced against it, and cannot help it. We cannot settle in a country where this "sensitive property" is allowed to exist. And here let me, in this rambling way, ask the gentleman from South Carolina to remember that some of our people would like to settle in his State; but not in that part where you may travel five, ten, and fifteen miles, among the sand-hills, and not find a man or a woman who can read and write. Northern men do not like institutions productive of such civilization.

Mr. McQUEEN. If the gentleman will allow me I will say to him, that I would rather have the lowest of them than the Mormons and many others educated, probably, in the public schools of which he boasts so much in his own State.

Mr. BURROUGHS. The gentleman must excuse me; but I cannot give him any portion of my time. I have no doubt the gentleman has his preference, but he must pay some respect to his twin sister—that "twin relic."

But, sir, besides these grounds of justice and equity upon which I put this question, the manner in which this Kansas affair has been managed from the start must be taken into consideration. I think I might well claim and insist that, from the beginning to the end of this whole Kansas matter, there has been committed a series of frauds and violence such as have never been seen in any civilized country upon the globe. This is a broad assertion, sir; but I make the charge. I charge it, because I believe it. I charge that Franklin Pierce, from the commencement of his administration, in connection with this Kansas matter, acted upon a system of fraud and villainy, and I believe that James Buchanan is following up the same track, and has "out-Heroded Herod."

Mr. SMITH, of Virginia. I rise to a question of order. I consider such language unworthy the place that the gentleman occupies. To denounce

a coördinate branch of this Government I hold to be out of order. [Cries of "Oh!" "Oh!" and laughter.]

Mr. BURROUGHS. I hope I shall not be interrupted in this way. The gentleman and I differ in opinion, no doubt, upon some subjects. Sir, it would be a source of the highest pride and greatest gratification to me if I could stand here in my place to-day and say that I honored the President as the President of the Union. I should be glad if I could stand here to-day and say that I approved his acts. I should be glad if I could say, as I could at the close of the eight years of General Jackson's administration, that I honored and approved everything that he had done. I feel humiliated before God and my country that I am obliged on the floor of Congress to denounce the President.

If my time would permit, I should introduce facts known to all men, upon which to rest this charge against the Government—facts which go to prove the statement which I have made. They will be presented in a few days, I doubt not, by the committee appointed to investigate the subject; and I shall for a moment call the attention of northern Democrats to the fate of some northern men who occupied seats here in 1820—who voted to admit Missouri as a slave State; though its way into the Union was not strewn with murdered victims and attended by civil war. She came not by blood and carnage, as crimsoned Kansas, but was led in her bridal-robe, in times of peace, to the altar of the Union, by recreant men. To them her touch was that of the leper; they fell; died—politically died—and sank to a depth beyond the power of a second resurrection. This was a deserved fate, because they had disregarded the interests and will of those they represented.

Let me call the attention of northern gentlemen for a moment to their position as Representatives, and to the true representative principle? Suppose that a gentleman from the North is elected by a constituency that is nearly equally divided, and takes his seat here by virtue of the Governor's certificate: what is his position here? Is he at liberty to disregard the will of his constituents, and vote against their interests, because he has been sent here by some accidental majority? No, sir; I deny it. I maintain—and I put it to the consciences of gentlemen representing northern constituencies—I maintain and insist that it is their duty, when they record their votes here, to consult the interests, the rights, and the future well-being of every man, woman, and child in their districts; and the man who falls short of this fails to discharge his duty to the country.

I know some of you gentlemen as lovers of justice, lovers of your country, lovers of your neighbors. The gentleman who occupies a seat across the aisle, [Mr. WARD]—how will he justify himself to his neighbors, his friends, and his own posterity, for a vote admitting Kansas into the Union as a slave State? I counsel him that the day is not far off when his own children will turn away their faces from the record, and would blot it out with their tears.

I see upon the other side of the House a neighbor of mine, [Mr. HATCH], whose vote, I know, was counted upon in favor of freedom; and permit me to address to him a few observations. A few days ago, in this Hall, the gentleman boasted that he had a larger foreign constituency than perhaps any man in Congress. What are your constituents doing? You will tell me, perhaps, that they are digging your wells and cellars, carrying your hods, and building your stores. What will their children do, twenty-five or fifty years from now? That is a pertinent question. There will not be room and employment for them and their children in your city? Where will they go to find homes? If the gentleman permits slavery to spread itself over the whole of the northern Territories, they will find no homes there. I can point the gentleman to hundreds in his district to-day, who, perhaps, thirty years hence, will be walking over the fields of Kansas, to see there probably the richest soil in the world, but to find, perhaps, that country occupied by an institution which crowds out northern free labor. I can point the gentleman to hundreds in his district who, fifty years hence, in walking over those beautiful fields, will say, "if my father had not voted for a Democratic Representative from Buffalo, and given him a seat

in Congress, these fields would have been mine; but here is no home for freemen; no home for my countrymen."

Now, I ask of no man here anything which is not entirely in keeping with justice, and in accordance with high equity. The gentleman from Alabama, [Mr. SHORTER], the other day, said that we placed upon them, in 1820, the burning mark of inferiority. That is not so. The position of the South is every way equal in advantages with us. Our northern men will not settle in a country where slavery exists. I need not make an argument to prove this. On the other hand, gentlemen cannot prove to us that southern men will not go into free territory. I remember facts which I may safely address to you. Go to the State of Illinois, and you will find not less than thirty-five thousand of her inhabitants were originally from either Kentucky, Tennessee, Virginia, South Carolina, or far off Georgia. They will go to free territory and settle there, if you will permit them. As representatives of the South, if you would consult the interests of a large portion of your people, you will help to make Kansas a free State, and thereby promote the greatest possible good of the citizens of the South who would gladly find homes there.

I regret to have said anything in the course of my remarks which should wound the sensibilities of the gentleman from Virginia, [Mr. SMITH]; but I could not refrain from expressing the true sentiments I entertained in regard to the course of the President of the United States. I know there was a time when it was unlawful to say anything against the King; I know there was a time in England when penalties and chains were visited upon the man who dared to speak against the King—the Tower of London has contained many such. I know there was a time in America when a law was proposed, making it an offense punishable by fine and imprisonment to speak disrespectfully of the President. Now, sir, if such a law was in force at the present day, half our freemen would be in prison or exile. I should be obliged to find refuge, some secure spot in Canada, or in the southern islands, because of the language I have used in regard to the President, or become the tenant of a Democratic jail. I would accord to every man due respect. I yield to no man in the observance of the amenities of social intercourse. But, sir, some things are beyond the range of politeness—beyond the reach of charity—standing out in such huge, monstrous, and damning deformity, that it would be a crime to palliate. When I am asked to call the President of the United States an honest man, I must falter. When I am asked to say that he has conducted himself before the people, with respect to this Kansas matter, as a prudent and candid man, I must decline.

Mr. SMITH, of Virginia. What I said when I rose to a question of order was, I trust, founded in proper sentiment of feeling. It is the policy of the Government for all of its branches to indulge in language of courtesy and respect towards each other, and the rules of this House prescribe it in reference to one branch. When I heard the gentleman from New York—a traveled gentleman, as he tells us—get up and denounce a coördinate branch of the Government, I did feel a degree of indignation for the moment which I could not repress. I may regret that I expressed myself so strongly, but I more regret that the gentleman should have used such bitter language towards the President of the United States.

Mr. BURROUGHS. No doubt, sir, I might learn much of the gentleman, who is my senior; I shall give good attention to his suggestions upon all questions of courtesy and politeness; but, sir, I had asserted a fact, and now under leave of the House, I will proceed to suggest the proofs upon which that assertion rests.

Mr. GIDDINGS. I wish to ask the gentleman from New York whether he does not demand a corresponding respect from other branches of the Government towards this body, which they demand from us?

[Here several voices were heard—"His time is up!" "His time is up!" and from all parts of the House numerous cries of "Go on!" "Go on!"]

Mr. JONES, of Tennessee. I insist upon the rule—

[And the hammer fell.]

35TH CONG....1ST SESS. *Conflict between Religious Truth and American Infidelity—Mr. Giddings.* Ho. of Reps.THE CONFLICT BETWEEN RELIGIOUS TRUTH
AND AMERICAN INFIDELITY.

SPEECH OF HON. J. R. GIDDINGS,
OF OHIO,
IN THE HOUSE OF REPRESENTATIVES,
February 26, 1858,

Upon the great issue of freedom or slavery pending before the American people.

[WRITTEN OUT BY HIMSELF.*]

The House being in the Committee of the Whole on the state of the Union—

Mr. GIDDINGS said:

Mr. CHAIRMAN: Questions of mere economy, those which relate to banks, to internal improvements, or protective tariffs, no longer occupy the public mind. These subjects have given place to questions of more transcendent importance, to those which relate to the rights of mankind, to the religious, moral, and political elevation of our race. The discussion of these subjects has in all past time been attended with agitation and excitement. It brings the rights of the people into conflict with despotism, whatever may be the form of government under which the discussion takes place. Such is now the condition of this mighty nation; our Union is shaken to its very center by the agitation of great and undying truths. Our Government is vibrating between freedom and tyranny, and it becomes us thoroughly to examine the religious basis on which we found our political action.

The late message of the President in relation to Kansas is without precedent in the history of executive communications to this body. Its tone of contempt for the people of that Territory finds no precedent in our Government; while the language of the people of Kansas, expressed by her Legislature, is most extraordinary for sovereigns to use towards a servant already arraigned before the tribunal of the popular mind for high crimes and misdemeanors.

Under these circumstances, I have thought that the best service I can render the people on the present occasion would be to analyze the subject which now absorbs the popular mind; and, so far as able, to define the issue now pending before the nation.

That issue is founded upon fundamental religious truths, which are maintained by one political party and denied by the other.

Immediately after the last Congress adjourned, the men who wield the judicial and executive powers of Government publicly denied the great primal doctrine of our Government, "that all men are endowed by their Creator with inherent, equal, and inalienable rights." They essayed to obliterate the line of demarkation drawn by our patriot fathers between the despotisms of a darker age, and the rights of mankind as understood in this nineteenth century.

The annual message of the President, in its leading positions and in its details, wholly disregards those rights of human nature, and speaks of men created in the image of God, with undying spirits, with eternal destinies, as transformed into property, in direct contradiction of those truths which the American people have long regarded as "self-evident."

It will be my object to render this issue more distinctly obvious. Its importance is transcendent; and, however fully other gentlemen may have appreciated it, I feel constrained to admit that I have failed to comprehend its vastness, or set bounds to the consequences naturally resulting from its decision; yet every member of society is bound to examine and to act upon his own responsibility.

Our fathers, recognizing God as the author of human life, proclaimed it a "self-evident" truth that every human being holds from the Creator an inalienable right to live, to sustain and protect life, attain knowledge, elevate his moral nature, and enjoy happiness.

These prerogatives were recognized as "gifts of God," lying behind and above human legislation; and the founders of our institutions proceeded to declare that governments are instituted

among men to secure their enjoyment. Thus our Republic was founded on religious truth, and it was thus far emphatically a religious Government. It has ever been sustained by the religious sentiment of the nation; and it will only fail when this element shall be discarded by the people. The attempt now made to overthrow these religious truths demands the severest condemnation.

There are but few men who openly deny the existence of a Supreme Being, or that He is clothed with the attributes of infinite wisdom, truth, and justice; or that men are religious in degree as they bring themselves into harmony with those divine qualities, make them their own, and assimilate their characters to that of Deity. This is the sense in which I use the term "religion." I do not speak as a sectarian. Indeed, sectarians do not regard membership as religion, but merely as the evidence of religious feeling on the part of the individual. All admit that those who are wise, truthful, just, and pure, of all denominations, and men who, possessing these attributes, belong to no particular sect, are the truly religious men of earth.

I will here remark that I am conscious this examination of the religious character of our Government will subject me to the criticisms of all who deny the existence of man's inalienable rights: they will insist that an examination of the religious character of our institutions is unsuited to this forum; that laymen should not tread on this holy ground; but I assert, if there be a place on earth where religion, where wisdom and truth and justice and purity of purpose, should be observed and practiced, this Hall constitutes that place. If there be a class of men on earth who ought to be religious, who ought to be wise and truthful and just and pure of purpose, the members of this body ought to sustain that character.

I repeat, we all acknowledge the existence of a Supreme Being; that he is the Creator; that we are brought into life by His will. At this point, the American people separate into two great parties—one holding that sovereignty dwells alone with the Creator, and not with men; that kings, potentates, and all human governments, are subjected to the "higher law" of the Creator, and authorized to legislate only for the protection of the rights which God has conferred on mankind. Another portion deny the existence of this "higher law," and insist upon the perfect and unlimited sovereignty of human Governments over the lives and liberties of the people. To be more explicit on this point, I will remark that the religious portion hold, that, as God gave life to the human race, He conferred on each a right to that liberty which is necessary to become wise, truthful, just, and pure; to bring himself into harmony with the law of God, and enjoy the happiness resulting therefrom; that these rights are equally self-evident as the existence of our race; that they are inherent, inalienable, and common to all men; that they constitute the great moral ligament which binds man to his Creator, connects earth with heaven, and unites the human race in one common brotherhood, bound by the most sacred obligations to love, revere, and obey our Universal Father. Of the possession of these rights every sentient being is conscious. When God created man, and breathed into him the breath of life, when man became a living soul, this consciousness formed a part of his moral nature; and never, in any age or in any climate, has man, even in his rudest, his most barbarous state, been unconscious of his right to live, to nourish, and protect life, and seek his own happiness.

These rights constitute an element of the human soul; they cannot be alienated by the individual; nor can any association of men, or any earthly power, separate the humblest of the human race from them. Men may rob their fellow-man of the food which he gathers for his own support; they may deprive him of the power of self-defense; they may bind his limbs and scourge his body; they may prevent him from attaining knowledge; but his right to the food which he gathers, to defend his person, to attain knowledge, will remain unchanged. Their crimes will in no degree affect his right.

This relation of man to the Creator is repudiated by a portion of the American people. They deny that we hold any inalienable rights from

God. They deny that the right to live, to protect life, and to attain moral elevation and happiness, is derived from Heaven, or is superior to human enactments. The denial of these fundamental religious truths I can characterize by no other term than "American infidelity." This issue literally separates the religious from the infidel portion of our people. In using this language, I do not seek to cast opprobrium upon those who honestly disbelieve the religious truths which Jefferson and Adams and Franklin and their associates termed "self-evident." I have no unkind feeling towards them. I regard them as brethren, entitled to my best wishes, my earnest prayers; and I apply the term "infidel" to them as the only expression by which I can characterize them as a class.

The outworking of this great primal issue is witnessed in almost every important question that comes before Congress. One portion of the members adhere to the central proposition, that man holds natural and inalienable rights from the Creator, which are not to be invaded by human enactments; that they cannot be violated except by incurring the penalties of that law which was ordained by Him who bestowed them upon our race; that every individual who invades these rights of his fellow-man is guilty of crime, and should be punished accordingly; that all human enactments professing to authorize the invasion of these rights are outside the just powers of human governments, are impious invasions of God's prerogatives, are despotic in their character, impose no moral obligation upon any individual, but involve those who enact and those who support them in the same degree of guilt with those who perpetrate the crimes; that such statutes can in no degree modify the moral guilt of those who trample upon the rights which God has bestowed upon their fellow-men. The other portion of the American people, maintaining a corresponding infidelity, deny the existence of these rights, deny that God has bestowed them upon mankind; they claim unlimited sovereignty for human governments over human rights.

But I desire to call attention to some of those specific rights which are included in the general proposition. Christians and patriots hold life to be the gift of God. They regard it sacred; they look upon its invasion as a crime; that, as the Creator bestows existence upon those who bear His image, it becomes the duty of individuals, of associations, and of governments, to protect each and every human being in the enjoyment of life; that at this point human legislation commences, limited in its appropriate powers to the protection of life, and not to its destruction; that human governments hold no other rightful powers in regard to life than to protect its enjoyment; that the execution of pirates and murderers, and those who invade our country, is allowed only for the purpose of protecting society; that these powers are ordained of God, sanctioned by religion, by philosophy, by the common sense of mankind. They believe that that command which was proclaimed from Sinai in tones of thunder, saying to every human being, "Thou shalt not kill," was truly the voice of God; that it is repeated in all His works and in every revelation of Himself, and is binding on all our race. This commandment of God, this entire doctrine, is denied by the President and by all American infidels: And this constitutes the first collateral issue.

In our slaveholding communities enactments have been passed, and are now supported, professing to authorize masters to murder their slaves. For instance, in those States the slave is denied the right of self-defense; the right to protect his life or his person. If he attempt to defend himself against the master, the master is authorized to slay him in any manner he may be able; if he run from the master, after being ordered to stop, the master is authorized to shoot him; if he die under the scourge, the master is not held responsible. American infidels believe that no moral turpitude attaches to these statutory murders; while Christians hold that God's moral law remains unchanged by such enactments; that the guilt of the murderer is in no degree modified by such statutes; that the perpetrator stands unveiled before God and all good men, guilty as he would be

* For the original report, see page 894 Cong. Globe.

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if no such laws existed; that all who enact, and all who support such enactments, make themselves accessory to the crimes committed under them, are guilty as such, and ought to be subjected to the same punishment with those who murder their slaves.

But this power of the master over the life of the slave constitutes the vital element of the institution, without which slavery could not exist. It is exercised wherever slavery is maintained. Every master exercises the privilege of driving his slave, in sickness or in health, just so severely as he thinks will best subserve his own interests. It is on this principle that slaveholders openly declare it profitable to work their slaves so hard as to produce the death of the whole gang on an average of five years upon sugar plantations, and of seven upon cotton plantations; and to supply their places by other victims imported from the slave-breeding States. From official documents, it is estimated that thirty thousand human victims are thus sacrificed annually within the United States and Territories.

In the slave States it is not uncommon to see advertisements in the public papers offering a bounty for the head of a particular slave, who has absconded from his master. Even in Ohio, during the past year, a Government official deliberately murdered an absconding slave, and is yet protected from the gallows by those who administer the State laws in the county where the murder was perpetrated. Our Federal troops are often employed in the work of murdering those who are supposed to be fugitive slaves. A signal instance of this character occurred many years since. In a time of profound peace, General Jackson directed our Army to invade Florida, at that time a province of Spain, for the purpose of murdering a people who were born free, but whose ancestors had been slaves; and in one day nearly three hundred men, women, and children, were barbarously and wantonly murdered by American troops.

This system of murder is encouraged and maintained by the present Executive, and by all who support his Administration. They insist that the people of a State or Territory may rightfully enact laws giving to one man power over the life of his fellow-men who have committed no offense; that popular sovereignty is not limited by God's higher law; that it extends with propriety over the life, the liberty, and the happiness of a portion of the human family; that the whites may, with moral impunity, subject the colored people of a State or Territory to degrading servitude, close up the windows of their souls, shut out knowledge from their understanding, hold them in ignorance, and murder them if they assert the rights which God has given them.

This infidelity, within the last half century, has consigned more than a million of innocent and unoffending victims to untimely graves. The number is far greater than has perished under the infidelity of France in all past time. But this comparison of American with French infidelity does great injustice to the latter. In France, the victims were sent to the guillotine under pretense that it was necessary for the public safety. They suffered but little: there was no flogging, no torture. But American infidelity consigns its victims to years of torture and suffering, and finally to death, for no higher purpose than to gratify the sordid passions of their individual oppressors.

These wholesale murders are but the outworkings of that infidelity which denies that God has endowed all men with the inalienable right to live. The enactments referred to, and their results, clearly demonstrate the views of those who sustain them, and are laboring in this Hall, and elsewhere, to extend them over our Territories, and wherever Congress holds exclusive jurisdiction. It is most obvious, that while the present Administration openly lends its influence to such crimes, every intelligent man who sustains and upholds its policy, or fails to oppose it so far as able, becomes involved in the guilt of the murders which it sanctions.

But I shall be told that these enactments are confined to the slave States, and that Congress holds no power to repeal or modify them. I reply that the people and statesmen of our southern States insist that slaveholders may carry their slaves, and all privileges which they hold of flog-

ging and murdering them under State laws, into our Territories; and the President, and those who sustain him, declare that the Constitution extends and protects these crimes wherever Federal authority exists. They declare that this system of murder is established by the Federal Constitution; that neither Congress nor the people of the Territories have the right to punish those who perpetrate such crimes. Not content with this avowal of doctrine, however, we are at this time sustaining a code of laws for the government of this District which holds to the blasphemy that men may become the property of their fellow-men—may be bought and sold like swine. In these, and in other modes, is the transcendent question of Christianity, or slaveholding heathenism, made the absorbing political issue in the nation.

But I shall be told that the Supreme Court of the United States have decided that our fathers did not intend to avow those self-evident truths which they solemnly proclaimed; that they really held to the doctrines of slavery which they did not avow. Our fathers could no more change the law of eternal right and wrong than we can. The ordained will of Heaven has existed through the eternity of the past, and will continue through all the future. Men may conform to this law, but they can never modify it or make it conform to the human will. Our fathers sought to make no such modification of the Creator's law.

Had such infidelity characterized their action, it would have imposed no obligation upon the present generation to sustain this system of murder. They have passed to that tribunal which will do them justice. They must answer for their conduct; we must account to God and posterity for our own stewardship, and not for theirs. God, through all his works, in all his laws, by every revelation to man, has prohibited us from murdering our fellow-beings; and woe to the nation, to the statesman, the legislator, the despot, the oligarch, the murderer, who disregards this law of the Most High! I feel humbled and mortified when I see statesmen, ministers, teachers of religion, in this land of bibles and Sabbaths and churches, maintain the doctrine that human authority can repeal this law of Heaven. To me, it is downright blasphemy; derogatory to the character of the Creator and offensive to the religious sense of mankind. Yet, this absurdity is the legitimate outworking of that infidelity which denies "that God has endowed all men with inalienable rights." If He has endowed our race with any right whatever, it surely is the right to live. If this right be denied, no other can be acknowledged. If there be exceptions to this central, this universal proposition, that *all* men, without respect to complexion or condition, hold from the Creator the right to live, who shall determine what portion of the community shall be slain? And who may perpetrate the murders? The Executive and his supporters say that white men may murder black men. The blacks deny this; God and Christianity and nature, and all religions, all just, all moral men, deny it.

Yet this denial of the right of men to live, constitutes the mildest and least offensive phase of American infidelity. No intelligent person would desire to have the life of his body prolonged for the purpose of being subjected to physical torture, while his intellect shall be paralyzed, his soul enshrouded in ignorance, and his moral nature brutalized. Therefore the right to enjoy liberty, physical, moral, civil, and religious, is regarded even more important than life. Indeed, it is obvious that life itself cannot be protected unless the individual be permitted to support and defend the physical existence with which God has endowed him.

Religious and reflecting men regard the body as merely the temporary habitation of the spirit, the soul which constitutes the man; to be occupied during its infant state of existence, and used for the purpose of developing the mental faculties extending the sphere of thought and elevating his moral nature, thereby preparing him for a higher and holier state of existence. And when the body shall have performed this service, it is laid aside to mold and return to its mother earth, while the spirit shall live on and on while God himself exists. No injury to the body can, therefore, bear any comparison to the enslavement of the

intellect, the degradation of the moral nature of man.

By the established laws of our existence, the body requires food, raiment, and habitation. To each individual are given limbs to bear him forth from place to place; hands to cultivate and gather the fruits of the earth, to feed the body, provide raiment and habitation for its protection; eyes to guide him, and ears to detect danger. These are all held in subjection to the mind, and are put in operation only by the will of the individual. The mind itself is constrained to action by an inflexible law which God has ordained for its early unfolding. Its first care is to nourish, and feed, and clothe the body, to render it a comfortable and pleasant habitation during occupancy. The spirit is constrained, in seeking food, to put the limbs, and hands, and all the physical faculties into operation to satisfy the hunger and thirst of the body, to provide raiment and habitation for its protection. That God has endowed each member of the human family with the inherent and inalienable right to use his own limbs and hands and bodily faculties for these purposes is, literally, a "self-evident truth." It is a truth that cannot be rendered more clear by argument; its force cannot be increased by logic, or made more beautiful by eloquence. But this care of the body constitutes the first lesson, the lowest exercise of the intellect, and is introductory to that eternal unfoldment which was designed by the Creator as the means of elevating man to higher and still higher happiness; for I lay it down as a religious axiom that in degree as man becomes wise, just, pure, and truthful, he approximates that happiness which constitutes the final design of his existence.

That God has endowed every human being with the right thus to enlarge this sphere of thought, and elevate his moral nature, is so obviously, so self-evidently true, that he must indeed be a most arrant infidel who denies it. It constitutes a part of the fundamental proposition that "all men are endowed by their Creator with inalienable rights." Its existence is, however, denied by "American infidels;" and this constitutes the second collateral issue between the religious and irreligious portions of our people. This enslavement of the soul presents infidelity in its most revolting features. It paralyzes the moral nature of man; renders the soul sterile and unprepared for heaven. We must wait the day of final retribution to disclose the extent of its enormities.

Yet the body can only be held in bondage by enslaving the spirit, by surrounding it with mental darkness. Permit a man to understand the duties which he owes to himself, to mankind, and to God, and he cannot be a slave. Hence, the whole policy of slaveholding governments is arranged and adapted to the purpose of first enslaving the minds of their bondmen. In most slaveholding communities it is a statutory offense, punishable by fine and imprisonment, to teach slaves to read the gospel. They are not permitted to read the words of "Him who spake as never man spake;" who declared His mission on earth "to proclaim liberty to the captive;" to raise up the bowed down; enlighten the ignorant; who taught His disciples and followers "to do unto others as they would have others do unto them." A distinguished jurist of North Carolina, while discharging official duties, declared, "a slave is one doomed in his own person and posterity to live without knowledge." He is not permitted to understand the object of human existence. He can have no conception of justice, or wisdom, or purity, or truth. Slaves can have no correct idea of the duties which children owe to their parents; nor of those which are due from parents to children. The parent is not permitted to teach or govern his child; nor is the child permitted to honor or obey his parent.

It follows that the freedom of speech must be restricted among the free people of slaveholding communities. The public mind must be there enslaved in order to maintain the institution, and no man be permitted to assert the doctrines I have referred to. They are not permitted publicly to utter the truths which lie at the basis of our Government. The policy of those communities is to circumscribe human thought, prevent a knowledge of the duties which men owe to themselves and to their fellow-men. This policy was for

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many years enforced in this body. Members were prohibited from speaking of the crimes and iniquities of slavery, lest the people should understand the subject, and refuse to sustain such infidelity.

The right of legal marriage is unknown among the slaves. They are not permitted to understand the relation nor the duties of husband and wife. The master sells him who is called *husband*, or her who calls herself wife, while he retains the other. He sells the parent, and retains the child; or he sells the child, and retains the parent. These separations are but the practical workings of that infidelity which denies to parents and children those inalienable rights which God and nature have bestowed upon them.

Slaves can have no proper conception of the rights of property. Robbed of their own earnings, told they have no claims to the food which they gather, it were impossible for them to conceive of any such right in others. Nor is it possible that such a state of society could exist among our southern population without greatly affecting the morals of the free people. Indeed, the existence of three millions of slaves among six millions of free people must, of necessity, characterize the morality of the entire population. One of the prominent vices of slaveholding communities is the rapid amalgamation of races. The evidence of this vice meets the eye of the traveler at every step in his progress through our southern States.

The legitimate heir of a plantation, on coming into possession of his estate, often sells the children of his father—his brothers and sisters of the half blood—denying that they "have any rights which white men are bound to respect." This infidelity denies the right of six hundred thousand females of our land to protect their own virtue and consigns them to practical prostitution. This state of society is but the outworking of that infidelity which denies the existence of man's inalienable right to liberty and to moral elevation.

It would be in vain for us to say to the Christians of Europe, or even the Mohammedans of Turkey, that *religious* men of our country support such a system of pollution. Yet thousands of church members, in the slave States, impiously charge Deity with authorizing these crimes, and sacrilegiously endeavor to pervert the holy Scriptures to the support of this infidelity. Newspapers professedly religious lend a silent, and some an active, support to these crimes; while others, even in our free States, openly oppose and denounce all who resist the extension, or expose the enormities, of slavery.

The number of heart-broken mothers, and the torture which they suffer on being separated from their children, the physical suffering from floggings, thumb-screws, and all the various means of torture practiced in slaveholding communities, are matters of which we can speak, but of which we can form no estimate. This degradation and suffering constitute the legitimate sequence of American infidelity. If these God-given prerogatives of our race be abandoned, the mother can have no right to the child of her body; no right to the food which she gathers by her toil; no right to the intellect which God has given her; no right to be virtuous, pure, wise, and good; no right to live. I repeat that the religious men of our nation insist that these rights of human nature shall be held sacred, and their enjoyment secured to every individual; while the supporters of American infidelity deny their existence, and proclaim the duty of human governments to disregard them; and each party will, of course, carry their views into their moral, social, and political conduct. Mr. Jefferson well exclaimed: "*Can the liberties of a nation be thought secure when we have destroyed their only firm basis, a conviction in the minds of the people that they are the gifts of God?—THAT THEY ARE NOT TO BE VIOLATED BUT WITH HIS WRATH?*"

I now pass to the third collateral issue—the right of all men to enjoy happiness. I need not repeat that the ultimate beatitude of the race constituted the evident design of Deity in creating mankind. Such I understand to be the instinctive conviction of all men. This purpose, this hope, this intuition, is found in every human heart. Men in all ages, in all countries, of all languages, have regarded this as the ultimate ob-

ject of their toils and labors, the great design of their existence. This beatitude can only be attained by moral culture; by extending the sphere of thought; by understanding the laws of nature, and of nature's God; by attaining a knowledge of His attributes, and conforming to them. To be wise, truthful, pure, and just, is to insure happiness in this life, and in the life to come; and it is a most beautiful feature in the law of our being, that to attain this happiness ourselves, we must respect the right of others to enjoy it; that, as we elevate our own moral natures we necessarily influence others; and as we labor for the welfare and the happiness of others, we most rapidly promote our own. The religious man delights in doing good; he seeks to instruct the ignorant, to elevate the degraded, to relieve the oppressed, to enlighten those who sit in moral darkness, to give to all that elevation of soul which alone can qualify them for happiness. For this purpose schools and academies are established, colleges are founded, tract and Bible and missionary societies are organized, teachers and ministers are employed; indeed, this work of elevating our race constitutes the highest and holiest employment of mankind. For success in this work, prayer is daily made at every family altar; and on the Sabbath our pulpits resound with the solemn, fervent supplication, that God will aid this work; that He will, by the irresistible power of His grace, convert the irreligious, enlighten those whose minds are enshrouded in the darkness of infidelity; that He will *relieve* the oppressed, comfort the afflicted, and hasten the day when all shall know His will, obey His law, and enjoy His favor.

The infidelity which denies the right of men to attain happiness, that dooms a portion of our race to degradation and torture, to vice and crime and misery, which shuts out hope from the human soul, shocks the conscience and awakens the sensibilities of all religious men.

While Government legislates for the protection of these natural, these God-given rights, they will receive the approval, the support, of all good men, and their laws will be respected and obeyed; but when they legislate for the invasion of these rights, they call up the hostility, the resistance of those whom they seek to oppress. The just and wise and pure of all parties, sects, and denominations, feel the outrage and sympathize with the down-trodden. The great heart of Christendom now beats in sympathy with the enslaved of our land. We feel that sympathy in this Hall; and when we speak for justice and for freedom, we utter the voice of nature; we proclaim the law of Heaven, written in letters of living light upon the tablet of the moral universe.

The difficulties respecting Kansas, which now shake our Union to its very center, constitute the legitimate outworkings of this infidelity. The right of all men in Kansas to live, to nourish and protect life, attain moral elevation and happiness, had been asserted by congressional law; and under this enactment peace blessed our nation. Infidels, however, said this was wrong; that such rights did not pertain to man; that one portion of the people there hold the power, and may if they choose rightfully enslave another, rob them of their toil, their intelligence, their hopes, their manhood, and murder them if they refuse to obey their masters. And this law of liberty was repealed, and men were enslaved, brutalized, sold like swine. The public conscience was outraged, and all good men sympathized with the oppressed. Usurpation and brute force were resorted to for the purpose of extending and supporting slavery; civil war, devastation and bloodshed followed, and will continue until justice be done, and the rights of human nature enjoyed in that unfortunate Territory.

This line of demarkation, which separates the natural rights of all men from human legislation, was clearly drawn by the founders of our Republic. They established the point at which the appropriate, the just powers of all human governments commence, whatever may be their form. They defined the boundaries of human authority; they acknowledged God as the author of life, the donor of liberty, the fountain from which human happiness is derived. On the denial of these religious, these self-evident truths, American sla-

very is founded. The slaveholder denies the right of his slave to cherish and protect his own life, to gain intelligence, to unfold his moral nature, to understand God's attributes, and enjoy that happiness for which he was created. To those primal truths he is infidel. To the rights of his fellow-mortal he is infidel. To God's higher law he is infidel. Against these he wages unceasing war. He seeks to rob Deity of His attributes, and man of his God-given prerogatives. He claims for human legislation that supreme sovereignty over the life, the liberty, and the happiness of mankind, which belongs only to the Creator. He thus places himself in hostility to Christianity, to civilization.

This contest is not confined to the United States. These truths are operating upon the hearts of the Russian people. Their Government is in advance of ours. Measures have already been taken for the emancipation of the serfs of that vast Empire, although their condition is far better than that of American slaves. Holland is also moved by these doctrines, and is giving freedom to her oppressed people in her West India islands. England and France have abolished slavery, regarding it as an institution unsuited to the age in which we live. We assert the rights of man wherever he exists. Ours is the cause of Christian civilization throughout the world. Our doctrines apply with equal force to other Governments, to other nations and people. The most illustrious monarch who sways the scepter of human power is really as much bound to respect the inalienable rights of every individual as is the President of the United States. Kings, potentates, and emperors, become despots whenever they invade the rights of the most humble to life, liberty, property, or happiness.

The mere name of "republicanism" gives us no claim to respect, so long as one sixth part of our population is held in degrading bondage. I assert, without fear of contradiction, that if the liberty enjoyed by one portion of our people, and the slavery suffered by the other, could be brought into common stock, and each individual constrained to take his aliquot proportion of each, ours would be regarded as the most perfect despotism among civilized nations. The only advantage which we possess over other nations consists in that feature of our Government which vests all political power in the people. They may, by use of the ballot-box, so modify and shape the administration of Government as best to secure the inalienable rights of each and of every individual.

It is with emotions of gratitude to God, and profound respect for the memory of those who established our Republic, that we refer to the period when, at the very font of our national baptism, our fathers vindicated their claims to national independence, solely upon the religious truths which constitute the central proposition referred to at the commencement of my remarks. They claimed for themselves no special privileges. They spoke, they fought, they bled to establish this universal, this eternal principle of man's right to live, to nourish his body, protect his life, to elevate his moral nature, and attain happiness. This they proclaimed the basis, the corner stone, not merely of our Republic, but of human Governments generally. The Constitution was framed and adopted upon this then universally admitted principle; but such was the anxious solicitude of our early patriots that, in two years after its adoption, it was amended, by declaring in explicit language: "*That no person shall be deprived of life, liberty, or property, except by due process of law;*" that is, except on trial and conviction before some judicial tribunal. In accordance with these truths one half of the States of our Union proceeded to give liberty to all their people, to protect the inalienable rights of all; but the other States embraced and cherished this infidelity which has at length infused itself into our Federal Government. Our teachers, our politicians, our statesmen, became unwilling to offend those who had embraced this infidelity. They were received into churches, elected to civil office, and finally obtained control of the Government. All classes of men became affected by this disbelief in God's law and in human rights. It was regarded as disreputable to examine the crimes which this system of oppression upheld; social and political

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ostracism awaited the man who dared speak disrespectfully of its iniquities.

Eventually individuals appeared who were willing to encounter odium in order to arouse the religious and moral sensibilities of the nation, and in 1856, a national convention met at Philadelphia to devise means for overcoming this moral and political scourge. The members pledged themselves to each other and to the world, to maintain the truths to which I have alluded, and they now constitute the platform of a large and increasing political party.

That day witnessed the dawning of a reformation more deep, more radical, more important in its religious, its moral, its social and political effects upon mankind, than has occurred since the sixteenth century. It is more deep and radical than that commenced by Calvin and his collaborators. It asserts the right of man to religious and moral elevation as superior to the power of kings or human Governments. The great reformers of that age dared put forth no such doctrine. Their lives would have constituted the price of such an avowal. They were constrained to admit the divine right of kings over the liberties of their people, and many of the usurped powers of the church.

The Philadelphia convention will be remembered in coming time as first in the history of the political parties of our nation to make religious truths the basis of its political action, and first to proclaim these rights of mankind as universal, to be enjoyed equally, by princes and people, by rulers and the most humble. It was the first to proclaim the fatherhood of God and the brotherhood of man. The result of the presidential election of 1856 showed the advocates of oppression that there was but one alternative for them to pursue. They were constrained to take distinct issue with the advocates of liberty by denying these religious truths, or to disband their party in every free State.

The Supreme Court was selected as the instrument for officially avowing this undisguised infidelity. That tribunal was favorably constituted for such a purpose; a majority of its members were slaveholders. Other members had been appointed to office apparently on account of their uniform servility to the slave power; and every circumstance combined to render it the appropriate instrument for performing this work. The time, too, was a matter of importance. No sooner had the Thirty-Fourth Congress adjourned, than a majority of that tribunal, in violation of its own declared rules, digressed from the question before them, to utter its denial of those doctrines of the republican fathers.

But this decision, opposed as it is to the self-evident truths of our Declaration of Independence, to the letter and spirit of the Constitution, to the intelligence and conscience of the American people, is emphatically repudiated by them. The vanity and arrogance exhibited by a majority of the court in charging Hancock and Adams and Jefferson and Franklin, and their illustrious contemporaries, with proclaiming doctrines which they did not intend to express, and of failing to utter principles which they intended to avow, has called forth from the popular mind indignant pity for the court, rather than doubts as to the intelligence and Christianity of those savans who founded our institutions.

I shall not argue the absurdity of this decision. Its falsehood is as self-evident as the truths which it denies. Arriving at the conclusion that the sages who signed our Declaration of Independence meant precisely the opposite of that which they solemnly proclaimed, the court proceeded to declare—in contradiction to its letter and spirit, to the history of the age, to the conscience and judgment of all Christian people—that black men were regarded as having no rights which white men were bound to respect; and on this basis founded their conclusion that Congress has no constitutional authority to protect the lives, liberties, and property of the people in our Territories where it holds exclusive jurisdiction. This atrocious decision attempts to outlaw one eighth part of the human race; to place them without the pale of legal protection; it affects to authorize any and every crime to be perpetrated against them. Under this decision they may be robbed and murdered; in short, this decision would extend American infidelity,

with all its attendant crimes, wherever Federal jurisdiction exists. Thus has the issue been made between the religious portion of the community and those who maintain this heathenism. This issue involves the entire American people. All denominations of men are now constrained to cast their influence on one side or the other. To sit silent, would merely aid the cause of infidelity and despotism. He who refuses to act, by such refusal, casts half his influence in favor of the crimes which I have enumerated. The functions of our Government for the time being, are prostituted to sustain and extend this infidelity. The Prophet of Mecca, nor his followers, ever sanctioned doctrines so barbarous as those which now rule in the Administration of our Government. The Turk will be constrained to unite with the Christian in the maintenance of those rights which are sanctioned by the religion of Mohammed, as well as of Christ. Civilized and semi-civilized nations must feel a common interest in the overthrow of this infidelity, which aims a fatal blow at human rights, wherever the image of God is found.

I greatly rejoice that Christians in Europe are sensible of the existence of this war upon human nature. American Christians, patriots, and philanthropists feel the warmest gratitude toward the religious men of Scotland, of England, of France, and Germany for the kind sympathy which they express in this cause, for the very catholic remonstrances which they have addressed to our American Christians against this infidelity. Every lover of truth, every religious heart in our land, must have glowed with gratitude to God and love to man, as he read the eloquent and truthful address of the Christians of Geneva, once the home of Europe's great Reformer, to the Christians of the United States on this subject. And whose heart was not moved when noticing the action of the Protestants of France in relation to it? Nor is this Christian feeling confined to Protestants. The African Institute of Paris, formed for the purpose of maintaining the rights of the African race, embraces among its members distinguished laymen, ministers, bishops, and archbishops, belonging to the Papal Church. My own humble efforts in behalf of our common brotherhood, caused my name to become known to its directors, who placed it on the roll of its honorary members. I take this occasion to thank them for this honor. A Protestant by education, by feeling, I greet those Catholic Christians most cordially as good and worthy laborers in this holy work. Heartily do I thank them for all that they have done, and are doing, for the down-trodden of our race.

Could I hope that my remarks would meet the eye of British ministers, I would in an especial manner invoke their official influence against this infidelity. I would beseech them no more to sanction, by their action, that blasphemy which seeks to transform the image of God into property.

I acknowledge that our Government was dishonored in the eyes of all Christians, when its Executive became the agent and solicitor of those pirates who claimed to own the fathers, the mothers, and children on board certain slave ships wrecked on British islands, where, thanks to Christian civilization, no slavery exists. The President, espousing the cause of men who deserved the halter and the gallows, demanded compensation from the British Government for their loss of human flesh. Our representative at the court of St. James appears to have misled and deceived the British ministry. In one of his official communications he declared that, "our Government had determined more than once, in the most solemn manner, that slaves killed in the public service of the United States, even in a state of war, were to be regarded as property, and not as persons, and the Government held responsible for their value."

When referring to this assertion of our minister fifteen years since, I pronounced it unfounded and untrue. I said this in the presence of the delegation from Virginia, the State of which our minister, Mr. Stevenson, was a citizen, and I called on them, as his friends, to sustain his assertion by showing some one instance in which this Government had paid for slaves killed in the public service. I declared the whole history of Congress showed that we had in every instance refused such payment, and I defied them to show an exception

to such practice. No man met the challenge. I now repeat the assertion. I pronounce the statement of Mr. Stevenson untrue, a libel upon our Government, and a slander upon the American people. I not only declare his assertion untrue, but I declare the opposite to be true. The British ministry, by complying with this demand, tacitly admitted that phase of American infidelity which seeks to degrade the human soul to the level of swine. More recently they paid the slave-dealers the estimated value of the fathers, mothers, and children, on board the Creole, who obtained their own liberty by gallantly taking possession of the vessel and landing on British soil.

The money—the dollars and cents—are of no importance; but concessions to this infidelity, at the present time, are important. It was an object with the slave power to obtain from the British ministry the admission that men are property. I would entreat the British Government, and all other Governments, to maintain the dignity of our common nature. In the language of one of the most eloquent of England's orators, I would say, "He who gave us the form commands us to maintain the rights of men." The Christians of the United States and of other nations would rejoice to learn that the British ministry now, as in 1820, refuse even to correspond with our Executive on the subject of property in human flesh.

I would also warn the Spanish Crown and other continental Powers, that our present Executive is seeking, by all the various means and arts of diplomacy, to detach Cuba from its allegiance, to annex it to the United States in order to increase the influence of the slave power, and add strength to this American infidelity.

I hope and trust that this conspiracy may be defeated; that all Christian Governments may exert their power against the further extension of this scourge of our race. I would most earnestly invoke the Christians, philanthropists, and patriots of this and of every nation and kindred and language, to exert their moral influence, their legitimate powers, for the overthrow, the final eradication of this infidelity from the earth, for upholding the natural, Heaven-endowed rights of man, for the progress, the moral elevation of our race, until all shall understand the will and obey the laws of our common Father, and attain that happiness which constitutes the ultimate object of human existence.

KANSAS—LECOMPTON CONSTITUTION.

SPEECH OF HON. J. H. HAMMOND,
OF SOUTH CAROLINA,
IN THE SENATE, March 4, 1858.

[REVISED BY HIMSELF.]

The Senate having under consideration the bill for the admission of Kansas into the Union as a State—

Mr. HAMMOND said:

Mr. PRESIDENT: In the debate which occurred in the early part of the last month, I understood the Senator from Illinois [Mr. DOUGLAS] to say that the question of the reception of the Lecompton constitution was narrowed down to a single point. That point was, whether that constitution embodied the will of the people of Kansas. Am I correct?

Mr. DOUGLAS. The Senator is correct, with this qualification: I could waive the irregularity and agree to the reception of Kansas into the Union under the Lecompton constitution, provided I was satisfied that it was the act and deed of that people, and embodied their will. There are other objections; but the others I could overcome, if this point were disposed of.

Mr. HAMMOND. I so understood the Senator. I understood that if he could be satisfied that this constitution embodied the will of the people of Kansas, all other defects and irregularities could be cured by the act of Congress, and that he himself would be willing to permit such an act to be passed.

Now, sir, the only question is, how is that will to be ascertained? And upon that point, and that only, we shall differ. In my opinion, the will of

* For the original report, see page 959, Congressional Globe.

the people of Kansas is to be sought in the act of her lawful convention elected to form a constitution, and nowhere else; and that it is unconstitutional and dangerous to seek it elsewhere. I think that the Senator fell into a fundamental error in his report dissenting from the report of the majority of the Territorial Committee, when he said that the convention which framed this constitution was "the creature of the Territorial Legislature;" and from that error has probably arisen all his subsequent errors on this subject. How can it be possible that a convention should be the creature of a Territorial Legislature? The convention was an assembly of the people in their highest sovereign capacity, about to perform their highest possible act of sovereignty. The Territorial Legislature is a mere provisional government; a petty corporation, appointed and paid by the Congress of the United States, without a particle of sovereign power. Shall that interfere with a sovereignty—inchoate, but still a sovereignty? Why, Congress cannot interfere; Congress cannot confer on the Territorial Legislature the power to interfere. Congress is not sovereign. Congress has sovereign powers, but no sovereignty. Congress has no power to act outside of the limitations of the Constitution; no right to carry into effect the supreme will of any people; and, therefore, Congress is not sovereign. Nor does Congress hold the sovereignty of Kansas. The sovereignty of Kansas resides, if it resides anywhere, with the sovereign States of this Union. They have conferred upon Congress, among other powers, the authority of administering such sovereignty to their satisfaction. They have given Congress the power to make needful rules and regulations regarding the Territories, and they have given Congress power to admit a State—"admit," not create. Under these two powers, Congress may first establish a provisional territorial government merely for municipal purposes; and when a State has grown into rightful sovereignty, when that sovereignty which has been kept in abeyance demands recognition, when a community is formed there, a social compact created, a sovereignty born, as it were, upon the soil, then Congress is gifted with the power to acknowledge it, and the Legislature, only by mere usage, sometimes neglected, assists at the birth of it by passing a precedent resolution assembling a convention.

But when that convention assembles to form a constitution, it assembles in the highest known capacity of a people, and has no superior in this Government but a State sovereignty; or rather the State sovereignties of all the States alone can do anything with the act of that convention. Then if that convention was lawful, if there is no objection to the convention itself, there can be no objection to the action of the convention; and there is no power on earth that has a right to inquire, outside of its acts, whether the convention represented the will of the people of Kansas or not, for a convention of the people is, according to the theory of our Government, for all the purposes for which the people elected it, *THE PEOPLE, bona fide*, being the only way in which all the people can assemble and act together. I do not doubt that there might be some cases of such gross and palpable frauds committed in the formation of a convention, as might authorize Congress to investigate them, but I can scarcely conceive of any. And when a State knocks at the door for admission, Congress can with propriety do little more than inquire if her constitution is republican. That it embodies the will of her people must necessarily be taken for granted, if it is their lawful act. I am assuming, of course, that her boundaries are settled, and her population sufficient.

If what I have said be correct, then the will of the people of Kansas is to be found in the action of her constitutional convention. It is immaterial whether it is the will of a majority of the people of Kansas now, or not. The convention was, or might have been, elected by a majority of the people of Kansas. A convention elected in April may well frame a constitution that would not be agreeable to a majority of the people of a new State, rapidly filling up, in the succeeding January, and if Legislatures are to be allowed to put to vote the acts of a convention, and have them annulled by a subsequent influx of immigrants,

there is no finality. If you were to send back the Lecompton constitution, and another was to be framed, in the slow way in which we do public business in this country, before it would reach Congress and be passed, perhaps the majority would be turned the other way. Whenever you go outside of the regular forms of law and constitutions, to seek for the will of the people, you are wandering in a wilderness—a wilderness of thorns.

If this was a minority constitution I do not know that that would be an objection to it. Constitutions are made for minorities. Perhaps minorities ought to have the right to make constitutions, for they are administered by majorities. The Constitution of this Government was made by a minority, and as late as 1840 a minority had it in their hands, and could have altered or abolished it; for, in 1840, six out of the twenty-six States of the Union held the numerical majority.

The Senator from Illinois has, upon his view of the Lecompton constitution and the present situation of affairs in Kansas, raised a cry of "popular sovereignty." The Senator from New York [Mr. SEWARD] yesterday made himself facetious about it, and called it "squatter sovereignty." There is a popular sovereignty which is the basis of our Government, and I am unwilling that the Senator should have the advantage of confounding it with "squatter sovereignty." In all countries and in all time, it is well understood that the numerical majority of the people could, if they chose, exercise the sovereignty of the country; but for want of intelligence, and for want of leaders, they have never yet been able successfully to combine and form a stable, popular government. They have often attempted it, but it has always turned out, instead of a popular sovereignty, a *populace* sovereignty; and demagogues, placing themselves upon the movement, have invariably led them into military despotism.

I think that the popular sovereignty which the Senator from Illinois would derive from the acts of his Territorial Legislature, and from the information received from partisans and partisan presses, would lead us directly into *populace*, and not popular, sovereignty. Genuine popular sovereignty never existed on a firm basis except in this country. The first gun of the Revolution announced a new organization of it, which was embodied in the Declaration of Independence, developed, elaborated, and inaugurated forever in the Constitution of the United States. The two pillars of it were representation and the ballot-box. In distributing their sovereign powers among the various departments of the Government, the people retained for themselves the single power of the ballot-box; and a great power it was. Through that they were able to control all the departments of the Government. It was not for the people to exercise political power in detail; it was not for them to be annoyed with the cares of Government; but, from time to time, through the ballot-box, to exert their sovereign power and control the whole organization. This is popular sovereignty, the popular sovereignty of a legal constitutional ballot-box; and when spoken through that box, the "voice of the people," for all political purposes, "is the voice of God;" but when it is heard outside of that, it is the voice heard of a demon, the *locsin* of the reign of terror.

In passing I omitted to answer a question that the Senator from Illinois has, I believe, repeatedly asked; and that is, what were the legal powers of the Territorial Legislature after the formation and adoption of the Lecompton constitution? That had nothing to do with the Territorial Legislature, which was a provisional government almost without power, appointed and paid by this Government. The Lecompton constitution was the act of a people, and the sovereign act of a people. They moved in different spheres and on different planes, and could not come in contact at all without usurpation on the one part or the other. It was not competent for the Lecompton constitution to overturn the territorial government and set up a government in place of it, because that constitution, until acknowledged by Congress, was nothing; it was not in force anywhere. It could well require the people of Kansas to pass upon it or any portion of it; it could do whatever

was necessary to perfect that constitution, but nothing beyond that, until Congress had agreed to accept it. In the mean time the territorial government, always a government *ad interim*, was entitled to exercise all the sway over the Territory that it ever had been entitled to. The error of assuming, as the Senator did, that the convention was the creature of the territorial government, has led him into the difficulty and confusion of connecting these two governments together. There is no power to govern in the convention until after the adoption, by Congress, of its constitution.

If the Senator from Illinois, whom I regard as the Ajax Telamon of this debate, does not press the question of frauds, I shall have little or nothing to say about that. The whole history of Kansas is a disgusting one, from the beginning to the end. I have avoided reading it as much as I could. Had I been a Senator before, I should have felt it my duty, perhaps, to have done so; but not expecting to be one, I am ignorant, fortunately, in a great measure, of details; and I was glad to hear the acknowledgment of the Senator from Illinois, since it excuses me from the duty of examining them.

I hear, on the other side of the Chamber, a great deal said about "gigantic and stupendous frauds;" and the Senator from New York, yesterday, in portraying the character of his party and the opposite one, laid the whole of those frauds upon the pro-slavery party. To listen to him, you would have supposed that the regiments of immigrants recruited in the purlieus of the great cities of the North, and sent out, armed and equipped with Sharpe's rifles and bowie knives and revolvers, to conquer freedom for Kansas, stood by, meek saints, innocent as doves, and harmless as lambs brought up to the sacrifice. General Lane's lambs! They remind one of the famous "*lambs*" of Colonel Kirke, to whom they have a strong family resemblance. I presume that there were frauds; and that if there were frauds, they were equally great on all sides; and that any investigation into them on this floor, or by a commission, would end in nothing but disgrace to the United States.

But, sir, the true object of the discussion on the other side of the Chamber is to agitate the question of slavery. I have very great doubts whether the leaders on the other side of the House really wish to defeat this bill. I think they would consider it a vastly greater victory to crush out the Democratic party in the North, and destroy the authors of the Kansas-Nebraska bill; and I am not sure that they have not brought about this imbroglio for the very purpose. They tell us that year after year the majority in Kansas was beaten at the polls! They have always had a majority, but they always get beaten! How could that be? It does seem, from the most reliable sources of information, that they have a majority, and have had a majority for some time. Why has not this majority come forward and taken possession of the government, and made a free-State constitution, and brought it here? We should all have voted for its admission cheerfully. There can be but one reason: if they had brought, as was generally supposed at the time the Kansas-Nebraska act was passed would be the case, a free constitution here, there would have been no difficulty among the northern Democrats; they would have been sustained by their people. The statement made by some of them, as I understood, that that act was a good free-State act, would have been verified, and the northern Democratic party would have been sustained. But Kansas coming here a slave State, it is hoped, will kill that party, and that is the reason they have refrained from going to the polls; that is the reason they have refrained from making it a free State when they had the power. They intend to make it a free State as soon as they have effected their purpose of destroying the Democratic party at the North, and now their chief object here is to agitate slavery. For once, I am not disposed to discuss that question here in any abstract form. I think the time has gone by for that. Our minds are all made up. I may be willing to discuss it—and that is the way it should be, and must be, discussed—as a *practical thing*, as a thing that is, and is to be; and to discuss its effect upon our political institutions, and

ascertain how long those institutions will hold together with slavery *ineradicable*.

The Senator from New York entered very fairly into this field yesterday. I was surprised, the other day, when he so openly said "the battle had been fought and won." Although I knew, and had long known it to be true, I was surprised to hear him say so. I thought that he had been entrapped into a hasty expression by the sharp rebukes of the Senator from New Hampshire; and I was glad to learn yesterday his words had been well considered—that they meant all that I thought they meant; that they meant that the South is a conquered province, and that the North intends to rule it. He said that it was their intention "to take this Government from unjust and unfaithful hands, and place it in just and faithful hands;" that it was their intention to consecrate all the Territories of the Union to free labor; and that, to effect their purposes, they intended to reconstruct the Supreme Court.

Yesterday the Senator said, suppose we admit Kansas with the Lecompton constitution, what guarantees are there that Congress will not again interfere with the affairs of Kansas? meaning, I suppose, that if she abolished slavery, what guarantee there was that Congress would not force it upon her again. So far as we of the South are concerned, you have, at least, the guarantee of good faith that never has been violated. But what guarantee have we, when you have this Government in your possession, in all its departments, even if we submit quietly to what the Senator exhorts us to submit to—the limitation of slavery to its present territory, and even to the reconstruction of the Supreme Court—that you will not plunder us with tariffs; that you will not bankrupt us with internal improvements and bounties on your exports; that you will not cramp us with navigation laws, and other laws impeding the facilities of transportation to southern produce? What guarantee have we that you will not create a new bank, and concentrate all the finances of this country at the North, where already, for the want of direct trade and a proper system of banking in the South, they are ruinously concentrated? Nay, what guarantee have we that you will not emancipate our slaves, or, at least, make the attempt? We cannot rely on your faith when you have the power. It has been always broken whenever pledged.

As I am disposed to see this question settled as soon as possible, and am perfectly willing to have a final and conclusive settlement now, after what the Senator from New York has said, I think it not improper that I should attempt to bring the North and South face to face, and see what resources each of us might have in the contingency of separate organizations.

If we never acquire another foot of territory for the South, look at her. Eight hundred and fifty thousand square miles. As large as Great Britain, France, Austria, Prussia, and Spain. Is not that territory enough to make an empire that shall rule the world? With the finest soil, the most delightful climate, whose staple productions none of those great countries can grow, we have three thousand miles of continental shore line, so indented with bays and crowded with islands, that, when their shore lines are added, we have twelve thousand miles. Through the heart of our country runs the great Mississippi, the father of waters, into whose bosom are poured thirty-six thousand miles of tributary streams; and beyond we have the desert prairie wastes, to protect us in our rear. Can you hem in such a territory as that? You talk of putting up a wall of fire around eight hundred and fifty thousand square miles so situated! How absurd.

But in this Territory lies the great valley of the Mississippi, now the real, and soon to be the acknowledged seat of the empire of the world. The sway of that valley will be as great as ever the Nile knew in the earlier ages of mankind. We own the most of it. The most valuable part of it belongs to us now; and although those who have settled above us are now opposed to us, another generation will tell a different tale. They are ours by all the laws of nature; slave labor will go over every foot of this great valley where it will be found profitable to use it, and some of those who may not use it are soon to be united with us by

such ties as will make us one and inseparable. The iron horse will soon be clattering over the sunny plains of the South to bear the products of its upper tributaries to our Atlantic ports, as it now does through the ice-bound North. There is the great Mississippi, a bond of union made by Nature herself. She will maintain it forever.

On this fine territory we have a population four times as large as that with which these colonies separated from the mother country, and a hundred, I might say a thousand fold, stronger. Our population is now sixty per cent. greater than that of the whole United States when we entered into the second war of independence. It is as large as the whole population of the United States was ten years after the conclusion of that war, and our exports are three times as great as those of the whole United States then. Upon our muster-rolls we have a million of militia. In a defensive war, upon an emergency, every one of them would be available. At any time, the South can raise, equip, and maintain in the field, a larger army than any Power of the earth can send against her, and an army of soldiers—men brought up on horseback, with guns in their hands.

If we take the North, even when the two large States of Kansas and Minnesota shall be admitted, her territory will be one hundred thousand square miles less than ours. I do not speak of California and Oregon; there is no antagonism between the South and those countries, and never will be. The population of the North is fifty per cent. greater than ours. I have nothing to say in disparagement either of the soil of the North, or the people of the North, who are a brave and an energetic race, full of intellect, but they produce no great staple that the South does not produce; while we produce two or three, and those the very greatest, that she can never produce. As to her men, I may be allowed to say they have never proved themselves to be superior to those of the South, either in the field or in the Senate.

But the strength of a nation depends in a great measure upon its wealth; and the wealth of a nation, like that of a man, is to be estimated by its surplus production. You may go to your trashy census books, full of falsehood and nonsense. They will tell you, for example, that in the State of Tennessee, the whole number of house-servants is not equal to that of those in my own house, and such things as that. You may estimate what is made throughout the country from these census books, but it is no matter how much is made if it is all consumed. If a man possess millions of dollars and consume his income, is he rich? Is he competent to embark in any new enterprise? Can he build ships or railroads? And could a people in that condition build ships and roads, or go to war? All the enterprises of peace and war depend upon the surplus productions of a people. They may be happy, they may be comfortable, they may enjoy themselves in consuming what they make; but they are not rich, they are not strong. It appears, by going to the reports of the Secretary of the Treasury, which are authentic, that last year the United States exported in round numbers \$279,000,000 worth of domestic produce, excluding gold and foreign merchandise re-exported. Of this amount \$153,000,000 worth is the clear produce of the South; articles that are not and cannot be made at the North. There are then \$80,000,000 worth of exports of products of the forest, provisions, and breadstuffs. If we assume that the South made but one third of these, and I think that is a low calculation, our exports were \$185,000,000, leaving to the North less than \$95,000,000.

In addition to this, we sent to the North \$30,000,000 worth of cotton, which is not counted in the exports. We sent to her seven or eight million dollars' worth of tobacco, which is not counted in the exports. We sent naval stores, lumber, rice, and many other minor articles. There is no doubt that we sent to the North \$40,000,000 in addition; but suppose the amount to be \$35,000,000; it will give us a surplus production of \$220,000,000. The recorded exports of the South now are greater than the whole exports of the United States in any year before 1856. They are greater than the whole average exports of the United States for the last twelve years, including the two extraordinary years of 1856 and 1857. They

are nearly double the amount of the average exports of the twelve preceding years. If I am right in my calculations as to \$220,000,000 of surplus produce, there is not a nation on the face of the earth, with any numerous population, that can compete with us in produce *per capita*. It amounts to \$16 66 per head, supposing that we have twelve million people. England, with all her accumulated wealth, with her concentrated and educated energy, makes under \$16 50 of surplus production per head.

I have not made a calculation as to the North, with her \$95,000,000 surplus. Admitting that she exports as much as we do, with her eighteen millions of population it would be but little over twelve dollars a head. But she cannot export to us and abroad exceeding ten dollars a head against our sixteen dollars. I know well enough that the North sends to the South a vast amount of the productions of her industry. I take it for granted that she, at least, pays us in that way for the thirty or forty million dollars' worth of cotton and other articles we send her. I am willing to admit that she pays us considerably more; but to bring her up to our amount of surplus production, to bring her up to \$220,000,000 a year, the South must take from her \$125,000,000; and this, in addition to our share of the consumption of the \$333,000,000 worth introduced into the country from abroad, and paid for chiefly by our own exports. The thing is absurd; it is impossible; it can never appear anywhere but in a book of statistics.

With an export of \$220,000,000 under the present tariff, the South organized separately would have \$40,000,000 of revenue. With one fourth the present tariff she would have a revenue adequate to all her wants, for the South would never go to war; she would never need an army or a navy, beyond a few garrisons on the frontiers and a few revenue cutters. It is commerce that breeds war. It is manufactures that require to be hawked about the world, and give rise to navies and commerce. But we have nothing to do but to take off restrictions on foreign merchandise and open our ports, and the whole world will come to us to trade. They will be too glad to bring and carry for us, and we never shall dream of a war. Why the South has never yet had a just cause of war. Every time she has drawn her sword it has been on the point of honor, and that point of honor has been mainly loyalty to her sister colonies and sister States, who have ever since plundered and calumniated her.

But if there were no other reason why we should never have war, would any sane nation make war on cotton? Without firing a gun, without drawing a sword, should they make war on us we can bring the whole world to our feet. The South is perfectly competent to go on, one, two, or three years without planting a seed of cotton. I believe that if she was to plant but half her cotton for three years to come, it would be an immense advantage to her. I am not so sure but that after three total years' abstinence she would come out stronger than ever she was before and better prepared to enter afresh upon her great career of enterprise. What would happen if no cotton was furnished for three years? I will not stop to depict what every one can imagine, but this is certain: England would topple headlong and carry the whole civilized world with her, save the South. No, you dare not make war on cotton. No power on earth dares to make war upon it. Cotton is king. Until lately the Bank of England was king, but she tried to put her screws as usual, the fall before last, upon the cotton crop, and was utterly vanquished. The last power has been conquered. Who can doubt, that has looked at recent events, that cotton is supreme? When the abuse of credit had destroyed credit and annihilated confidence, when thousands of the strongest commercial houses in the world were coming down, and hundreds of millions of dollars of supposed property evaporating in thin air, when you came to a dead lock, and revolutions were threatened, what brought you up? Fortunately for you it was the commencement of the cotton season, and we have poured in upon you one million six hundred thousand bales of cotton just at the crisis to save you from destruction. That cotton, but for the bursting of your speculative bubbles in the North, which produced the whole of this convulsion,

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would have brought us \$100,000,000. We have sold it for \$65,000,000, and saved you. Thirty-five million dollars we, the slaveholders of the South, have put into the charity-box for your magnificent financiers, your cotton lords, your merchant princes.

But, sir, the greatest strength of the South arises from the harmony of her political and social institutions. This harmony gives her a frame of society, the best in the world, and an extent of political freedom, combined with entire security, such as no other people ever enjoyed upon the face of the earth. Society precedes government; creates it, and ought to control it; but as far as we can look back in historic times we find the case different; for government is no sooner created than it becomes too strong for society, and shapes and molds, as well as controls it. In later centuries the progress of civilization and of intelligence has made the divergence so great as to produce civil wars and revolutions; and it is nothing now but the want of harmony between governments and societies which occasions all the uneasiness and trouble and terror that we see abroad. It was this that brought on the American Revolution. We threw off a Government not adapted to our social system, and made one for ourselves. The question is, how far have we succeeded? The South, so far as that is concerned, is satisfied, harmonious, and prosperous.

In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud-sill of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on this mud-sill. Fortunately for the South, she found a race adapted to that purpose to her hand—a race inferior to her own, but eminently qualified in temper, in vigor, in docility, in capacity to stand the climate, to answer all her purposes. We use them for our purpose, and call them slaves. We found them slaves by the "common consent of mankind," which, according to Cicero, "*lex natura est*;" the highest proof of what is Nature's law. We are old-fashioned at the South yet; it is a word discarded now by "ears polite." I will not characterize that class at the North by that term; but you have it; it is there; it is everywhere; it is eternal.

The Senator from New York said yesterday that the whole world had abolished slavery. Ay, the name, but not the thing; all the powers of the earth cannot abolish it. God only can do it when he repeals the fiat, "the poor ye always have with you;" for the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market and take the best he can get for it; in short, your whole hireling class of manual laborers and "operatives," as you call them, are essentially slaves. The difference between us is, that our slaves are hired for life and well compensated; there is no starvation, no begging, no want of employment among our people, and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated, which may be proved in the most painful manner, at any hour, in any street in any of your large towns. Why, you meet more beggars in one day, in any single street of the city of New York, than you would meet in a lifetime in the whole South. We do not think that whites should be slaves, either by law or necessity. Our slaves are black, of another and inferior race. The status in which we have placed them is an elevation. They are elevated from the condition in which God first created them, by being made our slaves. None of that race on the whole face of the globe can be compared with the slaves of the South. They are happy, content, unaspiring, and utterly incapable, from intellectual weakness, ever to give us any trouble by their aspirations. Yours are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote; and being the majority, they are the depositaries of all

your political power. If they knew the tremendous secret, that the ballot-box is stronger than "an army with banners," and could combine, where would you be? Your society would be reconstructed, your government overthrown, your property divided, not as they have mistakenly attempted to initiate such proceedings by meeting in parks, with arms in their hands, but by the quiet process of the ballot-box. You have been making war upon us to our very hearth-stones. How would you like for us to send lecturers and agitators North, to teach these people this, to aid in combining, and to lead them?

Mr. WILSON and others. Send them along. Mr. HAMMOND. You say, send them along. There is no need of that. Your people are awakening. They are coming here. They are thundering at our doors for homesteads, one hundred and sixty acres of land for nothing, and southern Senators are supporting them. Nay, they are assembling, as I have said, with arms in their hands, and demanding work at \$1,000 a year for six hours a day. Have you heard that the ghosts of Mendoza and Torquemada are stalking in the streets of your great cities; that the inquisition is at hand? There is afloat a fearful rumor that there have been consultations for vigilance committees. You know what that means.

Transient and temporary causes have thus far been your preservation. The great West has been open to your surplus population, and your hordes of semi-barbarian immigrants, who are crowding in year by year. They make a great movement, and you call it progress. Whither? It is progress; but it is progress towards vigilance committees. The South have sustained you in a great measure. You are our factors. You bring and carry for us. One hundred and fifty million dollars of our money passes annually through your hands. Much of it sticks; all of it assists to keep your machinery together and in motion. Suppose we were to discharge you; suppose we were to take our business out of your hands: we should consign you to anarchy and poverty.

You complain of the rule of the South: that has been another cause that has preserved you. We have kept the Government conservative to the great purposes of government. We have placed her, and kept her, upon the Constitution; and that has been the cause of your peace and prosperity. The Senator from New York says that that is about to be at an end; that you intend to take the Government from us; that it will pass from our hands. Perhaps what he says is true; it may be; but do not forget—it can never be forgotten; it is written on the brightest page of human history—that we, the slaveholders of the South, took our country in her infancy; and, after ruling her for sixty out of the seventy years of her existence, we shall surrender her to you without a stain upon her honor, boundless in prosperity, incalculable in her strength, the wonder and the admiration of the world. Time will show what you will make of her; but no time can ever diminish our glory or your responsibility.

ADMISSION OF KANSAS.

SPEECH OF HON. H. M. PHILLIPS,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,
March 9, 1858.

[REVISED BY HIMSELF.*]

The House being in the Committee of the Whole on the state of the Union—

Mr. PHILLIPS said:

Mr. CHAIRMAN: It was my intention, as it yet would be my preference, to have forborne the expression of my views on this subject until the question of the admission of Kansas into the Union as a State was regularly brought to the notice of this House. But, limited as has been my experience in this House, it has sufficed to show me that opportunities of obtaining the floor are neither frequent nor certain, and that, if I relinquish it now, I may not again have the opportunity of proclaiming the sentiments which I en-

ertain, the knowledge of which there are many who are entitled to have.

I look upon this question as one in which the peace of the Union is involved. I do not speak of its permanence, nor do I suppose that there is any real danger of its early dissolution. But when its peace is disturbed; when, from one extreme to the other, there is strife, there is contention, there is violence and tumult, where there should be quiet; it becomes, Mr. Chairman, an unwilling Union, the value of which all begin to calculate, and what may follow some day is much more easy to be anticipated than pleasant to be considered.

This subject of territorial legislation has been at all times prolific of discord. It was at the time of the attempt, and the successful attempt, at the introduction of Louisiana into the Union as a State, that an eminent gentleman from Massachusetts uttered in the Hall of the House of Representatives what I have no doubt those who hear me have read with deep regret that it was ever uttered there:

"If this bill passes, it is my deliberate opinion that it is virtually a dissolution of this Union; that it will free the States from their moral obligation, and as it will be the right of all, so it will be the duty of some, definitely to prepare for a separation; amicably, if they can; violently, if they must."

There are some here, too, Mr. Chairman, who can well recollect the excitement and the painful anxiety occasioned, in 1819 and 1820, by the admission of Missouri into the Union. And now, when a similar boon is asked for her neighbor that was then extended to Missouri herself, no man of truth will deny that there exists, throughout the length and breadth of this land, a feeling of solicitude and excitement; and that there is amongst the extremists an almost sacrilegious joy at the recurrence of events calculated to jar and disturb the harmony of the Union, which a bold attack can never produce.

Since her organization as a Territory, Kansas has known no peace. Since the passage of the Kansas-Nebraska act, Kansas has been the theater of strife and tumult. With everything to make her people happy and comfortable, with a richness of soil and purity of climate almost unequalled, it has been the scene of discord, of riot, of violence, and of bloodshed, and it is time now that these things should be stopped; Kansas calls upon us to stop them; the people of every State in the Union expect as much from us; and, Mr. Chairman, we must consider what is the effectual way of stopping them, and when we find that, we must apply the effective means, if we can do so, constitutionally, and in obedience to the recognized law of the land. Shall peace be restored by the Federal authorities, by the bayonets of the United States troops, by the more constant vigilance and attention of the soldiers or Federal officers, or shall it be restored by the people of Kansas herself? Shall she not be thrown at once upon her own resources, and shall not her citizens be told: "You shall be the conservators of your own peace, and if you are a law-abiding people—if you have a population, such as it has been boasted here over and over again that you have, we appeal to you to obey the law, to support the law, and to restore peace to your people in the State of Kansas?" Believing, as I do, that peace can be reestablished there permanently only by her admission as a State into this Union, and that the progress and prosperity of Kansas must begin to date from that act, I sincerely hope she will be admitted so soon as it is ascertained that she is in a condition entitling her to that privilege, and justifying us in according it.

I shall proceed, Mr. Chairman, to show that the admission of Kansas into this Union under her present application, and with the Lecompton constitution, is regular, is according to established principle, according to recognized precedent, and according to what some gentlemen on this floor dare not deny is good authority. If this be so, and she has a republican constitution, I say we have no right, regarding the peace and interests of our citizens, to hesitate for one moment to admit her. I shall do little more, in the limited time allowed me, than assert the principles that I maintain, using but little argument, but referring, perhaps, to a good deal of authority that ought to be recognized here, in support of them.

Was this territorial convention regular, is ob-

* For the original report, see page 1017 Cong. Globe.

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viously the first question? Who disputes it? Does it require an enabling act? If it does, it has it. No man can read the Kansas-Nebraska act without seeing that there is an enabling act there. But does it require an enabling act? I tell the gentlemen upon this floor, who oppose the admission of Kansas under the Lecompton constitution, that I will appeal to those who have on former occasions spoken for them, and by whom I will judge whether it was regular or not. I will show the gentlemen who compose the majority of the Opposition that their views have been expressed in such a manner that they cannot now contradict them; while to those who compose its minority, I will cite the highest authorities recognized by any one of them.

Mr. Chairman, why must an enabling act be passed? Have the people the right to form a constitution or not? And if they have not the right, has Congress the right to bestow it upon them? I shall quote, upon this subject, my colleague from the fourteenth district, [Mr. Grow,] and I cite him because, as the Republican candidate for Speaker, receiving more than eighty votes at the commencement of this session, he may be fairly considered the representative of the views and principles of that party, as he was formerly the exponent of them. I cite him as good authority—as authority from which those who indorsed him at the commencement of the session cannot now dissent. What said he when the application was made to admit Kansas into the Union with a constitution framed without an enabling act—framed, permit me to say, by men in rebellion to the laws and with arms in their hands, to be used against the Federal authorities? When Kansas came here, with the constitution thus made at Topeka, he eloquently pleaded for her admission as a State, as a measure of peace; and in support of the regularity of her action, he said:

"The mode and manner of accomplishing it in organized States properly belongs to the forms of law, to be prescribed by the State government; but in the Territories, Congress is the only power that can prescribe the forms; for a territorial government emanating from Congress can be changed, modified, or abrogated, only by its consent. That consent, however, can be expressed as well after as before the action of the people. If Congress, then, has prescribed no form, whatever action the people think proper to adopt, in order to secure a change of government, provided it be conducted in a peaceable manner, is lawful and constitutional; lawful, because it violates no valid law—constitutional, because article first of the amendments to the Constitution secures to the people everywhere under its jurisdiction the right, paramount to all law, peaceably to assemble, and to petition the Government for a redress of grievances."

I want no better authority than my friend and colleague; and those who voted for him for Speaker of this House voted for him because they saw in him a proper representative of popular sovereignty, according to the doctrine he had expressed and they then maintained. But I have other authority; and I shall do little else than cite authorities, to which I wish the attention of those Democrats who, like the gentleman who has just spoken, [Mr. English,] have departed from us on this question. I have for those who, I am afraid, will not have the same confidence in my colleague that I have avowed, high authorities. I have the authority of Governor Robert J. Walker and of Mr. Secretary Stanton. They have said, in words and language not to be misunderstood, that the Lecompton convention was lawful. They have said that the act of the Territorial Legislature authorizing the convention was right; and they have warned the people over and over again, that, if they did not vote for delegates when they had the opportunity afforded them, on their own heads must be the consequences.

Mr. Stanton, on arriving in the Territory, addressed the people, saying, among other things:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention."

Again, in the message of the acting Governor in December last, and after what is now called the mischief had been done, he says:

"It thus appears that in the election of the 15th June last, for delegates to the convention, the great mass of the people

purposely refrained from voting, and left the whole proceeding, with all its important consequences, to the active minority, under whose auspices the law had been enacted, and also executed, so far as that could be done by the executive officers, without the concurrence of the majority of the people.

"That the refusal of the majority to go into the election for delegates was unfortunate, is now too apparent to be denied. It has produced all the evils and dangers of the present critical hour. It has enabled a body of men, not actually representing the opinions of the people, though regularly and legitimately clothed with their authority, to prepare for them a form of government, and to withhold the greater part of its most important provisions from the test of popular judgment and sanction."

Governor Walker says very much the same:

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage; but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency; and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

In many places he uses similar language. He says:

"If laws have been enacted by the Territorial Legislature which are disapproved of by a majority of the people of the Territory, the mode in which they could elect a new Territorial Legislature and repeal those laws, was also designated. If there are any grievances of which you have any just right to complain, the lawful, peaceful manner in which you could remove them, in subordination to the Government of your country, was also pointed out."

Again:

"In the case of Michigan, the Territorial Legislature were clothed by Congress with no authority to assemble a constitutional convention and adopt a State constitution; but that, under the comprehensive language of the Kansas and Nebraska bill, the Territorial Legislature was clothed with such authority by the laws of Congress, and that the authority of such a convention to submit the constitution to the vote of the people, was as clear and certain as that of Congress itself, and that opposition to such a proceeding was equivalent to opposing the laws of Congress."

Thus cursorily, Mr. Chairman, because it is not very important, I have referred to the authority of the leading men in the Opposition, to show that the territorial convention was properly created, and was a regular and lawful body. Now, what was it to do? It did not submit its proceedings to the people. It would have been better, perhaps, that it had. It is right on all such occasions to do so. But is there any law requiring it? And if there is no law requiring it, what guarantee have we that future legislation in that Territory will be better than the past? Shall we be told that there is any obligation of law requiring the constitution to be submitted to the people? If so, I will again refer to the authority of Governor Walker, to show that he distinctly told them, in advance of the election, that there was no such obligation.

Governor Walker says:

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that body."

"The only remedy rests with the convention itself, by submitting, if they deem best, the constitution for ratification or rejection, to the vote of the people, under such just and reasonable qualifications as they may prescribe."

We find, then, that there was no recognized law requiring a submission of the constitution to the vote of the people; and the question now is, Mr. Chairman, what was done, and how far did that meet the public expectation? Mr. Walker, as I have said, told them in advance that there was no power to compel the convention to submit their work to the vote of the people. And yet, with all that before them, those who are now called the majority in that Territory, absented themselves from the polls and refused to participate in the proceedings. What was the convention to do? I agree that it did not submit the constitution to the vote of the people. They were authorized to form a constitution, and they had the right to do so. The gentleman who has preceded me, [Mr. English,] has said that some of the delegates to the convention broke their party pledges; that they pledged themselves to a certain course of con-

duct and did not fulfill their promises. Agreed for the purpose of argument, but does that violate the law? Does that prevent the organic law going into effect in the manner prescribed in the instrument? He will hardly assert that the dishonesty or treachery of a member of a legislative body can affect its decrees, so that if the fact even be as he states it, it cannot operate upon the validity of a law. If it would, where would safety be found? The same thing might occur again, and another election present a new set of men violating party and other promises. But what did they do? They submitted to the people, not the constitution, but the question whether they should have slavery among them; and I believe that if the people had voted, under the circumstances to which I shall by and by allude, the constitution would not now contain that clause which to many on the floor of the House is so obnoxious.

Now I propose to show, by the same authorities, that the slavery question was the only question that was dividing the people of Kansas. I cite again my colleague, [Mr. Grow,] to show that the slavery question was then, as it always has been, the only subject of division in that Territory. He said "the existence of slavery was the only question on which the people were divided; and the vote for delegates to the convention settled that by a majority of legal votes."

Mr. GROW. Will my colleague give the date, if he pleases?

Mr. PHILLIPS. The 30th of June, 1856, when the Topeka constitution was submitted; which constitution, by the way, received, I believe, only some seventeen hundred votes.

Mr. GROW. Twenty-three hundred.

Mr. PHILLIPS. I am reminded that my colleague was then chairman of the Committee on Territories; and that gives additional weight and emphasis to his statement. He spoke by authority. He stated this opinion on that occasion, and I do not believe he will deny it now. He has changed once, but I do not believe he will change in reference to this subject.

Mr. GROW. Whether I have changed or not is a question of fact.

Mr. PHILLIPS. I will raise no question of fact between my colleague and myself. My colleague, on that occasion, further said, in reply to the inquiry of an honorable gentleman from Georgia, [Mr. TRIPPE:]

"I gave to the gentleman from New York the vote polled at the election immediately preceding the formation of the constitution. He knows, as well as any man, that the only question in Kansas on which the people are divided is, whether slavery shall exist there or not? That question was involved in the election of Delegates. He knows, too, that that is the only question to be settled."

It has not changed since then. If any other question has been raised since that time, I challenge any gentleman upon this floor to tell me what it is. If there is any other question on which the people of Kansas are divided, I ask any gentleman on this floor to rise in his place and tell me what it is. As it stood then, so it stands now.

Mr. GROW. If my colleague desires an answer, I will give it to him; though I do not like to interrupt him.

Mr. PHILLIPS. I yield the floor to my colleague for that purpose.

Mr. GROW. The gentleman inquires if there is any other question than that of slavery, of difference between the people of Kansas? That was at the first the great question of division between them, as he has stated; but, sir, since the invasion on the 30th of March, another question has arisen. They believed that at that time a government was forced upon them, which was illegal, by force; and since that time this question has, to a great extent, taken the place of the slavery question.

Mr. PHILLIPS. The 30th of March of what year?

Mr. GROW. It was in 1855. It was then that this invasion occurred, which forced upon the Territory of Kansas a government which the people held that they were under no moral obligation to respect. This question has developed itself more and more, as the question of slavery has subsided. I believe gentlemen will agree with me on all sides that, after a certain time, it was generally conceded that Kansas could not be made permanently a slave State.

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Mr. PHILLIPS. Well, sir, my colleague's speech was made *fifteen months* after the invasion; and the question of slavery he then said was the only question in issue. [Laughter.] He is good authority in this particular, and I like to quote him. But, sir, I have other authority, for I see that he is not satisfied with himself as authority on this question. I will back my colleague up with so much that he will not be ashamed of the position he then took. Governor Walker said:

"The President asked me to undertake the settlement of that momentous question [that means slavery] which has introduced discord and civil war throughout your borders, and threatens to involve you and our country in the same common ruin."

He tells them:

"I cannot too earnestly impress upon you the necessity of removing the slavery agitation from the Halls of Congress and presidential conflicts."

And again:

"That in no contingency will Congress admit Kansas as a slave or free State, unless a majority of the people of Kansas shall first have fairly and freely decided this question for themselves."

Mr. MONTGOMERY. I would like to ask my colleague whether the question of slavery was ever submitted?

Mr. PHILLIPS. If the gentleman wants to know, I can tell him that it was submitted, and surely he will not deny it.

Mr. MONTGOMERY. I do deny it most emphatically. The question of the importation of slaves from other States was submitted, and was the only one submitted. The question of the existence of slavery there was never submitted. Slavery now exists in Kansas, and by that constitution is fastened upon the people of Kansas now and forever.

Mr. PHILLIPS. I am glad my colleague has defined his position on that subject. We will know where to find him hereafter.

Mr. MONTGOMERY. There is no trouble in finding me at any time.

Mr. PHILLIPS. I will show my colleague that the question of slavery was submitted to the people of Kansas. The constitution had been made, and the slavery question was the only one submitted. They were told that it would be submitted; but they were told, they were warned, that if they did not vote, they delegated their rights to those who did vote. They were told by Governor Walker, they were told by Secretary Stanton, that such would be the effect of absents themselves and withholding their votes. They were never told that the constitution itself would be submitted to the people; for the Legislature had not undertaken to direct the convention to do it, but left it to the convention itself.

Why, sir, some years ago, in Pennsylvania, when it was undertaken to change the constitution of that State, when the law was passed by the Legislature for calling a convention, one of the most distinguished lawyers living, one of those who gave the fame and name of "a Philadelphia lawyer," which I am afraid those who came after do not so well deserve, objected to the law on the ground—and I trust I may be considered as reading it now, (Appendix A,)—because it undertook to tell the convention in what form the constitution would be submitted and adopted. The law provided that, after the convention had finished their labors, they should adjourn for four months, not to submit the question to the people, but so that the members could learn the will of their constituents, by familiar intercourse between the representatives and constituents, and then act in accordance. William Lewis put upon record his dissent to this feature of the law, on the ground that the Legislature, an inferior body, had no right to undertake to control the convention, a superior body, composed of delegates just fresh from the people—a direct emanation of the people. Will my colleague tell me why an inferior body should prescribe rules for the government of a superior body? Will he, with all his ideas of popular sovereignty, tell me what body he recognizes higher than a convention of delegates selected by the people to frame a constitution for them?

I agree that the convention of Kansas ought to have submitted the constitution which they had framed to a vote of the people; it would have been better to do so, though I do not believe that it would have removed the difficulty, because,

from the earliest moment, it seems to have been determined by the professing majority that they would have *rule or ruin*. Their absents themselves from the polls was not accidental. It was the result of deliberation and combination; and now, forsooth, when things have been regularly done, and the convention has given to the people the decision of the only question which those high in authority have pronounced as the *only* one upon which the people differed, they turn round and say that a majority did not vote, and ask you if you will take that as an expression of the will of the majority, when only a minority voted.

I have some instances, with which my colleagues are familiar, in which a minority have made a constitution, and have amended it; and I say to them that, on almost every occasion on which the question of amending the constitution has been before the people of Pennsylvania, a majority of the people have not voted for it; but still it has been carried by the votes of a minority of the voters. When there is a contest about men, there is an anxiety of feeling; but when the contest is one of principle, of establishing organic law—men may talk as much as they please, but I put facts against arguments—the minority seem to control, for the majority do not vote. It may be that they did not feel an interest in the question; that they had no time, and perhaps no desire, to look into the question involved; or they have had confidence in those who prepared the constitution or amendments; but certain it is, for some reason, be it what it may, they failed to vote.

In 1835, the people of Pennsylvania were called upon to vote either for or against a constitutional convention, as they pleased. The same year, upon the same day, and at the same election, there was a contest for Governor. The number of people who voted for Governor was one hundred and ninety-nine thousand seven hundred and twenty-seven—within two hundred and seventy-three of two hundred thousand. The votes in favor of calling a convention to revise the constitution were eighty-six thousand five hundred and seventy. What will gentlemen say to this. The convention was legally called. Nobody doubted the truth of the doctrine proclaimed by Governor Walker, that those who did vote controlled those who did not. Eighty-six thousand votes only, out of two hundred thousand voters, called that convention. We have another remarkable instance. When the new constitution was submitted and adopted by the people of Pennsylvania, in 1838, two hundred and fifty thousand one hundred and forty-six people voted for Governor, and yet the new constitution was adopted with only one hundred and thirteen thousand nine hundred and seventy-one voting for it.

Mr. MONTGOMERY. Had all the people the right to vote in the case of Kansas?

Mr. PHILLIPS. I know of none who were excluded from voting.

Mr. MONTGOMERY. There were nineteen counties in Kansas that had not the right to vote.

Mr. PHILLIPS. That is begging the question. My colleague knows that those who do not choose to exercise their rights have no rights.

Mr. MONTGOMERY. They had no right.

Mr. PHILLIPS. It is very well to find a pretext when one wants to find fault.

Another instance has occurred in Pennsylvania, since my colleague has been a member of this Congress. While there were three hundred and sixty thousand votes polled at the election in 1857, for Governor, the highest vote polled both for and against the proposed amendments to the constitution was less than forty per cent. of that number. For one of the amendments the highest vote cast was one hundred and seventeen thousand one hundred and forty-three, and twenty-one thousand four hundred and twelve against it. One hundred and thirty-eight thousand five hundred and fifty-three out of three hundred and sixty-three thousand and eighty-one voters in Pennsylvania adopted those amendments; and under those circumstances I have no doubt my colleague will acknowledge that the amendments have been adopted and are a part of the organic law of Pennsylvania.

Now, in the case of Kansas, if the election was a legal and a lawful election, those who stayed at home, as Governor Walker says, authorized those

who did go to the polls to act for them. The convention having submitted to the people the only question in issue, and the people having voted upon it, it remains a part of the constitution.

I have thus shown, I trust, that there is no law requiring the constitution to be submitted to a vote of the people. If there is any such, I have not been able to find it. All principle, precedent, and, I was going to say, very much of practice is against it.

Now, let us consider what the constitution is. In the first place, is there a doubt that the people may wipe away every provision of it as with a breath? What is a constitution? A State constitution differs very materially from the national constitution. Gentlemen who cite the Federal Constitution, though upon the side I am endeavoring to sustain, are in error. The Congress of the United States can do nothing which the Constitution does not authorize. Our powers are limited; our hands are tied; and for what we do we must find our authority in the Constitution. In regard to a State constitution, exactly the reverse is the case. The members of a State Legislature may do every act of legislation which the constitution does not restrain nor prohibit. There can be no doubt about that; and I need cite no precedent for such a plain and recognized principle. When we came to form a Federal Constitution, it was accomplished by the surrender of certain powers by the States themselves. Distributed as the powers of government usually are, the legislative body of a State has the sovereign legislative power of the State, controlled and limited only by the constitution. The national Constitution is an enlarging, a granting, instrument: not so, however, with a State constitution; it is a restraining instrument; and, if the constitution of Kansas has restrained either the people at any time, or the Legislature until after 1864, I have been unable to discover it. I say, too, if the restraint does apply, as the gentleman from South Carolina [Mr. KERR] undertook to assert, the constitution would not be *republican*, according to my notions.

Mr. Chairman, this clause of the Constitution, so much talked about, it seems to me has not been rightly applied. There are two or three clauses in the constitution of Kansas which we must look at in this connection. The clause which prohibits an alteration of the constitution until after the year 1864, operates only upon the Legislature; and it interferes in no manner with that other clause by which the right of the people is expressly reserved and recognized. I should contend for the right of the people at all events; but when gentlemen stand here and say that they are opposed to the admission of Kansas because the constitution is not a good one; when they are willing that this strife should continue in Kansas; I want to say to them—not that I expect to convince anybody, for I fear that we rush too blindly to conclusions on political matters for that—that there is in this constitution of Kansas an *express* recognition of the people's right to change their constitution when they please. Those gentlemen who undertake to say that they are restrained from doing so until 1864, fall into an error in confounding the application of that section with the section which applies solely and exclusively to the people. This right of the people is recognized everywhere. It is recognized in the Declaration of Independence, which declares the self-evident truth:

"That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

The constitution of Kansas recognizes it in the fullest possible manner, and that clause which relates to 1864 is operative only upon the Legislature, and in language so plain that no man can doubt, except those who choose willfully to do so.

Now, sir, those two clauses are not inconsistent. The one applies to the people and the other to the Legislature. This enumeration of rights says the constitution shall not be construed to deny or disparage others retained by the people.

Mr. KUNKEL, of Pennsylvania. I desire to

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ask my colleague a question, for I really feel some interest in his opinion upon this point. I understand him to say that the clause of the constitution forbidding a change before 1864 applies to the Legislature. I understand him to say that another provision of the constitution provides for a change by the people before 1864, or after, as the case may be.

Mr. PHILLIPS. Yes, sir, at any time.

Mr. KUNKEL, of Pennsylvania. Now, sir, what I propose to ask my colleague is in the way of a practical question: I find that the resolution of the Democratic convention of our own State, which has just adjourned, contends for this same power, and says the people have it by "regular process." Now, I want to know from him how he would propose that the people should exercise the power?

Mr. PHILLIPS. I will tell the gentleman. They shall petition the Legislature, who shall authorize them to have a convention.

Mr. KUNKEL, of Pennsylvania. But the Legislature have no power before 1864.

Mr. PHILLIPS. The gentleman is wrong. The Legislature have power to propose legislative amendments at any time, and the restraint upon them is only after that time. I have a number of precedents upon that point. The constitution of Pennsylvania imposes a similar restraint upon the Legislature; and yet my colleague will not rise here and tell us that the people of Pennsylvania are so restrained, and cannot have a convention.

Mr. KUNKEL, of Pennsylvania. I contend that they are not restrained. They have a high revolutionary right to change their government, just as the people of Kansas have; but it is not a right by "regular process."

Mr. PHILLIPS. Well, I contend for the right by regular process. I want to put down the exercise of these revolutionary rights in Kansas. I want to substitute regular process for the strong arm of violence, with which the Territory has been too long governed.

The people of Pennsylvania may have a convention when they please, but the Legislature cannot propose amendments oftener than once in five years. There are two sections in the constitution of the State of Pennsylvania similar to the two in Kansas; one acknowledging and declaring the right of the people at all times, and the other preventing and restraining hasty and too frequent legislative action. I will refer my colleague to a precedent. In 1776, Pennsylvania had a convention, over which Benjamin Franklin presided, and they framed a constitution which contained a clause in reference to the right of the people, in similar phraseology to the clause in the constitution of Kansas. And it contained another clause ten times as strong as the one in the Kansas constitution, which provided that there should be a council of censors, two thirds of whom should propose amendments to the people. (Appendix B.) The censors met and would not propose amendments to the people. A majority were in favor of it; but not the requisite two thirds. They adjourned over till another year. The people then tried again to have their constitution amended by what they supposed was the only "regular process," but the council of censors again refused. The constitution was defective in many things. It had some good things in it, but it was imperfect, and its radical defect was that it provided for but one branch of the Legislature. When the council of censors refused to call a convention to propose amendments, or to propose amendments themselves, the majority of that council addressed the people, and, speaking of those who opposed the measure, said, "Their sullen no in this council cannot rob you of your birthright."

They did not consider it a gift, an acquired right; they claimed it as a born-right, a birth-right, of which they could not be deprived, especially by a clause operative only upon that council, and ineffectual upon the people whose rights and powers had been preserved by the other clause.

Mr. KUNKEL, of Pennsylvania. That was revolution.

Mr. PHILLIPS. No, sir; it was not revolution; it was regular process. It was put upon the ground that there was a reservation in that constitution similar to the one here, and that that reservation was to be construed as I am contending

that this ought to be construed now. The Legislature took the same ground. It was opposed then as it is opposed now. It was insisted that the "regular process" was the process of the council of censors. But the Legislature overruled that, and said, "You gentlemen who compose the council of censors may propose amendments, and if you do, it must be in the form prescribed; but the people have, at the same time, the right to amend or reform the constitution at their pleasure;" and the Legislature declared, and the people exercised this right. This was not done without a struggle of mind and argument; the minority insisting that the only regular process was through the council of censors, and that any other attempted mode was in itself a violation of the constitution, presented plausible, yet unsound, reasons for their opposition to the call of a convention. A constitution was framed in 1790; it had in it no clause providing for its change or amendment. Yet who dared to dispute the right of the people to have a change when they desired it? They have the undoubted and hitherto undenied right either to make an entire constitution or to amend the existing instrument.

Mr. Chairman, what is this clause in the constitution of Kansas?

"SEC. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention; and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall at its next regular session call a convention." &c.

Now, will any gentleman upon this floor contend that that section interferes with the other clause, giving to the people the right to amend their constitution?

Mr. STANTON. I wish to inquire of the gentleman from Pennsylvania whether he holds that, where a power is granted, and the mode of executing it is prescribed, it can be exercised in any other mode except that prescribed?

Mr. PHILLIPS. Of course not; but I tell the gentleman from Ohio that there is express power granted to the people, and that there is no restriction upon the Legislature until after 1864. This is not a grant of power, but a restraint upon it. When you undertake to restrain a legislative body, and to deprive them of rights, you say it in words that cannot be misunderstood. I have the authority here, which the gentleman will recognize, of the Topeka constitution. [Laughter.] The Topekaites knew how to restrict the Legislature, when they wanted to do it.

I have said that this clause is operative only upon the Legislature; but I mean to show that it is not operative until after 1864. Will the gentleman from Ohio, [Mr. STANTON,] a good and eminent lawyer as he is, undertake to say that he is not familiar with law after law beginning, that after such a day such and such shall be the law? And will he rise here and assert that it will be the law until the day specified arrives? I will show the gentleman the language which is used when the object is to prohibit anything being done before or up to a given day. I read from the Topeka constitution, this Republican instrument which it is insisted shall be the basis of the admission of Kansas:

"SEC. 4. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be, by the General Assembly, made before the year 1865, nor more than once in five years thereafter."

They recognized the difference between the two—the people and the Legislature. When conventions want to prohibit the exercise of that power they use language that cannot be misunderstood. If any one takes up the statute-books of the United States he will find hundreds of laws beginning, that from and after a particular day there shall be such law, and surely no member will argue before this body that before the time specified the law is operative or in force. I say that this clause in the constitution of Kansas is not of any effect whatever till 1864. It then takes its place there, if not previously altered or expunged. It may not have been so intended. The Topeka constitution is very different. It prohibits the amendment of the constitution effectually before the year 1865. If this clause was intended to have a different effect, its framers have overreached themselves. If it was intended for good, I can very well understand

the argument that, having made a new constitution, and infallibility not being allotted to man, legislative amendments should be encouraged up to 1864; so that, by that time, experience might show its merits or defects. But at that time, the constitution having been six years in existence, it was thought should not be changed by hasty legislative action, nor except by two thirds, and in a more deliberate manner than previously. If the motive was bad, then these men have signally overshot their mark. I say you cannot take up the statutes of State Legislatures, or the acts of Congress, without finding laws enacting that after a day such shall be the law; and if that has been construed to mean that the law should not go into effect till that time, I want to see the judge who would construe differently a restriction contained in this clause upon the legislative power.

I hold the doctrine that the Legislature of a State has all the sovereign legislative power, except such as is for necessary purposes reserved, either expressly or by implication, to the people. It is not new doctrine that I am enunciating here; but I have been astonished at the ground taken by some members in this matter. I do not know that they want, willfully, to pervert the condition of things; but the idea is absurd that, because a certain clause in a constitution declares that the Legislature shall be restricted, after a certain time arrives, from amending it, except in a particular way, that it is to be construed so as to restrain their action before that time arrives. Until after 1864 it is inoperative, as though it had been said that the clause should not be inserted in the constitution till that time arrives.

I quarrel with no man because he differs in opinion with me. I agree with the gentleman who last spoke in not deeming it essential whether this is made a party test or not. I believe that this constitution has been framed with all the requirements of recognized law; and I, for one, will never sanction the rebellion that created resistance to it from the moment of its inception. I have given the highest authority, among the opponents of the admission of Kansas, to show that it was regular in everything, down to its submission to a vote of the people. I have pointed gentlemen to the case of the constitution of my own State made in 1790, which was not submitted to the people, and it remained unaltered for forty-eight years. I can refer them to State after State, whose constitutions were not so submitted. The State of Indiana had a provision in her constitution that it should only be amended every twelfth year; but a new constitution was made in another year, and was accepted without a murmur of illegality. The man who would attempt to restrain the exercise of sovereign power by the people, would meet that doom which every public man would want to avoid.

Now, what do we gain by admitting Kansas with this Lecompton constitution? In the first place, do we violate any principle? If we do, I will not vote for it. Popular sovereignty! A great respect the professed majority in Kansas can have for popular sovereignty when they come here with their Topeka constitution, and say that the people of Kansas cannot and shall not amend their constitution for eight or nine years! Suppose this is a bad constitution! Suppose that it admits slavery, and that the people do not want it there! I do not believe that slavery can exist there; I have not an idea that it can; and as it cannot exist there as an institution, I would rather see it out of the constitution. I do not object to the existence of slavery in a State where the people desire it. I do not want it in my State; but I do not object to the fullest enjoyment of it in a State where the people desire its existence. But whether it is the slavery or any other clause that is obnoxious to the people, I put my finger on the clause that the people may alter their constitution when they think proper; and I challenge gentlemen to point to any clause which says that it prohibits the amendment of the constitution at any time—immediately, if the people choose it.

These are the views that I entertain. Unlike the gentleman from Indiana [Mr. ENGLISH] who preceded me, I have no apology to offer for avowing the principles I hold, and which have been adopted by the party to which I am proud to belong—that party through which alone the har-

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mony of the country can be preserved. To me, it is immaterial whether this act shall, or shall not, be accompanied by a declaration or condition by Congress that the people shall have, at all times, the right of altering their constitution. You might as well insert a declaration that the sun shines; the two propositions are equally plain, without the declaration of them. I will vote for such a declaration, for it asserts expressly only what is there by necessary implication; and because, if there be any room for doubt, it will remove that doubt. I will vote for it in any way; either as a declaration, a proviso, or a condition; although I believe it is there already. Recognizing the right of the people of Kansas to alter their constitution when they please; and recognizing the right of the Legislature, at any time before the year 1864, by the vote of a bare majority, to propose amendments, if the people do not wish to go through the form of having the entire constitution changed, and if they are only dissatisfied on one clause; and entertaining the belief that the admission of Kansas into the Union is a measure of national peace, and that the strife which would follow its rejection would envelop and affect every man in the country, I most earnestly trust that calm counsels will prevail, and that the matter may be put in such a shape as the gentleman from Indiana has just hoped it might be, to command the votes of himself and others. I hope there may be no dissensions in a party on which depend the success and quiet of the country; and I promise gentlemen that, if that is done, there will be no more disaffection nor disorder; because I do not believe that the people of Kansas are so suicidal or so fratricidal as to continue dissensions and discords when the Federal Government shall have removed its forces from the Territory, and relieved it from territorial dependence. If that be the result, Mr. Chairman, I am sure that all will be satisfied who have contributed to bring it about.

[Here the hammer fell, the hour having expired.]

[APPENDIX.

(A.)

Resolutions of the Legislature of Pennsylvania.

"Resolved, That in the opinion of this House, it is expedient and proper for the good people of this Commonwealth to choose a convention for the purpose of reviewing and, if they see occasion, altering and amending, the constitution of this State.

"Resolved, That in the opinion of this House, a convention being chosen and met, it would be expedient, just, and reasonable, that the convention should publish their amendments and alterations, for the consideration of the people, and adjourn at least four months previous to confirmation."

Protest of William Lewis.

"I dissent, because, although I admit, in the fullest extent, that it will be proper for the convention to submit to the consideration of the people the plan of government which may be formed, and, although I fervently wish that sufficient time will be afforded them to deliberate thereon, I am so far from being satisfied of the right of this House to enter into any resolutions respecting it, that I cannot but consider them as unwarrantable assumptions of power. The resolution agreed to must be intended to have some weight and influence with the convention, or it would not have been proposed; and as that weight and influence, so far as they operate, must tend to prevent the unbiased exercise of their own minds, in a matter submitted to them by the people, and not by this House, they must be highly improper. An adjournment by the convention is a thing in itself so desirable, that were its members to be appointed by this House, and to derive their authority from it, I should not only be for recommending, but directing the measure. But the convention must be chosen by the people, in whom alone the authority is lodged, and will derive all their powers from them. They will sit, and they ought to act, both as to adjournments, and in all other respects, independent of this House, and should not, in the one case, any more than in others, be influenced by it. Being to be chosen by the same people with ourselves, it is rather assuming in us to suppose that their wisdom, virtue, or discretion will be less than our own, and unless we distrust their prudent exercise thereof, it does not become us, to whom the business does not appertain, to dictate to those to whom it belongs. They will doubtless receive from their constituents as they may think proper to give, but ought not to receive any from us, who, as a body, have no right to interfere, and who, as individuals, will have a voice with other members of the community.

"The people may think that an adjournment of four months is too long or too short, and may recommend as they may think proper; but we have no right to think or to act for them. If we have a right to resolve that an adjournment is proper, we must have an equal right to resolve that it is improper; or that any matter in the formation of the government is right or wrong, according to the prevailing ideas in this House. In our resolution respecting the election and the meeting of the convention, we are authorized by the wishes of the people, manifested to us; but we have no authority of our own, and are not warranted by

them to proceed further. When the convention meet, they will look to the source of their authority for instructions and recommendations, both as to adjourning, and as to other matters, and act with a prudent discretion therein; and as that discretion ought not to be biased by any supposed influence of this House, I dissent from the resolution, as being calculated to intrench on the rights of the people and on the free deliberations of their representatives in convention, and have recorded my reasons in justification of my conduct."

(B.)

From the Constitution of Pennsylvania, of 1776.

"In order that the freedom of this Commonwealth may be preserved inviolate forever, there shall be chosen by ballot, by the freemen in each city and county respectively on the second Tuesday of October, in the year one thousand seven hundred and eighty-three, and on the second Tuesday in October, in every seventh year thereafter, two persons in each city and county of this State, to be called the Council of Censors, who shall meet together on the second Monday of November next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a convention, in which two thirds of the whole number elected shall agree, and whose duty it shall be to inquire whether the constitution has been preserved inviolate in every part; and whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they are entitled to by the constitution; they are also to inquire whether the public taxes have been justly laid and collected in all parts of this Commonwealth, in what manner the public moneys have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers, and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the Legislature the repealing of such laws as appear to them to have been enacted contrary to the principles of the constitution.

"These powers they shall continue to have for and during the space of one year from the day of their election, and no longer. The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of the constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject."

(C.)

Reasons for dissenting from the call of a Convention.

"Because we are of opinion that this House is not competent to the subject. We are delegated for the special purposes of legislation, agreeably to the constitution. Our authority is derived from it and limited by it. We are bound by the sanction of our solemn oaths to do nothing injurious to it, and the good people of Pennsylvania have, in the constitution, declared the only mode in which they will exercise 'the right of a community to reform, alter, or abolish government,' as being the manner most conducive to the public weal.

"Because this measure at once infringes the solemn compact entered into by the people of this State with each other, to be ruled by fixed principles; will render every form of government precarious and unstable; encourage factions, in their beginning contemptible for numbers, by a persevering opposition to any administration, to hope for success; and subject the lives and liberties of the good people of this Commonwealth, and all law and government, to uncertainty; render everything that is dear subject to the caprice of a factious and corrupt majority in the legislature; destroy all confidence in our government; and prevent foreigners from giving that preference to Pennsylvania as an asylum from oppression which we have hitherto experienced."

KANSAS—LECOMPTON CONSTITUTION.

DEBATE IN THE SENATE.

MONDAY, March 15, 1858.

The Senate having under consideration the bill (S. No. 161) for the admission of the State of Kansas into the Union, and Mr. WADE having concluded his speech in opposition to the bill, the debate was continued as follows:

MR. MASON. In the remarks which I am to submit on the subject before the Senate, I desire to review as briefly as I may the history of the events and causes which have brought the question of African bondage into discussion before the American Congress, in connection with the expansion of the country in the addition of new States.

The question of slavery, as it has existed upon this continent now for more than two hundred years, was, before our colonial independence, a subject of no contention whatever between the colonies—none that I have been able to trace. It was found, after the Declaration of Independence, when the colonies, before that time perfectly in-

dependent of each other, came together to form a common Government, in a spirit of fraternity that I wish could actuate States and statesmen now, that the existence of African bondage was, to a large extent, confined to the southern States; but still it existed in all the States. The subject of this form of servitude became a question of discussion in the Federal convention, upon the inquiry whether those subject to it should be treated, in the formation of the Government, as an element of political power. It constituted a part of their population; it was their property, conceded on all hands; and it became immediately a *sine qua non* to the formation of any common Government, on the part of the southern colonies, that their African slaves should constitute an element of political power in the colonies where they were found. It was a subject of great debate, as all Senators know who have looked back into the history of the country.

Many most disturbing questions arose in that convention—questions naturally springing out of the dissimilarity of interests and the dissimilarity of their pursuits or labor—questions between the planting States and the commercial and navigating States, and other questions that arose upon the demand of the smaller States to stand as equals in the Confederacy, by an equality of representation in one branch of the national Councils; but there lay at the bottom of all, as was conceded by the patriots and statesmen of that day, this question of domestic servitude in the population of the southern States, as the most difficult to adjust. Senators will find, in looking back to the proceedings of that convention, that one of its greatest minds, and most illustrious members—I mean the late James Madison—when there seemed to be almost an irreconcilable rupture between the large and the small States, on the question of equal representation, told them, all that could be overcome; should they go back and settle the political relations of African bondsmen in the Confederacy, they would find the rest of more easy adjustment. It was done, and resulted in the stipulations of the second section and first article of the Constitution, by which three fifths of the slaves were to be computed in fixing decennially the ratio of representation, thus constituting the slave population an element of political power.

Now, sir, statesmen may look at this subject as they please, but they will be brought, of necessity, back to this very question of representation of the slaves as the true point of division between the different sections of the country. Sir, if it was fixed by the Constitution as an element of political power in the South, the sickly sentiment of the North, now so sedulously nursed by their politicians, against African bondage, would find little sympathy at their hands. Let us meet the question, then, as men and as statesmen, and, I trust, also as patriots.

When did it first arise since the Confederation—I mean the question of political power in the Confederacy resulting from this slave representation? It was first agitated in the attempt made in the year 1820, upon a question exactly such as agitates our councils now—the admission of a new State into the Confederacy. What was attempted then? To make it a condition of admission that the State should abolish slavery within her limits; and, if I recollect aright the history of that day, a distinguished Senator on this floor, then representing the State of New York, (Rufus King,) frankly avowed that the purpose of the condition was to impair the political power of the southern States. He honestly avowed it. Without subterfuge or evasion, it was then frankly avowed, that the condition sought to be imposed on Missouri, was to prevent the expansion of political power in the South, by the constitutional right of slave representation.

What was the result? The State of Missouri, then constituting a part of that large country derived by us from France as the Territory of Louisiana, was admitted upon condition—a condition unknown to the Constitution. The State of Missouri was admitted upon condition that a parallel of latitude should be drawn across the whole Territory of Louisiana; and whilst slavery should be excluded north of it, there was no guarantee that it should be admitted south of it. The prohibition was that north of the parallel of 36° 30', this

involuntary servitude, as it was termed, should be forever excluded. And this unconstitutional restriction became handed down, in the traditional history of the times, as the "Missouri compromise."

Mr. President, I have yet to see the southern statesman, looking back to the history of that day, and to the consequences which followed, who does not deplore in his heart that a final stand on the part of the southern States, based on the securities of the Constitution, was not made there and then, and no step taken backwards. But the law passed, Missouri was admitted upon condition that involuntary servitude, except for crime, should be forever prohibited north of the line prescribed; and that passed, as I have said, in the traditional history of the day, as a compromise.

Well, we have believed, on our side, ever since that, compromise or no compromise, it had no warrant in constitutional law. Time ran by, and it was acquiesced in. There was no express agreement, but a sort of tacit understanding, for the peace and repose of the country, that if, on one side they would fairly commit themselves to that line, we would assent that slavery should not extend north of it if they would assent that it should be extended south of it. How were we met? This line honorable Senators from the North, and those whom they represent, now speak of as a line founded in sacred compact, that was intended to give repose and peace to the country, and did give it; and yet when in after years further territory was acquired west of the territory of Louisiana, and the proposition was made to carry out the "compromise" by extending the line, it was met by a decided refusal. Here, in 1848, when we were organizing the Territory of Oregon, it was insisted that this interdict should be placed on that Territory, far north as it was, and the proposition was made—not from me; I had the honor then of a seat upon this floor, but no such proposition ever came from me—but a proposition was made from southern men, again, if they could, to secure the repose and peace of the country by extending that line to the Pacific; and according to my recollection, almost every vote from the northern States was against it.

So far to the contrary were they, indeed, from adhering to any compromise, that on the very first proposition to organize a territorial government in one of the new Territories, public men, representing the interests of the non-slaveholding States, exhumed from the dust of a half century the ordinance of 1787, and presented it to the country as a chart of republican freedom from our fathers, containing within it, as they alleged, a repudiation of the condition of slavery, and recommended it for a like interdict in all the new Territories, giving birth to what was called, from the gentleman who first presented it, the "Wilmot proviso." The ordinance of 1787, or this clause in the ordinance, has been resorted to from that day to this, as evidence that, even before the foundation of the present Government, our fathers looked to a power in the United States to affect, by emancipation or otherwise, the condition of African bondage on the continent.

Now, Mr. President, the people of that day have all passed from among us, but they have left some memorials behind; and I have one here from the same venerated man to whom I have before alluded, showing in what policy that clause in the ordinance of 1787 was founded. It was not intended in any manner to affect the condition of African bondage, as it then existed upon the continent. It was aimed as a blow against the foreign African slave trade, and nothing more. I will read it. In a letter addressed by Mr. Madison, in 1819, to Robert Walsh, then, I think the editor of an abolition newspaper in Philadelphia—

Mr. SEWARD. He edited a newspaper. You said an abolition newspaper.

Mr. MASON. I did.

Mr. SEWARD. I never knew that.

Mr. MASON. That is my recollection. I will say a newspaper.*

* Mr. MASON is not certain that Mr. Walsh's newspaper was established in Philadelphia so early as 1819. But his recollection is distinct, that, after the slave question arose in 1820, he did conduct an abolition press in that city.

Mr. SEWARD. I am glad to know that he was.

Mr. MASON. Unlike the honorable Senator, I was a boy in those days, and take it from history and tradition. In a letter to Robert Walsh dated November 27, 1819, Mr. Madison said:

"With respect to what has taken place in the Northwest-ern Territory, it may be observed, that the ordinance giving its distinctive character on the subject of slaveholding, proceeded from the old Congress, acting with the best intentions, but under a charter which contains no shadow of authority exercised. And it remains to be decided how far the States formed within that Territory, and admitted into the Union, are on a different footing from its other members as to their legislative sovereignty.

"Whether the convention could have looked to the existence of slavery at all in the new States, is a point on which I can add little to what has been already stated. The great object of the convention seemed to be to prohibit the increase by the importation of slaves. A power to emancipate slaves was disclaimed; nor is anything recollected that denoted a view to control the distribution of those within the country. The case of the Northwestern Territory was probably superseded by the provision against the importation of slaves by South Carolina and Georgia, which had not then passed laws prohibiting it. When the existence of slavery in that Territory was precluded, the importation of slaves was rapidly going on, and the only mode of checking it was by narrowing the space open to them. It is not an unfair inference, that the expedient would not have been undertaken if the power afterward given to terminate the importation everywhere had existed, or even been anticipated. It has appeared that the present Congress never followed the example during the twenty years preceding the prohibitory epoch."

I would say, then, to honorable Senators and to the country, if any argument is to be derived from this source, in favor of the doctrines of restraining the distribution of slaves upon the continent, that they would derive the true argument from the policy known to belong to our fathers of that day, and carried out as soon as they were permitted to do it by the Federal Government, in the abolition of the slave trade altogether. This was an attempt, by limiting the area in which slavery could be used in thus excluding it from the Northwest Territory, so far to discourage or diminish importation of slaves. And it clearly follows, if any argument is to be derived from this manifestation of a policy by the Continental Congress in regard to slavery, its truth and its strength lies in the subsequent prohibition of the foreign slave trade, as soon as such power could be exercised by Congress.

It is a little curious, however, that, in all the commendations which we have heard from certain quarters upon this ever-memorable, able, and truly republican paper, the ordinance of 1787, honorable Senators have not connected with it what is found in that same clause prohibiting involuntary servitude, and afterwards incorporated into the Constitution of the United States—a clause providing for the rendition of fugitive slaves. In the same sixth article of the ordinance the proviso is:

"That any person escaping into the same from whom labor or service is lawfully claimed in one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service, as aforesaid."

If the public mind of America, which has been thus violently drawn to this truly great republican paper of 1787, would look at it in all its provisions, and all its tendencies, it would show to them what really constituted at that day what I have always claimed constitute now the true political relations subsisting between a Territory of this Government and the Government itself, and that would put an extinguisher forever upon the misuse or perverse use of the idea of popular sovereignty in Territories; not by dogma, but by the proofs to be drawn from that paper. What were the relations between the Government of the United States under the Continental Congress, and this immense domain generously surrendered by my own State for the purpose of cementing a Federal Union, and inviting the fraternity of the people? What were its provisions? Was there anything like sovereignty recognized in the people who went there—anything like a right to govern themselves independent of the Federal Government? No; the very opposite. The ordinance itself declares that the lawgivers of the people who went there should be officers appointed by Federal authority. The Governor and judges constituted the legislative tribunal for that Territory. The legislative power in the Territory is thus disposed of by the ordinance of 1787:

"The Governor and judges, (appointed by Congress,) or

a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the General Assembly there, unless disapproved of by Congress; but afterwards, the Legislature shall have authority to alter them as they shall think fit."

With a further provision, that when the population should amount to five thousand they should have power to elect representatives, &c., to a Territorial Legislature.

Such were the relations subsisting between a Territory and the United States in the very first Territory that was organized under the old Congress.

I would remark here, incidentally, that I do not recollect, and have not made the research to ascertain, whether Mr. Madison was a member of the Continental Congress at the time this ordinance passed.

Mr. SIMMONS. He was, sir.

Mr. MASON. So I presumed; and he was a member of the Federal Convention sitting in Philadelphia at the same time and engaged in framing the Constitution.

We all know how large a share Mr. Madison had in perfecting and maturing the leading political measures of that day; and there can, then, be little doubt that he has given the true history and object of this prohibitory clause in the ordinance of 1787.

Mr. President, years after the pseudo-compromise, made on the occasion of admitting the State of Missouri, this sixth article of the ordinance of 1787 was exhumed, perverted, and successfully applied, without warrant of constitutional law, by the Congress of the United States, under the name of the "Wilmot proviso," to the Territory of Oregon; thus showing a determination on the part of Congress, whatever result might follow, to carry out that policy, in prohibiting the expansion of slavery on the continent. We all know the deep sensation produced at the South by the adoption of this proviso: the interdict was denounced as unconstitutional; and although applied to a Territory far north of the Missouri line, it was looked upon at the South as the manifestation of a fixed policy to prevent the further extension of a slave population, which if persevered in could only end in dissolution.

In 1848, after the peace with Mexico, we acquired a large territory from her, embracing California. It became necessary to provide governments for the population actually there, not in California alone, but in New Mexico; and instantly upon the proposition to organize territorial governments for these people, then living without a government, this demand of interdiction was at once set up in both Houses of Congress. It was successfully resisted so far as to prevent its being done, but at the cost of leaving these people whom we had acquired under the faith of treaty, without a government for a period of some two years.

I want to trace the history frankly, and I hope truthfully, that we may the better understand the exact position of the question now presented on the admission of Kansas. Under the auspices of a very able and successful statesman of that day from Kentucky, the late Mr. Clay, a new scheme of adjustment was suggested to the American people, by a series of what were called compromise measures. I will not go over them here further than to show the result to have been the violent admission of an additional non-slaveholding State, with an equivocal postponement of the question of future prohibition of slavery in the new Territories.

I was one of those who were opposed to this new (so styled) compromise. I never knew a compromise made between a majority and a minority, unless on a basis by which the majority succeeds in establishing a position for further aggression at a future day; and I think the history of all the compromises on the institution of slavery, so far as they have progressed, warrants that conclusion. It was done. California was admitted into the Union as a free State, not objected to by southern men because it was a free State, but objected to because of the machinery that was put in practice to produce that very effect.

Governments were organized for the Territories of New Mexico and Utah as a part of this system of compromise, and there, as I have said,

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without meeting the issue directly, southern men were again called upon to surrender thus much of their position. They insisted that the principle of interdiction on the part of Congress should be repudiated in those Territories. This was not done, although a new principle was adopted in the organization of these territorial governments, so far as the question of slavery was concerned. Our position always had been that the Constitution, *proprio vigore*, recognizing the condition of African bondage on the continent, protected it in the Territories everywhere; and therefore it was not competent to Congress to legislate against it any more than it was competent to Congress to legislate against every other of the provisions of the Constitution. But that direct issue was evaded, and the Territories were then organized on this basis: that they should at once have legislative councils by representatives of their own; that to these legislative councils should be committed all subjects of rightful legislation under the Constitution; and that as to the question of slavery it should be decided by the people of the Territory themselves, but not until they were ripened into a State government and applied for admission as such.

This was a step gained on our part, and a very important one. We denied the power of Congress to interdict slavery in a Territory, but Congress exercised it notwithstanding the denial. We denied the right of the occupants of the Territory, while in the territorial form, equally to prohibit slavery in the Territory. And this was substantially conceded, because the laws organizing those governments left the question of slavery an open question, and not to be decided by the people of the Territory until they had matured a State government. It took away any power of interdiction from the occupants of the Territory while in a territorial form. So the law was passed. It was objected to in some quarters, even in the South, as leading to the doctrine of squatter sovereignty; but that imputation, I think, was very successfully met by showing that the people of the Territory, to whom the whole subject of legislation was given, were remitted directly to the Constitution of the United States as the limitation of their power; and further, that the condition of slavery was not to be legislated upon for its exclusion or its establishment while it remained in the territorial form.

Such were the provisions of the laws organizing territorial governments in Utah and in New Mexico. It was known very well, as resulted, that no practical effect could ever be derived from leaving the question of slavery in that condition with respect to those Territories, because, the laws of climate being far more inexorable than the laws of man, slaves never would go there, because they would be of no value. We had the paper guarantee, though no practical consequences arose; and therefore the question never was agitated afterwards in reference to those Territories.

We came, in 1854, again to the organization of territorial governments, in consequence of the great expansion of our country continually taking place. Nebraska, then an Indian country, lying contiguous to one of the slaveholding States, and adjacent to another, offered her tempting soil to emigration and settlement. It was determined that that Territory should be divided into two parts—the northern to be called the Territory of Nebraska, and the southern the Territory of Kansas. It was generally believed—I certainly was one of those who believed—that, although African slavery would hardly penetrate into the northern portion, the Territory of Nebraska, yet that, as regards Kansas, being contiguous to the State of Missouri, which had a very large and a very valuable slave population, and adjacent to the State of Arkansas, the natural consequence would be that the population of those two States would be largely thrown into it, together with their slaves.

In organizing these Territories, what was done? Nothing, in fact, but to carry into effect the principles of the new compromise, as it was called, of 1850. There had been a very large number in both Houses of Congress, who commended the legislation of 1850 to the country, as great measures of peace and reconciliation, and sang hosannas to the illustrious name of the very distinguished gentleman who projected and carried them through. I do not mean to say that Sena-

tors on the other side, whose specialty is to prevent the extension of slavery, and thus ultimately to extinguish it, were a part of the majority that carried those measures; but I do mean to say that, so far as I could gather the sentiment of the American people in the States, slaveholding and non-slaveholding, those compromise measures, as measures of peace, were acceptable to them, and received their approbation. And yet, in 1854, when it was proposed, in organizing the new Territories of Kansas and Nebraska, to do nothing more than to carry out the principles adopted in 1850, it was met *in limine* with the sternest opposition. A part of the compromise of 1850 was that the question of slavery in the Territories was to be left as their constitution should prescribe when they were admitted as States into the Union. Until then, and whilst in a territorial condition, it followed that this question must be left unaffected, except by the Constitution of the United States. There was no prohibition of slavery in the organic law. The people of the Territory, under the restraints of the Constitution, could not prohibit it; and thus the true principle of compromise was, that slavery was to be left to climate, until a final policy should be established by the people who were to be affected by it, when they attained the maturity of State government. The whole of both the Territories of Kansas and Nebraska lay north of the parallel of 36° 30', and thus within the interdict of the Missouri law of 1820. By that law, slavery had been prohibited north of that parallel. How then could the question of slavery be left open until the people should form a State government, unless in the mean time that prohibition was removed?

I say, then, that good faith to the compromise measures of 1850 required that this interdict should be removed; and it was done accordingly in the Kansas-Nebraska act of 1854, by declaring the law of 1820 null, inoperative, and void.

Thus at last, and by a series of legislation, the principle was attained of *non-intervention* by Congress, as regarded slavery in the Territories. This was the great principle both of the compromise measures of 1850 and the Kansas act of 1854; by it the South has stood, and by it we mean steadfastly to abide. It was a departure from the established policy between the Federal authorities and the territorial governments. There had always been reserved, even in 1850, what was reserved in the ordinance of 1787—a power in Congress to disaffirm the legislation of the Territories. This power was not reserved in the Kansas-Nebraska bill, showing the clearest purpose of the law, not only in what it said, but in what it failed to say, to remit the people who might go there to self-government whilst in a territorial state, subject only to the restraints of the Constitution. We knew Congress was a most unsafe depository of a power to mold the domestic institutions of a Territory; and so far as slavery was concerned it was safer to transfer the question from Congress to the people who were to be affected by it.

So much for the disposition of the slavery question by the Kansas act. The principle of non-intervention by Congress recommended it to the South; and it contained, moreover, a full and final repudiation and abrogation of the odious Missouri interdict of 1820.

Since that day, upon a case properly made in the Supreme Court of the United States, the question has been decided by the highest judicial tribunal of the land, composed of judges who, by the tenure of their office, ought to be presumed to be divested of all interest or feeling further than to do what is right, to be guided alone by that great judicial star which leads judicial minds to attain the truth, and to enforce it; and the question coming before them, the Supreme Court have decided that the law of 1820 was unconstitutional and void, thus confirming what had been the substantial declaration of Congress in its later policy of territorial organization. What is said of that on the other side? The honorable Senator from New York, [Mr. SEWARD,] as to whose dramatic representation of what never passed between the judges of that court and the President, I shall say nothing, after what fell from the honorable Senator from Louisiana, [Mr. BENJAMIN,] says to the American people in reference to this high and important act of judicial power by the last court of

appeal—what? He says to the American people, there is but one way to manage this Government on that subject; the way in which the French physician in the play managed his patients. I will get rid of the disease, says the doctor, even if it is necessary to carry the patient with it. The court shall be reorganized, says that Senator—for what purpose? That he may sap the foundations of our popular Government, and the rights and liberties of this people, to effect the lawless purposes of his Abolition confederates. The court shall be reconstructed or reorganized; that is to say, if those with whom he acts get possession of the Federal Government, the offices held by the judges are to be vacated, and in their place are to be put supple instruments to do the will of the Senator's associates upon the Government of the country. That is the purpose of the honorable Senator from New York, avowed to the country and to his party as their theory of action in the administration of the Government.

Mr. President, I remember some years ago, when I was then a very young member of the convention that sat in Virginia to alter the constitution of that State, of which, among the very illustrious men then remaining with us, the late John Marshall, Chief Justice of the United States, was a member, the question was about remodeling the judicial tenure. In our early institutions, I believe, in every State—certainly in mine, and in all that I now recollect—the tenure of the judicial office was during good behavior, or, in effect, during life. The popular mind got hold of the opinion that this stable tenure worked an irresponsibility in the judges requiring reform, and the proposition was to limit the tenure to a term of years. That great and illustrious man made a speech against it, among the very few speeches which he made in that body; one of that judicial exactness and conciseness that illustrate his great mind. I remember well, in speaking of the judicial tenure, how very opposite his views of government were to those now promulgated by the honorable Senator from New York in regard to the judicial office. He said, as the experience of a long life and a great intellect, that “the greatest curse which an angry God could inflict upon a sinning people would be to leave them to a dependent judiciary”—a great truth which lay at the foundation not of the structure alone, but of the security of our Government. But what does the honorable Senator from New York say? That the Supreme Court of the United States, believed to be not only pure but unsuspected, held secret and corrupt intercourse with an incoming President to obtain a political end; and he announces to the American people that when the party with which he acts gets into power, they will take care that the court shall interpose no obstacle to their pathway, for they will reorganize that court—I presume to put it out of their way! That is the substance of the declaration.

Mr. SEWARD. I know that the honorable Senator from Virginia is entitled to the course of his argument, and I have not the least disposition to interrupt him or embarrass him in it. I only rise because, being here, and hearing the honorable Senator, and sitting silent, it might perhaps be inferred that I assented to the justice of the description which he gives of my expectations in regard to the reorganization of the judiciary, to say that, at the present session of Congress, I had already given notice, before I made the speech on which the honorable Senator comments with so much severity, of a bill to reorganize the Supreme and Circuit Courts of the United States in such a way as to equalize the representation of the several States in the courts as far as possible, according to their Federal population, and at the same time to secure greater facility and dispatch to business. That plan, at some future day, I shall bring in. I need not stop now to say what it is for—it is not matured in my own mind. I do not care to confess or to deny any particular system which may be attributed to me in regard to the mode in which it shall be done. I expect to propose a feasible one, a reasonable one, a just one, and one which every Senator of the United States will approve, or ought to approve, because it will be conservative in its character, and at the same time it will be just as it is necessary.

Mr. MASON. From the corrupt practices suggested by the honorable Senator as passing be-

tween the judges of that court and an incoming President, I could see no other conclusion in his mind than that which mine attained, that the practical mode of getting rid of corrupt men was to put them out of the way by some mode. I shall of course not undertake to criticize now, any new scheme of organization which the honorable Senator may have in view, more especially as he tells us that it is not as yet matured in his own judgment; but I think he has foreshadowed enough to show that the leading idea in his mind is, by some mode of sectional organization, to make that a political court which shall represent on the bench not the political views of the day alone, but the popular emotions of the day; which shall represent on the bench political parties; and more than all, judges who shall be placed in some condition to be subservient to the fluctuations of political parties. I cannot conceive how a court can be organized in such manner as to attain the ends which the Senator avows, unless it is organized in such a way as to make it the mere conduit of the party passions of the day—to popularize the court of last resort; but I have no right to criticize this new organization which the honorable Senator suggests, because he has not yet matured it in his own mind, as he tells us.

Mr. SEWARD. The honorable Senator will indulge me in one word more. Perhaps I ought to have added that I do expect that the court will be brought in its principles and its practices to conformity with the Constitution of the United States and the sentiments and principles of humanity and justice, as I stated in the speech on which the Senator is remarking.

Mr. MASON. As the Senator understands them.

Mr. SEWARD. As I understand them.

Mr. MASON. And his party.

Mr. SEWARD. No; as I understand them.

Mr. MASON. Now, Mr. President, let us come back to the Kansas question. A law was passed creating territorial governments in Kansas and Nebraska, according to their appropriate boundaries. The question of slavery was left open to be decided by the people to be affected by it, as I have said, in consequence, not of the spirit only, but the letter of the laws of 1850. What was the next step? Hardly was the ink dry by which the bill became a law, when there was fulminated from the halls of legislation here a manifesto to all the Abolition societies of the North, telling them that the Territory was thrown open to population, and inviting and encouraging them, under every stimulant that could arouse their passions or excite their hopes, to throw their people into it with the utmost rapidity. I do not claim to be wiser than others, but yet to have some little knowledge of humanity and of my fellow-men; and I say that the state of things that has existed in Kansas ever since; events which Senators delight in depicting as the efforts of great and noble-minded freemen to vindicate their rights; scenes of blood, rapine, and murder, disgraceful to the age, of fraud and violence in every form of licensed depravity, were but the legitimate consequences of throwing (by artificial means altogether) a population utterly irresponsible into a common Territory, under instructions, if not under contract, to carry out the political views of those who sent them. The emigrant aid societies formed a new feature in the laws governing emigration in our country—societies that were got up with large capital for the purpose of throwing a population into the Territory of Kansas at once which should preoccupy it, in order that politicians might effect what the laws had prohibited, in preventing the expansion of slavery. I do not mean to say that we had any law, or could pass any law, prohibiting it; but I do mean to say, before the American people and before posterity, that those who were instrumental in getting up such societies and in carrying through their objects, are responsible for the bloodshed, and rapine, and murder, and the utter destitution of every moral principle, which have disgraced that Territory ever since.

Slaveholders from the adjacent and contiguous States, and from a distance, went there, as they had a right to do, with their slaves, and mingled with this population. The Territory became at once a scene of contention and strife, because they found it preoccupied by men who had been sent

there under contract for the very purpose of excluding them. Civil war almost ensued—civil strife certainly did. It was necessary to bring in the strong arm of Federal power through its military force, in order to repress it. Soldiers were quartered there for more than two years to keep peace amongst the people, and make them obedient to the laws. What then did we find on the part of the emigrant aid societies in the New England States? Pen and pulpit were employed alike to fan the flame and to supply the munitions for civil war in the Territory of Kansas; sermons were preached; the popular mind was stirred up from its foundations to induce them to contribute money and fire-arms to be used in Kansas against their fellow-countrymen. If that is the sort of government which these peace and order-loving people prefer, be it so. Our duty only is to see that the laws are enforced; that the laws are obeyed; that the institutions of the country are preserved unimpaired, and not made the sport either of reckless fanaticism, or the calmer calculations of reckless aspirants. I think the President at the head of the last Administration, as well as the present, have done no more than their duty in seeing that the laws were duly enforced by the full use of the military power.

What next? Kansas in due time, through its regularly organized government, passed a law to take the sense of the people whether they desired to remain in a territorial condition, or to become a State. The polls were then thrown open; the vote was cast; and it was found that there was a very large majority in favor of organizing a State government. This law was fairly devised to take the sense of the people, to register the votes so as to preclude fraud, and for electing delegates to a convention to frame a constitution. They were elected, and they formed a constitution. Immediately upon the adjournment of that convention, it became manifest that nothing was to be left undone or unattempted to defeat its work. It was said that frauds were committed at the polls, and gentlemen here have been insisting that we should send out commissions to Kansas, or bring people from Kansas here, to inquire into them. I think it very probable that frauds were committed at the polls. It would be very remarkable, in such a population as they seem to have there, if frauds were not committed; but I should like to know what popular election has been held in many of the States of this Union—I will not designate them further—under great popular excitement, where frauds have not been charged upon both parties, precisely as they are charged in Kansas? In a neighboring State, within less than fifty miles from this Capitol, such allegations were made at the last elections; and questions are now depending before the coordinate branch of Congress to determine, not only whether frauds were perpetrated at the polls, but whether the people were not kept from the polls by armed resistance—a matter coming properly before that House as affecting the election of its members. Do we not know that some years ago, in New York, they got up a sort of popular term, understood almost as a technical term, called "pipe-laying"? Parties charged each other at every election that took place with fraud, by means of what they called "pipe-laying"—the very offense now ascribed to the people of Kansas. It was said that men were carried from Philadelphia to the city of New York, or the villages on the Hudson, under the pretext of correspondence to get leaden pipe, or something of that sort; strangers were brought there who were to control the vote of the citizens of the State. I know not whether it was true or false; but I do know that a vote has not been taken in many of the States in times of popular excitement, that the successful party were not charged with having carried the election by fraud or violence.

But, sir, be such charges true or not, is a matter that belongs to Kansas to determine. It does not belong to us. They are competent to determine it; we are not. Nor should we give any heed or countenance to such charges, unless shown to be true by the constituted authorities of Kansas. We can know the people of Kansas only as we can know any other people on this continent, through an organized government. Sir, it is the great boast of the institutions of this country, that

the people are subordinate to law; that political power can be exercised only through the forms of law and of organized communities. Mobs, be they large or small, who attempt to exercise political power, ought to be and are repressed by the strong arm of law. We can only know what the wish of the people is, when it is expressed in conformity to law; to look elsewhere for it, is to lapse at once to anarchy.

Another of the incidental or auxiliary objections put out, like skirmishers, to mask the battery which is directed against the form of government adopted by Kansas, is, that the constitution was not submitted to the people after the convention framed it. It is said that this was an interference with popular sovereignty; that the people of Kansas had a right to have it submitted to a popular vote; and that if it were not submitted, or if it were submitted in part and not in the whole, it was in derogation of the great principle of popular sovereignty. Mr. President, what is popular sovereignty? I do not mean that term in the acceptance of demagogues or politicians; but what is it in the meaning of law, American law and American sense? It means nothing in the world but an assertion of a great principle, which none of us denies, that a people constituting a political community are their own rulers. How is it carried out in that system of government first established upon this continent? That the popular will can only be known through their representatives, or through the forms of law passed to ascertain their will; that the turbulent masses, be they large or small, are to be treated as turbulent masses, and to be repressed by force if necessary. Perfect obedience to law lies at the very foundation of every security of government here, as force is the foundation of the security of every government elsewhere.

Sir, I need hardly say to this body that, whether Kansas is to be admitted or rejected as a State, we can rightfully look no further into her constitution than see the government is republican in form. We, to be sure, are bound to see that it is a constitution framed by the people of Kansas, and not by anybody else—not to have one imposed, as some gentlemen seem to suggest; but when the constitution is here as the act of that people, we can look into it for no purpose whatever but to see what is its form; and if its form is republican, we have no right to look further.

The organic law providing a territorial government for Kansas provides that their Legislature shall have committed to them all subjects of rightful legislation; that they shall regulate all their domestic institutions in their own way, subject to the Constitution, and contains an utter disclaimer of any intent or purpose in the Federal councils, whilst they are so conducted, to interfere with them at any time or for any purpose.

Now, what has been done? Only what every other State has done. They passed a law prescribing the mode of electing representatives to a convention, confided to that convention the power to frame a State government, and did no more, as far as legislation was concerned. The law did not require that the constitution, when framed under the authority confided to the convention, should be submitted to the people. It was competent to the law to have done it. In my own State of Virginia, when a convention was called there, a few years ago, to amend or alter the form of government, the law calling the convention provided that the constitution should be submitted to the people; but suppose the law had been silent: would it not have been competent to the convention to submit it or to withhold it, as the convention thought proper? In other words, if the law which authorizes the convention does not prescribe that the constitution is to be submitted to a popular vote, it remits the whole power to those who represent the people in convention. That, I should say, must of necessity be the law of this question, unless you are to look outside of law and outside of government, to get at the popular will. I say the convention unquestionably possessed the power to submit the whole constitution, or none of it, or part of it. They did submit, I think with statesmanlike propriety, the only question on which that people was divided—the question of slavery. There was no occasion to submit any more; but, whether there was or not,

the convention were the sole judges. They submitted the slavery question; and it has struck me, in looking into that constitution, that this so-called slave question is there stated with a compactness and truth that would challenge criticism from any quarter. The section is this:

"The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any property whatever."

It does not speak of slavery in any sense as a creation of law; it speaks of it as an existing thing, a *status* of property in the country recognizing it exactly as it exists, requiring no law whatever, and dependent on no law to create it in Kansas; suggesting none, but simply declaring that a subject of slavery is, like all other property, superior to any law that is known to civilized man, for the law of civilized man recognizes the right of property.

That is the declaration in the constitution, so far as the condition of slavery is concerned. Another clause provides that the question should be submitted to the people of Kansas, whether it was their will to continue that species of property in the State, or not.

This brings me to the consideration of a position very strangely assumed on the other side (as I think) by the honorable Senator from Vermont, [Mr. COLLAMER;] and from which he, and those who think with him, derive most important conclusions affecting the condition of slavery. Their theory is, that slavery is the creation of positive law; and, being so, that wherever the law ordaining is not in force there is no slavery. I know of no authority for any such position.

Mr. FESSENDEN. I will suggest to the Senator that Lord Mansfield says so expressly in the *Somerset* case.

Mr. MASON. I had hoped, after what we heard with so much pleasure and instruction from the honorable Senator from Louisiana, that Lord Mansfield's decision in the *Somerset* case would have been received, even by the honorable Senator from Maine, and as I think it will by all when the passions of the day subside on the subject of African slavery, as a mere judicial flourish—nothing else.

Mr. FESSENDEN. I beg leave to say that I have a very great respect for the Senator from Louisiana; but it would take many such authorities to overturn my respect for Lord Mansfield's decision in that case—certainly more than one.

Mr. MASON. I am to deal with slavery on this continent. I aver, so far as I have been able to trace it, and I have examined it with care in legislation of the southern States—I have not looked into that of the northern States, because it does not exist there now—I have been unable to find any statute from the beginning, creating the condition of African slavery on this continent. I know from the history of the country that the first slaves which were landed upon the continent from Africa, were taken hold of by the "common law" of that day and recognized as property. The first slaves, I think, landed on the continent of America were brought to Jamestown, in Virginia, in 1620, eighteen in number. I do not recollect whether they were brought directly from Africa or indirectly through one of the Spanish islands.

Mr. FESSENDEN. To what common law does the Senator refer?

Mr. MASON. The common law of England, sir—the law of your ancestors and mine. The common law of England was the only law in the colonies at that day; it certainly was the only law in Virginia, for at that day she had no Legislative Assembly. The common law of England, as it has existed the law of that State from that day to this. When those slaves were landed in 1620, they were purchased by the planters, precisely as any other property, taken to their plantations, and put to work, and as successive importations of slaves in following years were received and treated. They were recognized by that law as property, and protected as such in the same manner. The common law of your ancestors and mine, the great common law of England, was the only law then in Virginia regulating the rights of property. It has remained the law of Virginia from that day to this, except so far as it may have been altered by statute.

Mr. FESSENDEN. The Senator from Virginia I know to be a very able lawyer, and I wish simply to ask him what maxim, what provision of the common law of England authorized the importation of slaves as property?

Mr. MASON. After the manner of the honorable Senator's country, I might answer that question by asking another: what maxim of the common law of England recognizes property in a horse, or a cow, or any other chattel?

Mr. FESSENDEN. That is answered by Blackstone.

Mr. MASON. What is the answer?

Mr. FESSENDEN. I cannot repeat the words.

Mr. MASON. It is all answered by Blackstone.

Mr. FESSENDEN. Oh, no.

Mr. MASON. It is all answered by the commentators on the law of England. I would give to the honorable Senator this answer, that the common law of England recognized in England as property, even at the day when the *Somerset* case was decided, as it did in Virginia when the slaves to which I have alluded were imported, whatever was property in the country from which it was brought, and treated it as such, unless there was some positive law prohibiting it being property.

Mr. BENJAMIN. If the Senator from Virginia will permit me, I will say that both in *Keble* and in *Salkeld* he will find actions of *trover* for negro slaves sustained under the common law of England.

Mr. MASON. I doubt not if such action was brought, the common law sustained it; and if the honorable Senator from Maine desires to know what maxim or provision of the common law treats slaves as property, I will say to him that the common law of England, so justly called the consummation of human wisdom, recognized everything as property which was the subject of property in the country from which it was brought unless prohibited by some positive law of that realm; and thus it was, that when slaves were first landed in Virginia, there being no law there but the common law, they were admitted as other property, that law recognizing that as their condition in the country whence they were brought. The condition of property did not attach to them after they reached the soil of Virginia, but they brought it with them. Such has been the law from that day to this. You may look through all the southern States where slaves are best known to us, and you will find laws passed from time to time, as they increased in number, regulating their condition; sometimes declaring them to be real estate; at others, declaring them to be personal estate, exempting them from execution if there was other property upon which an execution could be levied, and making peculiar regulations in relation to them in the distribution of the estate of an intestate. You find laws of that sort almost from the earliest day, and every one of them carries with it a recognition that slaves were property, and nothing but property.

Sir, the common law of England is the accumulated treasure of human experience, gathered in the lapse of ages by a great, wise, and intellectual people; adapting itself from age to age in the progress of the world, by a contractile and expansive power, to the varying wants or necessities of progressive civilization and wealth. Its greatest achievement has been to elevate the social condition of man by securing to him the fruits of his labor; and thus it has ever been a tenet of that law, that whatever comes within its jurisdiction as property must remain and be protected as such. It required statute-law of England to destroy slavery in her colonies, as it requires statute-law in the States of this Confederacy to take that condition from the descendants of African bondsmen.

In the ordinance of 1787, by which involuntary servitude, except for crime, was prohibited in the Northwestern Territory, the sixth section provides for the surrender of fugitive slaves escaping into that Territory. Following this, the Constitution of the United States contains a like provision. I am not at all prepared to say that, as a pure question of law, when a slave absconds from his master and escapes to a State where the condition of slavery has been abolished, he would, because of such law, and in the absence of pre-

judice or passion in the administration of the law, be declared free. Such a decision would be at war with that comity of law recognized in civilized societies, by which the laws of one State are on grounds of policy and general safety recognized and carried into effect by another. But, be this as it may, the security of this kind of property in framing a common government, was not to be left at hazard; and hence the provision of the Constitution. By its virtue, a slave escaping into Massachusetts remains a slave still, by the law of the Constitution. No law of Massachusetts can set him free; but he remains the property of his owner—protected as such by the fundamental law to which all the States have assented.

There is another dogma which I have heard from honorable Senators on the other side more than once, as a maxim pretty much like this theory of theirs, that slavery is the subject of positive institutions—a misnomer, by the way, for slavery is not an institution at all, it is a mere condition. Another of their dogmas just as untenable, but asserted by them as though it were a maxim in law received in all civilized countries, is that there is no property in man. Why, sir, I should like to know if there is not property in man by contract. What is the relation of master and apprentice but a property in the apprentice during the time that the indentures run, and a control over him and his time, recognized and enforced by law? How is it with an indentured servant, in regard to which honorable Senators from the North have more information than I have, for we have very few of that class of servants in my country? An indentured servant is one who sells his time for a given period and a given price. And is there no property in that man? What is the property in a slave but the property in his time and labor during life, instead of a property in his time, and his labor, for a term of years? What then becomes of this dogma, that there can be no property in man?

There was a time, and in my remembrance, when emigrants from Europe were brought to this country under contracts made at the place of embarkation, that the shipper should dispose of them in this country for a stated term, the consideration for which was to pay their passage and subsistence on the voyage. They were called redemptioners, because they were the property of the shipper, until redeemed by his sale of them for a term of years; and then the purchaser stood in his place. The time of service was regulated as in all other subjects of property, by the value of the commodity—as age, skill, capacity, &c. Until so disposed of, the redemptioner was as entirely under the control of the shipper, so far as *liberty* was concerned, as any other living chattel on board his ship—and when he passed into the hands of a purchaser, he carried that condition with him.

What difference, then, in every principle of law, between one so brought into the country as property, for a term of years, definite—and another, imported for a term, indefinite? The common law certainly knows of none, nor can such be found, unless by absolute statute. I should, therefore, confidently assume, that in the reverse of the position assumed on the other side, is to be found the true principle of law; that is to say, whilst it requires no positive law to fix the condition of slavery, it does require positive law to destroy it.

A gentleman brought to my notice this morning an extract from one of the northern papers which I would not use without first referring it to the honorable Senator from Maine to know what was their legislation on the subject. I have said the law of all humane and civilized communities establishes a right of property in man, and the extract to which I have alluded states that a man who had once attained distinction, and had substantial wealth, had in his old age fallen into poverty, and had been sold at auction in the State of Maine. The honorable Senator explained it by saying that it was a part of their poor-law system, not that the man was sold at auction, but that each town is obliged to maintain its own paupers; and where they have no poor-house, and no organization for the purpose of doing it, a part of their system is to put them out to be maintained by the man who will maintain them at the lowest rates; but he said that according to his recollection it gave to the party no right to the man's time.

Every humane society has a system of poor laws. What are they? Nothing in the world but this: when a part of the population, from age or disease, or infirmity, is unable to maintain itself, it shall be maintained by the public; and the necessary incident to that is, that as long as the public maintains the pauper, the public shall have the right to the time of the pauper. It is part of the whole system of poor laws everywhere. They give a property in the man, and in the time of the man, as long as he is the subject of public bounty, and properly so. The public is just as inexorably his owner for that time as these honorable Senators would represent a slaveholder to be the owner of his property in a slave.

I say, then, it is a mere catch-word, an unfounded dogma, that has no position in law or in sense, to say that there can be no property in man. It is the law of the civilized world everywhere, must be the law, ought to be the law, for the protection and well-being of society. Where you have a population amongst you, as a pauper population always is, unable to feed and to clothe themselves, humanity devolves it upon the public, and devolves with it a property in the time of the subject of the public bounty.

Mr. FESSENDEN. If the Senator will allow me, I should like to explain, with distinctness, what I said in reference to the case of which he speaks.

Mr. MASON. Certainly.

Mr. FESSENDEN. I noticed that statement in the papers, and I remarked to the Senator that there was no sort of correctness in the statement that anybody was sold by virtue of the poor laws of Maine, and I suppose cannot be by the laws of any other State of the Union except in the slave States, where a slave may be sold. The provision of our law is very simple, and I presume it is like that of most other States. The towns are obliged by law comfortably to support all poor persons who are unable to take care of themselves. The general mode of doing this in large towns is to provide an alms-house, where all the poor people may be supported at the expense of the municipal corporation; but some small towns are unable to do this, and they make a contract with individuals to support the poor—sometimes the whole poor, sometimes certain numbers of them; and, in order to arrive at that contract, they have a bidding to see who will agree with the town to support its poor at the lowest price. That is all the auction there is. Those who agree to do it at a less price than anybody else will, if proper persons, assume the contract, come under certain obligations to afford these poor people comfortable subsistence for a fixed price. That is the only mode in which a person is sold. There is no contract for his service, no obligation to serve, or anything of the kind.

While I am up, I wish to say another thing. The Senator from Virginia asked me for the foundation of other property by the common law, and I replied that the answer was to be found in Blackstone, but that I could not give him the exact words. I happen now to have the second volume of Blackstone, and, if he will excuse me for doing so, I will read the words to which I referred; and the Senator will see whether the argument he is making can be sustained upon what Blackstone says is the foundation of the law of property:

"In the beginning of the world, we are informed by Holy Writ, the all-bountiful Creator gave to man 'dominion over all the earth, and over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.' This is the only true and solid foundation of man's dominion over *eternal things*, whatever airy, metaphysical notions may have been started by fanciful writers upon this subject. The earth, therefore, and all things therein are the general property of all mankind, exclusive of other beings, from the immediate gift of the Creator. And while the earth continued bare of its inhabitants, it is reasonable to suppose that all was in common among them, and that every one took from the public stock, to his own use, such things as his immediate necessities required."—2 *Blackstone's Comm.*, p. 3.

That is the answer to the Senator's whole question, as to what is the true foundation of the law of property, as recognized by the laws of England.

Mr. MASON. I read with a great deal of interest, not very long since, quite an instructive book that was printed in the section of country

to which the honorable Senator belongs—the State of Massachusetts—the diary kept by the first Governor of New England, old John Winthrop, and a very instructive paper it was, as to the condition of the population in that part of the continent at that day, and their habits and usages. I found that when they constituted tribunals of justice vested with proper jurisdiction over all questions, civil and criminal, a part of their jurisprudence was this: they were not very thoroughly read, I presume, in the laws of England, or they had not the books, I do not know which; but they had very few laws of their own, and it was the invariable practice of the tribunals of that early date, in the administration either of civil or of criminal justice, where there was no law to direct their counsels, to refer it to the Bible; and they took the dispensations of the Mosaic code as the true arbiter of the rights of their fellow-men brought before them in their tribunals of justice, and punished them accordingly.

Now, it is very true that Blackstone, who has written a history of the common law, adopted probably as one of the theories of the common law, that the foundation of all property was derived during the theocracy, when the Almighty directly governed man without any intermediate tribunal whatever; and when the Almighty gave to man dominion over the birds of the air, the beasts of the field, and the fishes of the sea, that He there ordained property, and that we must go back to that to ascertain what are the rightful subjects of property. That is his theory. But the common law has certainly very far trenched upon that since; because at last property is but subject to the necessary relations that must subsist between men in civilized society. It has grown up by a series of usages. The common law of England is but the law of usage and of custom. I have attempted to show, I confess very feebly, that the common law does recognize a property in something that is neither a beast of the field, a bird of the air, nor a fish of the sea, and enforces those rights of property. I take the case of master and apprentice; of the servant by indenture; the case of the poor laws, where the interests of society in civilization devolve the maintenance of the pauper on the public. I would take the case of vagrants. There are laws of general police in most of the States, (certainly there are in my own, and police laws are very much the same everywhere,) providing that men who wander about society without having any visible means of support, shall be arrested and sold to those who will undertake to support them for their time. It is a police law; and the necessity of it is not so much to punish the vagrant for his vice in idling his time, but for the great moral example of society to make all contribute to the common good by the proper employment of their time.

Now, what is property in a slave at last? If the slave is killed by his master, it is just as much murder as if he had killed his neighbor white man. If he is maimed by his master, it is just as much a mayhem at common law. If he is inhumanly or cruelly treated, it is just as much an offense as if an apprentice had been so treated, and it is punishable criminally. He cannot kill him; he cannot abuse or misuse him in such a way as to amount to cruelty or ill treatment; but yet, he has a substantial right, and what is it? Trace it as you will, it is at last nothing in the world but the exclusive property in the time and labor of that man so long as he shall live. I can see, so far as the right of property is concerned, no difference whatever between property for life and property for a given term under contract or under law.

How that property arose it is not so easy to determine. The publicists tell us that, at the dawn of civilization, a prisoner of war held his life at the mercy of his captor; and, as the latter might deprive his prisoner of life, it lay at his discretion either to kill him or to keep him in life as his property. Such was certainly the practice in the earlier days of the Romans. History tells us that such has always been, and yet continues, the custom among the negro tribes in Africa. Certainly there the natives sell their own race as slaves; they sell to each other as they sold to the white man, while such sales were allowed by the laws of the white man. Thus it was that the ancestors

of those now held in bondage on this continent brought from Africa with them their condition as property. How it was acquired there can now be a subject of conjecture only, and would be an inquiry as fruitless as vague. The common law recognized them as property, and they were treated and sold as such; the offspring following the condition of the female parent, (a maxim of the common law,) made equally slaves of their descendants.

Mr. BENJAMIN. I will ask the Senator from Virginia to allow me a minute to correct an error that I made a few moments ago. I stated to the Senator that he would find, both in Keble and Salkeld, actions of trover maintained at the common law for a slave. I find that the decision in Salkeld was not for trover, but for trespass. In Keble, the decision was trover. Here is the old common law statement of the case—it is only five or six lines, and if the Senator will indulge me, I will read it:

"Butts vs. Penny.

"Special verdict in trover of ten negroes and a half, find them usually bought and sold in India, and if this were sufficient property, or conversion, was the question. And Thomson, on 1 Institutes, 116, for the Defendant, said here could be no property in the plaintiff more than in Villeins; but per Curiam they are by usage *tantum bona*, and go to administrator until they become Christians; and thereby they are enfranchised; and judgment for the Plaintiff, Nisi, and it lieth of moiety or third part against any stranger, albeit not against the other copartners."—*Keble's Reports*, vol. 3, p. 765, *Trinity Term*, 29 Car. II., B. R.

In Salkeld, the decision was that trespass was the proper remedy; the court making the distinction that villeinage arose from captivity, and "a man may have trespass *quare captivum suum cepit*, but cannot have trover *de Gallico suo*;" he might maintain an action against his Frenchman whom he had taken captive and made a slave, but he could not trover.

"And the court seemed to think that in trespass *quare captivum suum cepit*, the plaintiff might give evidence that the party was his negro, and he bought him."—*Salkeld's Reports*, vol. 2, p. 667.

The court sustained the action of trespass.

Mr. FESSENDEN. I did not hear whether that was in England or not. It does not say that the purchase or sale was in England.

Mr. SEWARD. What year was that?

Mr. BENJAMIN. In the fourth of Queen Anne.

"Trover for several things, and among the rest, *de uno Ethiopie vocat*, a negro, and on not guilty pleaded, verdict was for the plaintiff and several damages; and as to the negro 30*l*. And it was moved in arrest of judgment, that trover lays not for a negro, for that the owner had not an absolute property in him; he could not kill him as he could an ox. *Contra*, it was said property implies the right of having and enjoying and disposing; but it does not always imply a power to destroy; that this power holds in beasts, fowl, and fish, which were made the property of mankind by the act of God, and have a natural existence, but not in things incorporeal, which consist in *jure tantum*; for this being a property *ex instituto* only, the owner has only a power according to the measure of this instituted right; and it was instanced in the case of a common, a way and a ward. On a *ca. sa.* the plaintiff has an interest in the body of the prisoner as a pledge not to sell, but to keep, and it goes to the executors."—*Salkeld's Reports*, vol. 2, p. 667.

This was the argument of counsel. I certainly will not trench on the time of the honorable Senator from Virginia by reading through the argument; but the decision in this case was, that trespass would lie, though trover would not. In the case in Keble, the action was trover, and it was sustained.

Mr. FESSENDEN. It does not appear where the action arose. The courts afterwards made a distinction on that point.

Mr. BENJAMIN. It is enough for the purposes of our argument that trover would lie for a negro on the other side of the water by the common law.

Mr. CLARK. I will ask the Senator from Louisiana if judgment was rendered in the case he has just read? It was held by the court in the first instance that trover would lie; but afterwards, as I understand it, as the case is reported in Levinz, time was taken to consider it, and no judgment was ever rendered.

Mr. BENJAMIN. This is a different case. There are two in 3 Salkeld.

Mr. CLARK. I desire to know where the case of Butts against Penny is?

Mr. BENJAMIN. In 3 Keble.

Mr. CLARK. Then will the Senator be kind enough to give me the name of the next case?

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Kansas—Lecompton Constitution—Mr. Mason.

SENATE.

Mr. BENJAMIN. Smith vs. Gould, 2 Salkeld, 667.

Mr. FESSENDEN. Mr. President—

Mr. MASON. If the honorable Senator will allow me to close my remarks, I shall feel obliged to him, as I am not very well. I shall give the Senator the floor very soon.

Mr. FESSENDEN. I do not wish to take it at present.

Mr. MASON. I will not trace the condition of slavery as belonging to the African, back to the Bible, because, although I recognize that as the law which to a great extent governs the relations between man and man, yet it is not a law which is to be enforced by any human tribunal. I will not undertake to say that the African got his condition of slavery from *jure divino*, although it has been so ascribed. It is enough for me that such is the fact. I know of no race of men now upon the earth whose original normal condition was that of slavery, but the African. You find him precisely in the same form of slavery in every land, where he has gone, and at every age of his existence that you find him in now—at home a slave, abroad a slave; and when that slavery of the African is brought within the influences of civilization, we know, upon the experience of our continent at least, that it has elevated him very far beyond the uttermost conceptions of his ancestors in the scale of being. The African upon this continent, in the bondage to which he is subjected here, compared with the African in his own country upon the continent of Africa, might be compared to the difference between a high grade of civilization and the lowest condition of the savage. I will not undertake to say, or even to suggest, what great ends the Supreme Ruler of the world may have designed, and is now executing in the transfer of a portion of the African race to this continent; but I have seen what feeble results have been obtained from the attempt to carry him back to his own continent. There is a philanthropic society now in existence, formed some thirty or forty years ago, originating, I think, with some statesmen of Virginia, intended to deport the African back to his own country. I know that the colony which that society has established has been maintained as a very feeble colony only by the strong arm of civilized power to this day. I know that wherever the African, even after he has been civilized in bondage, has been left to himself, he has lapsed into barbarism and savagism. I cannot, therefore, but entertain a hope that there is some great end to be attained by the Deity who rules over all races, in the subjection of the African to bondage upon this continent, because I know that whilst in bondage he improves in civilization, and when he is freed from bondage, he sinks in the scale of humanity.

Sir, if there are benevolent purposes on the part of those communities represented by honorable Senators here, how are they exercised in the attempt to free the African on this continent? Look at him in their own cities; look at him in any community where you find the African race free. You will see of course individual instances where they have preserved that degree of elevation which they had attained while slaves; but in successive generations they lose it; and the great mass of those who are emancipated, when they are freed from involuntary servitude, or what is the same thing, involuntary labor, decay and die out. All the great incentives that belong to the white race to improve their condition mentally and physically, or to rear and educate their families to advance in civilization, are utterly lost to the African where ever he is found amongst the white race, in freedom, or not subjected to slavery. He will not labor. You cannot make him labor by any of the incentives you can apply to him but the will of a master. That is the condition of the African race on this continent, and everywhere where I know them.

Now, what is proposed? If the African race were left on this continent to the ordinary laws of emigration, do we not know, has not our experience, even in the short time it has been proved here, established it, that the laws of emigration are the laws of nature; that the African in bondage will go into those climates where his labor is most productive, or which are most congenial to his condition? They cannot exist in a northern

climate, because their constitutions are not adapted to it by nature; and if they could, their labor would be of so little value, compared with their labor at the South, that they would necessarily not emigrate there. What purpose, then, have honorable Senators, or what purpose have their constituents, in view, in constantly agitating the public mind on the question of African slavery? They say they have wiped their hands of it, when, in truth, the climate alone has extinguished it in their section. They glorify themselves, as Lord Mansfield did in England, that the air of their country is so pure that a slave cannot breathe it; that his shackles fall instantly from his limbs. We envy not their condition, I assure them. Why, then, should they seek to interfere with ours? Whatever of good, or of ill, belongs to the relations that subsist between the two races on this continent is ours, not theirs. The responsibility is with us, not with them. Why is it, then, that whenever opportunity offers, the whole public mind throughout this country is vexed and disturbed and agitated by the question of slavery—not by us, for we are silent; but by those statesmen who are trying to destroy, or to curtail, or to impair it; and always in terms of denunciation? Sir, there is but one reason; and it is exemplified in the very case before us now. It is a resistance to that principle of the Constitution which makes it an element of political power. Take away that, and I warrant you there will be no more clamor on the subject of slavery. It is, then, opposition to a feature of the Constitution; it is opposition to a part of the compact which brought the States together, and to that part of the compact without which the States never could have been brought together.

The people of the Territory of Kansas have come before Congress, asking to be admitted into the Union as a State. All the class of objections which have been made in the nature of technical pleading about the frauds in their elections, and their not submitting the constitution to a popular vote, are but to mask the great battery which is directed against the Constitution of the United States in the representation of African bondsmen. Strike that feature out of the Constitution, and there would be no longer objectants to slavery.

We have then before the American people now a State applying for admission, and entitled to it by all those relations, and by fulfillment of all the requisites which have heretofore governed in the admission of new States, except this one, that there is a recognition of slavery in its constitution; and he must indeed be willingly blind to scenes around him, who does not know that this recognition of slavery alone bars the way to admission. It is the objection taken to it in the review, the very able review, though I think not exactly according to history in many of its facts, of the honorable Senator from New York. It was the point against which were leveled the arguments of the honorable Senator from Vermont. Slavery is the theme, the only theme. Now let us have it frankly avowed. Here are two States applying for admission at the same time; and it is understood that the honorable gentleman who now represents the Committee on Territories is to propose, as a substitute for this bill, one that shall admit both together, the State of Minnesota and the State of Kansas. Are any objections taken to Minnesota? I have heard of none. That comes here as a free State; and, too, with abundance of irregularity in all that has been done in preparing a State government. I challenge gentlemen on the other side now to object to the admission of Minnesota because of the irregularity under which she comes. What has she done? In the first place, she had no convention at all. A law was passed by Congress to take the sense of the people, and provide for a convention to form a constitution for Minnesota; but she has never executed that law, because there never was a convention; but on the contrary, there assembled two bodies, each claiming to be the convention, with power to form a constitution.

Mr. SEWARD. Will the honorable Senator undertake to say, much less to show, that the people of Minnesota, or any majority of the people of Minnesota, or any portion of the people of Minnesota, object to being admitted into the Union under this constitution? That is the dif-

ference in the cases; in the one the people desire to be admitted.

Mr. MASON. I would answer the honorable Senator that I am utterly unaware that any portion of the people of the Territory of Kansas object to being admitted into the Union under this constitution. If you listen to popular clamor, to irresponsible mobs, who undertake to regulate government, not by law, but in despite of law, you may say they are unwilling to be admitted; but I answer the Senator as an American statesman, that the only way in which the popular voice should reach him, or can reach me, is through organs of law. I have yet to hear the first voice from Kansas objecting to this constitution. However, that shall not disturb the level of my argument. I want to know whether, when Minnesota comes, as she will come in the same bill for admission with Kansas, we shall hear any objection made as to the irregularity of the proceedings by which her constitution was framed. There was no convention in the first place. The delegates met, and before organization separated into two parts, and remained separate up to the day of adjournment. They finally framed a constitution by a committee. These separate bodies, not claiming to be coördinates, but each claiming to be the convention, by a committee of conference formed a constitution. Some clumsy mode of that sort was adopted. The instrument was afterwards submitted separately to these separate bodies, and taken by them as the constitution. But here is a still greater irregularity, which Kansas certainly has not attempted; the Territory of Minnesota has undertaken to elect two Senators of the United States, who shall be Senators when Minnesota becomes a State, and has undertaken to elect three members of the other House of Congress, who shall be members of the other House provided it shall be found that the law of Congress assigns three members to them. That, it is true, has been done heretofore. It was done in the State of California—contested by us—objected to as irregular and revolutionary; but the objection was overruled by Congress. I do not mean to say, in the case of Minnesota, or the case of California, that the objections were insuperable; because, if we admit the State, and admit the Senators elected before it was a State, our act of admission may be as good in ratification of what is done, as if authorized in the first instance. But I say these irregularities exist, and very great ones they are.

It is proposed that Kansas and Minnesota shall be admitted together. I, for one, gratified as I should be to see the States holding slaves multiplying in this Confederacy as rapidly at least as those not holding slaves, yet seeing the very opposite, and that the great increase is to be on the part of the free States, still am not prepared to cast my vote against the admission of a State because it is a free State. I ask honorable Senators on the other side if they hold the same position before the American people? The Senator from Ohio, [Mr. WADE,] who was questioned on that very point to-day, said it was enough for him to know that a State was a slave State, to deny her admission; and I take it that is the spirit and feeling of honorable Senators on the other side who represent the non-slaveholding States. How then do we stand? What equality have we in this Union? The social condition of the slaveholding States, together with its just and legitimate expansion, must be preserved as necessary both to their honor and to their safety. It cannot be, if the existence of slavery within its borders is enough to preclude its admission as a member of the Federal Union. What do honorable Senators on the other side intend? Do they intend to force the people of the southern States to put an end to this Confederacy? Answer us that. We have the occasion before us now in which almost avowedly you refuse to admit another State because it is a slaveholding State. How far you will succeed I do not know, but that is the purpose. We have been admonished by the honorable Senator from New York that when the time comes which he anticipates when his friends get into power, there shall be no further admission of slave States. That honorable Senator announced in exulting tones, but I think rather in advance of the fact, that the battle had been fought and already won.

The battle, he said, was to give the numerical preponderance to the free States, because the States are equally represented on this floor, and that was already attained. That battle is fought and won. This is a very significant warning. What are to be the fruits of victory? He shadowed them out to some extent. One branch of the Government, the judiciary, stands in his path, or in the way of his party. That branch is to be reorganized, reconstructed, or, as the honorable Senator explains it now, *popularized*. I would say to that honorable Senator, though in no exulting tones, however, that so far as I can read the public mind of this country, the battle is not fought, far less is it won.

What do we see? For the first time in forty years, it is proclaimed on this floor, you shall have no more slave States. That is the direct issue before us in this Kansas question, notwithstanding the mist which some have endeavored to throw around it. That battle is now depending. It is neither fought nor won. I will not undertake to say how it will result; but I do know that although friends around me from the northern States have been told on the other side there is not a man amongst them who will survive a vote for the admission of Kansas, they are prepared to do it, and take the consequences. If it be true, that to vote for the admission of another slave State into this Confederacy is to consign the representative to political death, it will take no prophet to tell how long this Union will hold together.

But what do they want? What do they propose when they get the Government—if they should get it? We have three million slaves in the southern States. As my honorable and eloquent colleague said the other day, they are operating there as the means of culture and civilization upon the swamps and morasses and wilderness of the southern country. They are contributing more than any other laboring population known at this day, to the promotion and the extension of all the great benefits resulting from the highest civilization. What do you propose? What is to be done with these three million slaves when the Government passes into your hands? To manifest the elevated purposes of your philanthropy, they are to be set free and returned to barbarism, and that country which they have redeemed by their labor, a country that no other labor could redeem, is to be consigned to its original desolation of swamps and wilderness and morass! That is the result of your theory; that is to be the result of this high philanthropy and benevolence by which you claim to be actuated.

Mr. President, if the States and the people of the States would only look at things as they are, they would see that we have a continent here peculiarly fitted for that priceless form of government which we have adopted, and a Government equally fitted for the continent. There was an impression, I know, actuating the minds of many of our early statesmen, that our forms of government were not susceptible of expansion, but that, in course of time, by its very expansion, the Government would break to pieces of its own weight. So far as I can read the great mission of popular government upon this continent, the very reverse is to be the result. If there be a Government on earth that is susceptible of indefinite expansion, it is the Government of these States. What are they? A confederation of equal sovereigns, each member of the Confederacy a separate organized political community; and, if one or more should fall from the Confederacy, at the very instant of the severance such State would be a perfect whole, and in the immediate exercise of every function that pertains to government—*terres alque rotundus*—an executive, a legislative, a judiciary department, organized with officers capable of exercising every function of independent power; hardly requiring any additional legislation; but what might be necessary to make provision for foreign intercourse. If the American mind could only be brought to look on this Government in its true character, and remit to the States what belongs to them—the exclusive jurisdiction of their own affairs within their own limits—not interfering with them, but adhering to the behests of the Constitution, and administering only those great Federal powers which were conferred upon the common Government for the com-

mon good of the whole, in the administration of which, appropriately done, there would be no interference or collision with State authorities: what would be the result? State after State might come into the Union; they might expand, as they have done, from thirteen to thirty-one and to sixty-one and to one hundred and one; and they would all revolve as harmoniously around their common orbit, the Federal Government, as did the original thirteen; susceptible of expansion to any extent, and stronger as they expanded. And as if to anticipate such expansion in the advancement of the arts of civilized life, the telegraphs and railroads of modern construction lend their powerful aid to bind them together by agencies that annihilate time and space.

What then is proposed? To get a political party into power by crushing out of existence one of the greatest agencies of civilization that the world has ever known—destroying not only the constitutional, but the domestic harmony, that fraternal regard, that should ever actuate citizens of a common country. Violence and discord, detraction and calumny, are badly calculated to promote good will or to retain communities in friendly relations. If the great American mind could only be made to realize what would be the condition of things if their public agents were kept within the limits of constitutional control, they would see, as I sometimes venture (I hope without utopian vision) to contemplate this Government extended over a confederation of States, the number of which shall be limited only by the boundless expanse of a continent stretching from sea to sea; State after State entering the Union; and each received with that cordial welcome which should signalize the access of a new confederate of common lineage, ranging side by side under a common destiny. To what may we not aspire if this great and prosperous Confederacy can be preserved? But if it must be otherwise, let the responsibility rest where impartial history shall assign it.

Mr. CLARK obtained the floor.

Mr. GREEN. I wish to make a suggestion. I propose that the Senate take a recess for two hours, and then reassemble for the discussion which may be desired. I submit that motion.

Mr. FESSENDEN. I should like to ask the Senator, so as to have an understanding about this matter, at what hour he intends that we shall resume our session?

Mr. GREEN. Half past six o'clock.

Mr. FESSENDEN. After we meet again, how long does he design to sit?

Mr. GREEN. I presume as long as we can well indulge in debate. I apprehend there will be no difficulty. I do not suppose there will be a vote to-night.

Mr. FESSENDEN. Is it intended to push it to an unreasonable hour to-night?

Mr. GREEN. I want to afford the fullest opportunity for debate.

The VICE PRESIDENT. The Senator from Missouri moves that the Senate take a recess until half past six o'clock.

Mr. STUART. I suppose that motion is not in order.

The VICE PRESIDENT. The Chair will hear a suggestion from the Senator on the point of order.

Mr. STUART. It is not competent, I think, for a Senator to move that the Senate take a recess. That question has been submitted very often since I have been in the body, and it has always been decided that it could not be done without unanimous consent. I move that the Senate adjourn.

Mr. TOOMBS. I differ with the Senator from Michigan entirely. There is nothing in the rules to prevent the Senate taking a recess for two hours. It has been done repeatedly in the two Houses. It contravenes no rule of this body, and does not require unanimous consent. The Senator is entirely mistaken.

The VICE PRESIDENT. The present motion is to adjourn. When that shall be disposed of the Chair will decide, if it be necessary, the point of order raised by the Senator from Michigan.

Mr. BIGLER called for the yeas and nays on the motion to adjourn; and they were ordered.

Mr. CAMERON. I have some delicacy as to

voting on the question. On Saturday last one of the Senators from Virginia, [Mr. HUNTER,] received the distressing news of the severe illness of his son, and asked me to pair off with him on the Kansas question. I agreed to do so. I am in doubt whether I ought to vote on this motion. This is not the Kansas question. The difficulty I have is, whether, on his return, he may not think that I ought to have refrained from voting. I shall therefore decline to vote; but I do not believe that I am bound to refuse voting. I do so out of respect to what may be the views of the Senator from Virginia.

Mr. DÜRKEE. I desire to say that I have paired off.

Mr. BROWN. The Senator from New Hampshire [Mr. HALE] desired to go away for an hour or two, and I agreed not to vote on any question connected with this matter until his return, unless my vote should be necessary to make a quorum. I desire also to state that the Senator from Texas [Mr. HENDERSON] has paired off with the Senator from Vermont, [Mr. COLLAMER.]

The question being taken by yeas and nays on the motion to adjourn, resulted—yeas 17, nays 23; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Crittenden, Doolittle, Fessenden, Foster, Hamlin, Harlan, Houston, King, Seward, Simmons, Stuart, Trumbull, and Wilson—17.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Clay, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mason, Polk, Pugh, Sebastian, Sibley, Thomson of New Jersey, Toombs, and Wright—23.

So the motion was not agreed to.

The VICE PRESIDENT. The question recurs on the motion of the Senator from Missouri, that the Senate take a recess for two hours. The Senator from Michigan raises a question of order on that motion.

Mr. WILSON. I would suggest to the Senator from Missouri that he allow the Senator from New Hampshire, as he has the floor, to go on.

Mr. GREEN. I have no objection.

Mr. WILSON. I wish to say, while I am up, that, on examination of the condition of affairs in the Senate, I find there are fourteen speeches to be made against this bill by men who have not spoken, and some half a dozen, at least, I think, for it. Now, it seems to me to be wrong for the sixteen gentlemen who have addressed the Senate upon this question at proper hours, now to force gentlemen, who have as good a claim to address the Senate as they can have, into unseemly hours of the night. By remaining here in the Senate steadily during the proper hours, the debate can be closed in seven, or eight, or ten days. I see no reason why we should be pressed in this matter, as there is no disposition here, there has been no disposition shown, to make any factious opposition; and I claim that the Senators who have not spoken have as good a right to be heard during proper hours as those who have addressed the Senate. I trust that those Senators who have been allowed, in the proper business hours of the Senate, to speak to this body, and to the country, will not vote to press others into midnight hours. There is no hurry for pressing this matter through the Senate, or through Congress, with such haste.

Mr. BROWN. I wish to say a word in reply to the Senator from Massachusetts. If Senators have not spoken in proper hours, whose fault is it? For several weeks we have been adjourned over, against our protests, from Thursday until Monday.

Mr. WILSON and others. Only once.

Mr. BROWN. Well, say once. It certainly has been attempted more than that. The other side of the Chamber has been continually urging adjournments from day to day, and at the earliest possible hours. I belong to the number who have already spoken. I spoke at an early day; but certainly there have been abundant opportunities for other gentlemen to speak, if they had chosen to do it. We are now far advanced in the session—far advanced in the fourth month of the session; and yet this bill has stood in the way of every other measure before Congress, and it is universally admitted that it will stand in the way until it is disposed of. Here, in the middle of the fourth month of the session, we are asked to adjourn from day to day in a spirit of courtesy to

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gentlemen who would not avail themselves of an opportunity to speak when time was being wasted. I wish, for one, to vindicate myself from the charge which is now made. If the time that has already been wasted had been properly occupied, no such appeal would have lain. I am not for pressing this question unreasonably or unjustly upon any one; but it must be seen that, unless we intend to waste all the summer days in the discussion of this question, we must commence urging gentlemen up to a delivery of their views.

I should not have said this if I had not been in the category of those who have spoken early. I did not speak at any unreasonable time; I did not insist on the Senate sitting for my accommodation, if it did not desire to do so; nor did I take advantage of its sitting. Other gentlemen, I know, could have spoken, if they had chosen to do it. If they did not choose to do it, I think it is too late to ask this species of courtesy.

Mr. FESSENDEN. Mr. President—

The VICE PRESIDENT. There is no question before the Senate, the Senator from Missouri having withdrawn his motion. These remarks, however, may be indulged in by unanimous consent. The Senator from New Hampshire is entitled to the floor.

Mr. FESSENDEN. I did not know that the motion was withdrawn.

Mr. GREEN. I remarked that if the Senator from New Hampshire desired to proceed now, I would withdraw my motion, and hear him with pleasure, for it is not my wish to procrastinate debate, or to interfere with a fair opportunity for debate. It is my wish to expedite business, and I think that ought to be the wish of all. My motion is withdrawn.

Mr. FESSENDEN. With the indulgence of the Senate, I wish to make a remark or two in relation to this matter; and I wish to make it in a spirit of kindness and conciliation which I feel. I think there is nobody here who will accuse me, certainly, of a disposition, at any time, to make any factious opposition to anything that is in the regular order of business. The honorable Senator from Mississippi is mistaken in saying that this question has stood in the way of all other business. This report has not been made for more than a month. This bill has not been before the Senate very long.

Mr. BROWN. I know this precise bill has not been, but the Kansas question has been here all the time.

Mr. FESSENDEN. I am aware that some speeches were made on the President's message from time to time; but in the meanwhile a great deal of other business has been done, and only one speech, I think, in relation to this general matter was made on the Army bill. The Army bill was debated for a long time. We certainly could not get at this question as it is presented to the Senate until a bill was before the body. The bill was reported some four weeks ago, I think—I do not recollect the exact time—and then a future day was assigned for its consideration. It was taken up at the time designated by the honorable Senator from Missouri who has it in charge, and since that time the debate has gone steadily on—beginning sometimes at one o'clock, and sometimes at half past twelve o'clock—from day to day.

The Senate will observe that only once has there been any question in reference to adjournment over from Thursday until Monday, and that was a week ago last Thursday. That is the only time when a vote was taken on that proposition. It passed at other times by common consent, and the motion always came from one of the gentlemen on the other side of the Chamber, not from us. Certainly no blame can be imputed to the gentlemen on this side. Senators will recollect that when the President's message was under consideration, the Senators on this side were urged to withhold their remarks in relation to Kansas until the question should come up before the Senate regularly. I was urged to do so myself; but I chose to make then the remarks which I had to make. I made at that time the main speech which I intended to make; and I do not know that I shall make any other. No time was lost by that.

Mr. GREEN. You are losing time now.

Mr. FESSENDEN. I know that; but I wish

simply to understand the Senator, and I wish him to understand me. What I mean to say is simply this: that gentlemen on this side of the Chamber have been led by the solicitations of gentlemen on the other side, and by their own sense of the propriety of the time, to withhold the remarks they wished to make, and which they feel it to be their duty to make, until this bill came up. They have had as yet no opportunity to make those remarks. They wish to do it, and to do it at reasonable hours of the day.

Now, I am not disposed to quarrel with gentlemen on the other side of the Chamber because they want to urge this business. I will agree that they shall urge the Senate, and that the Senate shall submit, so far as I am concerned, to a little greater stress in point of time; work more hours than we ordinarily do; but what I object to is that we should be pushed to unreasonable hours in the evening. We all know that it is very fatiguing. If the Senator from New Hampshire goes on with his speech now, we shall have had three speeches to-day, and it will probably take him until seven o'clock. I wish to understand whether there is then a desire to push us into the night. ["Yes."] That being understood, I wish to assure gentlemen on the other side—I may say my friends on the other side of the Chamber, because personally I have no collision with them—that so far as I know, and I believe I understand the matter, there is no disposition here to procrastinate the time unreasonably. All we demand is, that at reasonable and proper hours of the day, when men have the strength and the vigor, (and a very considerable degree of strength is necessary to address the Senate upon this subject,) they may have time to do so.

Mr. BIGGS. Will the Senator from Maine fix a time when he will agree to take the vote?

Mr. FESSENDEN. I cannot, because I do not know how many speeches are to be made. I say that when we have got through with a fair debate on our side, we have no further objection to make; and we want time, at reasonable and proper hours, for that debate. I hope, in order to the preservation of the good feeling personally which ought to prevail among gentlemen on both sides, that will be acceded to. That is all we desire.

Mr. GREEN. I beg leave merely to remark, that I do not think I have exhibited any hot haste in pressing this question before the Senate and the country. I did object, when the subject was first brought before the consideration of the Senate, when there was no practical question pending; but, in spite of my objection, it was discussed day after day. It has been discussed to a greater or less extent now for three months. Although the bill has been before the Senate not quite a month—for it was reported on the 18th day of February—still it has been discussed longer than almost any other question ever has been discussed that passed this body.

Mr. FESSENDEN. The Senator will allow me to suggest one thing to him?

Mr. GREEN. I would rather not be interrupted. When the Kansas-Nebraska bill passed, it was discussed for thirty-nine days before it was reported, alternately, occasionally. After it was reported, three days' discussion were allowed, and three days only. Since this bill was made the special order, it has been continued for two weeks and we are now told it will take two weeks more. The Senator from Wisconsin [Mr. DOOLITTLE] told me this morning that, perhaps, we could get through in two weeks more. I know it is unpleasant to be crowded into an unreasonable hour of the day, and I also know that the most seasonable hour is about one o'clock; but can every man commence his speech just at one o'clock? I know that is the best hour for gentlemen here, but we have to take the chances to get the floor and avail ourselves of the opportunities as they present themselves. The public business must not be delayed to permit every Senator to commence his speech at one o'clock. If so, it is to be continued sixty days more, and perhaps still longer, for some may desire to make even more than two or three speeches. I know there is not the slightest feeling to suppress a fair debate, but there is a desire to hasten that debate, giving as fair opportunities to every Senator as the circumstances of

the case will admit. If a just regard to the public business will permit me to do so, I would prefer to adjourn now and allow the Senator who has just obtained the floor to commence his speech at one o'clock to-morrow. If, however, I were to do so, I should be sacrificing my sense of the duty which I owe to my country merely to accommodate a gentleman and a friend. I claim that I have no right to do that; it is not my privilege to do that. I must keep an eye towards the great interests of this country, rather than consult the personal feelings of honorable gentlemen. I have no desire to crowd them into unreasonable hours; but I wish the public business to go forward.

Mr. FESSENDEN. When Senators talk of the time that has been taken up, I wish them to remember that about all the time that was occupied on the subject of Kansas during the first part of the session until this bill was brought in, was on the other side of the Chamber. On this side we took very little part in it.

Mr. HOUSTON. I am not involved in this controversy at all, and I wish to make a suggestion to which perhaps gentlemen will accede. I desire to see the subject disposed of so soon as it reasonably can be; and with that view, I move that we meet hereafter at eleven o'clock. I suppose the motion will lie over until to-morrow.

Mr. TOOMBS. I object to it; let it lie over.

Mr. BIGGS. I would very willingly accede to a proposition that might be made on the other side, if they would fix any reasonable time for taking the vote; but I see no disposition manifested on that side to appoint a time for taking the vote. Therefore, as this discussion is entirely out of order, and there seems to be no disposition on the other side to propose a time for taking the vote, I object to any further discussion, and hope the Senator from New Hampshire, who is entitled to the floor, will proceed.

Mr. STUART. Mr. President—

The VICE PRESIDENT. The Senator from New Hampshire is entitled to the floor.

Mr. STUART. I ask the permission of the Senator from New Hampshire to allow me to submit a motion.

The VICE PRESIDENT. Does the Senator from New Hampshire yield the floor to the Senator from Michigan?

Mr. CLARK. Yes, sir.

Mr. STUART. I move to postpone the further consideration of this subject until one o'clock to-morrow. I find myself compelled to submit a motion in order to be enabled to suggest to the Senate what I think I might with propriety have been permitted to say after the course of other gentlemen. Inasmuch, however, as that does not seem to be the disposition here, I submit this motion, and I desire to say two or three things in correction of the history which has been given of this transaction; and to submit a proposition for the consideration of the Senate which, I think, we may very well agree to.

In the first place, as to the delay, I think it will be found on an examination of the records of the Senate that a majority, my own impression is nearly all of them, but certainly a majority of the motions which have been made to adjourn over from Thursday until Monday, have been made by gentlemen favoring this bill since the session commenced. When a motion was made since this bill was reported, to adjourn from Thursday to Monday, I was here in my seat, and voted against it; and it does not become those gentlemen now, who are in favor of this measure, having absented themselves from their seats at that time, to bring that matter up as a charge against those who oppose the measure. If they had been here, as I may say I was, and voted as I did, we should not have adjourned over.

Now, sir, let us see if there has been any disposition on the part of the Senate to abuse the rules of discussion. Has it been manifested by those who oppose this bill? Have they shown a disposition to discuss it factiously to consume time? I know of no such disposition. Is there anything in the condition of the country requiring this unusual course of procedure? What has brought it about? Why, sir, it was agreed to take the question on the Army bill on a certain Wednesday or Thursday, and when that day arrived,

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the majority of the Senate on this side of the body were out of their seats, not ready to vote, and the chairman of the Committee on Military Affairs moved its postponement on that account. I was here and ready to vote for it.

Now, sir, there is a certain amount of labor that men can perform, and there is an amount beyond that which they cannot perform, in justice to their own health. If we can sit here six hours in the day until the fair, legitimate, and proper discussion is ended, I think it is as much as any man, in justice to himself or his country is called upon to do. I am willing to meet after to-day at twelve o'clock and remain here until six. I am willing that the Senate shall to-day or to-morrow fix that the Senate shall be in session that number of hours, if you please; anything that those in favor of this measure desire in order to induce fair discussion. But, sir, I am unable to see a reason, I have heard no reason, why this discussion should now at this day be forced into night sessions. I have shown that the reasons which have been urged lay at the door of this side of the House. We have been adjourning over, so that that does not constitute a reason. The adjourning over is our fault, or if gentlemen please, it is theirs, for I ask no particular favors for having voted against it. If the friends of this bill, those who are now urging night sessions to complete its discussion had been here, they had the power to prevent it; and therefore, that does not constitute a reason for undertaking to force night sessions, and night discussions at this time. I submit that if we sit here six hours in the day, it is as much as the subject demands, and it is as much as Senators can be called upon properly to perform. I agree most freely that whenever the time arrives that there shall appear to be a discussion here for the mere purpose of consuming time, the friends of this measure may then take any course they please, and I will not object to it. Now I withdraw my motion to postpone.

Mr. HOUSTON. I desire to remark, with the permission of the Senator from New Hampshire, that I have invariably voted against adjourning from Thursday to Monday; and I voted in favor of the motion made a little while ago to adjourn. I did so on the principle that it is more agreeable to transact business in daylight than at night. I shall never forget the memorable occasion on which this subject, with many others, was inaugurated on this floor, when I was gagged down, between the hours of three and five o'clock in the morning, on the occasion of the repeal of the Missouri compromise. I shall never forget that.

Mr. TRUMBULL. I move that the Senate do now adjourn.

Messrs. BROWN and GREEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Doolittle, Fessenden, Foot, Foster, Hale, Hamilton, Harlan, Houston, King, Seward, Simmons, Stuart, Trumbull, and Wilson—18.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Crittenden, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mason, Polk, Pugh, Sebastian, Sillide, Thomson of New Jersey, Toombs, and Wright—25.

So the motion to adjourn was not agreed to.

Mr. CLARK. Mr. President, I am much obliged to the honorable Senator from Missouri for the assurance that this is not to be an effort of physical exertion; that he is not disposed to crowd this debate into unseasonable hours. I have been here in my seat in the Senate since twelve o'clock, and I am not, perhaps, physically well prepared to go on at great length to-night; but if the debate is to continue, I am prepared with the materials around me to go so far as the Senate may be pleased to listen until I get through. I have refrained from mingling in this debate earlier than the present time. The question was put to me, "whether I intended to speak on the subject when it was before the Senate in a different form?" My reply was, "that I did at some time, if convenient, intend to speak; but that I intended to speak on the subject when it came before the Senate in a practical form, when there was something proposed to be done, when the bill to admit Kansas with the Lecompton constitution should be here." It is here now; it is before us by a report from the Committee on Territories; and I

propose to discuss the policy of the admission of Kansas as a State with the Lecompton constitution.

Before I go further, I wish to ask the honorable Senator from Missouri, who seems to have the charge, in some sort, of this debate, whether he wishes to qualify the language of his report on the ninth page, where he says:

"Such are the characters, such are the objects, and the dangerous results of the opponents of the Lecompton constitution?"

Mr. GREEN. The only qualification I make is to be understood from its context. I am speaking of those in Kansas—of course not of honorable Senators who oppose it here.

Mr. CLARK. That was the very point I wanted to note. The language goes that length. That is the fair interpretation.

Mr. GREEN. Take the context and see.

Mr. CLARK. I take it that every part of the report means something, and if the Senator had expressed what he intended by the previous paragraph in the report, he would not have added this clause. He meant something more. That is the fair rule of interpretation. The previous paragraph was confined to persons in Kansas. This goes the whole length, and applies to all opponents of the Lecompton constitution. I wanted to ask whether the language was not varied intentionally, because I desired to know whether I stood here charged as a culprit, or whether I stood here as a Senator on this floor having equal rights with the Senator from Missouri.

Mr. GREEN. Will the Senator permit me to say a word?

Mr. CLARK. Certainly I will.

Mr. GREEN. The prior part of the report gives a historical detail drawn from official papers. That one expression is a deduction of their character from the historical facts before stated, and the connection is a necessary one. It is confined to parties in Kansas.

Mr. CLARK. That is a matter of inference and argument on the part of the Senator from Missouri. He understood undoubtedly what he meant by this expression when he put it here. He knows the force of the language, and that is the reason why I interrogate him. I can know only from the language what he did mean. The language is broad enough to cover the meaning I attributed to it; but I presume now the Senator did not mean it, and he will pardon the suggestion. I am content with the qualification he makes in regard to myself, but there are numbers of people from my State in Kansas, and if he intends to apply it to them, it is entirely false and wrong.

Mr. GREEN. Do you desire any response to that?

Mr. CLARK. Just as the Senator pleases.

Mr. GREEN. I am not giving an inference as to what my meaning was. I am stating it, and state that that itself is an inference drawn from the facts stated in the prior part of the report. I am not qualifying it or taking back one word. I stand upon the record of the country. I qualify it not. I believe it to be true; but whether it be true or not, is a question of fact to be determined on the evidence submitted. Having described these persons, having quoted from Governor Walker, I then say "such are the characters"—the characters are given in the facts stated; "such are the objects"—the objects they aim at as announced by Governor Walker, are rebellion and revolution; "and such are the dangerous results of the opponents of the Lecompton constitution." As a matter of course, as I was speaking of those opponents in Kansas, it must necessarily be confined to them.

Mr. CLARK. Mr. President, it seems to me that we have so much wholesale denunciation in this report, and otherwise, in regard to those people who oppose the Lecompton constitution, that it is perfectly legitimate and fair for me to make the inquiry how far the gentleman meant to go; and I desire to make the further inquiry of him whether he means to apply this language to citizens of my State or any portion of them in Kansas who are there now.

Mr. GREEN. I did not know that there was a citizen of the Senator's State in Kansas. If so, he has no business there and ought to go out.

Mr. CLARK. The gentleman understands

what I mean, and I cannot be turned aside. He must have known that I meant citizens from New Hampshire who have gone into Kansas, and who have a right to be there.

Mr. GREEN. Very well; if the Senator means those who were once citizens of New Hampshire and are now citizens of Kansas, I say that if Governor Walker and Secretary Stanton speak of them, I speak of them. I speak of those men they describe.

Mr. CLARK. Then I understand the gentleman to have based his whole assertion on what has been said by Governor Walker and Secretary Stanton, and he goes no further. I say to him he is not warranted in making that wholesale assertion in regard to the opponents of the Lecompton constitution, because Governor Walker does not say any such thing; he does not name a man, he does not say that one citizen in Kansas who went from my State has been guilty of any rebellion or insurrection, or disorder whatever. Now I tell the Senator from Missouri there are men, acquaintances, old neighbors of mine in Kansas, men who have gone from my State—not from the purlieus of the great cities, but honorable, respectable men, tradesmen, mechanics, men who cultivate the soil. They are in Kansas now, and are opposing this constitution, but they are peaceable and orderly men. If the Senator from Missouri did not know that these men were in rebellion he ought not to have made this sweeping charge on the testimony of anybody. Sir, I am disposed to hold the honorable Senator, so far as I may, responsible for the truth of the statement he makes in his report. He presents the evidence here, and we may judge upon the evidence which he presents; but we cannot know whether that is the only evidence, or whether it is a partial statement; and hence, I ask him whether he proposes to apply that statement to the citizens of my State. I put that question because I hold, as was said by the gentleman himself, the other day, that men are not to be condemned by classes; men are to be condemned, or upheld, or praised as individuals. I agree that there is great danger of wrong when you undertake to condemn men by classes. You may go into any portion of the country, and you will find good men of one class, and bad men of the same class. You may go into almost every sect of religion, and find good men of that sect, and bad men of that sect. Why may you not find good men in Kansas, I ask the honorable Senator, opposed to the Lecompton constitution? There may have been men in that Territory who have been guilty of some indiscretion—I do not say there have not been, for I do not know, and I do not admit that there are; but what I mean to say is that the Senator should not, in this report, make these charges, because they go out to the country, they go on to the files of the Senate, they stand here as part of the country's record, when they are not supported by the facts.

It is no apology for the gentleman's statement in regard to these men; it brings no consolation to them, to have him get up here and state that, if Governor Walker meant to condemn them, he means to condemn them; that, if Mr. Stanton spoke of them, he means to speak of them. Who are the men that he speaks of? All the opponents of the Lecompton constitution put in a mass, put together, and condemned, in Kansas, as he says now, and as I had some reason to believe.

Now, Mr. President, before I go further, I wish to ask the Senator from Virginia who last addressed the Senate, if he will permit me to do so, a question which may facilitate the debate. I wish to ask him, on what he grounds the law of slavery, whether upon the common law or the law of nations? so that I may be prepared to discuss definitely and distinctly, point after point, directly as he makes his positions. I do not wish to ramble in the debate. I was not quite sure—if I had been I should not ask the honorable Senator—on what law he did ground it; though I understood him to ground it upon the common law and upon the law of the civilized world, that is, the law of nations; but I did not understand whether he went any further. If he will inform me that I am right in my inference, that he did ground it on the common law or on the law of nations, and did not go any further, that will answer entirely my purpose.

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Mr. MASON. I understand the honorable Senator to ask me on what I ground the law of slavery? I would answer the honorable gentleman by saying, that I am not aware that there is any other law that pertains to slavery than those laws which pertain to every other species of property.

Mr. CLARK. Then I am obliged, in order to get any species of information, to ask on what law he grounds the right to other property; whether the common law, or the law of nations; because I get no information, as I understand the Senator's answer now. It is altogether too indefinite for my purpose. The Senator is under no obligation to answer. Perhaps he has not made up his mind.

Mr. MASON. I certainly did not intend to treat the Senator with the slightest discourtesy.

Mr. CLARK. Not the least.

Mr. MASON. I will answer with great pleasure any question in my power. I assumed, in the course of my speech to-day, that the African slave stood to the general law of the country, meaning the common law, exactly in the relation of any other property; that it required no law to create it, it required no law to regulate it, and no law to protect it; no more than it required a law to create slavery in an ox, or to regulate or protect it. Now, if the honorable Senator asks me on what ground I place the law of slavery, I would remit him at once to the common law, which recognizes such a thing as property. The honorable Senator from Maine referred to the first interview that took place between the Deity and the first man, and he said that was Blackstone's theory. I would not interfere with it, for that was what I understood to be the higher law. We know that cannot be administered on earth, except by a theologian.

Mr. CLARK. I will state my purpose in asking the question of the Senator, to show what I mean. I understood him distinctly to state that slavery was grounded on the common law, or existed by the common law. I am prepared with authority after authority, from 1694 down to the present time, in England; I am prepared with authority after authority in our State courts; I am prepared with the authority of the United States courts, that slavery does not exist by the common law. I am prepared to prove that it does not exist by the law of nations, and I wanted to be prepared for any other point on which the gentleman rested. That was the reason of my question.

Mr. MASON. Will the gentleman allow me to put a question to him?

Mr. CLARK. Certainly I will do so.

Mr. MASON. Suppose a man should come here from Liverpool, and bring with him a valuable horse worth \$10,000, and that horse were to be taken from him by the hand of violence, would not our courts interpose to recover his horse for him? and would it not be because it was recognized as the property of the man who brought it here? I want to know upon what law on the continent of America you recognize the property of the Englishman who brought the horse over; to what do you trace it? My position was, that the common law recognized property in whatever was property coming from another nation, and when these negroes were brought from Africa, the condition of property attached to them in Africa was recognized by the common law. Precisely as the law of nations recognized property in the horse, the common law here gave property in the horse; the common law so recognized it, be it a horse or an ox.

Mr. CLARK. I understood the gentleman to start with a question, but he wound up with some assertion and an argument. I do not know whether he wishes me to answer the question or not. If he does, I will say to him that the common law recognized property in a horse, but I will also state to him distinctly, and prove it before I get through, that the common law does not recognize property in man, and I think I shall make the distinction broad and clear.

Mr. MASON. If you prove that, you will refute my proposition.

Mr. CLARK. I do not understand all the Senator says.

Mr. MASON. I say if you prove that the

common law does not recognize property in a slave, you will refute my proposition.

Mr. CLARK. Yes; I think I shall. I shall endeavor to do it. I have not a doubt of where I come to, if I succeed.

Mr. MASON. I do not fear it.

Mr. CLARK. I know the gentleman does not fear anything. I do not wish that he should fear anything I should say. It is not my purpose to say anything that would put him, myself, or anybody else in fear. We are here for the purpose of discussion; and if it be the pleasure of the Senate and of the honorable Senator, I will pursue the line of argument which I had proposed to myself here.

I want to take my departure on this voyage from a port in the Constitution, and I want to be clearly understood; because I shall differ materially from many gentlemen that have spoken before. I may advance some new ideas—ideas which have not been referred to; but I wish to say I commit nobody around me—not one man in this Senate—to anything that I may have to say. If it is heterodox, I say it on my own responsibility. If it is orthodox, I say it on authority which I have about me. I do not know that anybody will agree with me, except the Senator from Connecticut, [Mr. Foster,] in one part, because he has already foreshadowed his principles in that particular, and on that we agree.

But some things are taken for granted that seem to have been passed in silence, which I am going to controvert. One of them was the position taken by the Senator from Virginia, [Mr. MASON,] and it was also taken by the Senator from Virginia, [Mr. HUNTER,] in his speech yesterday, that we have no right, in discussing this matter, to look into the Lecompton constitution any further than to see that it is republican. I deny it entirely. I claim the right to look that constitution in the face, to look at it from the top of its head to the sole of its foot, to examine it thoroughly, to pass my judgment upon it deliberately as a Senator of the United States, and to say whether, upon an examination of that constitution—not alone, but with other things, (or alone, if I please)—I will admit Kansas under that constitution, or not. I start in the proof of what I have to say, with the Constitution of the United States. Here is the article, and here is the point of my departure:

"Sec. 3, article 4. New States may be admitted by the Congress into this Union."

New States may be admitted, Mr. President. That implies, if Congress pleases. They may be admitted by Congress, and they may not be admitted by Congress, where Congress pleases not to admit them. That is a matter left to the sound discretion of Congress to judge of it when a State proposes to come in, not only with reference to the new States, but with reference to the old States; to examine the constitution which she brings; to examine the institutions under which she comes; and if they find anything in the constitution of the new State which is derogatory or injurious to the old States, which is derogatory to the institutions under which we live, which mars the prosperity of the new State even, then we have the right to look into that constitution and reject her if we choose. If this were not so, our discretion would be limited; but in the Constitution there are only two or three limits, and then the whole matter is left in the sound discretion of Congress. In this very section we find, first:

"New States may be admitted by the Congress into this Union."

What next:

"—but no new State shall be formed or erected within the jurisdiction of any other State;"

There is one limitation. Congress may admit new States, but shall not make a new State out of another State. That fixes that point. It then goes on:

"—nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

Here are two limitations. Congress may admit new States, or may not; but they shall not erect a new State within the jurisdiction of another State; nor form a new State out of two or more States, without the consent of the Legislatures of those States as well as of Congress. Is there anything further? When you get a little further on, to sec-

tion four, you find this provision: "Congress shall guaranty?" No, sir, Congress does not guaranty. Congress may admit new States, but Congress does not guaranty:

"The United States shall guaranty to every State in this Union a republican form of government."

Not alone the new State which is admitted; but the United States may guaranty, and shall guaranty, a republican form of constitution to all the States.

Now, Mr. President, there are three limitations put by the Constitution upon the admission of new States. There are no others; and, as I contend, the whole matter rests in the discretion of Congress whether to admit new States or not. Upon this point, that the power rests in the Congress of the United States, and in their sound discretion, I have an authority. I do not regard it as very binding authority. I do not acknowledge its validity to the whole extent to which it goes, but I will take it for what it is worth, and honorable Senators may do so too. It is the decision of the Supreme Court in the Dred Scott case. I will read from it. Speaking of territory, it says:

"It is acquired to become a State, and not to be held as a colony and governed by Congress with absolute authority; and as the propriety of admitting a new State is committed to the sound discretion of Congress."

Mark the language. The propriety of admitting a new State is committed to the sound discretion of Congress.

Here it is laid down, in this very Dred Scott decision, that Congress have the power, that Congress have the authority committed to their sound discretion, with three limitations placed upon it by the Constitution, and no others: first, that they shall not erect a new State within an old State; second, that they shall not form a new State out of two or more States without the consent of the Legislatures of the States as well as of Congress; third, that the United States shall guaranty a republican constitution. Now, I desire to speak for a few moments upon this clause of the Constitution, that Congress shall guaranty—no, sir, I use the phrase incorrectly—that the United States shall guaranty to every State in this Union a republican form of government.

Mr. BENJAMIN. I will state to the Senator that the form of government and the constitution are two things. The Constitution of the United States guaranties that the form of government shall be republican. It does not speak of the constitution of the State.

Mr. CLARK. I know that it does not say anything in regard to the States having a republican constitution. I use the two terms as synonymous, but the phraseology is peculiar:

"The United States shall guaranty to every State in this Union a republican form of government."

I contend that a State might come into the Union without a constitution, [Mr. BENJAMIN. Certainly.] and have a republican form of government. Then look at the history of that provision of the Constitution. It was a provision adopted by the convention which framed this Constitution, as well for the old as for the new States. It was for the security of those old States as well as for the admission of the new, because it was seen by those wise men who framed this Constitution that there might be intestine division; the constitution of a State might be overthrown, its form of government overthrown, and a form not republican might be established. In order to prevent the mischief which would flow to the several States from such a state of things, a provision was inserted that the Constitution should guaranty a republican form of government to the States. Now, if, in Virginia, it could happen that the constitution or form of government, which is republican, should be overthrown in that old State, the United States would be pledged to interfere, and guaranty to them a republican form of government; because it is not according to the theory of our Government, nor the genius of our institutions, to have a monarchical government, or any other form of government than a republican government, in any of the States. Mr. President, I draw another inference, that such is the conclusion on a fair interpretation of this article from the position in which it is placed. Section four is in these words:

"The United States shall guaranty to every State in the

Union a republican form of government, and shall protect each of them from invasion; and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

The whole section was framed for the purpose of suppressing violence or irregularities leading to the overthrow of a republican form of government in any State of this Union. Such, it is evident, was its design, from the history of the provision. I have here the Madison Papers. They are the history, as you, sir, and honorable Senators well know, of the debates which took place in the convention which adopted the Constitution. I find here the provision guarantying a republican form of Government to all the States by the United States, in the original draft which was presented by Mr. Randolph, of Virginia, to the convention. It may be useful, Mr. President, to look at the history of these matters. You can get the meaning, the force, and the application of these various provisions of the Constitution better by studying their history and their alteration from time to time, as they passed through the convention, than in almost any other way. You see the source from which they came, you see the object for which they were offered, you see the various modifications which took place as they went along; and then it enables you to judge of the precise bearing they may have. I have before me the second volume of the Madison Papers; and I find in this volume that Mr. Edmund Randolph, of Virginia, opened the main business of the convention. He came forward with a plan of government, which had in it especially these two provisions of the Constitution: That the Congress may admit new States; and that the United States shall guaranty to every State of this Union a republican form of government. They were in his original plan. They were, I think, in the plan of Mr. Charles Pinckney, presented afterwards; but I wish only to call your attention, Mr. President, to the original form, that you may see what was the draft, what was the object, and what was the intention of those who brought it into the convention. It stood then, not as it stands now; but it was the eleventh provision of Mr. Randolph's plan:

"Resolved, That a republican form of government, and the Territory of each State, except in the instance of a voluntary junction of government and territory, ought to be guarantied by the United States to each State."

Here was the object. There was then a controversy going on in regard to the boundaries of States. Virginia made large claims to territory; New York made large claims to territory; other States made large claims to territory. The object of this resolution was not entirely to procure a guaranty of its form of government to each State, but it was to procure the guaranty of its territory as well, to bring in the United States to defend and maintain all the boundaries which Virginia had a lawful right to. But before the debate on this proposition got through, it was suggested in convention that Congress ought not to be committed to a quarrel about territory, and hence that provision was struck out. It then went on further to say:

"That Congress shall guaranty a republican form of government."

Then, a little further, it was changed to read in this way:

"Resolved, That a republican constitution, and its existing laws, ought to be guarantied to each State by the United States."

That was the form it once assumed. It was said by some member of the convention, that he would not like to guaranty the laws of Rhode Island, which held a charter under the crown. Some further objection was made, and they struck it out. It was for the protection, safety, and tranquillity of the old States, that it was put in here, and not with a direct reference to the new States. I think Senators go beyond the warranty of the Constitution, they go too far, when they say that this provision was adopted with reference to the new States alone, if they do say so. I am not certain that anybody has said that distinctly, but everybody who has spoken seems to construe it as peculiarly applicable to the new States, and that Congress have no further discretion than to say, that every form of government is republican. I contend that we have a right to go much further, and I propose to go much fur-

ther in this debate. I propose to look at the Lecompton constitution from its beginning to its end. I propose to discuss its provisions. I propose to say why I object to them, and if I can persuade Senators that my objections are well founded, to do so. I have, I think, a clear right to do so.

It will appear further, Mr. President, that this provision that Congress may admit new States, was not intended to cramp the discretion of Congress, but to leave the whole matter to the sound discretion of the Congress of the United States, as is evident from the history of this provision: Congress may admit new States into the Union. Keep the language, Mr. President, if you please, in your mind. That was a part of Mr. Randolph's plan, not precisely as it stands there, but in these words:

"Resolved, That provision ought to be made for the admission of States lawfully arising within the limits of the United States."

It was not contemplated by anybody, when this provision was brought into the convention, nor when it was adopted, as far as I have been able to trace, that we were to take territory beyond the then territory of the United States, and make new States. It was not proposed; and hence this proposition said, in the original draft, that—

"Provision ought to be made for the admission of States lawfully arising within the limits of the United States"—

—not out of it—

—whether from voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the National Legislature less than the whole."

Now I want to call the attention of honorable Senators to the history of this provision. It shows distinctly what was its meaning, and what was intended by it. Congress may admit new States. The original proposition was that they should admit them out of the then territory of the United States. Then it went further: there was a proposition before the convention that Congress should admit new States out of the territory of the United States upon an equality with the old States. Does anybody pretend, will anybody say, that Congress has the right to admit a new State on a different footing from the old States? I do not say that; yet I will prove to you, from the history of these debates, and from the various modifications that were made to this provision of the constitution, that that provision for putting new States on an equality with the old States was struck out of that provision upon deliberation and upon motion for the very purpose of bringing in new States if they chose, not upon an equality with the old States. I will not go through all the various forms this provision assumed as it traveled through the convention. I will call your attention directly to the point I have in mind. At one time in the progress of this debate, the proposition in regard to new States assumed this form, that Congress may admit new States into the Union:

"If the admission be consented to, the new States shall be admitted on the same terms with the original States."

Here was a proposition distinctly made to tie down the discretion of Congress to the footing of the old States; that they should not have the power to admit a new State, unless it came in on the footing of the old States. I am not contending, and do not let me be so understood, that it would be wise; I will not even contend here that Congress has the power, for that is not my purpose, that is not what I am after; I will not contend that it would be wise, neither will I contend that Congress has power, to admit a new State except on an equal footing with the old States. What I am after, is to show that there was a provision in the original draft of the Constitution, and upon deliberation, upon motion, upon argument *pro* and *con.*, the convention struck it out, for the very purpose of bringing the western States into the government on a different footing. Let me read from these debates. They are very instructive:

"Article seventeenth being then taken up"—

—which is this in regard to the new States—

"Mr. Gouverneur Morris moved to strike out the two last sentences, to wit: 'if the admission be consented to, the new States shall be admitted on the same terms with the original States.'"

Gouverneur Morris, of Pennsylvania, moved to strike out that provision. He did not like it; he did not want new States to come in on an equal

footing. I will show you, because the debate shows it, that he also moved to strike out the further provision:

"But the Legislature may make conditions with the new States concerning the public debt which shall then be subsisting."

This is the reason he gave for his motion:

"He did not wish to bind down the Legislature to admit western States on the terms here stated."

That is, on equal terms. He did not want to bind Congress to do it. They should have a discretion.

"Mr. Madison opposed the motion; insisting that the western States neither would nor ought to submit to a union which degraded them from an equal rank with the other States."

I think there is force in the objection. The old States were fearful that the new States formed in the western Territories would grow into a large representation; and it might be they would be able to out-vote the old States by and by, as they are very likely to do, if they have not already done so. He was fearful of that.

"Mr. Madison opposed the motion; insisting that the western States neither would nor ought to submit to a union which degraded them from an equal rank with the other States."

"Colonel Mason. If it were possible, by just means, to prevent emigration to the western country, it might be good policy."

It was not designed then to fill up the western country with emigrant people from the old States, and make States so fast. There was no idea of having them control the thirteen old States. If you would prevent emigration, said Colonel Mason, it would be good policy:

"But go the people will, as they find it for their interest; and the best policy is to treat them with that equality which will make them friends, not enemies."

"Mr. Gouverneur Morris did not mean to discourage the growth of the western country. He knew that to be impossible. He did not wish, however, to throw the power into their hands."

"Mr. Sherman was against the motion, and for fixing an equality of privileges by the constitution."

He was in favor of striking out, but he was for fixing an equality in the constitution:

"Mr. Langdon was in favor of the motion."

The President of the Senate of the First Congress, from New Hampshire, Mr. Langdon, was in favor of the motion:

"He did not know but circumstances might arise, which would render it inconvenient to admit new States on terms of equality."

"Mr. Williamson was for leaving the Legislature free. The existing small States enjoy an equality now, and for that reason are admitted to it in the Senate. This reason is not applicable to new western States."

On Gouverneur Morris's motion, the question being fairly put: Shall that provision confining them to an equality with the old States be stricken out? New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, all voted "ay" to strike it out. We do not want new States upon an equality. We want them under control, so that we can fix them as we please. If their representation is going to overshadow ours we want to limit it. But when they came to adopt a constitution afterwards, they fixed the equality of representation, which, it seems to me, controlled the whole matter on that point. On the motion to strike out, there were nine in favor of it, and two against it, from Maryland and Virginia.

It seems to me conclusively shown, by this history of the provision, that the whole matter, whether we should admit new States on an equality with the old States, was left to the sound discretion of Congress. Congress was to say whether it would admit them. Congress was the Legislature for the thirteen old States. It could examine the situation of those old States; it knew their wants; it knew their requirements, and could say whether new States should come in better than any other body. The whole matter was left in the discretion of Congress. I do not say that that is to be an arbitrary discretion; I do not say that it is to be just as this or that man supposes; but I do say it is to be an exercise of sound discretion—such a discretion as honorable Senators and honorable members of the House of Representatives might be supposed to exercise, governed by all the considerations that enter into so momentous a question; governed by those various considerations as to the position, as to the

climate; as to the trade, as to the occupation, as to the number of people, and as to the character of the people of the new States with reference to the old States.

Why, sir, in the debate that has taken place on this subject, honorable Senators seemed to have supposed that a new State had nothing to do but form a constitution just as she pleased, and provided it was republican in its form—nay, provided it had a republican form of government—that she was entitled to come into the Union. Suppose a State comes here, asking admission, with Brigham Young's notion of polygamy; she has a government republican in form, with a Senate and House of Representatives, governed by the election of the people, by those who make laws; with a government republican in form—that is it—not republican in sentiment, not in provision, but in form: you cannot look any further, according to this doctrine; you cannot see what baggage it brought with it; and you might have a State with the institution of polygamy located by the side of an older State: to whom it was very offensive. Suppose a State comes here with a constitution providing that no murder shall ever be punished in the new State: what then? It is hardly a supposable case; but supposing that it had a Senate and House of Representatives and Council, and all the forms of a republican government, and yet a provision that no murder should ever be punished in that State: you cannot look into it—that is the argument—because there is no power under the Constitution except to see that it has a republican form of government. Suppose it tolerated robbery, and should say no robbery should ever be punished: then, if it is republican in form, with a Senate, House of Representatives, all the paraphernalia, all the machinery, all the form, you cannot look into it! What have you to do with robbery in a State? You are only to look into the constitution and guaranty the State a republican form of government. That is all you can do. Well, suppose the constitution of a State contains a provision that no larceny should ever be punished there, and that the government is republican in form, with its Senate and its House: why, sir, if it come with all the iniquity ever dreamed of unpunished—yea, with a provision that it should not be punished in that State; still, if it was republican in its form of government, you have to take it, if that is the doctrine.

I do not believe Congress is tied up in the Constitution in any such way. I believe we have power, if Brigham Young comes here with a constitution tolerating polygamy, to say to Brigham Young, you cannot come into this family with your wives. I believe if any State should come here tolerating murder, robbery, or larceny, we have a right to say that we shall not admit a State allowing those crimes, into this Union. Then I go a step further, and say—

Mr. BIGGS. Does the Senator from New Hampshire assimilate murder, robbery, larceny, and polygamy, with slavery?

Mr. CLARK. I have not done that. I am taking the case of a State coming here allowing the most enormous crimes. I was just going to say—I should have said it if the gentleman had not interrupted me, but I will say it now—that if a State comes here with slavery, which takes the life of a man, which robs him of his labor and liberty, as well as all that belongs to a man, we have a right to look into it. I assimilate it to nothing. I do not know that that institution is like anything else in the world. I hope to God it is not.

Mr. BIGGS. It is an institution that formed a part of the social system of every State in the United States at the formation of the Constitution.

Mr. CLARK. He goes too far in his statement; but still I condemn it because it is disreputable to the Government. The fact that it then generally existed does not make it right.

Mr. BIGGS. Then you are against the Constitution.

Mr. CLARK. No, sir; I am not against the Constitution. I say there are some things in the Constitution which I wish were not there. I am not disposed to extend them, and I will not vote to extend them. That is the position I assume. I had nothing to do with the formation of the Constitution. Its responsibilities, its needs, its requirements, rest somewhere else. I am to deal

with the extension of that institution. Its original adoption is one thing; its extension another. I deal with its extension. The question is not whether it went into the thirteen old States. The question is whether it shall go into Kansas. To that I am opposed. I do not hesitate to say it. I say to the honorable Senator just as the Senator from Ohio [Mr. WADE] said this forenoon, I will not vote for the admission of Kansas under that constitution, because it does contain a provision for slavery. I do not mean by that assertion to exclude every other objection to it. I have a good many. I stand there square and fair, committing nobody but myself, and to that I mean to be committed. I wish it to be understood that I will not vote to extend slavery into Kansas.

Mr. BIGGS. Or any other State that may apply for admission.

Mr. CLARK. I have not said that. I do not know what cases may arise. It is the part of wisdom of a prudent man to judge of cases when they arise. When another State comes here I will judge of her constitution and of her position in the attitude in which she stands here. I judge of Kansas now; with Kansas alone am I dealing. I think the issue is sufficient, and I want to show the honorable Senator from Louisiana, [Mr. BENJAMIN,] that, though other Senators have sought to avoid and conceal the issue, I have not done so. I will not seek to conceal the issue. I say to that honorable Senator, I say to anybody that hears me, that the people of my State are deadly opposed to that institution, and I am here their representative. Nay, sir, I will go further: I will say that the course of the United States Government upon the question of slavery put my colleague and myself here, and we shall maintain the issue which has been committed to our hands, faithfully and fearlessly. We have no threats, no taunts, no ill-feelings to anybody. I make no war upon any State where slavery exists. I do not go into the matter with Delaware or Virginia; they have it; let them take care of it. They have it in Missouri and Georgia; I make no war upon it there; I say nothing about it there; but when asked to extend that institution, I say I am not going to do it. Now, Mr. President, I shall give my reasons why I shall not so vote.

If, however, it be the pleasure of the Senate to adjourn now, it would be very agreeable to me. I have had nothing to eat since eight o'clock; either bread nor anything else.

Mr. HALE. It is now six o'clock.

Mr. SIMMONS. If the Senator will give way I move that the Senate adjourn.

Mr. JOHNSON, of Arkansas, called for the yeas and nays, and they were ordered.

Mr. WILSON. I wish to state that the Senator from New York [Mr. SEWARD] has paired off with the Senator from South Carolina, [Mr. HAMMOND.]

Mr. FITCH. My colleague, Mr. BRIGHT, and the Senator from Tennessee [Mr. BELL] paired off for a short time.

Mr. JOHNSON, of Arkansas. I am requested by the Senator from Maryland [Mr. KENNEDY] to state that he paired off, until seven o'clock, with the Senator from California, [Mr. BRODERICK.]

The question being taken by yeas and nays, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Chandler, Clark, Crittenden, Fessenden, Foster, Hale, Hamlin, Harlan, King, Pugh, Simmons, Wade, and Wilson—13.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Fitch, Green, Gwin, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Sebastian, Sidel, Thomson of New Jersey, Toombs, and Wright—22.

So the Senate refused to adjourn.

Mr. CLARK. Mr. President—

Mr. BROWN. If the Senator will allow me, I will ask leave to introduce a resolution. If any objection be made, of course I will not ask for its consideration:

Resolved, That, after to-day, the Senate will meet at eleven o'clock, and sit until five, p. m., and then take a recess of two hours, until the bill now before the Senate be disposed of.

The VICE PRESIDENT. Is there objection to the resolution?

Mr. PUGH. I would rather that it should lie over. The Senator can call it up to-morrow, when we can consider it.

The VICE PRESIDENT. The resolution can only be introduced by general consent, and lie over. If there be no objection, it will lie over. The Chair hears none.

Mr. CLARK. I am only sorry, Mr. President, that I asked the indulgence of the Senate until to-morrow morning. I will endeavor to go along with my argument. I can only assure Senators who voted against the motion, not in the way of any threat, that I propose to proceed; and, although I am hoarse, and it will be uncomfortable to speak, and may be uncomfortable for them to hear, as I am sure it will, I will endeavor to continue my argument.

I now say that I am opposed to the admission of Kansas as a slave State, because the constitution of that State proposes to carry slavery where the common law did not carry it. This brings me to my reply to the authorities cited by the gentleman from Virginia, [Mr. MASON;] and also to the argument of the gentleman from Louisiana, [Mr. BENJAMIN;] for I think I shall be able to show, though the argument of the gentleman from Louisiana was very able, though his tongue was very eloquent, and though he cited numerous authorities, that the weight of authority, the current of decision, and the force of those decisions are entirely to the point in this country, and in England conclusive, that slavery did not exist by the common law. I am about to begin with the earliest case that I can find. I am going to comment upon each case as it proceeds. It may be tedious; but it is the only way in which I shall be able to relieve myself from the position in which I am, because I can here refer to authority and read from books.

The first case that I find bearing upon this point is to be found in Levinz's Reports. It was as early as the 29th Charles II. It was the case of Butts against Penny—the same case which was cited here, I suppose, by the gentleman from Louisiana. It was a case of

"Trover for one hundred negroes, and upon non culp. it was found by special verdict, that the negroes being infidels, and the subjects of an infidel prince, and are usually bought and sold in America as merchandise by the custom of merchants, and that the plaintiff bought these, and was in possession of them until the defendant took them. And Thompson argued, there could be no property in the person of a man sufficient to maintain trover, and cited Co. Lit. 116."

Here you see the doctrine clearly so long ago as the reign of Charles II, that there was no property in man.

"That no property could be in villains but by compact or conquest. But the court held, that negroes being usually bought and sold among merchants as merchandise, and also being infidels, there might be a property in them sufficient to maintain trover, and gave judgment for the plaintiff, nisi causa, this term; and at the end of the term, upon the prayer of the Attorney General to be heard as to this matter, Day was given until next term."

The case never proceeded to judgment. No judgment was rendered upon it, and it is no authority one way or the other. There was a special verdict found, and then time given for showing the cause; and there the matter ended as appears by the report here and in other cases.

That is the first case which I find. The next, Mr. President, is to be found in Lord Raymond's Reports. It is the case of Chamberlain vs. Harvey 8 & 9 William III., before the year 1700—more than seventy years before the Somerset case, which the Senator from Louisiana says was a piece of judicial legislation. It was not new in the history of England at any time.

"Trespass for taking of a negro *proletus*, 100l. The jury find a special verdict; that the father of the plaintiff was possessed of this negro, and of such a manor in Barbadoes, and that there is a law in that country which makes the negro part of the real estate; that the father died seized, whereby the manor descended to the plaintiff as son and heir, and that he endowed his mother of this negro and of a third part of the manor; that the mother married Watkins, who brought the negro into England, where he was baptized without the knowledge of the mother; that Watkins and his wife are dead, and that the negro continued several years in England; that the defendant seized him, &c. And after argument at the bar several times by Sir Bartholomew Shower of the one side and Mr. Deane of the other, this term, it was adjudged that this action will not lie. Trespass will lie for taking of an apprentice, or *hæredum apparentum*. An abbot might maintain trespass for his monk; and any man may maintain trespass for another; if he declares with a *per quod servitium amisit*; but it will not lie in this case. And per Holt, Chief Justice, trover will not lie for a negro."

I find here also a reference to a case which I have been unable to find, between Gelly and Cleve, in which it was adjudged that trover will lie for a

negro boy. I mention it because I desire to state authorities fairly. I desire that all shall be presented so that we shall be able to judge how the common law of England was. In a case immediately after this one between Gelly and Cleve, it was adjudged that trover would not lie for a negro slave.

The next case which I have found is in 2 Lord Raymond's Reports. It is the case of *Smith vs. Gould*. It is also to be found in 2 Salkeld, page 666. It has been quoted on the other side, but, if I understand it, its authority is the other way clearly. The caption is:

"Trover does not lie for a negro. Where several damages are given for several injuries, the judgment may be arrested as to some of them only."

That does not refer to the point.

"In an action of trover for a negro, and several goods, the defendant let judgment go by default, and the writ of inquiry of damages was executed before the Lord Chief Justice Holt, at Guildhall, in London. Upon which the jury gave several damages, as to the goods, and the negro; and a motion as to the negro was made in arrest of judgment, that trover could not lie for it, because one could not have such a property in another as to maintain this action."

That is the ground. Let me read it again:

"That trover could not lie for it, because one could not have such a property in another as to maintain this action."

The report continues:

"Mr. Salkeld, for the plaintiff, argued that a negro was a chattel by the law of the Plantations, and therefore trover would lie for him."

He did not, let me observe, contend that trover would lie by the law of England; but that trover would lie by the law of the Plantations.

"That, by the Levitical law, the master had power to kill his slave, and in Exodus, chapter xx., verse 21, it is said he is but the master's money; that, if a lord confines his villain, this court cannot set him at liberty, (Fitz., Villain, 5.)"

And he relied on the case of Butts and Penny, (2 Lev., 201; 3 Keb., 785,) the one I have just cited, in which no judgment was given.

"As in point, where it was held, trover would lie for negroes. *Sed non allocatur*. For *per totam curiam* this action does not lie for a negro no more than for any other man."

That is distinct and emphatic language; and this was in 5 Anne—I think in 1703, sixty-nine years before the *Sommersett* case. The whole court—nobody dissented—held distinctly that trover would not lie for a negro no more than for any other man. The honorable Senator from Louisiana said that the *Sommersett* case was a piece of judicial legislation by Lord Mansfield. Here is the same thing sixty-nine years before that case, that trover will not lie for a negro any more than for any other man. It goes on—and I want to call the honorable Senator's attention to this reasoning of the court:

"This action does not lie for a negro no more than for any other man; for the common law takes no notice of negroes being different from other men."

That is the point in this book, that by the common law negroes are like other men. Then the court go on to say:

"By the common law no man can have a property in another?"

remember, this is in 1703—

—"but in special cases, as in a villain!"

villainage then existed—

—"but even in him not to kill him; so in captives took in war, but the taker cannot kill them, but may sell them to ransom them."

But the court go on to say:

"There is no such thing as a slave by the law of England."

This was delivered in 1703, sixty-nine years, as I said before, before that piece of judicial legislation by Lord Mansfield:

"And if a man's servant is took from him, the master cannot maintain an action for taking him, unless it is laid *per quod servitium amittit*."

Mr. BENJAMIN. If the gentleman will allow me, I will observe that the question discussed in that decision is a mere technical question as to the forms of action; it is not a question as to the master's right of property.

Mr. CLARK. Then I do not understand it, when the court say that an action of trover does not lie for a negro more than any other man. Can he make trover lie for a white man unless he were a villain at that time?

Mr. BENJAMIN. It would lie for a villain no more than it would for a negro. That case is

in regard to the form of action. The chief justice goes on to say, if you want to sue for a slave, put it on the ground that you have lost his labor. That is the form of the action you can bring.

Mr. CLARK. I differ entirely with the Senator from Louisiana, because then you allow the slave to stand upon the ground of a freeman. You can bring an action for his labor.

Mr. FOSTER. Yes; as a father may sue for the service of his son.

Mr. CLARK. Yes, sir, that is the ground on which you stand. But the court say, in this very case, that there is no property in man; that the law in England does not recognize property in a slave. That is the very point: whether, by the common law, slavery existed in England? and in this very case it was decided that the common law does not recognize slavery. It is a vain attempt to shove it on technicalities. It is fair and square, open and patent.

I now come to the *Sommersett* case. I cite that, not to be tedious; not because I suppose it is not well understood; but to show that Lord Mansfield considered in his argument the very cases which the Senator from Louisiana has so eloquently commented upon. The Senator from Louisiana talks about the opinion of Sir Philip Yorke, and the decision of Lord Hardwick afterwards. I state here, and will show in the *Sommersett* case, that in the reasoning of the court, the court were aware of it, and overruled it; and said they could not allow any force to it. I will read the opinion of Lord Mansfield. He says:

"We pay all due attention to the opinion of Sir Philip Yorke and Lord Chief Justice Talbot."

Mr. FESSENDEN. What book are you reading from?

Mr. CLARK. Loft's Reports, 12 George III. I am now reading from the *Sommersett* case, in 1772, which is to be found on the 19th page:

"We pay all due attention to the opinion of Sir Philip Yorke and Lord Chief Justice Talbot whereby they pledged themselves to the British planters, for all the legal consequences of slaves coming over to this kingdom, or being baptized, recognized by Lord Hardwick, sitting as Chancellor, on the 19th of October, 1749, that trover would lie: that a notion had prevailed, if a negro came over, or became a Christian, he was emancipated, but no ground in law; that he and Lord Talbot, when Attorney and Solicitor General, were of opinion that no such claim for freedom was valid; that though the statute of tithes had abolished villenage regardant to a manor, yet he did not conceive but that a man might still become a villain in gross, by confessing himself such in open court."

Then said Lord Mansfield:

"We are so well agreed that we think there is no occasion of having it argued (as I intimated an intention at first) before all the judges, as is usual, for obvious reasons, on a return to a *habeas corpus*; the only question before us is, whether the cause on the return is sufficient? If it is, the negro must be remanded; if it is not, he must be discharged. Accordingly, the return states that the slave departed and refused to serve; whereupon he was kept, to be sold abroad. So high an act of dominion must be recognized by the law of the country where it is used. The power of a master over his slave has been extremely different, in different countries. The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political; but only positive law, which preserves its force long after the reasons, occasion, and time itself, is erased from memory. It is so odious that nothing can be suffered to support it but positive law. Whatever inconveniences, therefore, may follow from a decision, I cannot say this case is allowed or approved by the law of England: and therefore the black must be discharged."

Mr. BENJAMIN. Will the Senator permit me to ask if Lord Mansfield does not say, in that very decision, that there were then many thousand pounds' worth of slaves in England?

Mr. CLARK. I will read it all and see. This is Lord Mansfield:

"On the part of *Sommersett*, the case which we gave notice shall be decided this day, the court now proceeds to give its opinion. I shall recite the return to the writ of *habeas corpus*, as the ground of our determination, omitting only words of form. The captain of the ship on board of which the negro was taken makes his return to the writ in terms signifying that there have been, and still are, slaves to a great number in Africa; and that the trade in them is authorized by the laws and opinions of Virginia and Jamaica; that they are goods and chattels, and, as such, salable and sold. That James Sommersett is a negro of Africa, and, long before the return of the King's writ, was brought to be sold, and was sold to Charles Stewart, Esq., then in Jamaica, and has not been manumitted since; that Mr. Stewart, having occasion to transact business, came over hither, with an intention to return, and brought Sommersett to attend and abide with him, and to carry him back as soon as the business should be transacted. That such intention has been, and still continues; and that the negro did remain till the time of his departure, in the service of his master, Mr. Stewart, and quitted it without his consent; and thereupon, before

the return of the King's writ, the said Charles Stewart did commit the slave on board the *Ann and Mary*, to save custody, to be kept till he should set sail, and then to be taken with him to Jamaica, and there sold as a slave. And this is the cause why he, Captain Knowles, who was then, and now is, commander of the above vessel, then and now lying in the river Thames, did the said negro, committed to his custody, detain, and on which he now renders him to the orders of the court."

I have now read up to the point where I commenced in the first instance, and I find nothing of that to which the gentleman alludes.

Mr. BENJAMIN. I will state, then, that that is an imperfect report.

Mr. CLARK. I do not think it is.

Mr. BENJAMIN. The whole of the decision will be found in 20 Howell's State Trials.

Mr. CLARK. I take it as it is here; and if I found anything in regard to what the Senator alludes to, I would read it. I did not select it because it did not contain such a provision; but on asking for the State Trials at the Library, I was told that it was not in, but that I should find the decision in this volume; and I took it.

The next case which I cite, is one in our own country. I have one further case to cite from England, but I propose to follow the order of time. I have cited a case in 1697. I have cited a case in 1703. There is no case intervening, that I am aware of, between that and the *Sommersett* case in 1772. I do not find any case after that, and I do not think the question was mooted after 1772 during that century. I do not say there were no other cases. I do not say that I have examined so thoroughly as I desire to. I have taken the cases as I found them, by the aids of such lights as were afforded me within the last few days. I come down now to our own country; and I find a case in the Kentucky Reports, in a slave State. It is the case of Rankin vs. Lydia, a slave. I do not propose to read the whole case, but I propose to read from the remarks of the court.

Mr. PUGH. If the Senator will allow me, I wish to read an extract from the *Sommersett* case on the point which was in issue between him and the Senator from Louisiana. It is in the argument:

"About fourteen thousand slaves are at present here in England."

Mr. CLARK. It may have been so. I do not know how the historical fact was. Negroes may have been there; but the case was not to be decided on the fact of negroes being in the country, but on the fact whether slavery existed there by law. It was not a decision of how many negroes there were in the country. It may have been that a great many were brought in, but that certainly was not the question before the court.

Mr. BENJAMIN. If the gentleman will permit me a moment, as I do not mean to make another speech, I will call his attention, not to break down the force of his argument, but to fortify what I have said, which was this: that slaves were recognized as merchandise, were daily sold in the public mart in London, when this decision was made; and the evidence that this decision was judicial legislation consisted in the fact that large masses were daily sold in London without question from the authorities under the opinion of the Solicitor General and the Attorney General, until Lord Mansfield, in *Sommersett's* case, declared that involuntary servitude could not exist, and destroyed property in about fifteen thousand slaves.

Mr. CLARK. They may have been sold by the merchants. I do not undertake to say how that was. I know that lottery tickets are sold daily, weekly, and monthly, in my State, contrary to law. Although I never bought a ticket in my life, and never shall, yet I get sent me almost every week a magnificent scheme, in which I am told to go to such a place in my own State to get the tickets.

Mr. BENJAMIN. Do they sell them at public auction?

Mr. CLARK. No, sir; but they sell them openly. You might as well justify Peter Funk auctions because they take place in the city of New York. This is the law we are discussing; not the practices of the English people, unless those practices have grown into custom and make law. When Lord Mansfield, or any other English judge, shall decide that so many slaves in England make the common law, then it will have

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force and effect, but not till then. You may tell me that American vessels go to Africa, and are there loaded with slaves, which are reeking with them, and come into our country, for aught I know; and yet the law here is, that the slave trade is piracy. I know a man may go outside of the law, but that does not alter the law.

I proceed to read from this opinion in 2 Marshall, p. 470, in the case of Rankin vs. Lydia:

"In deciding this question, we disclaim the influence of the general principles of liberty"—

the court was careful to do that—

"which we all admire, and conceive it ought to be decided by the law as it is, and not as it ought to be. Slavery is sanctioned by the laws of this State; and the right to hold them under our municipal regulations is unquestionable. But we view this as a right existing by positive law, of a municipal character, without foundation in the law of nature, or the unwritten and common law."

That is the decision of the State of Kentucky, that slavery did not stand upon the common law. Here, Mr. President, let me take a distinction; for I was not quite sure, by the argument of the honorable Senator from Louisiana, whether he meant to say, and confined his argument to, statute law, instead of positive law. I am not contending that slavery exists everywhere by statute law. That is the point. I say it exists only by positive or municipal law, or laws which may become positive and municipal by the force of custom, and grown up to be recognized as the positive laws of the land, but not from the common law. The court, in the decision of this case of Rankin vs. Lydia, say:

"But we view this as a right existing by positive law, of a municipal character, without foundation in the law of nature, or the unwritten and common law."

The next case to which I come, Mr. President, is one I think from the gentleman's own State. It is to be found in 2 Martin's Reports. I cite from the case of Lunsford vs. Coaquillon, page 402:

"The relation of owner and slave is, in the States of this Union, in which it has legal existence, a creature of municipal law."

Mr. BENJAMIN. There was a law in force in our State at the same time on the subject.

Mr. CLARK. The next case I shall cite is that of Forbes vs. Cochrane, to be found in 2 Barnewall and Cresswell's Reports, in which the judge says:

"I am of opinion, that according to the principles of the English law, the right to slaves, even in a country where such rights are recognized by law, must be considered as founded, not upon the law of nature, but upon the particular law of that country."

Mr. FESSENDEN. What case is that?

Mr. CLARK. The case of Forbes vs. Cochrane, page 462. I could cite a great many more cases like that.

I ought, before I go further, to comment a little upon the case of the slave Grace, but it does not go to show at all, as I understand it, that slavery existed by the common law. It was a case where a slave was brought from one of the West India islands, went to England, lived there a while and then went back, and then a suit was brought, not for the purpose of determining her freedom, but which was incidentally brought to the notice of the court, and the court held that however the law might be in England, that though she might be free there, if she brought an action for freedom, yet going back to the West Indies where slavery existed, and having for four years submitted herself voluntarily to that state of servitude, she was not entitled to freedom.

I come now to the case of Prigg vs. The Commonwealth of Pennsylvania. The same case was cited by the honorable Senator from Louisiana, and I was a little surprised, I must confess, when that honorable Senator took this case against the Commonwealth of Pennsylvania, which was, in fact, as he says, a case between the State of Maryland and the State of Pennsylvania, and read from it a portion of Judge McLean's opinion to sustain the view that he was taking, to wit: that the common law recognized slavery, or that it had not been abolished in this country.

Mr. BENJAMIN. I beg the gentleman's pardon. I quoted that for the purpose of establishing, in contradiction to the Senator from Maine, [Mr. Fessenden,] that slave property was guaranteed by the Constitution. I did not quote that upon the subject of the common law.

Mr. CLARK. I may be mistaken about the

precise point with which and for which the honorable Senator quoted. I dare say I am. I would not for a moment misrepresent him; but I will still say that while he had been so earnestly contending and citing authorities to show that the common law did recognize slavery; that it in fact brought it into this country; I was a little surprised, when he had this case of Prigg vs. The Commonwealth of Pennsylvania, in his hand, no matter for what purpose, nor to what precise point he cited it, and this very case follows the Somerset case, which he says was judicial legislation, in which the United States court decides that slavery only exists by municipal or positive law, that the honorable Senator did not read that portion to the Senate. It was not his purpose to do so. I find no fault because he did not. I only say it seemed to me a little singular that he should not have cited the authority of the highest court of the Union, when he launched out afterwards, I think, or before, no matter which, in so eloquent and so high a eulogium upon that court. In another particular I was a little surprised. When he commented upon the case of the slave Grace, decided by Lord Stowell, he read from some book—I do not understand from what—a letter from Mr. Justice Story approving of the decision in that case, and saying he would have decided it as Lord Stowell had decided it. Now, I want to say to the Senator that this case of Prigg vs. The Commonwealth of Pennsylvania, was decided when Mr. Justice Story was upon the bench; ay, sir, Mr. Justice Story himself, delivered the opinion of the court.

Mr. BENJAMIN. I said so.

Mr. CLARK. Did the honorable Senator say so the other day?

Mr. BENJAMIN. I did in my speech.

Mr. CLARK. On that point?

Mr. BENJAMIN. Yes.

Mr. CLARK. I understood him not to allude to that point at all. He may have said that Justice Story delivered the opinion of the court; but he did not tell the Senate that Mr. Justice Story decided that slavery existed only by positive municipal law. I think the gentleman will not say he said that.

Mr. BENJAMIN. I did not say that, because I never did understand him so to decide.

Mr. CLARK. Then we will read the decision. I will read first from the caption:

"By the general law of nations no nation is bound to recognize the state of slavery as to foreign slaves within its territorial dominions, when it is opposed to its own policy and institutions, in favor of the subjects of other nations where slavery is recognized. If it does it, it is as a matter of comity, and not as a matter of international right. The state of slavery is deemed to be a mere municipal regulation; founded upon—"

That is it—"founded upon." It is a very curious expression:

"—founded upon, and limited to the range of the territorial laws."

That is the law of the country where it exists. It is founded upon and limited to it. The gentleman would have the Senate infer that slavery came into the country by the force of the common law which extended itself all over the English colonies, and that that is a part of the birthright which we had. Mr. Justice Story says it is founded upon municipal regulation, and confined and limited to territorial law. That is the caption of the case. Let us see what the reasoning is, and what authority is cited to support it. Mr. Justice Story delivered the opinion of the court:

"By the general law of nations, no nation is bound to recognize the state of slavery."

I shall want to cite this presently, in further answer to the Senator from Virginia, who maintained, as I understood, that it existed by the laws of all Christian nations, or almost all; and therefore was to be recognized in this country. Mr. Chief Justice Story says:

"By the general law of nations, no nation is bound to recognize the state of slavery, as to foreign slaves within its territorial dominions, when it is in opposition to its own policy and institutions, in favor of the subjects of other nations where slavery is recognized. If it does it, it is as a matter of comity, and not as a matter of international right. The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial laws. This was fully recognized in Somerset's case, (Loft's Rep. 1; S. C. 11 State Trials by Hargr., 340; S. C. 20 Howell's State Trials, 79,) which was decided before the American Revolution."

That case settled the question as to the common

law, four years before the Declaration of Independence, so that if that was the true law of England, if that was the state of the common law, we did not take slavery by the common law, but we took it by the force of the territorial law. Judge Story, in this decision, continues:

"It is manifest from this consideration, that if the Constitution had not contained this clause—"

That is the clause in regard to fugitives.

"every non-slaveholding State in the Union would have been at liberty to have declared free all runaway slaves coming within its limits."

Now, Mr. President, I want to ask honorable Senators how this could have been under the Constitution, if the common law brought slavery here, if slavery existed by the common law, which was part of our birthright? If slavery came here by force of the common law, it was carried into every State of the Union where the common law went. What was the necessity of that provision, if by force of the common law the master could get his slave? It was in Pennsylvania as well as in Maryland; and when a slave went from under their statute law in Maryland, and got into Pennsylvania, he was still under the common law; he could not be a freeman because the common law would hold him. But understanding distinctly that the common law did not recognize slavery, the framers of the Constitution put in that provision, so that slaves should not be set free who escaped into a free State where the common law did exist, but which did not recognize slavery. They inserted that provision in the Constitution in order that fugitive slaves might be returned into the States from which they came.

This is the decision of the highest court of the nation. I do not know that it has ever been overruled, unless it was overruled by the Dred Scott opinion, and that does not overrule it in terms. Here is a case decided in 1842, fifteen years after the case of the slave Grace. It was not before the decision of that case, which the honorable Senator from Louisiana says Justice Story approved. It was fifteen years after that matter had been brought to his knowledge, and his attention had been turned to it. What is remarkable here is, that the court did not all concur in the reasoning of Mr. Justice Story; they did not all concur in all the points he made, and the other judges went on *separatim*, one after another, to give opinions and reasons, and yet not one of the judges dissented from Mr. Justice Story upon this point. They all concurred in it; and Mr. Chief Justice Taney, that now is, was then upon the bench when this case was decided, and he did not dissent from that part of it. I think there is not to be found, in Mr. Justice Taney's opinion, that there was a solitary dictum on which he dissented upon that part of Mr. Justice Story's opinion.

I have here another case. I am following the order of time. I have got up to the highest court of the nation. I am not beginning with the lower and going up to the higher by different grades of authority, but I am following the order of time. I have given the case of Prigg vs. The Commonwealth of Pennsylvania, in 1842. What is remarkable is that you find these cases as well in the slave States as everywhere else. I hold in my hand 9 Georgia Reports, in which I find a very remarkable case—that of Neal vs. Farmer—where the judge goes into the matter with great research and great learning. I should differ from him in some of his conclusions, for reasons which will be obvious when I come to read the opinion. This is a case in the State of Georgia, which is decided on the ground that slavery did not exist by the common law, but existed by the various statutes passed in England for the Colonies, and by the statutes passed by the Colonies themselves. The case was very maturely considered. I presume the honorable Senator from Louisiana has seen it, though I did not understand him to take any notice of it.

Mr. BENJAMIN. I will merely suggest to the gentleman that I can furnish him with a hundred cases to the same effect in the slave States.

Mr. CLARK. I dare say the gentleman is much more learned than I am upon this point. I dare say he might meet me two to one in bringing forward cases. I am not surprised, because it was not his object to show that slavery did not exist by the common law, but to show that it did,

that he left behind the hundred cases he said he could furnish, and brought the others.

The second note or point in the caption of this case in 9 Georgia Reports, 555, is this:

"African slavery held never to have existed in the Island of Great Britain by the common law, by statute, or by the law of nations."

The point made in this case was this: a negro had been killed, and the question material to decide was, whether that killing was felony or not. Counsel endeavored to show that slavery did exist by the common law, and that by the common law it was felony to kill a man; and therefore it was felony to kill the negro; but the court held the contrary, that slavery never did exist by the common law, nor by statute law in England, and passed a decision on that point. They afterwards go on to give the origin of slavery; and to that part of the case I shall address myself by and by. Let me say that here is a discussion of this decision of that other interesting subject which the Senator so complacently alluded to the other day, that of *villains regardant and villains in gross*. The whole doctrine was stated by the Senator, and he told the rest of the Senators where they could find it. Here it is, not in England, but in our own midst, in the State of Georgia, examined in connection with negro slavery in England, and a decision solemnly rendered that slavery does not exist by the common law. The court say further:

"We look in vain, certainly, to the common law for traces of Saxon slavery as an institution under its protection."

The opinion was delivered by Judge Nisbet:

"By the court—Nisbet, Judge, delivering the opinion."

"But I apprehend that a judge, sitting to determine what was the status of the slave under the common law, can derive from its consideration no light to guide him, because I consider that the common law recognizes but one species of slavery as having existed in England under its sanction, at any time, and that is *villainage*."

No other slavery existed by the common law in England, says the court, at any time. The court say further on in the opinion:

"The unconditional slavery of the African race, as it exists in Georgia, never did exist in Great Britain. I do not mean, of course, in the British Empire, but in the Island of Great Britain. It has never had a status under the common law."

Then the court, further on, say:

"I now consider the decisions of the English courts"—

The court reviewed all the English decisions on that point.

"—upon the subject of slavery, and I think it will be seen that slavery has never been recognized to exist there, under the common law. On the contrary, it is well settled, that the moment a slave, whether African, Indian, Jew, or Gentile, sets his foot upon British soil, he is a freeman, and entitled to the protection of the laws as such."

The court say in this case:

"The question is, did this fact recognize slavery in England, as an institution under the protection of the common law?"

That is, the fact that slavery was recognized by the law of nations. England had recognized slavery as a part of the law of nations, and the court go on to consider the question whether, having recognized slavery as a part of the law of nations, it made a part of her common law; and they say:

"The question is, did this fact recognize slavery in England as an institution under the protection of the common law? Clearly, it did not. The laws of nations are recognized by the municipal laws, and will be enforced upon the citizens and subjects of the States parties thereto, in all cases when a question arises which is the object of their jurisdiction. They are recognized by the common law. (4 Black. Com. C, &c.) The law of nations tolerated, but did not enjoin the slave trade. The obligation of England under it was, to respect the rights of those States engaged in it, within their own territories, and upon the high seas. Vessels engaged in the traffic were not liable to seizure and confiscation. Her subjects were also equally entitled to protection under the international law. I apprehend, however, that it is historically true, that neither by statute nor by usage has Great Britain ever availed herself of the license of the law of nations, to introduce slavery into the Island of Great Britain from Africa. In point of fact, pure slavery never did exist in England, neither by capture in war, by municipal authority, or by the law of nations. Had slaves been introduced into that part of her empire by municipal authority, or had they been introduced without municipal, that is, without statutory authority, under a trade sanctioned by the law of nations, the status of slavery would have been there just what it is here. Property in the slave, the right to control his person, his limbs, as Lord Coke expresses it, would have existed and fallen under the protection of the common law. To any correct view of this subject, it is indispensable to distinguish between Great Britain and her colonies. As to the latter, we know that slavery *there* did in fact exist, and was sanctioned by usage under the law of nations, and by

acts of Parliament: as to the former, we know that it did not exist *there*, and received no such sanction. How could, then, the common law attach upon the institution of slavery in the Island of Great Britain? The law of nations would have justified slavery in England, had it been there. But they did not create it there. Whether by the comity of nations the English courts are not bound to deliver a slave, coming into Great Britain from a State where slavery exists by law, to his rightful owner to be taken back, as was the demand in the *Somerset* case, is a different question. Lord Mansfield held that they are not.

"Nations being equal, the laws of one State have no operation in any other, *proprio vigore*."

Then the question arose before the court whether the recognition of slavery and the existence of slavery in the colonies, did not establish it in England; whether, from the fact that Parliament passed certain laws establishing slavery in the colonies, they did not carry it into England? As to that question, the court decide that it certainly did not; and they say:

"The recognition of slavery in the colonies did not establish it in England. This is the answer to the conclusion drawn by counsel. The statutes of Great Britain do not apply to the colonies, unless expressly extended to them, and the acts which relate to the colonies alone, have a local operation only. Such has been the ruling of the courts at Westminster Hall. Expressly so held, in reference to these very statutes in *Forbes vs. Cochrane*, 2 Barn. & Cres., by Best, J., p. 448; 1 Black. Com., 107, 108; 1 Chitt. Com. Law, 638."

Then the court come back to review all the cases in England on this point:

"I return now, [says the judge,] to a review of the decisions in England upon the subject of slavery. The authenticated cases in England before the *Somerset* case are five in number, to wit: *Butts vs. Penny*, in the 28 Charles II."

The same case which the honorable Senator cited. There is also here the case of *Smith vs. Gould*, in reference to which the court say:

"In *Smith vs. Gould*, which was also trover for a negro and other things, the plaintiff had a verdict with several damages, and £30 for the negro. On motion in arrest, the court held that trover could not lie for a negro."

I did not find that case in Salkeld's Reports.

Mr. BENJAMIN. I will state to the Senator that there are two cases in Salkeld, on the same page, on this subject, and he will find that that is one of them.

Mr. CLARK. I have found a case in Salkeld's Reports, some things in which I want to read to the Senator. This is one of the older cases—*Smith vs. Brown and Cooper*:

"The plaintiff declared in an *indebitatus assumpsit* for 20l. for a negro sold by the plaintiff to the defendant, namely, in *Parochia beate Marie de Arcubus in Warda de Cheape*, and verdict for the plaintiff; and on motion in arrest of judgment, Holt, C. J., held: that as soon as a negro comes into England he becomes free: one may be a villain in England, but not a slave. *Et per Powell, J.* In a villain the owner has a property, but it is an inheritance; in a word, he has a property, but it is a chattel real; the law took no notice of a negro."

Then, if the law took no notice of a negro, it did not make him a slave; that is clear.

Mr. BENJAMIN. Read it all.

Mr. CLARK. I will read it all. Chief Justice Holt says:

"You should have averred in the declaration, that the sale was in *Virginia*, and by the laws of that country, negroes are saleable; for the laws of England do not extend to *Virginia*; being a conquered country, their law is what the King pleases; and we cannot take notice of it but as set forth; therefore he directed the plaintiff should amend, and the declaration should be made, that the defendant was indebted to the plaintiff for a negro sold here at London, but that the said negro, at the time of sale, was in *Virginia*, and that negroes by the laws and statutes of *Virginia* are saleable as chattels."

In England there could have been no sale of a negro, for he would have been a freeman; but the slave being in *Virginia*, he could be sold though the sale was made in London.

"Then the Attorney General coming in, said, they were inheritances, and transferable by deed, and not without; and nothing was done."

I do not think that is authority for the other side. Here the same case comes up in another shape in *Smith vs. Gould*, in trover. In the case which I have just quoted they tried an *assumpsit*, and could not succeed in that, because there was not such a thing as a slave in England, by the common law. They then tried trover, and the court held that trover lies not for a negro; but in a suit of trespass, *quare captivum suum cepit*, if in technical form, the court intimated that the plaintiff might have succeeded.

I want to call the attention of honorable Senators to one expression in this case of *Smith vs.*

Gould, which covers the whole ground. I have never seen anything so succinctly stated. It resembles some of those old maxims of the common law:

"*Sed curia contra*, men may be the owners, and, therefore, cannot be the subject of property."

Man may own, but he cannot be owned. That is the doctrine of the case.

Mr. BENJAMIN. What becomes of the villains?

Mr. CLARK. Now, Mr. President, I have done with that part of my argument which relates to the common law. I think I have shown that slavery did not exist by the common law. If it did not exist by the common law, it could not be brought here by the common law from England, and did not exist here. If it did not exist here by the common law, then, if it existed at all, it existed by the municipal law—the positive law of the State. Wherever there was a positive law on the subject, regarding the slave as property, there he was property. Wherever there was no municipal law, no law upon the subject making him a slave, there he was a freeman. Hence the pertinency of that provision of the Constitution, which was a matter of compromise, in regard to the fugitive slave. If in *Virginia* and *Maryland* a slave is held by the force of positive law, custom, or statute, and he escape and goes into the State of *Pennsylvania*, or any other State where he is not held as a slave, where slavery does not exist, without a provision that he should be returned under the Constitution, he would be free; and, therefore, the framers of the Constitution inserted in it that provision.

Our courts have repeatedly held, and have recently held in *New York*, *Massachusetts*, everywhere, that if a slave is carried voluntarily by his master into a free State, he cannot take him back again. If slavery existed by the common law, the master would have a right over him, and he could take him back just as he could his horse, or his cow. He could lay his hands upon him and say: "you are my property under the common law; come along with me." You would not want a fugitive slave law to get him if slavery existed by the common law. You never have had a fugitive slave law for a horse or a sheep. It was only because that by the common law the slave, when he gets from under the statute-law, is free, that this provision of the Constitution was adopted.

This case in *Georgia*, and some other cases, go to the point to show that slavery was not established by the law of nations. The law of nations, as I said, does not go so far as to make positive law for any State. For instance, England may recognize slavery and the slave trade as part of the law of nations, Spain may recognize them, France may recognize them, the whole world may recognize them by the law of nations; and yet, if *New Hampshire* does not recognize them, the law of nations cannot force them upon her. The law of nations regulates the rules and the proceedings of trade between nations; but it does not go within a nation and make anything a part of its institutions, and force on that nation what does not otherwise exist by its own law. So, if slavery and the slave trade exist by the law of nations, that law of nations does not have the force of carrying slavery into any Territory where it does not exist, but only regulates the law as between those nations. Each nation is at liberty to regulate its own law. The United States undoubtedly recognized the slave trade as part of the law of nations up to a certain time. I think it recognizes it now as part of the law of some nations, but she has prohibited it herself, and the law of nations does not have such effect as to compel her to have it here. No such force is given to it; and notwithstanding all the nations in *Christendom*, except the United States, may have recognized slavery, yet if the United States had not recognized it, it does not bring it here; and if some of those United States have recognized it, it does not carry it into States which have not recognized it. It has no force to bring it into free territory, because recognized in *Virginia*, or because *Virginia* recognized the law of nations. It does not have any such force. Each nation stands by itself upon its own laws regulating its own domestic concerns, and then there are certain laws,

rules, and regulations, called the law of nations, which regulate the intercourse of nations.

With these remarks upon that point of the case I dismiss it. I have some further remarks to make upon this case in Georgia, because it goes further than any case I have found. It goes on to point out the way in which property in slaves was acquired, and to give, in fact, the foundation of the law for holding property in slaves, or holding negroes as slaves:

"The faculty of holding slaves [say the court] was derived from the trustees of the colony, acting under authority of the British Crown, as a civil right, in 1751, by an ordinance of that board. Before that time, their introduction was prohibited."

Remember that this is a decision in the State of Georgia:

"The regulation of slave property is as much the province of municipal law, as the regulation of any other property, and its protection equally its obligation; but we deny that property in slaves, and the title by which they are held, are the creations of statutory law. To view this question fairly, let the inquiry go back to a period subsequent to the ordinance of the trustees, in 1751, and anterior to any legislation upon the subject of slavery. Licensed to hold slave property, the Georgia planter held the slave as a chattel; and whence did he derive his title? Either directly from the slave-trader, or from those who held under him, and he from the slave captor in Africa. The property in the slave in the planter, became thus just the property of the original captor. In the absence of any statutory limitation upon that property, he holds it as unqualifiedly as the first proprietor held it."

Exactly. Nobody doubts that. Nobody in the world that I know of can doubt that the slaveholder has just as good a right to the negro slave as the man who stole him and brought him away from his country, and the slave trader. Here is the foundation of this business which all Christian nations have carried on. They go back to the slave captor, to the man who stole him in Africa, or to the slave trader, and they say the slaveholder has just as good a right to the slave as the captor or the slave trader. I grant you that, or any other robber or pirate, but not better. I do not mean by this, Mr. President, by any means that the people who own slaves are pirates or robbers; I am only speaking of the solidity of the title. It rests exactly upon the title of the captor who makes war upon the African and takes him away, or of the slave trader who is declared to be a pirate. That is exactly the title of the slaveholder to the slave, and he has no other. In many cases the negro gets into the hands of people who are not to blame. I will not condemn any man, or any class of men. I am discussing the abstract principle upon which the title to the slave rests. It rests upon the right of the captor—"you are my negro, my slave; take him away; ship him in irons, and carry him away, and sell him." Now, Mr. President, (Mr. FRENCH in the chair,) if I were to go into Indiana, and take your horse and bring him here, and I should sell him to the honorable Senator from Ohio, he would have just as good a right to him as I had, and not any better; he is your horse for all that. So it is with the man who deals with the slave, either as captor or trader. He has not any more title than that.

This is the sort of property that they want to carry into this new State. I come to another question, Mr. President: who is going to do it? They say the Dred Scott decision has carried it there already. Well, that will not operate after we form it as a State. Here in this Lecompton constitution is a provision that slaves are to be carried into that State by authority of that constitution. Who gives that constitution vitality? The people in the Territory? Not at all. That constitution is not worth the paper on which it is written until we breathe the breath of life into it and make it our child. I, for one, am not going to breathe upon it. It may remain a dead carcass for me for many generations. It cannot exist unless we put it in force. There is a great deal of talk about this being the constitution of the people of Kansas. Well, admitting that they formed its shape, sanctioned its provisions, put the words together; still Congress has got to breathe life into it, and slavery will not exist there under that constitution unless you put it there. You cannot escape it. Now I do not will it. I do not think I shall.

At this point, Mr. President, I desire to make a few observations in regard to this notion of popular sovereignty, and squatter sovereignty, as these words are used now. I think I see pretty clearly what authority there is here in regard to

this matter, and I think I see that under the Constitution of the United States this talk about squatter sovereignty does not amount to very much. There has been a good deal of talk about popular sovereignty in the people of a Territory; there has been talk of sovereignty in abeyance; and there has been talk about man being sovereign. Well, sir, every free man is sovereign; but sovereign over what? Sovereign over what he owns, and what he has a right to control. He is not sovereign over what is mine, nor what is yours; nor is he sovereign over what belongs to any of these States; nor is he sovereign over what belongs to the United States. He is sovereign over his own and ought to be sovereign over himself, though sometimes he is not.

Well, sir, let us look at this matter as it stands. Here was this Territory known as the Louisiana Territory, afterwards as the Missouri Territory, which was purchased from France in 1803 for a certain number of dollars. Mr. President, I want to ask you, I want to ask every honorable Senator who hears me, this plain question: when the people bought that Territory in 1803, to whom did it belong? Why, to the United States, everybody will say. Very well. They, owning the soil, had jurisdiction. The United States were the sovereigns in that Territory. It was theirs. Did anybody else own a foot of it? Had anybody else any jurisdiction over it? Not at all. It belonged to the United States. I do not mean, as some say, to the people of the United States individually; that A owed his share, B his share, C his share, and so on with the rest of the alphabet; but I mean the United States, as a Government, owned it; it was theirs. They had sovereign power over it under the Constitution. They could control it; they have controlled it, and I do not see that anybody else had any control over it.

Then the people of the Territory of Kansas go into that Territory, and before you allow them to pass territorial laws or territorial enactments, they have no authority, no jurisdiction over it. It belongs to the people of the United States. Then, by your territorial laws, by your Kansas-Nebraska act, you authorized the people in that Territory to do certain things. Then you invested them with some authority, and they went on and did them with your authority. They derived their authority from the Government of the United States. Nobody else had any authority. You granted it to them. They hold it under you, and cannot get any more authority than they now have under the territorial laws, unless you give it to them. What is the idea of talking about their being sovereigns in the Territory? Do they own anything there? Have they any jurisdiction except what you give them? They go there by your permission. They hold that Territory by your permission. Ah! but you say, we are the sovereign people. Very well—true; but you are sovereign over what you own and what belongs to you, and over nothing more. You have in that Territory just what Congress has granted you, and nothing more. When Congress gives you power to establish a State, then you will be the people of a sovereign State and have power belonging to a State; but you will not have it if Congress does not give it to you. You exist by their authority until Congress gives you permission to become a State. When Congress has given you jurisdiction over the territorial government and made you a State, then it is yours, just as you have jurisdiction over my horse when I give or sell him to you. Congress empowers the people of the Territory to go into it and do certain things, and when a sufficient number get into the Territory and petition for State jurisdiction, then Congress may authorize them to make a State government and transfer their jurisdiction to them; and it then belongs to them as a sovereign State.

Talk about the people having a right to State government! It depends upon what you mean by right. If you mean to say any power to assert, then they have not got it. If you mean that Congress ought, under the Kansas-Nebraska act, following out the policy of exercising its sound discretion, to erect them into a State, then I agree with you entirely, they have the right. Congress can hold out that inducement to the people under the Kansas-Nebraska act, and it should keep it

faithfully to them. That Territory belongs to the people of the United States. I do not understand what particular right those people who go into it get, any further than is given by Congress and conferred by law; they are in there under the law; and when Congress gives them the right and power to establish a sovereign State, then, as citizens of the State, they become sovereigns just so far as citizens of an independent State are sovereigns, being permitted and having the right then to do what a sovereign State may do, but having no right to contravene the power of Congress in the General Government under the Constitution.

Thus much, Mr. President, for the law. I now come to more general considerations which are going to govern me in regard to the vote I may give. I said a short time ago—I said it deliberately, I said it upon mature conviction, I said it under the full knowledge of what I did say, as something which I mean to stand by without committing anybody else—that I do object to Kansas coming into the Union as a slave State. I object to slavery going into that Territory now, henceforth, and forever, unless the sovereign people, after it is made a State, in virtue of their sovereign power, choose to carry it there; and I had almost said that I then would have objection to it, because that State was a part of the territory covered by the old Missouri compromise. You forced that compromise, Mr. President. The people of the North did not want to take it; they did not want slavery to go into Missouri; they wanted that to be free territory; but at the time she was about to be admitted as a slave State, you put in a provision that all the rest of that territory should be free. Why have you not kept it? Why has not that compact, if you call it a compact, been kept? Why this agitation growing out of the question to force slavery in there? Do you tell me that that compromise was unconstitutional? Suppose it was: I ask whether, when you made that provision and agreed fairly to it at that time it now becomes you, if you can do it by the form of law, to wrest that territory from freemen? That is the point I make. I want to know why there has not been honor enough in the people of the other side to maintain that pledge, even if they were not obliged to do so, when they forced that division of the Territory, and said slavery should not go to Kansas? I want to know why the other side are not willing now that that should be a free State?

Mr. President, it cannot be denied—I will not undertake to deny it—that on this side is a contest for freedom, and on that side is a contest for slavery. That is the great contest between us. I like to meet this matter plainly. I have no concealments; nothing to deny. It is the great cause of free labor against slave labor; and it is the cause of free labor in that Territory or State against slave labor. I do not come here without a reason. I think I have a reason, coming here as a Senator, exercising a sound discretion, looking for the welfare of the old States, why slavery should not go into Kansas; because if slaves go there, they get an undue representation. By the Constitution, in a slave State you add a certain portion of the slaves to make up your representation. Five slaves are equal to three white men for that purpose. If slavery goes into Kansas, you will reckon the slaves in the representation; and if you get enough there to elect a Representative, do you not get one vote in the other House, over and above the other free States, which rightfully you should not have? Hence I object to extending that right of representation. I know that that provision was put in the Constitution by way of compromise. I agree with what the gentleman from Virginia said on that point. Here were thirteen old States. They came together for the purpose of Union. Some of them had slavery, and some had not; and they agreed, under that Constitution, and for all time, that the slave States should have representation so and so; but I do not understand that that binds us to make all the States slave States, or to let slavery go into the free States, or to let States come into this Union with slavery, and thus give them an undue representation over the free States. I object to it on that account.

Mr. President, I object to it for another reason. I am glad now to see the honorable Senator from

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Kansas—Lecompton Constitution—Mr. Clark.

SENATE.

South Carolina [Mr. HAMMOND] in his seat, because I shall have occasion, in this part of my argument, to take notice of some suggestions which he threw out upon this subject. I object to slave labor, because you seek thereby to degrade and vilify free labor. Your slave labor, in your own eyes, is disgraceful. You seek to bring it in contact with free labor, and thereby degrade free labor. I object to that. I come from a section of the country where labor is respectable. I come from a section of the country where labor is honorable. I come from a section of the country where labor is dignified; where we seek to make it honorable; where we seek to make it respectable; where we seek to make it dignified; and when the honorable Senator from South Carolina, as he did the other day, gets up in his place, and says your white laborers are essentially slaves, or, as he afterwards modified it, "your hiring laborers and your operatives, are essentially slaves;" I desire, in the Senate house of the United States, to protest against it. Nine tenths of all my people are working men; they are the men who cultivate their farms; they are the men who work in mechanic shops; they are the men who are at the various trades; they are the men and the women in the mills who are called operatives; and when the honorable Senator says that they are essentially slaves, with all due respect, but with firmness in the truth of what I say, I tell him he states what is not true—not in any offensive sense, but because he does not understand my people so well as I do. I dare say he honestly thinks what he says. I accord to him that merit; but what I want to impress upon his mind is, that he is entirely mistaken in regard to our laborers. They are in no sense slaves. I grant you some of them are poor; but does poverty make a man a slave? Then some of the noblest men the nation ever had have been slaves.

Why, sir, in my country, a large portion of the husbandmen cultivate their own few acres; they raise their corn; they raise their potatoes; they raise their wheat, their rye, their oats, and grass; they take them to market and sell them; they are the product of their labor. It is in some sort hiring labor; but I would like to ask the honorable Senator from South Carolina if he intends to call the agricultural people of my State slaves?

I know, Mr. President, that my people are poor. There is the State of New Hampshire, God bless her! She has not a bed of iron ore in her whole territory; she has not a bed of coal; she has not a mine of copper; she has not a mine of zinc; she has a poor agricultural soil; she has water power; she has free hands and free hearts; and there is not a people in the Union more attached to the Union, and who live more comfortably and more happily, than that same people in New Hampshire; and I do not wish to hear them called slaves. They are in no sense slaves. Why, you can sell your slave. Go and attempt to sell one of those freemen, and what would be the result? You can compel your slave to labor. Go and try to compel one of my countrymen to labor, if you can. You can take from your slave his liberty. Go and take from my countrymen their liberty, if you please—try it. You can feed your slave as you choose. Go and administer food to the laborer of the North. You can clothe your slave as you choose; but the laborer of the North will say, I can clothe myself; I can feed myself; I am master of myself. You say he is a slave because he is poor, because he is obliged to labor. Is that it? Yes, sir; but he can labor where he pleases, where he can find work, and when he pleases; and he can buy what food he pleases, what clothing he pleases; and is, in every sense, a freeman.

I am satisfied, Mr. President, that the honorable Senator has mistaken the condition of that people. I do not know but that he has been there; but I feel very sure that he has not. I am very certain he would not have said what he did, if he had been there; and I am very certain, if he were to go there now, he would find a great many things very different from what he anticipates. Why, sir, he says: "Your operatives are essentially slaves." I come directly from a city where there are ten thousand of those operatives about me. I know their condition; I know their habits; I know their mode of living; I know their mode of thought. I know that some of these opera-

tivos lease their farms, and leave them behind them; they come from neighboring towns, and go into the mills. They work as operatives because they can make more money at it. They hire their labor; but are they slaves? Why, they can buy as good a dinner as the gentleman from South Carolina, and as good a hat or as good a coat, and supply their wants as well. In what sense are they slaves? Perhaps the gentleman can tell me.

Mr. HAMMOND. I have already said that, on some future occasion, I will answer the remarks of those gentlemen who have taken exceptions to what I said a few days ago. I do not choose to do so now. I only wish to say, that the Senator from New Hampshire himself knows that he is depicting a state of things that does not exist. They do not get work when they want it, and a large portion of them cannot get a dinner when they want it.

Mr. CLARK. I will not tell the gentleman that what he says is entirely wrong; but I will tell him that, if he will go into my country, he will find that ninety-nine out of every hundred of them can not only get a dinner when they want it, but would give him a dinner when he wants one, and would be glad to do it. The gentleman asked how we would like to have missionaries sent into every quarter of our country. I would say to the honorable gentleman that I would have no objection to them. I would like to have him go there, and see for himself, and he would find that what I state is true; I know it to be true; but if he does go there, he had better be careful of one thing; and that is, not to talk about "the mud-sills of society"; to them; because, if he does, I am sure that about five feet ten inches—if that is the Senator's height—of mud-sill would be made of southern timber.

Now, Mr. President, it is this same sort of feeling that is engendered in the slave States against the North and free labor that makes me so much opposed to the institution of slavery going into Kansas. Let slavery go into Kansas, and exist there as it does in South Carolina, and how long would it be before our free people would go there and settle? They have been told they were white slaves—essentially so; that they are the mud-sills of society, and that cotton is king. Cotton king, sir! Cotton cannot make a hat; and these men, who rise and boast about cotton could not get a hat, if they did not buy it. Cotton does not make shoes; cotton does not make pantaloons; cotton does not make a coat. You can buy those articles; but free labor can make a hat, shoes, pantaloons, or a coat. Your cotton, king! So said the gentleman from South Carolina; so said the Senator from Maryland, [Mr. KENNEDY.] Cotton is king! It rules the world! Sir, there is another king there besides cotton: humbug is king!

Mr. President, I have sometimes been in the opposite end of the Capitol, and gone into that new Hall of Representatives, which is entirely cut off from the air by all the rooms around it. Not a breath can come from windows, because there are none opening into the Hall. I have then gone down below, and seen a steam-engine and blower, with which they were pumping it up, and we hear the air passing up to those regions; and I have sometimes wondered, if steam-engines were invented when God made the world, whether He would not have ventilated it with a steam-engine; whether He would not have put the world in an iron shell, with a hard case, and fixed outside a big steam-engine to pump air into it. When I heard the gentleman the other day say that cotton was king, and that England would topple down if you did not raise cotton, I could not help thinking if cotton had been grown at the time the Lord created the world, whether He would not have made the world of cotton. I want to ask the honorable gentleman how the world got along without it? They got along up to the Christian era without cotton, and for some sixteen hundred years afterwards. How did the world get along without cotton? Does anybody know? Can anybody tell? I have no fault to find with the South, except that I wish they would treat my people with courtesy, and that they would not stand up here in the Senate and call them slaves.

Mr. President, pardon me a moment while I relate an incident: and the gentleman will see

why we have some feeling on this subject. In the years 1776 and 1777, there lived in my State a young blacksmith, some sixteen or seventeen years of age. He got his living by pounding it out on the anvil with a strong arm. His country needed his services. New Hampshire wanted to supply her quota of troops. He was drafted, and he went. He was at the battle with Burgoyne. When his time was out, he returned to his native State. He went to the anvil again, upon the banks of the Merrimac. He hired out his labor; he was one of those whom the gentleman calls slaves, if any of them are. He hired out his labor to his neighbors; he made for them nails; he made for them plowshares; he made for them everything that they wanted. When he got back from the war, the State of New Hampshire owed him some money for his service. His father said to him, "Benny, the State of New Hampshire is poor; the country is poor; do not call upon the State to pay you now; let it be; the country is illy able to pay it; give your service to your country." He did not call for that pay; he never called for it. His children after him never called for that pay. There it stands now, in the capital of New Hampshire, so many pounds, so many shillings, and so many pence, due to that humble blacksmith. His children will not come here or go anywhere else to call for that pay. They would rather have the record there that that father gave that pittance to the State in poverty and necessity, rather than to have all the goodly stones of your Capitol; and yet it is the fortune of the son of that poor blacksmith to come into the Senate and hear the Senator from South Carolina call his father a slave! I did not think it would have been done. God knows, when I heard it tears ran down my cheeks that he should be so vilified and abused, and I sit here to hear it. To Benjamin Clark, upon the record, stands the sum he earned and gave to his country; and now, when his son comes into the Capitol of this same nation, which he fought to make free, a Senator stands up and calls him a slave! I did not think I should have lived to have heard it.

Why, Mr. President, there are in my own State, a great many excellent young women who work in the mills there. I suppose the gentleman calls them slaves. Now let me tell you what I have known to be done time and again. I have known the father of a family, from ill habits, or some other reasons, become impoverished. I have known the farm to get mortgaged. I have known that father to have daughters, and I have known those daughters to go to the mills. I have known them by thrift, prudence, and saving, accumulate money enough to leave that farm unmortgaged, give it back to the father and mother, make a happy home again, and then to contribute to educate their brothers or sisters. I have known many of those honorable young women. The gentleman says they are slaves. They earned not only enough to clothe and to feed themselves, but enough to educate themselves, and to fit themselves to adorn some of the highest stations of life.

Mr. President, I have another wonderful incident which I should like to relate. You all know the name to which I shall allude, and I want to know if the honorable gentleman would call him a slave. There was a poor man once lived in my neighborhood. He cultivated a poor farm on the banks of the Merrimac; he lived by his hands. He lived by his labor in the field; he had no menial servants. When the summer and seed time came, he went into the field and planted; but when the country needed his services, those services were at her call. I speak now of the hero of Bennington, of the late General Stark, who lived close by my home; who was buried by the side of the Merrimac. He was a laborer all his days. He was a man who fought for his country's liberty with Rogers in the Ranger, and at Bunker Hill, and at Bennington, and yet he is to be called a slave. I have a higher example still, of a little printer's boy, who was born in Boston. He left his father and went to Philadelphia. He hired out his services. Was he a slave? Why, sir, he began by running away from Boston, and he ended by making the lightning come from the clouds at his bidding; and he was a slave!

Now, sir, I only ask the honorable Senator from South Carolina, before he uses these terms

again towards the people whom I represent, to go and see them. I will be bound that they will treat him kindly; I will be bound, if he will come and give them the opportunity of showing him how they live, what is their condition, and how happy they are in their homes, that they will forgive him what they might almost consider an insult, and set it down to the fact that he did not know them better.

But the gentleman says they vote; they hold your power. They do vote; and they do hold the power. They put their men into office when they are fitted for it; and I will tell the honorable gentleman that there are no class of people that can hold power more safely, no class of people who will exercise the power more securely; and if your institutions are never overturned until these laboring men overturn them, they will exist for a great length of time.

Why, Mr. President, history is full of reminiscences on this subject of laboring men. I have said I come from a poor State. I mean a State poor in resources. She has, thank God, given the world some men. She has free hearts, free heads, and free hands in abundance. She is poor in some respects. Poor as she was, when you wanted a ninth State to adopt the Constitution, that poor State of New Hampshire was that ninth. These laboring men, who it is said are essentially slaves, were the same then as now. Those laboring men are the men who enabled you to adopt the Constitution; and now you turn round, and vilify them as slaves! Mr. President, it ought not to be so. I wish it were not so; but such is the issue upon us, and I am disposed to meet it calmly, to meet it quietly, and to meet it determinedly.

Mr. GREEN. I merely wish to ask the Senator whether, at the time that the Constitution of the United States was adopted by the State of New Hampshire, they did not hold slaves in the State of New Hampshire?

Mr. CLARK. I am not aware that they did hold a single slave; but if they did, it would not make any difference at all. I am not aware that they did. I have searched our statute-books, I have searched our records, and I have not been able to find the first provision in regard to slaves. I should like to ask the honorable Senator from Missouri if he knows whether they did or not? I say I have never been able to find any provision in regard to the subject of slaves. I know that slaves have been held in the province. There is no doubt of that. I will tell the honorable Senator how I know it, but I want him to answer if he knows that there were slaves there.

Mr. GREEN. Not by personal knowledge. I only know from history that there were slaves there.

Mr. CLARK. Where is the history, and what is it?

Mr. GREEN. I think I can show it.

Mr. CLARK. I wish you would.

Mr. GREEN. At the time of the separation from Massachusetts of the province of New Hampshire, and at the time of the State organization, there were some slaves in the limits of its borders.

Mr. CLARK. When was it separated from Massachusetts?

Mr. GREEN. Before the adoption of the Constitution of the United States.

Mr. CLARK. At what time?

Mr. GREEN. I do not recollect the date.

Mr. CLARK. Nor I either.

Mr. GREEN. Then there is no difference between us.

Mr. CLARK. There is a difference about the date. New Hampshire never was a part of Massachusetts. Maine was taken from Massachusetts.

Mr. GREEN. Maine was a territory attached.

Mr. CLARK. To what?

Mr. GREEN. To Massachusetts.

Mr. CLARK. That is not New Hampshire. New Hampshire existed as a province under the King.

Mr. GREEN. It had a separate charter under the King, but I can show what I state.

Mr. CHANDLER. You are mistaken.

Mr. CLARK. If you show it, I will give in.

Mr. GREEN. Very well.

Mr. CLARK. I have read history to very little purpose if it is so. Now, I want to tell the Senator what I do know in reference to slavery in New Hampshire. I happened to be engaged, some years ago, and not so long ago, in a suit in regard to the incorporation of a town—whether Hooksett was incorporated. It involved a great deal of history and research. I went into the history of the town, and of the neighboring towns; and in the town of Hooksett found a bill of sale of a little negro girl, a good many years before the province became a State. That is all the trace I could find of slavery in that province. It may have been there; I think I have heard, as the gentleman says, that slavery some time existed there. I have searched the laws of the province; I have searched the State laws; and I cannot find any statute law recognizing it; I cannot find any decision of courts upon it; I cannot find any law abolishing it, and I am sure it is not there now. That is all I can say in regard to it.

Mr. President, I am opposed to this constitution because it admits slavery. I am opposed to it upon another ground. I am opposed to it because it excludes the free negro from the State. It says that a free negro shall not be permitted to live in Kansas. Now, I want to know why? I want to know if the exclusion is not an invidious one? We have free negroes in the United States. The gentleman from Maryland, [Mr. KENNEDY,] whom I do not now see in his seat, yesterday told us that there were forty thousand free negroes in Maryland. Now, if they are a burden to Maryland, Maryland would like to have them go out of her State; but if every other State should prohibit a free negro from living within her border, then they could not go out of Maryland. Why should one State be compelled to bear the burden, if free negroes are a burden, and Kansas not take her share? I hold that the free negro is as much entitled to live in one part of the country as another. I hold that it is not proper for the Congress of the United States, breathing life into this Lecompton constitution, to say it is not proper, it is not desirable, it is not an exercise of sound discretion, for the Congress of the United States to say that the free negro shall not live in Kansas. I object to this provision in the constitution of Kansas, which excludes from it the free negro. I say that the negro has a right to a portion of this common earth. You have no right to exclude him from his portion of the common earth. Do you tell him that he came from Africa, and if he wants his portion of the common earth to go back to Africa? Then I tell you, you came from England, or your ancestors did, and if you want your portion of the common earth to go back to England. It is the law of the strongest that enables you to control. It is not the law of justice; it is not the law of equality; and I say it is the insolence and arrogance of slavery that demands that you should exclude the free negro.

Mr. President, I wish some gentleman on the other side of the House to answer me this question: By the provision of the constitution of Kansas a free negro cannot live in the State. Suppose that the sovereign people of Kansas (and you say they may alter their constitution and may emancipate their slaves under certain conditions) should say that after 1870 every negro child born should be free; suppose that at the very session of the Legislature after they were admitted as a State they should declare that after the year 1870 every negro child born there should be free, with a view to emancipation; your constitution stands, and a negro child is born free; what are you going to do with it? What can you do with it? Carry it out of the Territory? But its mother lives in the Territory. If you carry it out you endanger its life; you sander the ties between mother and child; you are driven to the necessity of taking the infant child and hastening it out of the Territory, or else you cannot carry on the work of gradual emancipation. Such a plan as this perhaps may be the easiest way in which emancipation can be done. Mr. President, do you think that is desirable? Does anybody think that it is desirable that there should be such a provision forced upon that State?

If Senators will allow me, I wish now to touch upon another topic in this Chamber, all unused as Senators may be to hear it; but I am not going

to pass it. I wish the Senate to give me its attention. It may be that what I say may not be of much importance; but I am going to speak upon a subject which, I think, every member of the Senate will say is of importance. I know that what I have to say is—

Mr. GREEN. Will the Senator allow me to interrupt him?

Mr. CLARK. Certainly.

Mr. GREEN. I merely wish to call his attention to the fact—it is a mere question of fact—that, in 1790, in the State of New Hampshire, there were one hundred and fifty-eight slaves returned by the census.

Mr. CLARK. Where do you find it?

Mr. GREEN. In the census report, page 82.

Mr. CLARK. Will you be kind enough to furnish me the report? It may give me some information.

Mr. GREEN. Certainly. It was merely to that question of fact that I wanted to call your attention.

Mr. CLARK. I see it so set down, and I do not know but that it may be correct. I can only state, as I have stated, that I have not examined the census returns, but I have examined its legislation, its history, and its laws, to see if there was any provision in regard to slaves in New Hampshire, and I have not found any. If there were slaves there, they were there by sufferance, without any law regulating the subject that I am aware of, and without any provision on the statute-book, or any decisions of a court allowing them to be there.

But, sir, if they were there I can only rejoice that they are not there now. I hope the time will come when every State that has them will find some way to be relieved of them if they choose, and I could wish that they should be relieved of them; that is, those who wish to be. I want it to be understood distinctly, in all that I have said, that I do not claim the right to go into Maryland, Delaware, Virginia, North Carolina, or any other of the slave States, and meddle with slavery there. I only claim that when we inaugurate a new State, when it comes into the Union, and when I think that we have some power in this matter, we should be permitted to use it for the good of the country. I do not know but that I might appeal to the Senator from Missouri to answer me, if he does not think that Missouri would be better without slaves if she could get rid of them. I will not ask the question. It may be unpleasant.

Mr. GREEN. Not in the least. Ask me?

Mr. CLARK. No, no. I will now take my tea, as it has just come in. I am sorry to have to be obliged to do it, but I cannot help it.

[The honorable Senator had been furnished with tea and sandwiches, of which he proceeded to make a fitting disposition.]

Mr. GREEN. While the Senator is at tea, I will answer that question if he desires it.

Mr. CLARK. I will yield the floor, while I take my tea, to the Senator.

Mr. GREEN. I wish to make a remark in regard to the question which the Senator proposed to me.

Mr. CLARK. Very well. Get up a little social chat, while at tea. [Laughter.]

Mr. GREEN. This will be a tea-chat. I do not believe the interests of Missouri would be promoted by prohibiting or abolishing slavery in that State. That is my opinion. The Senator asked me for my opinion. I give it. I believe very serious injury to the blacks would result from it. They are not Africans now. They are descendants of Africans. It would seriously harm them. It would seriously harm the owners. It would seriously harm the production of the State. Their labor is employed in the production of hemp and tobacco, and it yields a profit almost equal, in my opinion, to the profit on the production of cotton and sugar. They are well cared for and well provided for in youth, in middle age, and old age. They have a guardian and protector from the cradle to the grave. Their labor in the intermediate period well remunerates the master, whose powerful intellect controls and directs the muscular energy of the black, who has not the intellect and the forecast to provide for himself. That is my answer to the question. If the Senator has not finished his tea, I will speak again.

35TH CONG....1ST SESS.

Kansas—Lecompton Constitution—Mr. Clark.

SENATE.

Mr. CLARK. I should be very glad if you would.

Mr. CHANDLER. I move that the Senate do now adjourn.

Mr. BROWN and Mr. GREEN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 14, nays 24; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Hamlin, Harlan, King, Seward, Trumbull, and Wade—14.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Sidel, Thomson of New Jersey, Toombs, and Wright—24.

A pause ensued, the Senator from New Hampshire not having finished his repast.

Mr. TRUMBULL. As there seems to be nothing going on, I move to lay the whole bill and amendments on the table.

Mr. PUGH. Permit me one moment. I desire to know whether the Senator from New Hampshire yields the floor.

The PRESIDING OFFICER. (Mr. Fitch in the chair.) There is nobody on the floor.

Mr. PUGH. The Senator from New Hampshire has not concluded his remarks. If he does not yield the floor, I object to the motion of the Senator from Illinois, and I say it was out of order.

Mr. GREEN. The Senator is out of order, and I submit that the motion and debate is out of order.

The PRESIDING OFFICER. The Senator from New Hampshire suspended his remarks some time ago. The Chair thought he had finished his remarks, and entertained the motion of the Senator from Illinois, and will put it to the Senate. The question is on the motion to lay the bill and amendments on the table.

Mr. TRUMBULL. I do not desire to press the motion. I will withdraw it.

Mr. PUGH. Will the Senator from New Hampshire give me the floor a moment?

Mr. CLARK. I yield.

Mr. PUGH. I am extremely disinclined to press the Senator to a conclusion of his argument to-night. I have felt that he has not had the treatment at our hands that Senators newly coming amongst us receive.

Mr. GREEN. A motion to adjourn is not in order.

Mr. PUGH. I have not made any motion.

Mr. GREEN. What is your proposition?

Mr. PUGH. I was going to suggest that a general agreement be made upon the floor of the Senate, by Senators on each side, to name some early day when the vote can be taken, which would be much more agreeable than to go on now during the night.

Mr. GREEN. Everything of that sort has been refused.

Mr. PUGH. I was told by some Senators on this side that they would agree to take the vote on Monday.

Mr. GREEN. We will not agree to it. The friends of the bill will not agree to it. We will agree to any day this week, if it be made final; but to no other day.

Mr. PUGH. There would not be much difference between taking the vote on Saturday and Monday. I was in hopes that some agreement of the sort might be made.

Mr. BRODERICK. I move that there be a call of the Senate.

The PRESIDING OFFICER. The Chair is not aware of any such motion ever being entertained or heard of in the Senate. He does not know of any rule on the subject, except in the absence of a quorum.

Several SENATORS. It can only be done when there is less than a quorum.

The PRESIDING OFFICER. A call of the Senate can be entertained only under the 8th rule, which says that no member shall absent himself from the service of the Senate without leave of the Senate first obtained. There is no other rule under which a call of the Senate can be entertained.

Mr. BRODERICK. According to the last vote there were very few more than a quorum present and I find that several Senators have absented themselves since that time. My object is to as-

certain whether there is a quorum of Senators on the floor.

The PRESIDING OFFICER. The Chair is disposed to concede this matter to older Senators. His understanding is, that unless some vote shows that there is not a quorum present, such a motion would be out of order.

Mr. BRODERICK. Is it in order to move an adjournment?

Mr. GREEN. No, sir; the Senate has just refused to adjourn.

The PRESIDING OFFICER. No business has intervened since the vote was taken on an adjournment.

Mr. BRODERICK. The Senator from Ohio addressed the Senate.

The PRESIDING OFFICER. But the Senator from Ohio made no proposition to the Senate.

Mr. BRODERICK. Then I hope the Senator from New Hampshire will proceed with his remarks.

Mr. CAMERON. I would ask whether it is right to press us in this way. It does seem strange to me that gentlemen should refuse to appoint a reasonable time fixing the termination of the debate. They have had it all their own way for a long while. They have made their speeches, voted for adjournments, controlled the Senate, and now on the last day desire to gag gentlemen on this side of the Chamber. Is that fair? Is that the way honorable gentlemen expect to be dealt with? The gentlemen on this side said that they thought they could get the vote by next Monday; why not agree to it?

Mr. GREEN. I will answer.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield the floor?

Mr. CAMERON. I do not yield yet, for a moment. There are a number of gentlemen desirous to make speeches. I had some slight intention myself to make a speech; but I will not do so now, as I have agreed to pair off with a gentleman who has been called away from the Senate by a misfortune in his family—an act of God, over which he could have no control—the severe illness of his son, nearly arrived at manhood. I received a letter from him this evening, stating that he would not be back for a day or two, and for that reason I cannot act in this matter. Other gentlemen are similarly situated. I think great courtesy has been extended on this side. Whenever gentlemen on the other side of the Chamber desired to be away, some of us agreed to pair off with them; but if we were to go on pairing off, you could control us to the end of time. On the other hand, if we thought proper to come here and depend upon our muscle, we could stand it as well, and perhaps better, and as long as they could; and longer, because they have sick members and ours are all well. I ask Senators, is it fair, under these circumstances, at this time of night, that the Senator from New Hampshire, who is unable to proceed with his speech, should be compelled to go on? This is not the sort of courtesy that used to prevail here in past times. I do not want to be a Senator here, if we are to be gagged as members are in the other House, and in the Legislatures of our States. I thought that all men aspired to be here because there was a degree of kindness, liberality, and generosity prevailing here, which could be found in no other body under heaven. I do not want to come here if it is to be changed from that rule. If I had the majority, I would give the other side time to go on in this matter.

Mr. GREEN. I beg leave to respond to the Senator from Pennsylvania. He first says his friends on that side of the Chamber were willing to take the final vote on Monday. I answer, that his friends on that side of the Chamber told me, not five minutes ago, that they were not authorized to make an agreement for Saturday, or any other day, without consulting their friends, and they refused. The Senator from Pennsylvania, then, is in conflict with the assurance given by Senators on that side of the Chamber.

Mr. CAMERON. Will the Senator suffer me to interrupt him for a moment?

Mr. GREEN. Certainly.

Mr. CAMERON. I understand the gentlemen on the other side have had a caucus, and determined on their proceedings.

Mr. TOOMBS. Yes.

Mr. CAMERON. We have had no intimation of anything of the sort. To-morrow morning we can meet and decide on our course, and then, if we do not agree to meet them on some day, we cannot complain of the course of debate; but we should have an opportunity to confer.

Mr. CHANDLER. Will the Senator from Missouri give way to me for a moment?

Mr. GREEN. I cannot until I answer this. After I have done so, I shall be willing to have any interrogatory propounded to me. The first statement of the Senator from Pennsylvania was, that they were willing to take the final vote on next Monday. It now turns out that he was not authorized, as they assured me, to make any agreement without a caucus consultation; and what have we to hope for or expect? We have been trifled with, and the time of the Senate has been whiled away day after day. When this bill had been made the special order, when we had taken it up for consideration on Thursday, contrary to the wish of the side which I represent, all on the other side united to postpone the subject and to adjourn from Thursday to Monday, throwing away Friday and Saturday. Two or three Senators on that side having had the floor, and after having spoken from one to two hours, gave way for such motions. They have not been treated with discourtesy.

Mr. TOOMBS. I rise to a question of order. I am very desirous of getting on with the public business. I make the question of order that this discussion has nothing to do with the debate on the bill under consideration. I want that to go on.

Mr. GREEN. I know it is out of order.

The PRESIDING OFFICER. That is the opinion of the Chair.

Mr. GREEN. I felt compelled to say something in response to the Senator from Pennsylvania.

Mr. BRODERICK. If a motion for adjournment is in order, I move that the Senate adjourn.

Mr. BROWN. I ask for the yeas and nays on that motion.

Several SENATORS. We can vote it down without the yeas and nays.

Mr. BRODERICK. I call for the yeas and nays, if the Senator from Mississippi does not call for them.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 23; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Hamlin, Harlan, King, Seward, Trumbull, Wade, and Wilson—15.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Sebastian, Sidel, Thomson of New Jersey, Toombs, and Wright—23.

So the Senate refused to adjourn.

Mr. CLARK. When this interregnum occurred, I was about to make some remarks upon a matter which is not, I think, usually touched upon in the Senate of the United States. I would not do it, were it not for some remarks which fell from the Senator from Virginia [Mr. HUNTER] on Friday last, and also some remarks which fell from the Senator from Maryland, [Mr. KENNEDY.] I stand here to rebuke no one, to censure no one, to find fault with no one, but it did seem to me that some remarks that were made a few days since by those gentlemen were extraordinary. They were such remarks as, with all due deference and kindness to these Senators, I was sorry to hear. I do not know but that I might say, in charity, that I do not think the Senator from Virginia and the Senator from Maryland would have made them, if they had bestowed upon them a little more consideration. I certainly was pained to hear them. I stand here to avow it, however unusual it may be in the Senate of the United States, I stand here proud to say—no, sir, not proud, I do not feel proud—I stand here acknowledging the “higher law” as the true rule for the guide of men in their human affairs. I did not like to sit here in my seat, and hear the Senator from Virginia, and the Senator from Maryland, say they were opposed to the principles of the higher law. Now let them tell me what they mean by the higher law? If they mean the law of the God who governs us, then I am sorry to hear, in the United States Senate, any man say he is opposed to the principles of that law. I do not

mean to say, as was said by the Senator from Virginia, that we are here to administer the higher law. That is not what I mean; but I do not like to hear the higher law—I will speak of the law of eternal justice and right in that term—spoken of in that way. I stand here as a Senator, I hope we all do, to acknowledge that law. Sir, it would be a bitter mockery to put a clergyman in your seat to pray in the morning, and then stand up before night and deride the Giver of the law, by which we all ought to be regulated. It is the law of eternal right. I tell you, sir, in your place, I tell honorable Senators in their places, whatever they may think of it, whatever may be said in regard to it, that when the Senate and the Government of the United States forsake the principle of that law; when they disregard it, and cast it away, we are on the road to ruin. Our fathers did not so. They acknowledged the hand that ruled them, and why should not we?

Now, sir, I acknowledge those principles. I do not ask you; I do not ask the Senate of the United States; I do not ask the House of Representatives; I do not ask the Government of the United States; I ask nobody to administer that law. The author of that law will administer it, whether we are opposed to it or not; but I do ask Senators, if they do not choose to recognize it, not to stand here in the Senate and scoff at it, if I may use the expression. I do not censure anybody, Mr. President; but I do believe that the safety of the nation, the safety and salvation of man here, as well as hereafter, depend upon recognizing those great rules of right which that law prescribes. That is all I do mean. I do not ask you; I do not ask anybody; to go into their own hearts and take their own conscientious notions, and administer them as the law. I have no such idea. But I ask here, in the Senate of the United States, that we should not ignore those great principles of right which mark and characterize that law. Mr. President, we have all got to be governed by it, and all our actions have got to be conformed to it or punished by it, whatever we may say, and whatever we may do, and however much we may oppose it. Why should men recognize it in almost every department of business, and here in the Government of the United States, where we need as much wisdom as anywhere else, entirely ignore it? I read no lesson to any Senator; I read no lesson to the Government; but I do ask that, if we do not choose to follow it, that such allusions should not be made to it.

Now, Mr. President, I will pursue what I have to say in regard to the admission of Kansas under the Lecompton constitution. I said I was opposed to the admission of Kansas under the Lecompton constitution because it carried slavery into that State, and because it excluded the free negro from that State. I now say that I am opposed to it because it places the right of property in the slave above and beyond the constitution, and for aught that I see, beyond the control of the constitution. Such is, in substance, the language of the constitution, in the article regulating slavery. It is section first, article seventh:

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

I do not say, I do not mean to say, that in a State where slavery exists by law and is made so by positive law, that that may not be true. I do not say that by the mere force of law in a State which tolerates and establishes slavery, that laws may not be passed which may not give, by the force of law, the same right to a slave and its increase that it gives to any other property; but I do say that I am opposed to admitting any State with a constitution containing provisions like that, for this reason: this constitution, though adopted in form by the people of Kansas, though they have molded it, and sent it here, and when admitted as a State it will be declared to be the constitution of Kansas, and of the people of Kansas, yet it cannot exist except by the passage of this act, and unless we give it vitality. So if this constitution goes into operation with this provision in it, the Congress of the United States, in fact, passes the provision giving it force, giving it vitality, and it may be said to be their act. I dissent from it; I do not understand that the right to property in a slave is higher than the Consti-

tution. I understand it, as I think I have shown, to exist by the force of law. I know the report in 9 Georgia Reports traces it back beyond the constitution in the State, outside of the United States, to the capture in Africa, to the slave trader, who brings him here and sells him to a person here; but still I hold it to be entirely under the control of the Constitution and the law, and I do not want to sanction anything of this kind. It is a doctrine which is new, I think, in the Constitution of the United States, and I do not want to vote to admit a State with that provision in its constitution, and I do not intend to do so.

You tell me that the people may alter this constitution after they are admitted. I know they may within the forms prescribed by it. There are gentlemen who say they may alter it beyond the form prescribed. I am not going to stop to argue that point now, although I am prepared to do so by-and-by. The point is, this provision is in the constitution now. I have got to vote for the admission of Kansas with this constitution as it is, or not vote for it, leaving it to be altered afterwards; and I do not choose to vote for the constitution as it is. I prefer that the alteration should be made first; I propose to say to the people of Kansas, "stand outside; we do not choose to admit you under that constitution," and to tell the people of Kansas why. Let them see if they can form another constitution, but say to them that we will not give them that constitution. I do not propose to sit down and form a constitution for them; I do not claim that right; I propose to say to them we do not assent to that constitution; there are things in that constitution which we think should not be there; we will not admit you under that constitution; take the constitution to your people; let them amend it if it be agreeable to them to amend it, and form another, and we will see if you can form a constitution under which we should be willing that you should come into the Union. This is my opinion in regard to it; and I do not choose to vote for a constitution having that provision in it. I deny entirely that the right to a slave, and its increase, is above and beyond the Constitution; I think it is under the control of the Constitution, and under the control of law, and should be under the control of the Constitution and law.

But, Mr. President, I object to this constitution for another reason. I object to it because it takes from the people, no matter now whether by fraud or otherwise, (that is not what I am going to assume,) the power to alter the constitution until 1864. I do not know but that I ought here to allude to an amendment which I shall propose; I do not know that I shall get another opportunity of speaking, as it seems to be the determination to force the vote. It may be, perhaps, somewhat out of order to speak of it now; but here in this constitution we find this remarkable provision:

"Sec. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the Representatives; said delegates so elected, shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

Here is an attempt by a provision of the constitution—I do not say whether it can be successful, or whether the people have or have not power to alter it—on the part of the people who framed this constitution to perpetuate slavery in that Territory forever.

They may alter their constitution, according to this provision, after the year 1864; but any alteration made shall not affect the right of property in the ownership of slaves. What is the result, if this is so? You have slavery in the constitution when the State comes in; you have a provision that after 1864 you may alter that constitution; but you shall not in any way affect the ownership of slaves. Whether that attempt to fasten slavery upon the State may be successful or not, leaving out of the case the power of the people to alter this constitution, if you please, I object to voting for the admission of a State with any such con-

stitution. I object to voting for the admission of a State which makes the pretense even by its constitution to fasten slavery upon the people in that way, because it leaves the whole question open. There is to be discussion about it; there is to be division about it, and quarrel over it, which is to agitate that State; and I would have them have a constitution by which they would have it under their control. I would not have a constitution which ties up any subject from the people.

But, Mr. President, I differ entirely from some gentlemen who say that the people can alter their constitution any time they please after it is made. I do not agree with them. I do not think it is so. I do not know but that a State may be admitted in a way which shall give the people power of amendment. The amendment I propose, that the State should come in on that condition, is with that view. I do not know but that we have the power to impose a condition on the admission of a State. I see by the bill for the admission of Kansas which has been framed by the Committee on Territories, that they say that the State shall be admitted upon condition that they shall not interfere with the public lands. If you can impose one condition, or a condition of that kind, cannot you impose a condition that the constitution shall not be construed in a particular way? But they will say this is an alteration of the constitution. It may be some check upon the constitution; but I believe the people have the right and the power, that we have the right and the power, to so admit a State upon express condition that nothing in that constitution shall be construed to impair the right or take away the right of the people to alter that constitution as they may please.

I would like to call the attention of the honorable gentleman from Ohio [Mr. PUGH] to this point. I would like to call his attention to his amendment, if it be in order, or allowable in the latitude of debate, the amendment not being precisely under consideration before the Senate. I understand the amendment of the honorable Senator from Ohio to be to this effect: that nothing in this act shall be construed to prevent the people from construing it. I have not the amendment before me.

Mr. WADE. Will the Senator give way for a motion to adjourn?

Mr. CLARK. If the gentleman desires to make a motion to adjourn, I will give way, and call for the yeas and nays on it.

At nine o'clock the yeas and nays were ordered; and being taken, resulted—yeas 6, nays 24; no quorum voting:

YEAS—Messrs. Broderick, Clark, Hamlin, King, Stuart, and Wilson—5.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Silldell, Thomson of New Jersey, Toombs, and Wright—24.

The VICE PRESIDENT. There is not a quorum voting.

Mr. BIGGS. There is evidently a quorum in the Chamber.

The VICE PRESIDENT. The Chair thinks it is evident that there is a quorum in the Senate. Many Senators did not vote.

Mr. TOOMBS. I take it the vote is sufficient. Less than a quorum can refuse to adjourn just as well as forty. The Senate have determined that they will not adjourn.

Mr. HAMLIN. That is very true. It does not require a majority to adjourn or to refuse to adjourn, but it requires a quorum to proceed with the business of the Senate.

Mr. PUGH. If that be the case, I move that the Sergeant-at-Arms bring in the absentees.

Mr. TOOMBS. They are here.

Mr. PUGH. Let them be brought to the bar of the Senate.

Mr. TOOMBS. I move that the gentlemen present who did not vote be called to the bar of the Senate. The question may as well be decided at this time as any other.

The VICE PRESIDENT. The Chair will call the attention of the Senate, for a moment, to one of the rules of the body. The 16th rule of the Senate provides that—

"When the yeas and nays shall be called for by one fifth of the members present, each member called upon shall, unless for special reason he be excused by the Senate, de-

clare openly, and without debate, his assent or dissent to the question."

There is a quorum in the House evidently, or was a moment ago. A number of Senators did not vote. It will be for the Senate to say whether the Senators who did not vote shall be called upon to do so, or what steps shall be taken in regard to it.

Mr. MASON. The usage always has been, as I recollect, since my entrance here several years ago, when there was really not a quorum of the Senate present, and those present desired to proceed with business, to direct the Sergeant-at-Arms to request the absentees to attend. There has been no instance within my knowledge, where the Sergeant-at-Arms has been directed to bring them here. I think it desirable to have the usual courtesies preserved. It is manifest that on the last call of the yeas and nays, the want of a quorum was on account of Senators present declining to vote. A Senator does that on his responsibility, and it will be for the Senate to say whether they will take any order to require the rules of the Senate to be observed. I would suggest, therefore, that the vote be again taken, so that it may be seen whether there are any Senators present who declined to vote, and if that be the fact, let the Senate decide whether it will take any order to see that the rule be enforced. I move that the roll be called again on the same motion.

Mr. BIGGS. I wish to inquire whether it would be in order to call the names of the absentees, to ascertain what Senators are present who declined to vote?

The VICE PRESIDENT. That is most strictly in order.

Mr. BIGGS. I shall then call on them by name to request them to vote, if I can ascertain who declined.

Mr. CAMERON. I will make a suggestion; I can hardly make a motion at this stage of the question. I suggest to gentlemen on the other side to adjourn, so as to give Senators on this side an opportunity to consult in the morning; and if, after being in caucus to-morrow morning, we fail to meet you with a proposition to fix some reasonable time to close this debate, I, for one, will give up; but I think for the present we had better adjourn.

Mr. GREEN. I rise to a question of order.

Mr. CAMERON. Oh, there is no order about it. There is no order in what was done before. Without a quorum we can know of no order.

Mr. GREEN. I demand order.

Mr. CAMERON. I cannot be put down by that man.

Mr. GREEN. There is no question pending.

Mr. CAMERON. I have the floor.

The VICE PRESIDENT. The Senator from Missouri has a right to raise his question of order. The Chair will hear it.

Mr. GREEN. My question of order is that there is nothing debatable before the Senate.

The VICE PRESIDENT. That point of order, if insisted on, is well taken, and the Chair must so rule.

Mr. CAMERON. There can be no question before the Senate when there is not a quorum here. How can you decide a question of order without a quorum?

The VICE PRESIDENT. The Senator will suspend for a moment. The Chair desires, of course, to act with perfect propriety in the premises. The Chair is satisfied that there is a quorum of the body present. The 16th rule, which has already been read, says that upon a call of the yeas and nays, "each member called upon shall, unless for special reason he be excused by the Senate, declare openly, and without debate, his assent or dissent." The Senator from North Carolina desires that the Senators present not voting shall be ascertained, in order that the Senate may determine whether it will excuse them from voting. Under these circumstances the Chair will direct the Secretary to call the names of the Senators who did not vote, so that the Chair may ascertain the Senators who did not vote, and then the Senate can take such course as it deems proper. The Secretary will therefore report the names.

The Secretary called the names of the following Senators: Mr. BELL, Mr. BRIGHT, Mr. CAMERON—

Mr. CAMERON. I did not vote, because, as I have stated several times to-night, I have paired off with a gentleman who is compelled to be absent.

Mr. BENJAMIN. I move that the gentleman from Pennsylvania be excused from voting.

Mr. CAMERON. If I am to be counted as being present, I shall walk out.

The VICE PRESIDENT put the question on the motion to excuse Mr. CAMERON; and it was agreed to.

Mr. FITCH. I think I heard my colleague's [Mr. BRIGHT's] name mentioned. I announced once before this evening that he had paired off with the Senator from Tennessee, [Mr. BELL.] I understood it was to be a temporary pair; but I do not see Mr. BELL in his seat.

Mr. SEWARD. I move that the Senator from Indiana [Mr. BRIGHT] be excused from voting.

Mr. WADE. On that motion I call for the yeas and nays.

The VICE PRESIDENT. The Senator from Indiana is not present.

The Secretary called the name of Mr. CHANDLER.

Mr. WADE. I demanded the yeas and nays before that name was called, on the motion to excuse the Senator from Indiana.

The VICE PRESIDENT. The Chair doubts the propriety of a motion to excuse a Senator from voting when he is not present.

Mr. STUART. How does the Chair know that fact, sir? The Chair cannot know who is here and who is not here, unless by the vote.

The VICE PRESIDENT. The Chair will suggest to the Senator that he thinks there is a quorum present.

Mr. STUART. But the Chair is now deciding points of order. My point is, that the Chair cannot officially take notice whether a Senator is here or not. There is a motion to excuse a member from voting. If he manifests that he is here by a vote, or by a remark, or by anything else that the Chair can take notice of officially, that is proper; but the Chair cannot decide whether he shall be excused from voting by saying that he is not here.

Mr. GREEN. Yes he can.

Mr. STUART. Not at all.

Mr. PUGH. I think that point of order will bring us just to the suggestion I made before. A Senator is either present or absent. That is a clear case. If the Senator from Michigan is right, that those who do not vote are absent, then I think the Sergeant-at-Arms ought to bring them here. Whether they are inside of the Chamber or not, he ought to bring them into the Senate, and to the notice of the Senate. If they are here present and do not vote, and the Chair can take notice of them, then there is no propriety, of course, in sending the Sergeant-at-Arms after them. I will do what I have tried all night long, to make some compromise, so as to effect an adjournment. The majority will not adjourn unless that is done, and I shall vote against all factious proceedings on either side.

Mr. STUART. I certainly have no desire to introduce anything here of a novel character. I have a great desire, however—

Mr. GREEN. I rise to a question of order.

The VICE PRESIDENT. Will the Senator state his point of order?

Mr. GREEN. It is this: that while the Secretary is calling the names of the absentees, to see whether there is a quorum present, no question of order is debatable, and a Senator cannot even make a motion until the call is gone through with.

Mr. STUART. I think the Senator will have to look into books that nobody else has seen to find any such principle as that.

Mr. GREEN. I expect to do it.

Mr. STUART. Well, we shall see. Now, sir—

Mr. GREEN. I have not yielded the floor; I have made my question of order, and I submit it to the Chair.

The VICE PRESIDENT. The Chair will remind the Senator—

Mr. SEWARD. One moment, if the Chair pleases. I wish to be heard on the question of order.

Mr. GREEN. I call the Senator from New

York to order, until my point is either sustained or overruled.

Mr. SEWARD. I shall object to any point being sustained or overruled by the Chair in my presence here until I am heard about it.

Mr. GREEN. You have no right to be heard until he either sustains it or overrules it.

Mr. SEWARD. You will see.

The VICE PRESIDENT. Senators will be good enough to pause for a moment. Will the Senator from Missouri restate his point of order?

Mr. GREEN. My point is this: that under a rule of the Senate, the President of the Senate has ordered the names of those who did not answer on the last vote to be called, and during the progress of that call no matter of debate is in order. The Senator from Michigan is undertaking to make an argument in excuse, and to avoid the effect of the call. I say that is not in order until the call is through.

The VICE PRESIDENT. The Chair begs leave to suggest that the proceedings of the last fifteen minutes are new to him; but he will state his opinion on the points of order raised, with the leave of the Senate.

Mr. SEWARD. I must insist that the Senator raising the point of order shall take his seat.

Mr. GREEN. I call the Senator from New York to order.

Mr. SEWARD. I call the Senator from Missouri to order, and my point of order is this: that he has not the floor while the Chair is explaining.

Mr. GREEN. He has no right to call me to order.

The VICE PRESIDENT. The Senator from Missouri has stated his point of order. The Chair will hear the suggestion of the Senator from New York.

Mr. GREEN, (to Mr. SEWARD.) Make your suggestion.

Mr. SEWARD. I wish to know whether I must make my suggestions under the permission of the Chair, or by the command of the Senator from Missouri?

Mr. GREEN. Either is equally obligatory.

The VICE PRESIDENT. The Senator from New York has the floor.

Mr. SEWARD. The point of order made by the Senator from Missouri is that a call of members is being made by the Secretary, and that while that call is proceeding, no Senator can speak to any question whatever. I answer that the Secretary is without authority to make the call. Then the Senator from Missouri says that he is ordered by the President of the Senate to make it. I answer that when there is not a quorum of the Senate present, the President of the Senate cannot direct that call to be made.

Mr. GREEN. It is too late for that point.

The VICE PRESIDENT. The Senator from New York comes to the precise point.

Mr. SEWARD. I say that without authority of a majority of the body, no proceedings can be had.

The VICE PRESIDENT. The Chair will state that on the last call of the yeas and nays there was not a quorum voting. It was quite apparent to the Chair, however, that there was a quorum in the Chamber. The Chair supposes it to be usual in all deliberative bodies to ascertain whether a quorum be present, and that power would exist in the Chair, as the organ of the body, to ascertain the fact whether a quorum be present, of necessity. The Chair assumed at the moment that there was a quorum present, and he might take this mode of ascertaining whether a quorum was really present, by directing the Secretary to call the names of those Senators who did not vote, and if they are present in the Chamber and respond to their names or are obviously present, the Chair will be able to announce to the Senate that there is a quorum of the body here.

Mr. TOOMBS. Certainly; that is the proper way.

The VICE PRESIDENT. Accordingly, the Chair directed the Secretary to call over the names of those Senators who did not vote. Those who voted are present in the Chamber. There are many other Senators present whom the Chair sees, who did not vote. How many, whether enough to make a quorum or not, may be said to be in doubt, and the Chair directs the roll to be

called, with a view to ascertain whether there be a quorum present.

Mr. STUART: I should like to call the attention of the Chair especially to the point of order which was made upon me, and to show the Chair that the Senator from Missouri has not recollected the facts. There was a motion made to excuse a Senator from voting. The Senator from Ohio [Mr. WADE] demanded the yeas and nays upon that motion. The Chair remarked that he doubted the propriety of moving to excuse a member who was not present. Now, sir, that is a debatable motion, to excuse a member, and I have the floor on that subject.

The VICE PRESIDENT. The Chair has no hesitation in retracting an opinion expressed by him when he believes that he was in error.

Mr. GREEN. Mr. President—

The VICE PRESIDENT. The Senator will pause; the Chair is speaking to the point of order. The Chair doubts the propriety now of the motion which he put to excuse the Senator from Pennsylvania, because the object he had in having the roll called was to ascertain whether there be a quorum present; and he was wrong in putting the question on the motion to excuse the Senator from Pennsylvania before the preceding question was determined—whether there was a quorum present? If the case were before him again, with his present opinions, the Chair would not entertain the motion to excuse the Senator from Pennsylvania.

Mr. STUART. But the motion now before the Senate is to excuse the Senator from Indiana; and to that motion I rose.

The VICE PRESIDENT. There is no motion before the Senate; and no question can be now before the Senate except to ascertain the presence of a quorum.

Mr. GREEN. That is it.

Mr. STUART. Will the Chair inform me what has become of the motion that the Senator from Indiana be excused from voting?

The VICE PRESIDENT. The Chair does not entertain the motion, because he does not know that there is a quorum to vote upon it.

Mr. STUART. Very well; what next?

The VICE PRESIDENT. The Chair will do his best, in justice to all sides, to conduct the proceedings with regularity and propriety. The Secretary will continue to call the names of absentees.

Mr. WADE. What is the question?

The VICE PRESIDENT. There is no question before the Senate. The Chair is trying to ascertain whether a quorum of this body is present. The Secretary will continue to call the list of absentees.

The Secretary called the names of—

Mr. CHANDLER, Mr. CLAY, Mr. COLLAMER, Mr. CRITTENDEN, Mr. DAVIS, Mr. DIXON, Mr. DOOLITTLE, Mr. DOUGLAS, Mr. DURKEE, and Mr. EVANS.

Of these gentlemen, Mr. DIXON alone answered.

Mr. FESSENDEN was called.

Mr. FESSENDEN. I desire to hear the rule read.

The VICE PRESIDENT. What rule does the Senator desire to hear read?

Mr. FESSENDEN. The rule with reference to voting on a call of the yeas and nays.

Mr. BROWN. The Senator has shown his presence.

The VICE PRESIDENT. The Chair will read the sixteenth rule:

"When the yeas and nays shall be called for by one-fifth of the members present, each member called upon, shall, unless for special reason he be excused by the Senate, declare openly and without debate, his assent or dissent to the question."

The Secretary will proceed with the call.

The Secretary called the names of—

Mr. FITZPATRICK. No response.

Mr. FOOT. "Present."

Mr. FOSTER. "Present."

Mr. HALE.

Mr. HALE. I was not in when the question was put. I do not know the motion before the Senate.

The VICE PRESIDENT. The Senator shows that he is present.

The Secretary continued to call the names of—

Mr. HARLAN. "Present."

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Mr. HUSTON. No response.

Mr. HUNTER. No response.

Mr. PEARCE. No response.

Mr. REID. No response.

Mr. SEWARD. "Here."

Mr. SIMMONS. No response.

Mr. SUMNER. No response.

Mr. THOMPSON, of Kentucky. No response.

Mr. TRUMBULL. "Here."

Mr. WADE. "Here."

Mr. YULEE. No response.

The VICE PRESIDENT. Upon the call of the yeas and nays, the yeas were 6, and the nays 24—less than a quorum. The Chair being satisfied that there was a quorum present in the Chamber, and on the suggestion also of Senators, directed the vote to be called. Nine Senators who did not vote, have answered to their names, which, added to those who did vote, makes a quorum. The names of those nine Senators are at the service of the body.

Mr. MASON. Mr. President, we have attained a new stage in the deliberations of the Senate. The rule of this body requires that each Senator present shall vote when his name is called.

Mr. STUART. I rise to a question of order.

The VICE PRESIDENT. The Chair was about to say to the Senator from Virginia, that his next duty is to have the names of those Senators called in their order, that they may vote, unless they be excused by the Senate.

Mr. MASON. I intended to make a motion.

The VICE PRESIDENT. The Secretary will call the names of those Senators who responded to their names on the last calling of the roll, but who did not vote when the question was put.

The Secretary called the name of Mr. CHANDLER.

Mr. CHANDLER. What is the question? I was not present when it was put.

The VICE PRESIDENT. The question was on adjournment.

Mr. CHANDLER. I vote to adjourn.

The Secretary called the name of Mr. DIXON, and he answered "nay."

Mr. PUGH. I hope we shall not pass the first case. We may as well make a stand there.

Mr. BROWN. The Senator voted; that is all you can ask.

The Secretary called the name of Mr. FESSENDEN.

Mr. FESSENDEN. I ask to be excused from voting.

Mr. BROWN. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PUGH. I believe, under our rules, that request cannot be made, unless before the call commences.

The VICE PRESIDENT. The Chair will again refer Senators to the rule:

"When the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reason he be excused by the Senate, declare openly, and without debate, his assent or dissent to the question."

The Senator from Maine is now called upon to vote for the first time. He asks to be excused, but has assigned no reason. The Chair, however, will entertain the motion.

Mr. FESSENDEN. At the suggestion of the Senator near me, under the circumstances of the case, I withdraw my request to be excused, and vote "yea."

The Secretary called the name of Mr. FOOT.

Mr. FOOT. I vote "yea," but at the same time I beg leave to say that I was not present when the yeas and nays were called on the motion.

The Secretary called the name of Mr. FOSTER, and he voted "yea."

The Secretary called the name of Mr. HALE.

Mr. HALE. What is the question? I was not in when the motion was put.

The VICE PRESIDENT. The question is on adjournment.

Mr. HALE. Does the rule require a Senator to vote if he is not in the Chamber when the question is put?

The VICE PRESIDENT. The question is now put.

Mr. HALE. I am ready to vote. I vote "yea."

The Secretary called the names of Messrs.

HAMLIN, SEWARD, TRUMBULL, and WADE, and they voted "yea."

The VICE PRESIDENT then announced the result—yeas 15, nays 24; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Fessenden, Foot, Hale, Hamlin, Harlan, King, Seward, Stuart, Trumbull, Wade, and Wilson—15.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Sidel, Thomson of New Jersey, Toombs, and Wright—24.

So the Senate refused to adjourn.

Mr. WILSON addressed the Chair.

The VICE PRESIDENT. Does the Senator from New Hampshire yield the floor to the Senator from Massachusetts?

Mr. CLARK. Certainly.

Mr. WILSON. I move that the further consideration of this question be postponed until half past twelve o'clock to-morrow.

Mr. SEWARD. On that motion I call for the yeas and nays.

Mr. HALE. I rise to what I believe is a privileged question; but I do not know that it is. I understand that there has been a call upon the members who were not here when the question was put on the last motion; and it appears by the call that there were a good many absent members. I move that the Sergeant-at-Arms be directed to procure the attendance of absent members.

The VICE PRESIDENT. The Chair was in the act of addressing the Senate, and the Senator did not obtain the floor. The Chair will hear him in a moment, as soon as the Senate determines whether it will take the question by yeas and nays.

The yeas and nays were ordered.

Mr. HALE. My proposition is to procure the attendance of absent members. I think it is the privilege of the body to have the Senate full. I move, therefore, that the Sergeant-at-Arms be directed to procure the attendance of the absent members. I have not had an opportunity to look at the rules; but I take it this order is in the power of every House.

The VICE PRESIDENT. The Chair is inclined to think that the motion is in order.

Mr. GREEN. If the Senator has made a motion, I should like to know what it is.

Mr. HALE. That the Sergeant-at-Arms be directed to procure the attendance of absent members.

Mr. GREEN. I move to lay that motion on the table.

Mr. STUART. I submit that that cannot be done. To lay a simple motion on the table is not parliamentary.

The VICE PRESIDENT. The Chair inclines to think that the motion to lay on the table is in order. If that is carried, it is an expression of the sentiment of the Senate, that they will not at this time call for absent members.

Mr. SEWARD. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STUART. Mr. President—

The VICE PRESIDENT. The Senator from New Hampshire moves that the Sergeant-at-Arms be directed to bring in the absent Senators. The Senator from Missouri moves to lay that motion upon the table. Upon this the yeas and nays have been ordered. Senators who are for laying the subject on the table, will, when their names are called, answer "yea;" those opposed to it will answer "nay."

Mr. STUART and Mr. HAMLIN addressed the Chair.

The VICE PRESIDENT. The Chair recognizes the Senator from Michigan.

Mr. HAMLIN. With the permission of the Senator from Michigan, I desire to say that in my opinion, the Chair, in stating the motion, does not state it in the language in which it was made by the Senator from New Hampshire. I think there is a great deal of force in the suggestion made by the Senator from Virginia.

Mr. PUGH. I call the Senator to order. The motion to lie on the table is not debatable.

Mr. HAMLIN. I am making a suggestion to the Chair in relation to the manner of proceeding.

The VICE PRESIDENT. The Chair is will-

ing to hear the suggestion; but if the Senator from Ohio insists, I must—

Mr. STUART. I appeal from the decision of the Chair.

Mr. PUGH. I insist on it; if we are to have this course of things, I call Senators on all sides to order.

Mr. STUART. I appeal from the decision of the Chair.

Mr. HAMLIN. I appeal from the decision of the Chair, if he sustains the point of order of the Senator from Ohio; and I suppose on that question I may be heard.

The VICE PRESIDENT. The Senate will be good enough to come to order. The Senator from Michigan takes the appeal on the same point, I believe, that the Senator from Maine proposes to take his appeal.

Mr. HAMLIN. On this appeal, which has been taken, I only desire to state to the Chair what I think is material. I have risen for no other purpose. I heard the Senator from Virginia—

Mr. GREEN. Will the Senator give way for a moment? If it will relieve the Senate from any embarrassment, although I have no doubt on the question, I will withdraw my motion, and allow the vote to be taken directly on the motion of the Senator from New Hampshire, to send for the absentees, so that we may see whether the Senate means to send for them or not.

The VICE PRESIDENT. The yeas and nays have been ordered, and it requires unanimous consent to withdraw the motion. Is consent given that the motion be withdrawn?

Mr. SEWARD. I object.

Mr. HAMLIN. I hope the Chair will allow me to proceed on the appeal which the Senator from Michigan or myself has taken from the ruling of the Chair. I believe it is a debatable question.

Mr. PUGH. I want to find out whether that appeal is debatable. I object to your proceeding until the Chair decides it.

Mr. HAMLIN. I only want to state the form of the question, and I will state it. What is the decision of the Chair?

Mr. STUART. There is nothing for the Chair to decide.

The VICE PRESIDENT. The Senator from New Hampshire moved that the Sergeant-at-Arms be directed to go after the absent Senators. The Senator from Missouri moved to lay that motion upon the table. The Senator from Michigan raised the point of order that the motion of the Senator from Missouri is not in order. The Chair decided it to be in order. From that decision the Senator from Michigan appeals. The question now is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. HAMLIN. Now I propose to say a word on that appeal.

Mr. PUGH. I object that that is not a debatable appeal, because the motion to lay on the table is not debatable.

Mr. HAMLIN. Let us hear what the Chair says.

The VICE PRESIDENT. Since the present occupant has been in this chair no question has ever arisen in regard to the point whether appeals are debatable or not. The rules say that the Chair must decide every question of order without debate, subject to an appeal to the Senate. Whether, when an appeal is taken, that appeal is debatable or not, the Chair must decide according to the usage of the Senate.

Mr. HAMLIN. The uniform practice of the Senate, without exception, has been to allow debate on appeals.

Mr. HALE. As a matter of history, if the Chair will indulge me, I will say that a few years ago, when Mr. Dallas presided over this body, this very question was raised. I remember that Mr. Dallas suggested that the appeal must be decided without debate; but the late Mr. Berrien, who was then on this floor, a Senator from Georgia, immediately suggested that that would be to paralyze the Senate by the will of an officer not of their own selection, and that, when he had decided a question, and an appeal was taken from his decision, that was always open to debate. Mr. Dallas retracted the opinion which he had advanced, upon the suggestion of Mr. Berrien. I

believe it has always been considered that an appeal from the decision of the Chair is debatable.

The VICE PRESIDENT. On a question of order?

Mr. HALE. On a question of order.

Mr. GREEN. The uniform rule of parliamentary law is this: if the question itself is debatable—

Mr. STUART. I call the Senator from Missouri to order.

Mr. GREEN. Very well; state the point of order.

Mr. STUART. I call the Senator to order.

The VICE PRESIDENT. The Senator from Michigan will state his point of order.

Mr. STUART. I call him to order.

Mr. GREEN. On what ground?

Mr. STUART. The Chair has arrested the Senator from Missouri to decide the question of order; and, while the Chair is deciding it, no Senator has a right to say a word on the subject.

Mr. GREEN. He has not arrested me.

Mr. STUART. The Senator from Maine.

Mr. GREEN. Correct yourself, not me.

Mr. STUART. I stated the fact. My point of order is, that the Chair having arrested the Senator from Maine upon the point of order made by the Senator from Ohio, that this is not a debatable question, until the Chair decides that point no Senator has a right to say a word.

Mr. GREEN. I wish to do justice—

Mr. STUART. I call the Senator to order.

The VICE PRESIDENT. If the Senators will both take their seats, the Chair will say a single word. The Chair decided the point of order without debate. The Senator from Michigan took an appeal from the decision of the Chair. The question is, whether that appeal is debatable. Such a question has not arisen since I have occupied this chair, and I was disposed, with the consent of the Senate, to take the experience of a few of the older Senators on that point, and to be governed by the practice of the body.

Mr. STUART. I have no objection to that.

The VICE PRESIDENT. I think it is a very plain mode of proceeding.

Mr. MASON. Will the Chair be good enough to state the judgment that is appealed from? I did not hear it.

The VICE PRESIDENT. The Senator from New Hampshire moved that the Sergeant-at-Arms be directed to go after the absent members. The Senator from Missouri moved to lay that motion upon the table. The Senator from Michigan raised the point of order that the motion of the Senator from Missouri could not be entertained. The Chair decided that motion to be in order, as the effect of its adoption would be the expression of a purpose on the part of the Senate not to send for the absent Senators, but to lay aside the consideration of that matter. The Senator from Michigan appealed from the decision of the Chair deciding that the motion of the Senator from Missouri was in order. The Senator from Maine proposes to debate that appeal. What the Chair desires to know is, whether, by the practice of this body, appeals from the decision of the Chair on points of order have been debatable. He heard the suggestion of the Senator from New Hampshire, and would be glad to hear other brief suggestions to the point from any Senator who is aware of the practice. The Senator from Maine is on the floor, and the Chair will hear what he desires to say.

Mr. GWIN. Will the Senator from Maine permit me to ask the Chair a question?

Mr. HAMLIN. Certainly.

Mr. GWIN. I desire to ask whether, when there is a quorum present—and the last vote showed thirty-nine Senators to be here—it is in order to move to send for absent Senators?

Mr. JONES. It is not.

The VICE PRESIDENT. The Chair has decided that question.

Mr. MASON. The Constitution of the United States declares that "each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penal-

ties as each House may provide." The eighth rule of the Senate has this provision:

"No member shall absent himself from the service of the Senate without leave of the Senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons, by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members, respectively, unless such excuse for non-attendance shall be made, as the Senate, when a quorum is convened, shall judge sufficient, and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the Senate at the legal time of meeting, as to each day of the session after the hour has arrived to which the Senate stood adjourned."

Now, I think it is very manifest from the Constitution constituting this body, that there is no power to send for absent members, unless there is not a quorum in attendance, and when there is no quorum in attendance, the eighth rule points out the mode in which it can be done, and it cannot be done by more than a quorum.

Mr. BIGLER. That is the uniform practice.

Mr. HAMLIN. The rule which the Senator from Virginia has just read, confers upon a number in this body less than a quorum the power to do certain things without which rule they would be powerless. Because it has conferred upon a number less than a quorum a power to compel the attendance of absentees, does it follow as a matter of course that a quorum cannot compel the attendance of those who are absent, if there is a quorum present? Far from it. But that is not the point to which I rose, and if Senators had not interrupted me, I should not have detained the Senate more than a single moment. I rose because the Senator from Virginia had made a suggestion in which I thought there was much force. He stated this evening that it had been the uniform practice of the Senate up to this time to direct the Sergeant-at-Arms to request the attendance of absent Senators.

Mr. MASON. For want of a quorum.

Mr. HAMLIN. No matter whether there was or was not a quorum. The Chair in his statement of the question to the Senate put it in this way: Will the Senate direct the Sergeant-at-Arms to bring in the absent members? and that was the point to which I rose.

The VICE PRESIDENT. That was the language of the motion.

Mr. HAMLIN. Then I hope the Senator from New Hampshire will modify his motion so that it shall conform to what has been the uniform practice of the Senate.

Mr. HALE. I will do that.

Mr. HAMLIN. That is all I had to say. I now withdraw my appeal from the decision of the Chair.

Mr. STUART. It is my appeal.

Mr. HAMLIN. Very well.

Mr. STUART. I yielded the floor to the Senator from Maine. Now, Mr. President—

Mr. FITCH. With the permission of the Senator from Michigan, I wish to ask the Chair a question. The decision, I understand, from which the Senator from Michigan appealed, was a decision that a motion to lay on the table another motion was in order. The motion to lay on the table is not debatable. Now, can a non-debatable question be made debatable by some collateral motion in relation to it?

Mr. STUART. I have yielded the floor a good many times to-day, and am willing to yield it a good many times more; but I should have got through long ago with what I had to say if Senators had allowed me the privilege. I have not the slightest disposition to raise any controversy here in the Senate; on the contrary, I intend to exert every power that I have to prevent it. Upon this point I wish to suggest to the Chair, in obedience to his own request, that every question of order, either put by the Chair to the Senate, taken from the Chair on an appeal to the Senate, is debatable in the very nature of the question. There is a provision in one of our rules that a question of order is to be decided, without debate, by the Chair, but that means a question whether a Senator is in order in debate; it does not mean any other question of order. When a Senator is called to order the Chair is to decide the question whether he is in order or not. It is also provided in the same rule that the Chair may submit the

question of order to the Senate. Does not the Chair see that the moment a question of order is submitted to the Senate each Senator is at liberty to give his reasons for his vote upon it? The Chair has that right. When the Chair is called upon to decide a question of order, there is no human power that can prevent him from stating the grounds on which he decides it. You would stultify him if it were otherwise. So, when an appeal is taken to the Senate each Senator is called upon to vote, and he is not to vote *sub silentio*. He has a right to state the grounds on which he bases his opinion; and, therefore, the Chair will see at a glance that, without restriction, every appeal from the President to the Senate is debatable.

The VICE PRESIDENT. The Chair will suggest to the Senator that he has not decided that it is not debatable.

Mr. STUART. So I understood; but I also understood the Chair to say that he desired the opinion of some Senators on that question, and it was in obedience to that suggestion that I was giving my opinion.

The VICE PRESIDENT. Does the Senator desire to debate the appeal?

Mr. STUART. Yes, sir.

The VICE PRESIDENT. The Chair will hear the Senator.

Mr. STUART. I do not desire to detain the Senate on this topic. I am satisfied that the ground assumed by the Senator from Virginia is correct; that the motion made by the Senator from New Hampshire itself is not in order; that it is not a power which attaches to any portion of the Senate, unless there is not a quorum present. The Chair will allow me to say further, with great respect, that I do not think he had any power to cause the roll to be called. The Chair can do what the rules authorize him to do. The eighth rule, read by the Senator from Virginia, authorizes the Senate, when less than a quorum is convened, to take measures to bring in the absentees at their own expense. That is the extent of their authority. Now, sir, upon this question—

The VICE PRESIDENT. Will the Senator allow the Chair to interrupt him with a suggestion?

Mr. STUART. Certainly.

The VICE PRESIDENT. The motion of the Senator from New Hampshire, in the language in which it is now put, is simply that the Sergeant-at-Arms be directed to request the attendance of absent Senators. Does the Senator from Michigan think there is any objection to the motion in that form?

Mr. STUART. I do not.

The VICE PRESIDENT. That is the motion before the Senate.

Mr. STUART. Now, sir, the Senator from Missouri moves to lay that motion on the table. The Senate may refuse to agree to the motion of the Senator from New Hampshire, but I submit to the consideration of the Chair, that a motion which connects with it no papers, no substance, no subject, cannot be laid on the table, any more than a motion to adjourn can. I know there is another reason connecting itself with the motion to adjourn; but it is a mere motion. A motion to adjourn over to a particular day, or anything that rests on a mere motion, connecting itself with no bill, no papers, nothing that is substantial, cannot be laid upon the table. I was about to say—and it is really all the desire I had on this subject—that I made an effort to-day, and I should like to make it again, to have the Senate come to some understanding by which we shall progress in some mode that will correspond with the dignity of the Senate.

The VICE PRESIDENT. Will the Senator suspend for a moment? The Chair must request Senators on all sides to preserve order. The buzz in the Chamber is so great that the Chair cannot hear the Senator from Michigan. Senators will be good enough to come to order.

Mr. STUART. I was about to say that I desire that there shall be some arrangement made, some understanding in the body, by which we shall proceed with this discussion in a manner corresponding with the dignity of the Senate and the importance of the question; and so long as the discussion is of a proper character, it ought to be

permitted to proceed, so that each Senator may be heard, and heard at a proper time. I should be glad to have that done; I should be glad to make any arrangements to perfect it; but, sir, I have no purpose—and I beg to say to the Chair and to the Senate, that whatever may result from this controversy, I hope to be able to maintain a proper feeling myself, and a proper respect for everybody. It is obvious, however, that if this course of proceeding is to go on, a mere question of endurance at this stage of the debate, we shall hardly be able to keep ourselves within that rule. Hence it was that I desired that no decision should be made either by the Chair or the Senate in the haste or under the excitement of the occasion, which might be deemed improper hereafter; and it was for that reason, and that alone, that I took the appeal at this time, and with great reluctance, for it would give me vastly more pleasure to sustain the Chair, than to overrule him on any occasion; but I insist that it is not in order to move to lay a mere motion on the table.

Mr. MASON. I wish only to add a word to what has fallen from the Senator from Michigan. My impressions strongly are that he is right in his suggestion that it is not in order, in the Senate at least, to move to lay a motion on the table. I think there is such a practice in the House of Representatives. How it arose there, I do not know; whether it is under rule or under usage; but I do not recollect of any proposition in the Senate to lay a motion on the table. I have been confirmed in that impression by a recurrence to the Manual, which is a part of our rules; which, with the permission of the Senate, I will read, as it is very brief:

"When the House has something else which claims its present attention, but would be willing to reserve in their power to take up a proposition whenever it shall suit them, they order it to lie on their table. It may then be called for at any time."

That refers altogether to propositions; it cannot refer to a motion. In my recollection of the usage of the Senate, I have never known a motion made, or to prevail if it were made, to lay a mere motion on the table.

Mr. GREEN. Mr. President—

The VICE PRESIDENT. With the leave of the Senate the Chair will very briefly state the grounds of his decision. The Senator from New Hampshire moved that the Sergeant-at-Arms be directed to request the attendance of absent Senators. The Senator from Missouri moved to lay that motion on the table. The Chair decided the motion of the Senator from Missouri to be in order. From this decision the Senator from Michigan appeals. The question is, whether the motion of the Senator from New Hampshire was of a character which could be laid on the table. The Chair considers the word "proposition" in the clause read by the Senator from Virginia to be of very broad significance and covering a motion. A motion is a form of proposition. It is a question. It was under debate. The question was, shall the Sergeant-at-Arms be directed to request the attendance of absent members? It is not for the Chair to say that it is not in the power of the Senate to declare that they will lay aside, for laying on the table is nothing more than laying aside the consideration of that question, proposition, or motion, to wit: directing the Sergeant-at-Arms to request the attendance of absent Senators. There is a rule of the Senate which the Chair supposes to bear somewhat on this point. "When a question is under debate"—the word is very broad—"no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely," &c. The Chair thinks that the effect of voting to lay this motion on the table is nothing more than the expression of the purpose of the Senate not to consider at this time the motion or proposition of the Senator from New Hampshire to direct the Sergeant-at-Arms to request the attendance of absent members. This is the ground of the decision. The Chair will put the appeal.

Mr. GREEN. I merely wish to remark that all I had to say has already been said by the Chair, and said in a manner more clear and explicit than I could possibly say it myself. I made a motion to lay a proposition on the table. The Chair entertained it. A question of order was raised whether a motion could be laid on the table. A

motion is a proposition. Every resolution is a motion; every motion is a resolution; and there is no distinction between them. If any member of the Senate chooses to require that that proposition be reduced to writing, it must be put in the shape of a motion. There is, therefore, no distinction, no question between the Senator from Michigan and myself. The Senator from New Hampshire moved a certain proposition, I moved to lay that proposition on the table. He says that a motion to lay another motion on the table cannot be entertained because that may be reconsidered and taken up at any time.

Mr. STUART. No, sir.

Mr. GREEN. What then? So of the motion to reconsider; and I have heard him move to reconsider a vote that has been taken; and when that motion to reconsider has been made, I have also heard him move to lay that motion on the table. Here is a motion laid on the table, and it has been the uniform practice of the Senate.

On the other question of order I shall not take one moment of time, for the reason that I esteem the decision of the Chair to be right, correct, and proper. With reference to the idea of the Senator from Michigan, that the Chair could not entertain the appeal because a motion to lay it on the table was out of order, that seems to me so in conflict with the ordinary practice of the Senate, so in conflict with the principles of parliamentary law, that there can be no difficulty on that subject. Any proposition, any motion, any order, anything pending before the Senate, may be laid on the table. You may present it in the shape of a motion, proposition, bill, petition, or anything else, and you may then move to lay it on the table. There is now a motion pending; and if I had chosen to exact it of the Senator from New Hampshire, he would be compelled to reduce it to writing in this form: "Ordered, That the Sergeant-at-Arms be directed to send for the absentees." That would be his resolution; that is his motion. The fact that I have not chosen to require him to reduce it to writing does not lessen my rights on the question pending before the Senate. When that resolution, proposition, or motion, is pending, I may choose to move to lay it on the table, and the Senate has the right so to order, there being a quorum present authorized to transact business. I will not consume the time of the Senate. I know the Senator from Michigan is mistaken in his point of order. I know that a motion and a resolution are really the same; that the one is reduced to writing, and the other may be reduced to writing, if any Senator so requires. They are the same; there is no distinction between them. I shall not consume time, but ask for a vote on the point now pending before the Senate.

Mr. HALE. What is the question before the Senate?

The VICE PRESIDENT. Shall the decision of the Chair stand as the judgment of the Senate?

Mr. SEWARD. I understood that the Chair had invited the opinion of Senators on the question whether the appeal from the Chair was debatable.

The VICE PRESIDENT. There seems to be a general understanding in the Senate, several Senators, without contradiction, stating that it had been the custom of the body to debate appeals, and the Chair therefore listened to debate.

Mr. HALE. I was going to say a word or two, because I do not wish to set a bad precedent set now.

The VICE PRESIDENT. The Chair has heard debate on the appeal, and he will hear the Senator from New Hampshire.

Mr. HALE. I wish to thank the Senator from Missouri for not compelling me to reduce my motion to writing. [Laughter.] That is a little favor.

Mr. GREEN. I know the Senator is not a good scrivener, and therefore I excuse him.

Mr. HALE. If he had insisted on it I should have asked the clerk to write it for me. [Laughter.] But, sir, I want to be serious. I do not want a bad example set here at this time. I think a decision or an intimation sustained by grave Senators that an appeal from the decision of the Chair is not debatable would be very dangerous, and very alarming to the liberties of the Senate.

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The VICE PRESIDENT. The Chair has not so decided, and it has been for half an hour actually under debate. The Chair hears debate on it.

Mr. HALE. If that is the understanding of the Chair and the Senate, I will not say a word. Before I sit down, however, I wish to say that I concur in opinion with the Chair and the Senator from Missouri about this point of order which was raised by the Senator from Michigan.

Mr. PUGH. I objected to the Senator from Maine proceeding; but he made his speech; and now I move to lay the appeal on the table.

Mr. WADE. I call for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 15; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clark, Fitch, Green, Gwin, Hale, Hammond, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—26.

NAYS—Messrs. Broderick, Chandler, Dixon, Doolittle, Douglas, Foot, Foster, Hamlin, Harlan, King, Seward, Stuart, Trumbull, Wade, and Wilson—15.

So it was ordered that the appeal taken by Mr. STUART from the decision of the Chair lie on the table.

The VICE PRESIDENT. The question recurs on the motion that the proposition of the Senator from New Hampshire do lie on the table. On this question the yeas and nays have been ordered.

Mr. SEWARD. I will trouble the Chair to state the question again; there is so much noise here that I cannot hear.

The VICE PRESIDENT. When the Senate comes to order, the Chair will state the question before it. The Senator from New Hampshire has moved that the Sergeant-at-Arms be directed to request the attendance of absent Senators. The Senator from Missouri has moved that that proposition do lie on the table; and the question is on the motion of the Senator from Missouri.

The question being taken by yeas and nays, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Chandler, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—25.

NAYS—Messrs. Broderick, Clark, Dixon, Doolittle, Douglas, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Trumbull, Wade, and Wilson—15.

So it was ordered that Mr. HALE's motion do lie on the table.

Mr. CHANDLER. I move a reconsideration of the last vote; I think it is wrong.

Mr. GREEN. Did the Senator vote in the affirmative?

Mr. WILSON. I believe the question now to be taken, is on the motion to postpone this matter until to-morrow at half past twelve o'clock.

Mr. CHANDLER. It is on the reconsideration.

The VICE PRESIDENT. Did the Senator from Michigan vote in the affirmative?

Mr. CHANDLER. I did.

Mr. PUGH. Is it in order to reconsider a vote of the Senate deciding that a motion shall lie on the table? The motion that it lie on the table is itself a privileged motion. If you can reconsider that, you might reconsider the previous question and everything. The proper motion would be to take it up when the Senator can get his motion in order.

Mr. STUART. Certainly; the rule is without exception that any motion made and carried in the affirmative may be reconsidered.

The VICE PRESIDENT. The Chair was about to remark that he was not aware of any rule which would cut off the motion now made. It is moved to reconsider the vote by which the proposition was ordered to lie on the table. That motion will be entered on the Journal and can be called up hereafter. The question now before the Senate is the motion of the Senator from Massachusetts, that the further consideration of this subject be postponed until to-morrow at half past twelve o'clock. On that question the yeas and nays were called for, but have not yet been ordered. The Chair will take the sense of the Senate as to whether the question shall be taken by yeas and nays.

The yeas and nays were ordered.

Mr. PUGH. Is it in order to move that that motion lie on the table after the yeas and nays are demanded?

The VICE PRESIDENT. There is a question before the body.

Mr. HAMLIN. That would carry the whole question with it, would it not?

The VICE PRESIDENT. Does the Senator from Ohio refer to the motion of the Senator from Massachusetts?

Mr. PUGH. Yes, sir.

The VICE PRESIDENT. The Chair did not so understand. That is in order.

Mr. PUGH. I move that the motion of the Senator from Massachusetts lie on the table.

Mr. HAMLIN. We will all vote for that. It carries the whole subject.

Mr. STUART. I hope I shall not be considered, by the Chair or the Senate, as specially obtrusive; but I wish to suggest that this motion to postpone is a bare, naked motion, connecting nothing with it.

The VICE PRESIDENT. The Chair, on reflection, will rule this motion to be out of order.

Mr. PUGH. I will call the attention of the Chair to the Manual.

The VICE PRESIDENT. The rules provide that, "when a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain," &c. The Chair does not understand that, under this rule, the motion of the Senator from Ohio is in order.

Mr. PUGH. Mr. Jefferson, in remarking on that subject, says in the Manual:

"When the House has something else which claims its present attention, but would be willing to reserve it in their power to take up a proposition whenever it shall suit them, they order it to lie on their table. It may then be called for at any time."

I think we have something that suits our attention better than this motion. We can take it up an hour hence.

The VICE PRESIDENT. The Chair suggests to the Senator that, by the eleventh rule of the body, when a proposition is under debate, there are a series of motions which may be made; one of which is to lie on the table; another is to postpone to a day certain.

Mr. PUGH. The paragraph I have read is Mr. Jefferson's commentary on that very rule, as the Chair will see if he looks at the Manual.

The VICE PRESIDENT. If there be no further suggestion, the Chair will direct the roll to be called.

Mr. TRUMBULL. What is the question?

The VICE PRESIDENT. On the motion of the Senator from Massachusetts to postpone the further consideration of this subject until half past twelve o'clock to-morrow.

Mr. TRUMBULL. On that question, which I believe is debatable, I should like to make a suggestion or two to the Senate, if one so humble as myself may get the ear of the Senate. It seems to me that very little is being accomplished by this night session. I have never known much accomplished by such sessions. There are several gentlemen who desire to say something upon this bill. I myself had desired to address the Senate upon it; but I am not entirely ready to do so to-night, and if I were to undertake to do so now, it would probably take me much longer than it would if I were better prepared. We have abundance of time before us, and I apprehend we shall get the final vote as soon by going on in the ordinary way, meeting and adjourning at reasonable hours, as we shall by the attempt to coerce members of the Senate to deliver their views now, or be cut off. I think nothing will be gained even in point of time by this attempt. It will engender bad feeling; we make a bad exhibition of ourselves before the country. In any point of view in which I can look at this matter, I can only see evil to grow out of it, and no possible good. Now we have consumed nearly six hours since the usual time of adjournment, and but one speech is partly through. If we had adjourned at the ordinary time, I doubt not that the Senator from New Hampshire [Mr. CLARK] would make his speech, probably, in a couple of hours to-morrow; and now his remarks have been interfered with, and thereby prolonged. We have first one motion and then

another, an appeal from the decision of the Chair, motions to lie on the table, and motions to adjourn. All these, it seems to me, can accomplish no good, and will not further the business of the Senate at all. It comes to a matter of physical endurance whether Senators can be forced to make their speeches at unreasonable hours, or whether they will forego the opportunity to deliver their views which they consider it due to themselves and the positions they occupy to lay before the people. The question before us is a very important one, admitted to be such upon all sides of the Chamber; one affecting the peace and harmony of the Union; one putting to hazard, I may say, the peace and harmony of the Union.

Mr. BIGGS. Will the Senator from Illinois be kind enough to suggest some day when we can probably take this vote? If he will do so, I shall be much obliged to him.

Mr. TRUMBULL. I cannot do that, because I am not authorized to speak for others; but I will give the Senator my own view about it. I have no doubt, from what knowledge I have of the Senate, that the vote can be taken this week, or certainly by Monday next. I am not aware myself of Senators who propose to speak, that would occupy half that time. Still, I cannot give that assurance, because I am not authorized to speak for other persons; but I know of no disposition to prolong the debate unreasonably; nor do I know of any gentleman who desires to speak for the purpose of occupying time. If there are such persons, they are unknown to me. I had supposed that on this question ample time would be afforded for all Senators to be heard upon it during the week. I think this week will be sufficient; but still I cannot promise that it will be so. I think it would be better for us to stop where we are. Let this matter go over, and the other side will find that the question will be disposed of quite as soon by pursuing the ordinary course, as by this attempt at coercion. It is unpleasant always to be coerced. It is a delicate subject. There is bad enough feeling in the country at best. Sections of the country are being arrayed against each other. I do not wish to increase that feeling unnecessarily, be the issue of this matter what it may. I hope it will be permitted to go over until another day, and take the usual course.

Mr. TOOMBS. I will claim a few moments of the time of the Senate, by their permission. Gentlemen around the Chamber have alluded to gagging and forcing and cramming. I wish to give a short history of the country, for I trust this night's work will be remembered. It ought to be remembered here and elsewhere. It is a new era in the Senate, and one that ought to be marked. This question has been discussed since the session commenced. I believe the first speech that was made in the Senate of the United States at the present session of Congress was on the admission of Kansas into the Union under the Lecompton constitution, on the 9th day of December, 1857. We have continued from time to time, probably every week, when any gentleman desired it, to argue the question up to this 15th day of March. We have consumed upon it more than the time allotted every second year to the discharge of the entire legislative business of the Republic—more than sufficient to discharge that business every year by persons fit to do it, and who address themselves to its performance.

It has been the fixed purpose, if I may judge of the conduct of the Opposition, at all times within the last fortnight, to delay this business. Some of the gentlemen have even availed themselves of the casual absence of Senators on the other side to cut off a speech in the middle at an early hour of the day, and thus take up two days with one speech. Two or three Senators on this side of the Hall have taken two days each to speak upon the subject. Now they talk of proper hours. Some of them have commenced their speeches at one o'clock, spoken an hour and a half, and then, in the casual absence of Senators on the other side, postponed the subject, and consumed the next day in the same way. So, too, they have adjourned over from Thursday to Monday. A week ago to-day, according to the usual custom of this body since I have been a member of it, notice was given that we would endeavor, in order to expedite the public business and address our-

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selves to the other great interests of the Republic, to have a vote on this bill to-day. This notice was given in the usual form, according to the expressed will of the majority, the Democratic party, who are responsible to the country for the conduct of business here. That announcement was publicly made a week ago to-day, by the Senator who has the bill in charge. Notwithstanding that, we have been going on listening to a speech for an hour or an hour and a half a day, and then adjourning. This side of the House has always, without exception, at all times, voted for adjournments at the earliest hour.

We came here this morning with a view of carrying out the notice which was given a week ago; but we were willing to allow three more days, until Thursday next, if that would be accepted. The gentleman who has charge of the bill made that proposition to the Senators who oppose it; and some of them said it would take a month longer, and some said two or three weeks, and some jeered at what they pleased to term this interference with their rights. Sir, the country has rights. The majority have rights, and they have duties; and one of those duties is that the business of this country shall be done decently, and in order, and in due time; and I trust there is fidelity enough to themselves, and to their principles, and to their country yet in the majority of the Senate, to stand at all hazards, and crush this faction. [Applause in the galleries.]

THE VICE PRESIDENT. Disorder cannot be tolerated in the galleries or upon the floor.

MR. FESSENDEN. I do not know that it will be quite so easy a matter to crush us.

MR. TOOMBS. I did not say it was easy.

MR. FESSENDEN. I do not think it can be done. The Senator talks about new eras in the Senate. Sir, I think it is a new era when a Senator rises here and talks about crushing the minority in the Senate as a faction. I have had occasion to say before, and I repeat now, that, although a minority in this body, we have our rights; we understand that every individual member of this body has his rights. When the Senator talks about undertaking to crush us, I want to know by what process he intends to do it. We understand perfectly, sir, that we may be brought to a contest of physical endurance; and very likely if we are the Senator from Georgia may be able to endure more and longer than I can; but if we are brought to that, so long as we are able to stand here within the rules of the Senate, and so long as the Presiding Officer administers those rules firmly—and from what we have seen I have no doubt he will do so to the end—I want the Senator from Georgia, and every Senator, to understand that we shall not hesitate to do what we please, under the rules of the Senate, with reference to protracting this matter, until we see that we are to be treated fairly and honestly on this floor.

Now, sir, what the Senator has said with reference to the course of the debate on this bill, I do not undertake to say, or to intimate that he does not understand to be so, but I will say that it is very contrary to my understanding, and to the understanding of the minority on this floor. I have given notice to Senators, over and over again, that there was no disposition on the part of the minority here to talk for the sake of talking, that we had no disposition or wish to protract the time one hour or one moment beyond the period when we had an opportunity fully and fairly to express our opinions, and that we should have that opportunity unless the crushing process was undertaken, and if it is, I am perfectly willing to go to the country with it, and that the country shall understand precisely how this matter stands; and it will be for the country finally to settle, and to settle by votes, with reference to the question whether or not it will sustain men.

The Senator from Georgia says that there have been arguments made on the Lecompton constitution ever since the 9th of December last—ever since the commencement of the session. Why, sir, I believe this subject was not acted upon in the Territory of Kansas until after that period. It did not come here until the month of February. What were the questions which agitated the Senate? The first questions that agitated the Senate, were questions that arose on the annual message of the President. We debated that; we debated

the sentiments of that message; we debated the recommendations of that message. I say "we," but it was not debated on our side of the Senate. The debate arose on the other side, between Senators hitherto of the same political party and the same political faith, though now differing. We abstained day after day, week after week, I had almost said month after month, but not quite so long as that. We abstained until our constituents complained of us for not expressing our sentiments to the country on the questions thus presented. We left the debate to the other side, and it was kept there. Senators on the other side of the Chamber exclusively debated that matter, day after day. We hardly opened our mouths upon it. We certainly took no time in regard to it. It was the understanding that we should take that course, and leave the question to be debated there, until Senators on the other side satisfied themselves of their own position.

Then what was the next question that came up? The President sent in his special message, and upon that debate arose. In the mean time other questions intervened. The Army bill was under consideration for some weeks. That was debated in the Senate day after day; and because occasionally the question of Kansas was mentioned, because, on the Army bill, we chose to debate the effect of the measure upon Kansas, was that debate on the Lecompton constitution? Sir, this question of the Lecompton constitution has been before the Senate but a fortnight, and I say, as a matter of fact, that most gentlemen on this side held back their speeches on the main question for the single reason that they wished to debate it as my friend from New Hampshire [Mr. CLARK] has said he did, when a practical issue was before the Senate. I was not one of that number. I said what I desired to say upon the President's special message; but I was only one, and hardly any one on this side followed my example. The Senator from Connecticut [Mr. DIXON] delivered a portion, I hope it was only a portion, of what he had to say on another question, because he was ready to debate it; but the main body of the Senators on this side withheld the delivery of their views until the question should come practically before the Senate, and they took no part whatever in the debate before it did come here.

It has now really been before the Senate only two weeks. What have we done since? There has been only a single occasion when we adjourned over from Thursday to Monday; and there have been only two occasions, according to my recollection, when we carried an adjournment. One of them was a week day, long after four o'clock, the hour at which the Senate usually adjourns. The other was on Saturday afternoon last, when we had been debating the whole week, and when the Senator from Ohio, [Mr. WADE,] who had been out of health for a week or ten days past, his own strength being exhausted, requested the Senate to adjourn, and give him until to-day to finish his speech. This is the head and front of our offending. What have we been ready to say now? What I have said, privately and publicly on this floor, that all we demanded was, that every Senator on this side should have a fair opportunity, within reasonable hours of the day, to say what he had to say on this great question which has agitated the country; and that we had no disposition to debate for the purpose of consuming time. When we came into the Senate this morning, we were not notified that the question was to be taken to-night. We did not go on upon that supposition; but, between four and five o'clock in the afternoon, when many Senators on this side had left, it was demanded of us that we should decide at once when this question should be taken, or we should be compelled to sit here until the vote was finally taken.

Do you call that treating us well? I have made no complaints about it; it is not my habit to complain. I have appealed to gentlemen on the other side of the House to give us an opportunity to be heard, to give us an opportunity to consult fairly, and then, after they have given us fair notice of what their terms were, we were ready, if we could not make terms, to agree that they might sit us out if they had the physical endurance to do it. I do not object to that; but I want Senators to understand that we are not to be crushed out.

We know what the rules of the Senate are; and if Senators will compel us to resort to them in order to get time, very well, we must meet it as we can. We have some degree of physical strength, and what we have we are ready to exert, and we will do it, let me tell the Senator from Georgia, without being particularly alarmed about his crushing process.

I wish now to repeat what has been said by my friend from Illinois. I have proposed to the Senate to adjourn until to-morrow morning, and give us an opportunity to ascertain when the debate can be finished with reference to what we on this side of the Chamber have to say, and not with any desire to misspend time; and I have said that if then, having this notice from Senators in the majority, we could not agree on a time, they might resort to their power as a majority in the Senate and accomplish what they desire to accomplish, and we should not complain. We know what the rights of a majority are; we know what the powers of a majority are, but we know quite as well that the minority has rights, and that the minority has a certain degree of power, and we can exert it if Senators drive us to it. I hope, however, that a better spirit and a better feeling will prevail. I do not believe that the great bulk of the majority entertain the harsh sentiments—I must call them so—which seem to be entertained by the Senator from Georgia; and, that yet we may have some conciliation on this matter. What we ask seems to us to be reasonable. I hope Senators will accede to it after the assurance we give them, as honorable men, that we do not mean to talk here or to make motions for the purpose of expending the time of the Senate uselessly. When we say that to them we have a right to expect that they will believe us, and act upon it understandingly with reference to what we do say; but if we are to be met in this manner by gentlemen on the other side saying, "we are the majority: we have decided to do a certain thing, and we mean to crush you;" then it only remains to be seen whether they can do it; or, at any rate, how long it will take to do it.

MR. GREEN. The motion now, I believe, is to postpone. I do not appreciate the spirit in which the Senator from Maine has spoken to me and to the Senate, for this very plain and palpable reason: if I have seen any disposition to coerce and press this question without a fair opportunity for debate, I cannot name when it occurred. He says it occurred to-day for the first time. The question has been long pending. It has been fully considered. More time has been allowed for its consideration than was allowed for the Kansas-Nebraska bill, when the honorable Senator from Illinois, [Mr. DOUGLAS,] came in and said you shall have three days and no more. Now, because we desire to come to some fair and honorable understanding, we are charged with undertaking to coerce this measure. Minorities have rights; majorities have responsibilities. The people and the States of the Union have a right to hold a majority responsible for the action of the Senate. The minority have rights, but they have no responsibility. They cannot be held responsible before the country except so far as by a factious course they interfere with the majority. [Laughter.] Let gentlemen laugh. I have heard of the devil laughing at the destruction of his own victims. Let them laugh. I say the minority is not responsible before this country. The majority are. Minorities have rights of discussion, of voting; and majorities have no right to destroy these rights of the minority, but in a conflict of opinion between the majority and the minority, who are to give way? If they cannot agree to compromise and come to terms, who are to give way? The majority?

MR. SEWARD. Yes, if wrong.

MR. GREEN. Who ought to decide the question of wrong? The majority or the minority? Answer, popular sovereignty, what do you say? Sir, the majority must take the responsibility, and stand before the country with that responsibility in their hands, conscious that they will be held up to public gaze for the manner in which they exercise it. We intend to do it; we are resolved to do it. The peace of the country, the good of the Union, the good of the North, the good of the South, of the East, and of the West, all combined, require us to take that responsibility, and exer-

cise it as we believe to be right; and hence we are opposed to postponement. We want no delay.

Mr. HALE, Mr. SEWARD, and Mr. WILSON, rose.

Mr. GREEN. I am not through. I should like to give way, but three States jumping up at once rather discomposes me. Maine has been heard. New Hampshire, New York, and Massachusetts, are ready to be heard. All I desire to say is, that a postponement of this question does more harm than good. It subverts no public good; it advances no public benefit; it does not tend to the public understanding of this question. It is as well understood to-night as it will be when the Senator from New Hampshire, the Senator from New York, and the Senator from Massachusetts, shall have spoken. They have all spoken once. If there is to be no limit to debate, there can be no decision of any question whatever. When shall we say that decision shall take place, that termination of debate be had? The public responsibility hanging over the heads of a majority is a corrective for their position, if they fail to exercise their power. Their responsibility to the country is enough to stimulate them to do their duty; and hence I must say it is their duty, even if the minority think it to be harsh, to demand an expression of the opinion of the Senate on this question. It has been debated; it has been discussed; it has been investigated; and even to-night we have consumed more than two hours on immaterial matters, which time could have been very properly appropriated to the Senator from New Hampshire, [Mr. CLARK,] in the delivery of his legal argument to spread before the country, rather than thus consume time upon these immaterial points.

Are we responsible, am I responsible, is any other one man responsible, for this consumption of time?

Mr. WADE. You talk more than anybody else.

Mr. GREEN. If I had ever made as long a song as the Senator from Ohio, about Moses in his exit from the land of the Egyptians to Canaan, I hope I should be held responsible for the consumption of time; but I trust I have never done it. My object has been to talk to the question pending before the Senate; and every argument I have made, every point I have presented—as he will admit, if he admits the truth—was pertinent to the question pending; and what I am now saying is as to the propriety of a postponement of the subject now under consideration. Now, sir, as my friend from Ohio [Mr. PUGH] suggests to me, let them talk; let them vote.

Mr. WILSON. When the Senator from Missouri made his report on the 18th day of February, he pledged himself to the Senate and the country that Senators should have a fair opportunity for the full and free discussion of this question. The records of the Senate bear evidence that he, as the organ of the committee reporting this bill, gave that pledge to this body and to every member of the body. On the 1st day of March, upon his own motion, under his own lead, the Senate entered upon the discussion of the bill now before us. Two weeks ago the debate commenced. Eight members have spoken in support of the bill. When the Senator from New Hampshire shall have closed his speech, eight members will have spoken against the bill. Here are sixteen members of the Senate who have addressed the body upon this question. I take it that each member who has not spoken has as clear a right to speak as the Senator from Missouri or any of those gentlemen who have spoken, and who now stand before the Senate and the country to compel us to speak now or abandon our rights, thus violating the pledges they have given.

Senators know that this is a question which interests every man, woman, and child in the Republic. No such domestic question has been presented to the Senate of the United States during this century. It is not only of itself one of transcendent magnitude and importance, in which the people are deeply interested, but it towers above all other questions. In it are involved matters concerning fraud, violence, and outrage of unparalleled atrocity, that have been perpetrated in one of the Territories of this Union. I say that this

is the most important domestic question that has been presented to the Senate during this century. I take it that nearly every Senator desires to express his views upon it; and he has a right to express his views and to express them in proper hours.

We had from the Senator from Missouri, as the organ of the committee, the pledge which I have stated. During the week before last, the Senate engaged in the discussion of the question four days. It has been the practice of the body, since the Christmas holidays, until last week, to adjourn from Thursday to Monday. Last Thursday week, that motion was made and prevailed, and Senators may claim that two days were lost by that vote. Last week we met day after day, steadily, and for five or six hours each day the time of the Senate was occupied in the discussion of this question. On Saturday last, about four and a half o'clock—

Mr. GREEN. Three and a half o'clock.

Mr. WILSON. Well, sir, at half past three o'clock on Saturday, on the request of the Senator from Ohio, [Mr. WADE,] who has recently been confined to a sick bed for days, the bill was postponed until to-day, to allow him time to finish his speech. That speech has been finished. I know that fourteen members of the Senate opposed to this Lecompton fraud and this Lecompton swindle, desire to express their views upon the question. I understand that some four or five Senators on the other side intend to speak in support of the measure. Be that as it may, I think those gentlemen who had the pledge of the Senator from Missouri, to which I have already adverted, have a right to express their opinions within proper time and at proper hours. I believe that by meeting daily at twelve o'clock and sitting until six or seven, this question can be settled during the present week; I have not a doubt of it; at furthest, it can be settled a week from this day. Some amendments will be offered to the bill, and they may occasion a brief debate; but if the Senators who claim to have all the responsibilities and all the duties will adjourn, we will consult together to-morrow, and will tell them what we desire. If it be reasonable, they ought to grant it. If it be unreasonable, they ought to reject it.

Mr. KENNEDY. I rise merely to ask a question. Will the gentlemen on the other side agree to the settlement of the whole matter on any day this week?

Mr. WILSON. What we have asked is—

Mr. KENNEDY. I do not inquire what you have asked, but will you do it?

Mr. WILSON. We will settle it to-morrow morning.

Mr. GREEN. What will you do?

Mr. WILSON. We will settle that point to-morrow, and give you an answer in good faith.

Mr. GREEN. We must have an answer to-night, or sit it out.

Mr. WILSON. I tell you there is no disposition here to be factious. Everybody knows that this is a question on which there is a deep feeling in the Senate and the country.

Mr. KENNEDY. What am I to understand as the answer of the gentleman?

Mr. WILSON. I cannot answer certainly what we shall do. All we ask is, that we shall have an opportunity to meet and consult to-morrow.

Mr. BENJAMIN. Do you believe your friends will fix some day this week?

Mr. WILSON. I am asked by the Senator from Louisiana to say what I believe about it? Well, sir, I believe that, by sitting here five or six hours a day, Senators who desire to be heard can all express their views, and the question can be settled this week, or at any rate I think it can be settled within a week from this day. That is my opinion.

Mr. BENJAMIN. If the Senator will permit me, I will state the question I intended to put to him. The Democratic party announced last week that it desired to take the final vote on this bill to-night. In the course of to-day, it was suggested by gentlemen on the other side that they had not had a full and fair opportunity for debate; and, as I understand, a suggestion was made to them to name a time which would be sufficient to give them an opportunity of expressing their views

on the question, but they have uniformly declined to suggest any time. I understand further, that the gentlemen on the Democratic side of the House have suggested to them, that if they would appoint any day this week, and any hour of any day this week, at which the vote was finally to be taken, they might have their adjournments and their recesses, and arrange the business to suit themselves; but we cannot get it said by anybody that even that will be done. I now repeat that I understand the Democratic party would be entirely willing, if the gentlemen of the Opposition would say, "let us consult to-morrow morning what we will do; we expect to accept your proposition; but if we do not, we shall have no further complaint to make; we think if you will give us an opportunity of consulting together in the morning, we shall consent to take the vote this week"—the Democratic party will agree to do it.

Mr. KING. We cannot say so.

Mr. FESSENDEN (to Mr. BENJAMIN.) If not, you can push it through.

Mr. BENJAMIN. If not, there will be a continuous night session until the vote can be taken.

Mr. FESSENDEN. That is what I said.

Mr. HAMLIN. I desire to say a word in reply to what has fallen from the Senator from Louisiana. I think he charges us on this side of the Senate—I speak of my own political friends—unjustly in saying that we have failed to indicate any time when we thought the vote could be taken on this question.

Mr. BENJAMIN. Any time this week, I said.

Mr. HAMLIN. Well, any time this week. I desire to say that I had an interview with Senators on the other side of the Chamber—the Senator from Mississippi [Mr. BROWN] was one of them—in the ante-room, and that Senator made the suggestion to me, and my friend from Michigan, [Mr. CHANDLER] that the debate should be closed this week, and the vote taken one week from this day; and the Senator from Missouri [Mr. GREEN] was also present. I told them very frankly that I had no authority to conclude any arrangement for any persons; but this I would do: if they on their part would make an effort upon that side of the Chamber to allow the debate to proceed in its regular order during this week, I would interest myself with my friends upon this side of the Chamber to get them to agree to it. I came here and I found a general disposition on this side to accede to these terms; but we had no man who could speak authoritatively. It was instantly suggested that we should meet and confer with each other to-morrow morning. Immediately following came the word from the other side of the Chamber that it was to be a question of physical endurance here.

Now, I am willing to carry out in good faith the suggestions that I made on that occasion; and I think the reason which I gave why the vote should not be taken on Saturday was a very good and a very satisfactory one. After the legitimate debate shall have closed, every one knows there will be amendments offered. The Senator from Ohio [Mr. PUGH] has already offered an amendment; and the Senator from New Hampshire [Mr. CLARK] has indicated amendments which he will propose. There is always on a question of this importance, after the general discussion is closed, a discursive debate, which would undoubtedly run into Monday night if we agreed to take the vote on Monday. With that knowledge before us, and knowing the history of all our legislation, I thought Saturday night an inappropriate time on which to agree to take the vote—much less appropriate than Monday. I did not see that one day made much difference; I do not see it now; and I think I gave a very good reason for fixing upon Monday, instead of Saturday, for taking the vote.

I have no authority to speak for anybody on this side of the Chamber; but I think I can say that if the majority are disposed to give us the opportunity, we will come together to-morrow morning and confer with each other, and then we will tell them what, in our opinion, under all the circumstances, we ought to do, and then, if our terms be not satisfactory, or if they do not come up to the propositions that have been submitted, if it becomes a question of physical endurance, so be it. I insist that we, on this side of the Cham-

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ber, are not to be charged with refusing any terms, while I stand here affirming that I am ready, so far as I may be able, to carry out the suggestion which my friend from Mississippi made to me.

Mr. FESSENDEN. I distinctly proposed to the Senator from Missouri, as he will remember—and I said I was sure my friends on this side of the Chamber would agree to my proposition, for I had some concert with them—that if the Senate would adjourn until to-morrow morning after my friend from New Hampshire should have closed his speech, without attempting to coerce us, without forcing us to make an agreement to-night when we had no opportunity to consult with each other, we would meet to-morrow morning; and, if we should then fail to come to such terms as would be satisfactory to Senators on the other side, we should have no complaints to make if they reduced it to a contest of physical endurance, and endeavored to push the bill through at the next sitting. We have said that this evening such an attempt was not fair, not right; for the reason that we had not sufficient notice given to us so as to have a consultation with our friends to prepare our line of action. We told them that it came upon us by surprise late in the afternoon. If you had given us notice this morning that this was your intention, so that we could have had a meeting and consulted on the subject, we should have been able to give an answer; but that being impossible to-night, all we have demanded was to be allowed an opportunity for consultation in the morning; and then, if we failed to agree upon terms, it would be a fair contest, and we should have no complaints to make if the majority should exercise its rights and powers; but we did complain that this contest was sprung upon us at the hour of the day it was. I now understand from the Senator from Louisiana that our idea is one that he does not seem to think is very unreasonable.

Mr. SEWARD. I am not going, Mr. President, to-night, to undertake to make an agreement for my associates on this side of the Chamber, and I am not going to consent that they shall make an agreement for me. I take that stand upon this ground, that it is confessed and avowed that the party which supposes itself to be in the majority in the Senate has had a consultation, a deliberation to-day before we met, and determined upon its course, and that by degrees as the debate proceeds in this Chamber it is disclosed partially and problematically and suppositiously that the question is to be taken to-night, unless the minority without an opportunity for consultation other than can be afforded here in the Chamber, will agree upon a day when the vote shall be taken.

Now, sir, I should be perfectly willing to fix a day when the question is to be taken, if I could; I am perfectly willing to consult on that subject; I should be perfectly willing to undertake to fix a day, if there was an opportunity for such consultation as I know to be necessary on the part of those with whom I am associated here, to determine and give an honest, direct, manly answer to the proposition. I know that is impossible now; it has been all day, for as you see, taken by surprise, a portion of our members are absent.

Mr. DIXON. A large portion.

Mr. SEWARD. A very considerable portion of our members are absent: some are away from the city; others are absent from the Chamber on account of sickness. There is no possibility of our answering the proposition made to us to-night, unless a minority of our own party shall undertake to determine the course of action by which we shall be bound when the others come in. In regard to those who are here and those who are absent, it is a matter of calculation how many gentlemen wish to be heard, and how long those gentlemen will desire to speak; how much time they will occupy in delivering their views; and from the aggregate of that time must be deducted the time which may be reasonably allowed for the answers which may be given on the other side of the Chamber to our arguments. Every suggestion that has been made I have met directly and distinctly by saying that I was unprepared; that I could not be prepared; that, sitting here and watching to take care lest the main question itself might be taken if I were absent for a moment from the Chamber for consultation, it is im-

possible for me to ascertain who wish to speak, and how long a time they will occupy, so as to arrive at the grounds on which an answer might be given to the proposition made to us. We are entitled to that consultation.

Mr. President, I am not proposing to make any threat. I shall never make any in the Senate Chamber. I can promise for one—and I think my whole course of action since I have been in the Senate will justify what I say—that I not only shall not of myself institute any factious opposition to the transaction of the public business, but that it is not in the power of men or of associations to draw me into any. I will not be drawn into any such opposition. I can say also, upon a very thorough acquaintance with my associates, that I do not know, I do not believe, I have not the least reason for believing, that there is any member of the Senate on the part of the supposed minority who would be content to occupy, even on this great question, one moment of time more than was necessary to deliver himself of the views which he entertains, according to the sense of responsibility he confesses, for the instruction of the Senate, and for the information of the country, and his own justification to his constituents, acting in good faith. You may go on with the crushing process, but it will come to that at last, that every member will perform that duty, and he will do no more—he will do no less. You may reverse the screw and suspend the crushing process, and you will arrive at the same result, and I think in the same time.

Now, sir, this crushing process has no terrors for me; I am used to it. I have been here eight years; this is the ninth year of my service in this body; and I have been crushed continually; but notwithstanding all that I find that the party or the interest that has been crushed out here has grown larger and larger just in proportion as madness has directed the force and pressure of the screw; and that on the other hand the screw has grown weaker and weaker. If I wanted perverseness to be gratified with a speedy punishment, I should invite gentlemen to go on with this oppression and force a conclusion under the circumstances of this case, for I hold it to be most unreasonable as well as most unwise. This debate involves the admission of a State into this Union, or the rejection of an application for admission. Such a question, if you except the question raised under the Topeka constitution, has not been here since the year 1850. At that time, the admission of the State of California, together with the organization to be provided for the government of the Territories of Utah and New Mexico, came before the country and the Senate under circumstances not dissimilar. Then, sir, wise men, strong men, great men, were here, and they undertook to bring into the Union the State of California with conditions, which, in their judgment, the interests of the country under the circumstances required. A desultory debate on that great question began on the first day of the session, which was, I think, the 1st day of December, 1849; and every Senator was promised by the great leader in that movement, and the promise was faithfully kept, that he should be heard on that question, and when all were heard the vote should be taken; and the bill for the admission of the State of California passed the Senate on the 13th day of August, 1850. This debate began on the 1st day of March, and not before—just fifteen days ago; and of those fifteen days there have been two Sundays, thus reducing the number to thirteen; and there have been two week days when the Senate was not in session, and for the failure of the Senate to sit during those two days the majority of the Senate is responsible according to the confessions of the leader of the majority.

Thus it appears that eleven days have been allowed to this debate when there are twenty Senators, all of whom desire to be heard in opposition; twenty Senators opposed to the measure, bound by their consciences, bound by their responsibility to their constituents, bound by the expectations of those constituents to protest against it and to assign their reasons for opposition. Eleven days is entirely too short for such a debate, if you allowed the whole of that period to the Opposition; and yet of those eleven days more than one half,

I think, has been occupied by the majority in delivering their opinions.

Mr. GREEN. Less than one third.

Mr. SEWARD. One third is enough for my present purpose; I will not dispute about fractions. I remember a case that happened in the House of Representatives, which admonishes me always not to stand upon fractions. My old friend Gideon Lee, who is now gone, was an eminently useful man, and a very useful and efficient member of the House of Representatives. When the great fire occurred in the city of New York, which burnt up a large portion of the city, the merchants sent on an application to Congress to remit the duties upon the goods which were destroyed by the fire. The memorial was a very eloquent one, but it was thought best to have it enforced by the eloquence of the most commanding and influential member in the House at that time, who was understood to be a celebrated orator from the State of Vermont, Mr. Horace Everett. Mr. Everett, after preparing his speech on that occasion, and being ready, entered the House. Mr. Lee, being a leading member of the New York delegation, sat beside him. Mr. Everett opened the debate on the presentation of the memorial in a very effective manner. He said that the sun of yesterday morning looked upon a great and prosperous city; the sun of this morning looked down upon the same city, and disclosed fifty acres of it covered with ruins. My excellent friend, Mr. Lee, rose and begged leave to correct the honorable member: it was fifty-three acres and a half. [Laughter.]

I will not dispute about fractions of time upon such a question as this; but, sir, I wish to correct the idea that this debate began in the month of December, or could have been begun in December. The question is, whether Kansas shall be admitted into the Union under the Lecompton constitution? No man pretends, or did pretend, that the Lecompton constitution ought to be, or could be, submitted to Congress, until it was here, or that it could be here until it was brought here, and that could not be until after an election held on the 21st day of December, in the Territory of Kansas. For aught we knew, the constitution might be rejected in the election which the convention itself had appointed. We did not know, but that the people might determine not to have it with slavery, or without slavery, or either way. What the constitution was, was not known. The President forestalled our action by recommending to us that we could settle this great disturbance in the country by waiving the objections which would exist when the question should come before us. Then, after the election was held on the 21st of December, every one knows that it was fourteen days before intelligence of the result of that election reached here, or before this constitution could get here; and then it was delayed because the Legislature of the Territory had appointed another election to be held on the 4th day of January, in which the question whether the Lecompton constitution should be adopted or rejected was submitted to the people of Kansas; and the president of the convention, who was to report whether this constitution was accepted or rejected at the previous election, remained in the Territory with the constitution until after the election on the 4th day of January was held; and so it required fourteen days more for intelligence to reach us here of the result of that election, and for the constitution to be received here by the President of the United States, and to be transmitted to the Senate.

Were we, then, to debate that hypothetical question; and, if so, under what state of facts? If so, why was not the subject referred to the Committee on Territories in the beginning of December; and why did the Senate wait and suspend all official action upon it until the constitution was received here, and then refer it to the Committee on Territories? Was the reference a mere mockery, or did the Senate mean that its committee should examine the subject, and recommend a bill for the consideration of the Senate? The Senate acted in good faith, and the committee acted in good faith. I do not know on what day the bill was introduced; but the question was not before the Senate, so that it was proper, so that it was in order to debate the subject, or so that a practical legislator would debate it unless he had special

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reasons for departing from his customary course of action, until the bill was here. When the bill was brought into the Senate, the gentleman who presented it from the committee named a day, the 1st of March, when he would ask the Senate to take up the bill, and consider it, and continue to consider it from day to day, until every member of the Senate having a desire to be heard on the subject, and acting in good faith, should be heard; and then, without surprise, the question should be taken. So the debate began on the 1st day of March, and it has gone on until to-day, when, for some unexplained reason—I think unexplained—the majority of the committee, or, as gentlemen imply, a majority of the Senate, are inclined to bring this question to a vote now. Well, sir, I am to assign the reasons why I think it is not best to come to a vote now.

There are a large portion of the Senators who have not been heard, and who are entitled to be heard, and who desire to be heard, and who, therefore, ought to be heard on the subject. Then the question recurs, why shall they not be heard to-night. The answer is, that our entire experience shows that it is impossible for Senators to deliver themselves during the night, after the fatigues of the day, devoted to the public business in such a manner as to discharge their duty satisfactorily to themselves and to their constituents, and usefully to the country. That, however, is not the only reason. It is but to substitute the form and the mockery of a debate for an actual debate when you say that Senators shall speak under such circumstances as these; for the moment a Senator rises to address the House under such circumstances, all the chairs are vacant; the Senators are not here to hear. They are here to wait without hearing, until the empty form of a debate has been gone through, by addresses to empty seats, and then they can take the question. It is, therefore, unreasonable.

I should not have dwelt on this subject at so much length, had it not been that a purpose or expectation seemed to be manifested on the part of the majority to submit a case to the country on this question. I have, therefore, shown the reasons why I shall vote for the postponement of this bill until to-morrow; and I close with giving my assurance, as far as I can do so in the absence of any consultation, that the subject shall be taken into consultation to-morrow, when the debate can be closed, and then an honest, direct answer shall be given in good faith, by which I suppose all parties making it will be willing to be bound; but for myself I do not require it, I do not need it, and it is left to the judgment of the Senate. If it come to a question of physical endurance, I shall not shrink from enduring.

Mr. POLK. Why not let the gentleman from New Hampshire close to-night?

Mr. SEWARD. Let him close when he can get the floor.

Mr. BROWN. An hour ago I had some hope that, by a prudent and proper suggestion, we could come to an understanding of this question, and get along with this business without wearying and fatiguing ourselves, by sitting here all night. All must see that this is an exceedingly senseless proceeding. It results in no good. We weary ourselves and do no benefit to the country. I confess that the remarks of the Senator from New York have somewhat shaken my confidence in our ability to come to a proper understanding, because his mind seems to be in doubt as to what his party friends will agree to. When I heard the two Senators from Maine, their views accorded with my own as to what has been the proposition submitted on the other side. I will restate it, and those Senators shall testify as to whether I am right or not; because if I am right, I mean to give my commendation to the proposition. I understood them to say that on to-morrow morning they would have a full consultation of their friends, and determine that they would take the vote on Monday next; or, if that could not be agreed upon, they would then notify us, the majority, on the meeting of the Senate to-morrow, that they did not agree to it; and that we might after that either sit it out or not as pleased us, and that they would make no opposition so far as calling for the yeas and nays, and resorting to technical motions under the rules of the Senate to avoid

the progress of business was concerned; in other words, that they would meet the question squarely, and go on with the debate; and that, when physical endurance had given out, they would take the vote without resorting to work of this character. That is as I understood them.

Mr. DOOLITTLE. Will the Senator give way to me for a moment?

Mr. BROWN. Certainly.

Mr. DOOLITTLE. The honorable Senator from Mississippi will bear in mind the important fact that, while we represent one party, there are, so to speak, two other parties to be consulted. There is the American party—the Senator from Tennessee, [Mr. BELL,] the Senator from Kentucky, [Mr. CRITTENDEN,] the Senator from Texas, [Mr. HOUSTON,] and I include also the Senator from Maryland [Mr. KENNEDY] in the call of the roll of Americans.

Mr. BROWN. Never mind them. So far as the Senator from Texas is concerned, you need not give yourself any trouble.

Mr. DOOLITTLE. There is also another party, and an important party, to this question, in the Senate; and that consists of those who have acted hitherto with the Democratic party, but on this question do not act with them—the honorable Senator from Illinois, [Mr. DOUGLAS,] the honorable Senator from Michigan, [Mr. STUART,] and the honorable Senator from California, [Mr. BRODERICK,] and certainly, before we could mention a time definitely it would be necessary that we should have a little time to consult with those gentlemen on this question. As they oppose the measure, perhaps we should expect to consult with them as well as with our friends, for we do not know how much time they may desire to occupy in this debate. We have no desire to postpone this question factiously, but to give a fair opportunity for the discussion of the question; and on consultation, as we can have the consultation doubtless to-morrow, we can give an answer which will probably be satisfactory.

Mr. BROWN. Mr. President—

Mr. HALE. Will the Senator hear me a moment? I wish to make a suggestion.

Mr. BROWN. Certainly.

Mr. HALE. I want to have this matter disposed of as much as anybody, and I accede to the proposition that has been stated by the Senator from Mississippi as made to the Senators from Maine, so far as I am concerned.

Mr. BROWN. You cannot.

Mr. HALE. I can and will. But I wish to suggest to my honorable friend from Wisconsin that I have no doubt ultimately—ultimately, I say—we shall have to take care of the American party and these seceding Democrats; but we have not yet. [Laughter.]

Mr. KENNEDY. I cannot consent for one moment that the gentleman shall ever take care of the American party.

Mr. HALE. I know that the Senator will not consent, and the time has not come for it yet; but I say it will be so ultimately, because we have been told here, I have been told a hundred times, that the country would not stand more than two parties. I see in my eye now a very honorable Senator, [Mr. BRIGHT,] who sometimes has been taken for me, he looks so much like me, [Laughter,] who suggested that I did not belong to a party having a sufficiently healthy organization to be put on the tail end of the Committee on Public Buildings and Grounds. He said there could be but two parties in the country, and at the time to which I allude, I did not belong to a healthy organization. [Laughter.] I do not pretend to say we are in a situation now to take care of these seceders, but ultimately we shall have to do it, and we shall deal liberally by them all. Now, however, we can only speak for ourselves. I think it is injudicious in my friend from Wisconsin, if he will allow me to say so, to undertake at this stage to make this provision for them, but we can only speak for ourselves; and I will say, for one, that I agree to everything the Senator from Mississippi says.

Mr. BROWN. I did not understand that any one here was stipulating or proposing terms which were to be absolutely binding, but that the other side proposed to hold a meeting to-morrow, or, in some way suitable to themselves, to ascertain

what could be done, what they would agree to do.

Mr. KENNEDY. Will my friend from Mississippi yield to me for an instant?

Mr. BROWN. Yes, sir.

Mr. KENNEDY. I merely wish to make a remark for my party. The American party do not mean to be factious in regard to the decision of this matter. They have no particular views to press upon the Senate, and they are prepared—I am at liberty to say so for them—to vote to-night, to-morrow, or any day when it may be the pleasure of the Senate to take the vote. The American party do not want time on this question. We have been worn out with it already. The interests of the country are suffering.

Mr. DOOLITTLE. Will the honorable Senator allow me to ask him a single question?

Mr. KENNEDY. No, sir; I cannot. The Senator from Mississippi yielded the floor to me, and I cannot yield it to anybody else. I only say the American party does not ask time in order to be ready for the vote on this bill. We are prepared to vote now.

Mr. BROWN. If Senators will allow me to conclude I shall say in a very few words what I designed to say in the beginning. First let me recapitulate; for what I said at the outset has already, perhaps, escaped the recollection of gentlemen. I understood the two Senators from Maine to state a proposition which had, to a great extent, the approbation of my own mind; and that was, that the opposition to this bill, whether you call it the Republican party, or the Republican party with its allies, some Americans, and some Democrats—I mean all opposed to this bill—should have a consultation, and conclude that they could take the vote on Monday next, or that they could not, and if they could not, they would notify us to-morrow morning, and that being so notified we could then proceed to-morrow to make this a question of physical endurance, if we chose to do so; and that on their part, if the proposition to take the vote on Monday next failed, they would not, so far as they as gentlemen are concerned, resort to technicalities, calling the yeas and nays upon motions to adjourn, and to postpone, and so on, so as to delay the taking the question; but that, so far as they as gentlemen are concerned, they could come here to-morrow with an honest purpose either to take the vote before we adjourn, or prepared to give a party pledge that it should be taken on Monday. So I understood the two honorable Senators from Maine; so I have understood other Senators on that side.

We on our side have proposed to do—what? To take the vote at any time during this week. I think our friends have been prepared all the time to say that, while we want the vote to-day, and would greatly prefer to have it on Thursday at the latest, still we are willing to concede as far as Saturday. Then the extreme of the two propositions, as I understand them, is between taking the vote on Saturday and taking it on Monday; our extreme proposition, up to this time, being a vote on Saturday, and yours being on Monday. I submit that, upon such a difference, it is hardly necessary for Senators to be wearying themselves here in the witching hours of morning, and wholly unpreparing themselves for to-morrow's business. I believe honorable gentlemen will do what they say they will do. The honorable Senator from Maine [Mr. FESSENDEN] and myself differ in politics; but never, within my knowledge, has he sacrificed his word; and, in my opinion, he never will. His colleague [Mr. HAMLIN] has never deceived me, so far as his personal honor is concerned; and I am not prepared to say that he ever will. Other Senators on that side—I may name the honorable Senator from Michigan [Mr. CHANDLER]—have given a like pledge. I believe that they will come here to-morrow to redeem the pledge—the pledge that we shall either have the vote on Monday, or be notified by them to-morrow morning that it becomes a question of physical endurance; and for this night's delay certain members of the party pledging themselves that they will unite in no factious opposition, but let the debate go straight on—if we want to speak, let our side speak; if they want to speak, let their side speak; but refusing to coöperate in any proposition to postpone the vote factiously. I think

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the proposition a fair one. I am not authorized to make any proposition or any motion here; but no caucus resolution, no obligations to party, can prevent me from saying what I believe, in a case like this, ought to be done. I think my party ought to accept this proposition.

Mr. PUGH. If the Senator thinks so, I will move to adjourn, as I am under no such obligations. If he says he is satisfied, I will make the motion.

Mr. BROWN. I do not ask the Senator to make any such motion; nor will I yield for that purpose.

Mr. PUGH. I thought the Senator appealed to some gentleman who was free to make the motion, to make it.

Mr. BROWN. I am speaking simply for myself. If there is anything like a tolerable understanding—

Mr. GREEN. There is none.

Mr. BROWN. I think there is. I differ with Senators. When honorable gentlemen come and say they have consulted with their friends, and that there is a partial agreement to such an extent that it can be carried out, and will be carried out among honorable men, I am confident they will do it. The Senator from New York, I confess, in the outset of his speech, did a little shake my confidence, because I know his potent influence with his party friends—an influence to which he is fairly and justly entitled. His talents, experience, and seniority here, entitle him to weight and influence with his party; and I know he has it. He said he could enter into no agreements which could bind his friends, and that his friends could enter into no agreements which could bind him. Those were potential words, coming from that source. My friend from Michigan [Mr. STUART] suggests that he said he could not do it to-night.

Mr. SEWARD. That is it. I said that to-night I could not make arrangement to bind others, nor others to bind me.

Mr. BROWN. I do not understand any of the Senators on the other side to enter into any positive agreement by which they are to be bound to take the vote on Monday, but that to-morrow morning they will either give us notice that they will do it or not, ["That is it,"] that having had a fair consultation among themselves they will give us notice what they are going to do.

Mr. GREEN. That will not do.

Mr. BROWN. My party friends some of them say they will not stand this. I am not going to submit any motion. I simply say that I think the proposition is a fair one, and it ought to be accepted. It commends itself to my judgment.

Mr. GREEN. Who made it?

Mr. BROWN. Senators on the other side; as honorable men, my friend, as you and I. They differ with us in political sentiment, but I am not to assume that they would violate their plighted faith as men of honor given in the presence of the Senate, and to the world. I do not believe it, and I will not believe it, until the thing has been done.

Mr. CAMERON. If the Senator from Mississippi will give way, I will answer the question of the Senator from Missouri as to who said so. I said it for myself two hours ago.

Mr. GREEN. Who speaks for the party?

Mr. CAMERON. I said then, as now, that I for one would in good faith go into consultation with our friends to-morrow; we would debate the question, decide, and bring in a fair answer; we would either agree to fix a day when we should bring the debate to a close, or else tell the other side that we could not do so; and after that we should be governed by what the majority thought proper.

Mr. BROWN. I have said about all I care to say. I simply declare to the Senate and to my party friends, that this proposition seems to me to be fair, and it ought to be accepted. I submit no motion, however, because I am not authorized to do it.

Mr. WADE. Mr. President, I believe that words threatening to crush us out were used in the Senate to-night; and, so far as I am concerned, all hope of reconciliation with me is gone until these words are withdrawn. I can sit here and be outvoted, but I cannot be conquered or crushed out. I stand here the representative of a sovereign State

of this Union; and I would sooner die in my seat than that either my constituents or myself should be humiliated in this way. What! talk here, in the Senate of the United States, of crushing out Senators! In this place, where men meet as peers, the representatives of the sovereignty of States, to decide upon the most transcendently important question that has ever come before the American people, thinking honestly that it is their duty to argue the question in this high forum, they are driven into the night, and finally told they are to be crushed beneath the heel of this majority! Sir, I will die in the Senate Chamber before I will make any compromises with men under such circumstances. It is true, my health is not good, but I cannot be brought to compromise a question of this kind. I tell the Senator from Georgia, you cannot crush me out; you cannot conquer me. You may bring a majority here to outvote me, and you may do it under the rules of the Senate, in the best way you can; but, so help me God, I will neither compromise nor be crushed. This is what I have to say.

Mr. STUART. I wish to say a word or two, not because I think I have been hit at, in any allusions to faction—not at all; but I desire at the proper time, with the leave of the Senate, to review some of the reasons which have been given in favor of this measure, to show wherein I think they are without foundation. That I intend to do; but so far as the present question is concerned, I desire to say to gentlemen, in consequence of what has been remarked by the Senator from Wisconsin, that in any consideration which may grow out of an attempt at an arrangement, (in regard to which, by-the-by, I think the Senator from Mississippi is eminently correct,) they need make no count of me. Let Senators on the other side of the Chamber consult among themselves, as they are the faction that it seems are to be crushed out, or something else done with them. They need not count me at all in the arrangement. I have very great respect for all those gentlemen, not only for their good intentions, but for their ability; and I believe they will consider the subject in the spirit of faith and fairness that they say they will.

Now, sir, I wish to say a single word to the honorable gentleman from New Hampshire, [Mr. HALE.] In a flow of his unbounded generosity, he said that ultimately—that is a great while, sir—he expected to take care of the honorable Senator from Illinois, my honorable friend from California, and myself. I merely desire to say to him, through the Chair, that when I desire him to do that—that is, when I find myself unable to take care of myself [laughter]—when that time arrives, I know of no gentleman under the pale of whose mighty influence and ability I would sooner seek shelter than the honorable Senator from New Hampshire. [Laughter.]

Mr. FESSENDEN. I desire to say a word in response to the Senator from Mississippi, in vindication of myself. I did state a proposition as he states it; and I am now willing to restate it. It was this: if the Senate choose to adjourn, (although this is a much later hour than that at which the proposition was made,) and give us an opportunity for consultation in the morning, I was willing to consent that, if we could not agree to take the question finally on Monday, I would then notify Senators of that fact; and we should have no complaints to make of them if they insisted upon sitting until the question were disposed of. The Senator inferred, from my saying that I should have no complaints to make, that I would not resort to motions to adjourn, and motions to postpone, and other motions, in order to protract time. I so understood it; that was my intention. I said it, deeming myself authorized to say it by several of my political friends in the Senate. They agreed with me in that course. So far as I am concerned, that being my understanding, I assure gentlemen that if they come to that conclusion, and if we do not agree to take the vote finally on Monday, and so notify them, they shall have no motions to adjourn—I mean mere dilatory motions, factious motions, to adjourn, &c., from me; nor shall my vote be given in support of any such factious movements.

Mr. PUGH. How many more will say that?

Mr. FESSENDEN. The Senator from Ohio

need not ask how many more will say that. If the gentlemen who act with me on this side of the Senate, when they hear me say that that is my understanding, and that for myself I will not be a party to any such thing, do not rise in their places, and say that they disagree with me, I hold, in the ordinary course of proceeding, that they accede to the promise which I have thus publicly offered.

Mr. BROWN. Among gentlemen I so understand it.

Mr. FESSENDEN. That was my understanding. I need not repeat it. It was stated correctly by the Senator from Mississippi.

Mr. MASON. If I understand the honorable Senator from Maine correctly, his suggestion is, that if the Senate now adjourns, those with whom he acts politically will confer together to-morrow; and that they will not propose to put off the vote on this question later than Monday; and if they find they cannot agree on that, they will so inform us, and leave us to take our own course.

Mr. FESSENDEN. That is it exactly.

Mr. MASON. Then I move that the Senate adjourn.

Mr. GREEN. It would be better to postpone the subject until half past twelve o'clock to-morrow before adjourning.

Mr. WILSON. That is the pending motion now.

Mr. TOOMBS. I ask for the yeas and nays on the motion to adjourn.

Mr. MASON. I withdraw the motion to adjourn; and move that the further consideration of the bill be postponed until to-morrow morning at half past twelve o'clock.

The VICE PRESIDENT. That is the motion now pending.

Mr. TOOMBS. I ask for the yeas and nays on that.

The VICE PRESIDENT. The yeas and nays have already been ordered.

Mr. HAMLIN. I do not wish to be placed in any wrong position here. I want to understand others, and I want them to understand me; and then there will be no disagreement. I said, and I repeat, that I will use my individual efforts to produce the assent of my friends on this side of the Chamber to agree to take this question on Monday next. Give us time to consult; and, when we come together, and learn how many there are who desire to address the Senate, we can tell when the debate will end. My impression is, that we shall fix not later than Monday; but, if we fail to meet that proposition, and to-morrow you undertake to drive us to a vote, I do not mean as a Senator to yield up my constitutional rights here, or rights which I am entitled to by parliamentary laws. I do not wish to be misunderstood.

Mr. PUGH. Then we might as well sit it out to-night.

Mr. TRUMBULL. I should not have considered it necessary to say a word, but for a remark which fell from the honorable Senator from Maine. I do not mean to consider myself committed by the remarks of any Senator made upon this floor, unless I state that I concur in them. I shall not yield my assent to them; and when my associates and those with whom I act think proper to state their views and what they will do, it might be understood that those who do not rise to disclaim them are committed by them. I have already said that I did not believe there would be any factious opposition, or any disposition to delay this question unnecessarily; but I would much prefer, I must confess, to see gentlemen acting upon their individual responsibility and honor as to their course in the Senate, rather than to go into arrangements either of their own political friends or to be driven by their political opponents to make their speeches in any given time. I think the assurance given by the individual members of the Senate upon this side of the Chamber ought to have been satisfactory to the other side, for nearly every Senator here has expressed his opinion for himself, and stated for himself, that, so far as he was concerned, he was not disposed, nor would he unnecessarily delay this matter, unless the attempt was made to coerce him unreasonably. I should not have said this much but for the remarks of my very honorable friend from Maine, which might leave a wrong impression not only on the present occasion but on others.

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Mr. FESSENDEN. I wish to remark, in order that my friend will understand me, that I speak for myself only.

Mr. PUGH. I am very sorry that within the last five minutes the hopes which I had of an adjournment have passed away; but certainly, although I have no doubt the honorable Senator from Maine would be quite as good as his word, he is not authorized to speak for those who ordinarily act with him. Now what does the assurance which has just been given by the Senator from Illinois and various other Senators amount to? It is a general suggestion that they have no disposition to delay unnecessarily; and they couple that with what is claimed by the Senator from Massachusetts and others on this floor, that every Senator has a right to express his opinions upon this bill; to express them, as they say, at reasonable hours, and at his own length. Why, sir, half a dozen Senators have spoken two days on this question. That was their own length and at hours which they chose. There are sixty-two members of this Senate, and according to this extraordinary proposal, every question should be debated one hundred and twenty-four days.

Now, sir, I want to deliver my views on this question, but if the majority in the Senate are ready to act, they have the right to act without hearing me. I do not understand that the Government of the United States keeps a debating society here for gentlemen to make speeches to the country. I understand that it has sent men here to do the legislation of the country; and when those who are responsible for the legislation are ready to act and have the power to act, whether I am one of the majority or one of the minority, that is not one of my rights. My right is to vote. That right cannot be taken from me.

As to this assertion of the right of Senators to speak for two days on every question—to begin at one o'clock on every day, and speak until four or five o'clock, and then adjourn over—why, sir, no business would be done in this Government, no business can be done with such obstructions as these. There is no such right. I claim none for myself, and I am the peer of any Senator on this floor. I represent as much sovereignty as he does; but on any question where I am in the majority or minority, I do not claim it. I disclaim it, to stand here and talk against time, day after day and week after week, in order that my speeches may be taken down by that gentleman, and distributed throughout the country. If gentlemen want to talk, let them talk to their constituents, and at their own expense. I say I do wish to speak on this question; but if I find the majority of the Senate impatient for the question, and ready to vote on the question, I will give up my speech. If I cannot get a chance to make it some other time this session, I will go and make it to the people of the State of Ohio. Therefore it is, that when gentlemen assert that a great outrage is perpetrated on this or on any other question, it only amounts to this: that in making their speeches they are not allowed to select their own days, their own time, and their own length, and to begin from the very foundation of the world on every subject.

Sir, I have had the honor of a seat in this Senate something more than two years, and I have heard speeches made here this session—twice made—that were made five or six times over during the last Congress. I name no gentleman; but I have heard the same speech over and over and over again. I do not know but what I could make it myself from memory. Sir, it is no debating of the question. We cannot have a question of the present condition of the bill for the admission of Kansas brought up but we must have gentlemen go back to the ordinance of 1787, to the Dred Scott case, to the old black-letter English law, and spread out over any number of hours; and if not allowed to do it, then a great outrage is perpetrated.

Now, sir, I said to-night that I wished to give the Senator from New Hampshire, because he was a new member of this body, the utmost limit that has ever been conferred on any Senator within my memory, and I voted to adjourn two or three times, and several times did not vote. But when I saw those who are the minority, endeavoring not to spend the time which was given in debating the question, but in frivolous motions,

made professedly for delay, I was determined that my physical strength should give way before I would submit to it. I will submit to the lawful orders of the majority, (and I am one of the minority,) but I will never submit to the orders of a minority in anything, neither lawful nor unlawful; and whenever the attempt is made by mere repetition of motions, or calls for the yeas and nays, I will sit as long as my colleague will sit here before I submit.

Now that gentlemen on this side say there are to be sixteen speeches made, and gentlemen feel under no obligation of honor, under no obligation with reference to the business of the country, under no obligation to the impatience of the great majority of the Senate to vote, to contract their speeches, if those sixteen speeches are to be three hours or four hours long, apiece, I would as lief hear them now as during the next two weeks. But I have confidence in honorable gentlemen, if they will indicate to me any ultimate time—if they say that this vote shall certainly be taken within ten days, or certainly be taken within two weeks, I am satisfied. What limit have we? Sixteen speeches are to be made, says the Senator from Massachusetts. How long are they to be? The Lord only knows. If that be the case, I had as lief sit here to-night, uncomfortable as it is to me, as to adjourn over in this uncertainty. Therefore, I insist that if no other gentleman will make the very honorable and very fair proposition of the Senator from Maine, for which I am infinitely obliged to him individually—if the rest take refuge under the generalities uttered by the Senator from Illinois, that the majority of this body, anxious to press the public business, will find that the word of promise may be kept to the ear, but broken to the hope—I hope that there will be no adjournment unless we come to better terms.

Mr. MASON. I do not know whether the pending motion to postpone this subject until tomorrow at half past twelve o'clock is mine or another gentleman's; but if it is mine, I withdraw it.

The VICE PRESIDENT. It was made by the Senator from Massachusetts.

Mr. MASON. I thought I proposed the motion.

Mr. WILSON. But a single word in reply to the Senator from Ohio. The Senator speaks with some degree of feeling. Now, Mr. President, I am free to say that if I was in a majority, and sustaining any measure of public policy here with the responsibility that belongs to a majority, I should feel under obligations to press the matter properly along. I have no complaint to make of that; but, as has been stated to-day, over and over again, there is no disposition on the part of the minority in this body to throw any unnecessary obstructions in the way of the majority. I think the Senator from Ohio, and all other Senators, ought to be willing to take the responsibility, as the majority of this body, to adjourn over and postpone this question until half past twelve o'clock to-morrow, and give us of the minority, who never had any consultations at all upon this question, an opportunity to come together as we have proposed to do, and already indicated to each other.

Mr. PUGH. I ask the Senator why they did not have a consultation? Does he not remember the notice given a week ago by the Senator from Missouri that an attempt would be made to take the vote to-day? Why have you not consulted?

Mr. WILSON. I will tell the Senator from Ohio why we have not consulted. We held conversations with several gentlemen on the other side, leading men upon that side of the Chamber, and we were told it could not be expected that the vote would be taken to-day; but they thought it could be taken this week. Why, sir, I had a conversation with the distinguished Senator from Virginia, [Mr. HUNTER,] on Friday or Saturday last, in which he said he thought we could take the vote this week, but that it would not be taken to-day. I did not dream of such a thing, and I wrote to my colleague that the vote in all human probability could not be taken until the close of the week, and if he got here on Thursday he would be here in time to vote on the question. I wrote to him this morning.

The Senator from Mississippi has expressed himself here, I think, as being satisfied with our position upon this matter. He says that our request to have an opportunity to meet for consultation to-morrow morning, is a reasonable one. Now, sir, I wish to say another thing. The Senator from Illinois, [Mr. DOUGLAS,] it is understood, wants to speak upon this question. For days he has been confined to a sick bed. I learn from him that he cannot possibly speak this week; that it is barely probable that he could speak on the last day of the week, but that he undoubtedly could on Monday next. The Senator from Ohio says that if we can close this debate in eight or ten or twelve days—

Mr. HALE. Two weeks.

Mr. WILSON. He says he does not object if we fix some reasonable time. I have no doubt under heaven that we could close it in six days. I am ready to meet at twelve o'clock daily, and go regularly on with the subject until six o'clock in the evening. The Senator wants to know how long the speeches are to be. I have made inquiries of members of the Senate in regard to the speaking. As I said, I find that fourteen members are preparing to speak in opposition to this measure. Some of them are ready to go on now; others will be ready to do so in one or two days. I suppose those speeches will not average two hours apiece. I think some of them will not exceed one hour, or an hour and a quarter, or an hour and a half. I think the majority here ought to have confidence, after the declarations made that there will be and shall be no factious opposition, if we have a fair opportunity; and all I ask is an opportunity to meet to-morrow morning and consult. We will then give a frank and manly answer.

The question being taken by yeas and nays, resulted—yeas 18, nays 23; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doollittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Stuart, Trumbull, Wade, and Wilson—18.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—23.

So the Senate refused to postpone the consideration of the question.

Mr. SEWARD. I move that the Senate adjourn.

Mr. BROWN called for the yeas and nays on the motion, and they were ordered; and being taken, resulted—yeas 18, nays 22; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doollittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Stuart, Trumbull, Wade, and Wilson—18.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—22.

So the Senate refused to adjourn.

Mr. DOOLITTLE. If the Senator from New Hampshire will allow me, I had intended to submit some remarks on the motion to postpone this question until to-morrow, and for the purpose of making them, it will be necessary that I should make a motion to postpone the further consideration of this subject until to-morrow at half past twelve o'clock. I make that motion, as I desire to submit some remarks upon it.

Mr. GREEN. I rise to a question of order.

The VICE PRESIDENT. The Senator will state his point of order.

Mr. GREEN. I raise the point of order that this motion has just been voted down, and that an adjournment has been voted down, and that no motion has intervened.

The VICE PRESIDENT. The motion to adjourn intervened.

Mr. GREEN. I know it did; but no proceedings intervened.

Mr. POLK. If the Senator from Wisconsin will allow me, I will state that I am inclined to think, if the Senator from New Hampshire is allowed to go on to-night and finish his speech, that the Senate is disposed to adjourn and take the chances.

Mr. CHANDLER. Will you pledge your side to do it?

Several SENATORS. No.

Mr. POLK. I think it would be a good oppor-

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tunity to take the chances of the gentlemen on the other side being able to-morrow to indicate to the Senate what conclusion they have come to if they come to any conclusion, and I believe they will have come to a conclusion. If they shall not have come to a conclusion then, I think we should sit it out, and several of them have said they would not feel it harsh if the majority then compelled them to sit until the vote was taken on this question. I hope, therefore, that the Senator from Wisconsin will not now press his motion, but will withdraw it, and let the Senator from New Hampshire finish his speech, and then the session for to-night can be closed.

The VICE PRESIDENT. The Chair calls the attention of the Senate to the fact that the Senator from Wisconsin made a motion and has the floor.

Mr. STUART. I hope the Senator from Wisconsin will adopt the suggestion made by the honorable Senator from Missouri, and let the Senator from New Hampshire finish his speech and then we can adjourn, and that side of the Chamber can caucus as they propose to do.

Mr. DOOLITTLE. With that suggestion, I withdraw the motion.

Mr. CLARK. Mr. President, I may say to Senators, if I had been permitted to have gone along in my argument I should long since have concluded what I had to say; but I find no fault with any Senator on either side of the Chamber. The sort of by-play that has been carried on, if I may be allowed the expression, has given me a little opportunity to rest, though I am somewhat in the situation of the boy who undertook to hoe a garden, and when he stopped work to go to dinner, he left his hoe standing against a wall and somebody stole it; and when he got back he did not know where to begin. I had gone along through a part of my speech, and did not even set up my hoe, and I shall have to begin as best I may, and as near as I may to where I left off.

I want to say one thing to the honorable Senator from Georgia, [Mr. TOOMBS,] if he is in the Chamber, in regard to the expression that he uttered here in reference to "crushing out" this side of the House. They tell a story in my country about a gentleman, of whom we have all read, that had a cloven foot; that he once undertook to straighten a nigger's hair, and somebody inquired of him how he got along. He said, it was very busy work, though it was not very hard. I think the honorable Senator from Georgia will find his work both busy and hard. It cannot be done. Twenty honorable Senators, or more, as we have, belonging to the Republican party, cannot be crushed out by any legislative force that can be brought against them.

I do not know but that honorable Senators may be emboldened by the course which is taken by other honorable Senators, and that they suppose, because certain Senators yield to anything they propose, that certain other Senators are going to yield to what they propose. I want to tell that honorable Senator that different men are now coming from the North. We have had enough in the North of those people who bow down and yield. We have got, if I mistake not, not a Senator, but a President, who bows down and yields to exactly what is said. I say to exactly what is said; perhaps I should not put it precisely in that form; but he bows to do what is required of him. We have got certain other Senators who bow down to do what is required of them; but I want the honorable Senator from Georgia to understand that there are certain Senators in this Chamber that are sent now to the Senate, not to bow down, but to stand up. We have had enough of bowing down, and the people in my region have got sick of it. They will stand up, and they cannot be crushed out. The gentleman may put his heel upon their heads or upon their toes or anywhere else he pleases, but still there will be Senators in this Chamber demanding their rights and maintaining their rights; and you may crush and crush, and the more you crush the more those men will stand up.

That is what I have to say upon that point; and if the process had gone on, and God had spared my life, I would have made this speech in the Senate if it took to the day of doom; but now, since there is a manifestation on the part of honorable Senators that when I have concluded this

speech the Senate will adjourn, I have no disposition to prolong it. I will meet them half way; but when they show me their foot or their heel, I will show them my foot or my heel, and I will stand in my place, and they cannot drive me from it, nor kick me out of it. Gentlemen may just as well understand that in the beginning as not. It is about time that this talk of crushing out should be stopped. It does not become, in my judgment, honorable Senators, either to utter or to hear it. One thing I am sure of—it is to be a very difficult process. The man who attempts it will find that he has as much as he can do for one generation.

I think, Mr. President, when I was stopped in my remarks, that I was commenting upon the amendment of the honorable Senator from Ohio. Here is the amendment of the Senator from Missouri, uniting the Minnesota with the Kansas bill. Upon that, at the proper time, I shall have something to say. Here is the amendment of the honorable Senator from Ohio; and upon that, at another time, I will have something to say. I will defer it now, because I feel I ought not, after the manifestation that has been shown here, to delay the Senate. Here is an amendment which I have indicated that I propose to make; on which, at the same time when I offer it, I shall have something to say; and I have another amendment drawn up, here in my drawer, which I am going to propose. I have not asked to have it printed, because it is well known I am going to move to put on the Kansas bill at the same time the old Missouri restriction, and I am going to endeavor to bring the Senate to vote upon it. I do not mean that the matter shall be passed from before the Senate until all these amendments shall be separately and severally considered, and until we have the distinct action of the Senate upon the whole of them.

I am going to pass them by now. I understand I shall be in order, when those amendments come before the Senate, to debate them. I do not mean to be factious, but I want to debate them fully.

There is another question which I propose to debate now. I was about to go into an argument to show that under the provisions of the Lecompton constitution it was out of the power of the people to alter that constitution until 1864. I know that honorable gentlemen take other positions, and say this State Legislature may alter it at once. I maintain the opposite of that; and say, and I was proposing to go into an argument to show, that it could not be altered, and to show the danger there would be of forcing that upon the people at the present time with the idea that it could be altered. I forbear to do that until some future time, because I am desirous to bring this speech to a close. I shall have an opportunity to debate that legitimately and properly, as I may do, and as I will endeavor to do, under the amendment of the honorable Senator from Ohio, or under the amendment which I may propose, or to the Missouri restriction. I think it will be germane to either of those amendments to debate it then; but I will forbear now, because I do not wish to keep Senators at this unreasonable hour of the night.

Mr. SEWARD. Not many.

Mr. CLARK. It is said by the gentleman from New York there are not many here. But I have quite as much regard to dismiss those who are here as those who are gone, because they have taken care of themselves. It does not make any difference to me that there are not many Senators to hear me. It does not make any particular difference to me that I speak at this time of the night. I have a duty to discharge, and when I have uttered what I have to say, whether men hear or forbear, whether they go away or stay, I shall have discharged fully my duty to my constituents, to my country, and to my own conscience; and that is all that I have to regard, I think, in this matter. I shall endeavor to do that duty fearlessly. I shall endeavor to do it independently. I do not mean to trespass on any other man's rights or any other man's duties, if I can understand them in the discharge of my duty.

There is, however, Mr. President, another point to which I propose an amendment. I will call the attention of the Senate to it for a moment, and for but a moment, because I mean to debate it by and by. It is a provision of the constitution which

is certainly to me a very singular one—that constitution which was "done at Lecompton on the 7th day of November." Since then, it is known that the free-State Legislature of that Territory has been in session. It is known that they have repealed, or attempted to repeal, certain laws there; and yet this Lecompton constitution, by a single provision, reenacts, or attempts to reenact and put in force those laws. It contains a provision that all the laws of the Territory in force on the 7th day of November, 1857, shall be in force when this constitution takes effect. Then, if, in the mean time, the free-State Legislature, or any other Legislature, should repeal part of those laws, by the force of the constitution assuming the powers of legislation, which I contend they have no right to do, they reenact those laws and put them in force. I shall have an opportunity of addressing myself to that amendment by and by. I do not propose to discuss it at length now. I only mention it at this time that I may not seem to have passed it over without any notice, and will give it further attention hereafter.

I had laid down various propositions in my own mind why I would not vote for the admission of Kansas under this Lecompton constitution. One of those reasons was, that it will not give peace and quiet, and may engender civil commotion and war, destroy the confidence of many of our citizens in the Government of the United States, and lead to mischief. I desire to discuss that proposition for a short time, because I may not get another opportunity to do so. Senators on the other side seem to think that Senators on this side want to prolong the debate. I do not desire to do so. I only desire to say fairly, candidly, and clearly what, in my judgment, is proper to the debate, and when I have said that, I shall sit down; but I shall not sit down until I have said it.

You may adopt this Lecompton constitution, and the President says it will give you peace and quiet. In my judgment, I tell you it will give no peace and quiet. Bring peace to whom? Peace to the country? How so? What has been the state of the country ever since you repealed the Missouri compromise? and if you would go back further, I ask what has been the state of the country since you adopted the compromises? Then everything was to be settled. We have heard a very great many times of this peace and quiet. Adopt this measure, and there will be peace and quiet. The dove has come with the olive branch in its mouth, and we have taken the dove into the ark, and yet no peace and quiet have come.

You tell us that peace and quiet will come now. I tell you, in my judgment, this measure will bring you no peace nor quiet. The sentiment of the country is aroused in a way that no admission of Kansas with this constitution will quiet it. Why has it been aroused? Because the country feared that, when you repealed the Missouri compromise, you were going to make Kansas a slave State. That was the watchword. The object was to make Kansas a slave State. The country became alarmed. They said that that was the object. A great many Senators in this Chamber said "no." An honorable Senator from North Carolina, Mr. Badger, said:

"I have no more idea that slavery will go into the Territory of Kansas than that it will go into Massachusetts."

Senators talked about the law of climate; that the law which regulated slave labor effectually prevented its going there. They said slave labor would not, nor could not, flourish in Kansas.

That was the argument. Everywhere I went, on the stump, and elsewhere, I endeavored to controvert it; because I saw, as I thought, that slavery was to go into Kansas. When they said that Kansas was too far north, slavery cannot go there, I replied to them, is Kansas any further north than Missouri? and if slavery is profitable in Missouri it will be in Kansas. That was one reason why I wanted to draw out the Senator from Missouri to-night. I wanted to ask him if he was in favor of abolishing it in Missouri, and he at once said no, that slave labor was profitable there. He told you that in raising hemp and tobacco it was nearly equal to the cotton crop in value, and he did not want to get rid of slavery in Missouri. If slavery is profitable in Missouri, why not in Kansas? Is it not entirely idle, then, to talk about the law of climate, or anything of

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that kind excluding slavery from Kansas? There is no doubt a large majority of the people of the North—perhaps all of them—desire slavery not to go into Kansas. I do not know but what I may say that some men from the slave States desire it not to go there as a matter of climate, because slave labor crushes out too much land, and countries settled by free labor are the most prosperous countries.

Why, Mr. President, I could join in all that was said of the beautiful country of the South by the gentleman from South Carolina; I could join with him in speaking of the beautiful sea-coast, the winding bays, and harbors; I could join with him in praise of that magnificent river which sweeps all the valley of that country; I could join with him in the fineness and richness of the soil, in the bright sunlight, and everything that makes that country beautiful; but when I join with him in that, the reflection would come to my own mind, if you only cultivated that country as you might a large portion of it—by free labor—I have no doubt you might do so—how much more beautiful would it be than it is now. I agree to the picture which he drew, and then, without taking the brush off, I could add some very beautiful tints to that country. I apply the same thing to Kansas. When you talk to me about slavery making the South prosperous, or making Kansas prosperous, I tell you with free labor it will be infinitely more beautiful and prosperous.

There is another point to which I want to direct the attention of Senators, if they will permit me. Gentlemen of the South complain that if slavery is excluded from Kansas they cannot go and carry their slaves there. Very true. Let me state the other side. If they go and carry their slaves there, free labor cannot go there to any great extent. You have got to exclude one or the other *in toto*. Which shall be excluded, the one which renders the country more prosperous or least prosperous?

But I pass from that consideration, and come back to the proposition that the admission of Kansas under this constitution will bring you no peace. I ask you to turn your attention to my own State, and see what has been the history of the question there, and then judge of other States like my State, whether you are going to have peace. The State of New Hampshire had been a Democratic State from 1829 to 1846. She had not faltered once. She was as true as the needle to the pole, or the shining of the north star. She was always Democratic. When the great State of New York and other States faltered in 1840, or were swept away by a political whirlwind, New Hampshire was true to the Democracy. She acquired the titles of the "Gibraltar of Democracy," the "back-bone of Democracy," the "un-terrified Democracy," because she was always true. Yet, in 1846, when upon the question of the admission of Texas, they proposed to defeat my colleague here, who had been a member of the other House, for his vote there, New Hampshire, which for seventeen years never had varied in the least, went square about, defeated the Democracy, elected my colleague to the Senate of the United States, and brought him first into this Chamber. That was done upon the slavery question.

The next year the Democratic party passed certain anti-slavery resolutions, showed themselves opposed to slavery, and the State went square back. On those resolutions she stood in 1847, 1848, 1849, and 1850. She reiterated them in 1851 and 1852, and there she stood in 1853. But the very next time you brought up this slavery question, and proposed to repeal the Missouri compromise, in 1854 she went square about again. They had not a majority of the Legislature in 1854 which would elect a Senator; but they defeated the Democratic Senator. The next year she went square about, and, with a majority of one hundred, reelected my colleague and my predecessor, the late Mr. Bell, as Senators here. The next year she stood the same; the next year the same. She has just spoken again; and I want you to hear what is said now in that State.

Mr. President, when you proposed to admit Kansas under the Lecompton constitution, the Democracy of the State of New Hampshire became a little frightened. They began to take sides with the honorable Senator from Illinois—if you

will allow me so to speak—against Lecompton, and to take sides with the President. They passed a resolution approving the course of the Senator from Illinois, or against the Lecompton constitution; and they passed a resolution approving of the President. They prayed good Lord and good devil. They came up to a vote. The Lord would not, or did not, help them; and the devil could not, for the Republicans were too many for him. It turned out that the Republicans carried the State by an increased majority of two thousand votes. We carried it by three thousand before, and three thousand majority in our State is a pretty large majority; but at the present election, which took place last week, on last Tuesday, we increased the majority to five thousand.

Mr. SEWARD. What was the aggregate vote?

Mr. CLARK. The aggregate vote was about sixty-four thousand. We are a very steady and conservative people. New Hampshire was a Democratic State from 1829 to 1846. She then went around and voted for my colleague. She resumed her place in 1847, and went on until 1854. She changes only once in a generation; she is so conservative that when she fixes her point, there she remains. She has fixed herself as a Republican State, and there she will remain. At this election she has increased the majority two thousand votes.

Mr. SEWARD. She will come up.

Mr. CLARK. Yes, sir; she will come clear up, if you keep on this warfare, and take in the whole people. But I want to read to you, sir, and to honorable gentlemen who cry "peace, peace; only admit Kansas with the Lecompton constitution, and you will have peace," an article from the New Hampshire Patriot. That is, and has been, the State paper. Everybody who knows anything about New Hampshire, and Isaac Hill, knows what sort of a paper it has been. It was his paper, and had been from time immemorial his paper. I desire to read a few lines written the day after, or the day but one after, the recent defeat. Here is what it says:

"This defeat of the Democracy is sufficiently overwhelming to satisfy our most bitter opponents; even the latest renegade must feel content with it. At the same time, when the palpable cause of it is considered, it presents no occasion for despondency on the part of true and intelligent Democrats. No one can fail to see the cause; all admit it. The Kansas question has again crushed us!"

That is the "crushing out," sir. "The Kansas question has again crushed us"—us, the Democracy. That is a different crushing from what the Senator from Georgia was going to give us.

Mr. SEWARD. It is a bad rule that will not work both ways.

Mr. CLARK. We know it works both ways. If we put our trust in Providence, and general principles are with us, we need not fear this crushing-out process. This article continues:

"—with its ponderous, blind, unreasoning power. Before the Lecompton constitution question was brought before the country, our prospects for success were highly flattering; our triumph seemed to be certain."

Now mark this:

"That matter, with the course of the Administration upon it"—

that is it—

"fell like a wet blanket upon the rising courage and earnest zeal of our friends, and from that day we were doomed; our defeat was certain, and apparent to all well-informed persons."

Let me tell you, Mr. President—and let me tell honorable Senators who think that peace is coming from this measure—that when you have crushed out the majority in Kansas, you have not crushed out the Republicans of New Hampshire, nor the Republicans of the country. What will be the effect of passing this bill? You admit Kansas with this Lecompton constitution. She then comes into the Union under it, just as if you had not amended it or put some condition to it, and what do you get then? Where is Mr. John Calhoun? Here in this good city. Why did he not count the votes before this? Why, he told you he was not going to count them or declare them until Congress admitted the State; when you got that difficulty settled he would count the vote. Oh, yes; you admit Kansas under the Lecompton constitution; let it come in with slavery in it; then I will count you in a pro-slavery Governor—a pro-slavery Legis-

lature, with all the machinery to move it; and then let us see you get a free State. Then what sort of a difficulty would you have? Have you any idea that the people are going to submit to it? I put it to you—if they have been rebellious, insurrectionary, and insubordinate, while this question has been pending, and under the rule of these Missourians, what do you think they will be when you force upon them a constitution which is obnoxious to them, and against their will?

You send your Governor back if he dares to go. Let him attempt to put that slave-State government into operation. They will drive him out of the Territory. Let the Legislature attempt to go into session. It may be—I do not say, because I do not know; I am only foreshadowing events in giving my own views—that they will assemble, or attempt to assemble. The people drive them out of the Territory. What then? An application by the Legislature and Governor for troops to take care of them. What then? A collision between the troops and the people. What then? Why, peace in the country! Only admit Kansas, and we will all go to bed, and lie down and be peaceable and quiet; and we will not hear anything of this subject again!

I tell you, sir, that when you put this Lecompton constitution into effect, in my judgment you give the people of Kansas the torch of civil war, and tell them to go and light it. I am not certain but what the President desires this. There is evidence here to show that the President of the United States does not want peace. That is a pretty grave charge to make; but I think I can prove it, and I prove it in this way: Mr. Stanton wrote to the President, (and the President sent the document here, or rather repeated in his message what Mr. Stanton had said,) that the only way he could prevent bloodshed in the Territory, as he thought, was to call the Legislature together. He did call the Legislature together. What then? Why, the President turned him out of office for doing the very thing that would prevent bloodshed. Now, Senators know that the reason the President assigned for turning him out of office, was because he called the Legislature together; and then, afterwards, this same President sends here his message, and in that message says that Mr. Stanton said, the only thing to prevent bloodshed was to call that Legislature together; and so it happened.

Mr. President, I could continue for some time longer to show you why you will get no peace in this Territory by passing this measure, but I forbear. I have already occupied more of the time of the Senate than I ought to have done, much more time than I should have done under other circumstances; but, with these hasty remarks, I close with a warning to the Senate, if it becomes me to give the warning, that as you failed in 1850 to get peace on this question, when you thought you would have it by the compromise measures; as you failed to get it in 1854, when you thought you would have it by the repeal of the Missouri compromise; so now, in my judgment, you will fail, signally fail; and I will tell you that the admission of Kansas under this Lecompton constitution, in my judgment, instead of giving peace and quiet to the country, will add but another torch and another brand, which will be fanned into a flame, and which will end we know not where.

Now, Mr. President, I had it in my mind to have said something further in regard to the speech of the Senator from Virginia, [Mr. HUNTER,] which was delivered on Friday. And, if you will bear with me a moment, I will do so. I dissent entirely from the conclusion of that speech. Though it distinctly shadowed forth what certain gentlemen deemed to be the career of this country, I was compelled to dissent. We were told by the gentleman from Virginia that the eagles were already gathering to the banquet of empire, but that there was one eagle away, watching her nest. He spoke as if it was desirable that that young eagle should be to that banquet of empire. I say, sir, let the young eagle watch her nest; let her take care of her young; let her not go to feed upon the carrion of the Old World. I say more. Let her maintain her dominions here where she is, upon her own soil. If, in a proper and rightful way, she acquires more soil to be used in a proper way, so be it; but I protest against that vision of empire which he shadowed forth when

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we should have possession of all the southern portion of this continent, marching through Mexico and the States of Central America to the Amazon and the equator, and governing the country by subjecting those nations to the stronger. We might possibly do it; but is it desirable? If we can subject the negro and hold him in slavery, in the same way we will subjugate the Mexicans and the various people in the Central American States. Sir, I protest for my country against any such destiny. I have no objection that she shall be enlarged in her borders, if it can be done justly; but if her borders are to be enlarged in wickedness, in unrighteousness, by force, and by subjecting other nations to her will, to make them slaves, then I protest against it. I ask no such future for my country, because I remember, and it will ever prove true, that "the nation that sinneth shall die."

The PRESIDING OFFICER. (Mr. Biggs in the chair.) The pending question is on the amendment offered by the Senator from Missouri.

Mr. DOOLITTLE. Unless the Senator from Missouri proposes to make a motion to adjourn, I shall do so. It is now one o'clock.

The PRESIDING OFFICER. Does the Senator from Wisconsin make a motion?

Mr. DOOLITTLE. Yes, sir. I move that the Senate do now adjourn.

Mr. GREEN. I object to an adjournment.

Mr. WILSON called for the yeas and nays on the motion; and they were ordered; and being taken, resulted—yeas 11, nays 21; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Doolittle, Foster, Hale, Hamlin, Harlan, Polk, Wade, and Wilson—11.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Pugh, Sebastian, Sidel, Thomson of New Jersey, Toombs, and Wright—21.

So the Senate refused to adjourn.

Mr. FOSTER. I move that the further consideration of this bill be postponed until to-morrow at half past twelve o'clock. I certainly supposed that was the understanding of the Senate, after the suggestion of the honorable Senator from Missouri.

Mr. CHANDLER called for the yeas and nays; and they were ordered.

Mr. BROWN. The Senator from Connecticut says that it certainly was the understanding, after the announcement of the Senator from Missouri, that this postponement was to occur. It was distinctly announced on this side that that postponement would not be agreed to under the circumstances of the evening. I, for one, announced it, and half a dozen others did so. I simply want to disabuse the minds of Senators. We agreed to no such thing.

Mr. GREEN. Not a bit of it.

Mr. FOSTER. I say that was my understanding. I appeal to the Senator from Missouri if that was not his understanding?

Mr. POLK. I said that I believed we should get along faster if the Senator from New Hampshire were allowed to close his remarks, and then to adjourn.

Mr. FOSTER. That was my understanding.

Mr. POLK. The motion to adjourn was made, and I voted for it, not in regard to the matter of postponement. Nothing was said on the subject. On the contrary, the Senator from Mississippi stated, as he has said, that he did not agree to it. Mr. DOOLITTLE obtained the floor.

Mr. BROWN. Mr. President—

The VICE PRESIDENT. Does the Senator from Wisconsin yield the floor?

Mr. DOOLITTLE. I yield.

Mr. BROWN. I think that this evening we could have come to an understanding, but for a partial withdrawal of what I at least understood to be the declaration of the Senator from Maine. I understood both the Senators from Maine to enunciate distinctly that after consultation to-morrow morning, their party would either agree to take this vote on Monday, or not to-morrow to resort to factious opposition, but to go on and make speeches as long as the majority thought proper to sit. One of the Senators from Maine agreed to that. The other one, very much to my surprise, but doubtless according to his understanding, said he could not conceive that he had

gone so far, and upon his withdrawal of that assent, as I understood it, several gentlemen around me said, there is an end of it; there is no use in pressing that point any further.

If I understand the position of our friends, it is this: that if we can get the vote on Monday, we will be satisfied. ["No, no!"] Hold on. I will state my own proposition in my own way. If gentlemen choose to vote it down they can do it. I understand there is an influence here which will force an adjournment at this hour, now, provided we can be assured that we can have a vote on Monday; and if that cannot be done by an agreement from the other side, then, that to-morrow there shall be no resort to technicalities to postpone us longer, but gentlemen can go on and make speeches. As long as a gentleman chooses to occupy the floor, let him occupy it. If he chooses to take the floor at eleven o'clock, to which hour I propose that the Senate adjourn—

Mr. FESSENDEN. Not to-morrow, after to-night's session?

Mr. BROWN. Well then, twelve o'clock. I care not when. Let us then meet with the full understanding that we shall have the vote without an adjournment unless it is agreed on all hands to have it on Monday at two o'clock. If that be the understanding I am prepared not only to move an adjournment but to vote for it; otherwise, I am prepared to sit it out now, because I see no use in sitting here after one o'clock to-night and repeating the same thing to-morrow night. Unless there is an agreement, let us go on now.

Mr. CAMERON. Mr. President—

The VICE PRESIDENT. The Senator from Wisconsin is entitled to the floor.

Mr. DOOLITTLE. I desired some times since to say a single word upon this question of postponement. The honorable Senator from Texas [Mr. Houston] introduced a resolution to-day, but which, being made, lies over until to-morrow, that our sessions should commence at eleven o'clock. That resolution would doubtless be adopted to-morrow. Certainly it would meet my concurrence that we should commence our sessions at eleven o'clock, and sit here from that time until six o'clock, thus giving seven hours for no other business except the discussion of this question.

Now in relation to the proposition made by the honorable Senator from Mississippi, I beg leave to say a single word, and then the honorable Senator will see the position in which we are placed. It is impossible, as we have not had an opportunity for consultation, for us to give any pledge to-night. We must have an opportunity of meeting together before—

Mr. BROWN. The Senator will allow me to say a word. I certainly have not asked, and do not understand that a portion of our friends on this side—some may—ask gentlemen to enter into pledges without consultation; but that to-morrow, after consultation, we shall understand where they are; that they will then agree to have the vote taken on Monday, or, in default of that agreement being entered into, that we shall enter upon the discussion to-morrow with a determination to go through it, provided the majority determine to force it, and not to resort to technicalities, but to go on with the speaking. If they want to speak, speak ahead.

Mr. CHANDLER. I will state a conversation that occurred between the honorable Senator from Mississippi, the Senator from Maine, and myself. We were the only three present. The proposition then made was precisely as the Senator from Mississippi has repeated it, according to my understanding. Upon that proposition I said to him, if you will see whether it will be acceptable to your side of the House, I will go upon my side of the House and see if it be acceptable there. I saw, I think, every member on our side of the House—every member, I think, who was in his seat. The Senate was not very full, and perhaps I did not see one or two; but every member whom I did see, assented to the proposition. I went out into the post office, and while there, the Senator from Mississippi came in and said, "Our folks will not assent to the arrangement." I replied, "Very well; let it go." We could then have come to an understanding in one single minute upon that proposition. I think we can carry it out now.

I cannot answer for anybody but myself. So far as I am concerned, I should be in favor of accepting that proposition, each one pledging himself to use his influence and all he can do to carry out the understanding. Whether it can be carried out or not, I cannot say. It could have been at that time.

Mr. GREEN. Mr. President—

The VICE PRESIDENT. The Senator from Wisconsin is entitled to the floor.

Mr. GREEN. I request the Senator to yield me the floor for a moment.

Mr. DOOLITTLE. Certainly; I have no objection. My wish was to state my views in relation to this matter of postponement, and to give the reason why we could not answer the proposition of the Senator from Mississippi.

Mr. GREEN. My only purpose is simply to make this remark: that Senators on the other side have had the same opportunity precisely that Senators on this side have had, with the same notice with regard to the termination of the debate. I informed them last Monday week that it was the desire of the friends of the bill to bring this question to a close, and if they have failed to avail themselves of that notice to consult together, we ought not to be held responsible.

Mr. CHANDLER. I want to say one word right there, if the Senator will yield.

Mr. GREEN. Certainly.

Mr. CHANDLER. I had a conversation with the honorable Senator last Friday, wherein I asked him if he intended to press a vote and choke us down; and he told me no.

Mr. GREEN. That is true. I said, "no, if you do right, and come to an understanding; but in the absence of an understanding, we do intend to do it." That is what I said.

Mr. CHANDLER. You left the understanding on my mind that you would not press it.

Mr. GREEN. I said expressly, "in the absence of an understanding, we do intend to do it; but if we can get an understanding, we will forego a day, perhaps several days."

Mr. CHANDLER. Very well; you and I understood each other then.

Mr. GREEN. I think so.

Mr. CHANDLER. Perhaps it was from that mutual understanding that I received my impression. I will not assert positively that it was not so.

Mr. GREEN. Not a step has been taken; and when the last opportunity has occurred, the question comes up here whether we shall procrastinate—under what circumstances? Any assurance that we will come to an agreement? No; but under a promise that they will try and see whether they can agree or not. I cannot accept any such vague terms. I desire this night to perfect the amendment I have proposed; and as soon as this motion is voted down, and I hope it will be, I shall propose the last amendment I have to offer, and then ask for a vote.

Mr. CAMERON. I wish to say that I am tired of this. I have striven all this night to conciliate gentlemen on the other side, and I have striven until I have been disgusted. Who is the gentleman from Missouri, that he should dictate terms to us? Is he anything more than our peer? He is certainly not the commander of this Senate. What right has he to come and say the question shall be taken now, or to-morrow, or any other day? This bill, I believe, came up here on the 18th of February. On the 20th of February his side adjourned the Senate over until Tuesday of the next week, to attend a political pageant in the State of Virginia.

Mr. GREEN. That is not true.

Mr. CAMERON. What is that?

Mr. GREEN. That is not correct.

Mr. CAMERON. Do I understand you to say that I state what is untrue?

Mr. GREEN. Certainly; that is exactly what I say.

Mr. CAMERON. Then I say you have no right to say so, and you are responsible for that.

The VICE PRESIDENT. The Chair calls both of the Senators to order. This discussion is against the rules of order.

Mr. CAMERON. I permit no Senator to say here, and no gentleman will say, that what I say is untrue.

35TH CONG., 1ST SESS

Kansas—Leocompton Constitution—Mr. Cameron.

SENATE.

Mr. GREEN. It is not true.

The VICE PRESIDENT. The Chair calls both Senators to order.

Mr. CAMERON. I repeat again—

The VICE PRESIDENT. The Chair calls the Senator from Pennsylvania to order.

Mr. CAMERON. I mean not to be out of order; and with due deference to the President of the Senate—

The VICE PRESIDENT. The Chair must call the Senator to order, and requests the Senator for the moment to resume his seat as the rules require when a gentleman is called to order. The Chair reminds Senators now, that as the organ of the body he will not suffer the cross conversations with each other which inevitably and immediately lead, at such an hour of the night as this, to unpleasant collisions; [Mr. HAMLIN. That is right.] and he therefore desires Senators to address each other through the Chair. The Senator from Pennsylvania will proceed.

Mr. CAMERON. I say again that, on a particular day, the Senate adjourned on a motion of a gentleman on the other side of the House; and that was the avowed object of the adjournment. They adjourned on Friday, I believe, to meet again on Tuesday; and I say it was for the purpose of attending a political pageant. [It was Washington's birthday.] That time was occupied by gentlemen on the other side. They then held their caucus, and decided upon their course of action in regard to this bill. We were told, after the Senate met, what their decision was. They came not as gentlemen ought to come to other gentlemen—"we desire you to do so and so;" but they said you must do so.

Mr. GREEN. That is not correct, either.

Mr. CAMERON. Does the gentleman desire that I should say something harsher than he would like to hear?

Mr. GREEN. So far as I am concerned, I do.

Mr. CAMERON. I say you utter an untruth.

Mr. GREEN. I say you are a liar—that is all.

The VICE PRESIDENT. Both Senators are out of order.

Mr. CAMERON. Mr. President—

The VICE PRESIDENT. The Senator will please to pause for a moment. The Chair regrets that in less than one minute after he called the attention of the Senators to the rules of order, that this scene should have occurred; and he feels it his duty, as the organ of the body, to stop it. Both Senators have violated the rules of order. They have passed the limits of decorum. The Chair says so with great respect to them; but it is his duty to see that the rules are not violated; and he will call any Senator to order who addresses any other person, in speaking, than the Chair.

Mr. CAMERON. I again beg pardon of the Senate; yet I do not believe I did what was wrong. I only repeat to the gentleman over there that I am responsible for all I have said to him; to the Senate I say I am sorry if I have done anything wrong. I say again, that this whole matter has been carried out in a dictatorial and improper manner. I told that gentleman more than once to-night that I, for one, would go into caucus to-morrow with my friends and endeavor to have this question decided at some early day. I thought it could be decided this week, certainly by next Monday. I said so on the floor; I repeated it three or four times; and it has been repeated by half a dozen gentlemen on this side. Now, if he or any other gentleman expects to drive us by sitting it out, they are very much mistaken. To say the least, we belong to the same race, and can endure just as much. I can sit here just as long as any other individual, on this question. They cannot drive us. By treating us with courtesy and decency, we will do almost anything they desire; but they cannot force us to any decision.

Mr. GREEN. I beg leave to make a remark. I do not know what is the motion pending, and I do not know that what I propose to say will be in order.

The VICE PRESIDENT. The question before the Senate is on the motion to postpone.

Mr. GREEN. Then what I have to say is in order, and the reason why I desire to say it is in justice to myself. The Senator from Pennsylvania intimates that I arrogate to myself a superior-

ity, or a command which does not properly belong to me. I have never done any such thing, and the Senator does me injustice when he insinuates it; and he not only does me that injustice, but he knows it is injustice. He knows it; for I am but the organ of a committee, and the agent of the party, responsible on this question. I am not to arrogate to myself a superiority over any man, but I am to assume to myself an equality with him or any other.

With regard to his intimation that we held a caucus, and then went and dictated terms to him, I say it is not true. I went this morning, as the Senators from Massachusetts and other Senators would bear me witness, if they were in their seats, and said to him, in a playful manner, "I have come to you as envoy extraordinary and minister plenipotentiary; what terms do you propose?" Does that bear out the slander that the Senator from Pennsylvania has endeavored to heap upon my head? No; it rivets it upon him; and the Senator from Massachusetts will bear me witness of the truth of what I say.

The VICE PRESIDENT. The Chair calls the gentleman from Missouri to order.

Mr. GREEN. I will sit down. I may have used too harsh words. It is a slander, nevertheless.

The VICE PRESIDENT. The Chair calls the Senator from Missouri to order. He considers that language out of order. The Chair has called the Senator to order as required by the rules of the body. It is for the Senate to say whether he shall proceed.

Mr. GREEN. If I used any harsher terms than he used to me, I give in; I submit to the order of the Chair.

The VICE PRESIDENT. The Chair has attempted to arrest it in both Senators.

Mr. BRODERICK. It is evident, Mr. President—

The VICE PRESIDENT. The Senator from Missouri was entitled to the floor. He was out of order; but with the general consent of the Senate he will proceed in order.

Mr. GREEN. I was through.

Mr. DOOLITTLE. I simply rise for the purpose of stating that I had the floor, and yielded it to Senators.

Mr. GREEN. Will the Senator allow me to say a word?

Mr. DOOLITTLE. I yield.

Mr. GREEN. I beg leave to inquire of the Senator from Wisconsin whether I did not ask him as to what time he thought would be agreeable to his side to fix for the closing of this debate? and, if I recollect aright, he told me this day three weeks, he thought, would be about the time we could get through. I do not make mistakes on this question. I never make mistakes.

Mr. DOOLITTLE. In response to the honorable gentleman's question, I will state that the Senator did ask me the question when we would be prepared to take this vote, and I remarked to him that, in my opinion, in two weeks all the members of the Senate could be heard who desired to speak upon this question; and I thought that two weeks would not be an unreasonable time. That is the substance of the conversation.

Mr. GREEN. Now, Mr. President, I beg leave to remark in justice to myself, after having consulted, as I think, in the kindest and most courteous manner imaginable, and requested of Senators on the opposite side to say what time they thought they could be prepared to take a vote, to be characterized, as the Senator from Pennsylvania did, in attempting to dictate terms to them, is enough to harrow up my feelings, for it is not true. I will not use a harsh word; it will be out of order. If I get out of the Senate Chamber, I shall use a harsh word to his teeth, for there no rule of order will correct me; but in this Senate I will not violate the rules of order if I know it. I will simply say that it is not correct; but when once out of this Chamber, I shall use the appropriate epithet which belongs to the West.

Mr. CAMERON. Mr. President, am I expected—

Mr. GREEN. I do not yield the floor. With regard to the adjournment over in order to attend the pageant at Richmond, I will merely remark that this bill had not been made the special order

at that time. Since this bill was made the special order, the Senate has never adjourned over from Thursday to Monday by the votes of the majority on this side of the Chamber. I assert that to be the truth, leaving anybody to controvert it who dare.

But enough of this. Why go into these little bickerings? If there is a soul that has a feeling of animosity to settle, outside of this Chamber is the place to settle it. In this Chamber, as he well remarked, we meet as equals, each being responsible to tell the truth, and if we do not do it, to be held up to public opprobrium. I have repeated what I know Senators will bear me witness to, that I never went to that side of the Chamber to dictate the time at which they should take the vote; but went there to ask what time it would be agreeable to them; and when they did not give me an answer, I told them what my instructions were—not dogmatically—not because I, as an individual, assumed the power; but under instruction from the majority, who were responsible to the country—that I, as their agent, would be compelled to press it in the absence of any understanding being given us. Instead of being harsh I thought I was very kind. Whether it be so or not, I leave the public to judge. As to any question of veracity between that Senator and myself, in five minutes after this Senate adjourns, we can settle that.

Mr. DOOLITTLE. I submit that that is out of order.

Mr. CAMERON. I desire to say, if that is intended for a threat, it has no effect on me at all.

Mr. GREEN. It is no threat.

Mr. CAMERON. The gentleman says he has not dictated; but yet during the whole evening he has been taking the lead in this matter. It is he who has made all this difficulty. I understood his colleague to say, that after the gentleman from New Hampshire should have finished his speech, that then the Senate would adjourn. It was understood on our side that they would adjourn when that speech was over, as I understood, on the motion of the Senator from Missouri; and Senators have gone home with that understanding. Now, it is not necessary for me to talk to the Senator from Missouri. I am able to take care of myself, and I think I shall do so now and hereafter, too.

I repeat again, and I repeat it upon the expressions which he made this evening, that the minority has had no responsibility; that the responsibility was all upon the majority, and upon this principle I say all this discussion has been postponed by them. They have the majority, and could have prevented an adjournment any day they thought proper, or at any hour on any day; but they did not see proper to do so, and are responsible for it. The majority have adjourned from day to day; they adjourned to go to Richmond; they adjourned over from Thursday to Monday; they did so every week until the last week, and all the time since we have been discussing this question. To-day, he says, he came over here as plenipotentiary for his party, to fix some time on which the vote should be taken. He came here, as I suppose, after a caucus among his people. That would have been all well and fair before the Senate met, but as it occurred, in fact, after the Senate was in session, gentlemen on this side had no opportunity to meet and consult on the course they should take. I repeated, in private conversation, half a dozen times, and I said so publicly, give us an opportunity to meet, and I, for one, would endeavor to get an early day fixed for the decision of this question; if we failed to agree on a reasonable time, agreeable to the majority, that then they should act as they thought proper, and we should act as we think proper. I can speak more freely because it is not necessary that I should remain here. I have agreed to pair off with a gentleman who has been called away, and I might go home. But if it is determined by physical force, I repeat again that this side can stand as much force as any gentlemen on the other side, although I prefer, and I think, for our own sake, and the benefit of the country, and an early decision upon this question, it would be better to adjourn now, meet to-morrow at the usual hour, and then fix a time for taking the vote.

Mr. BRODERICK. It is evident from the debate that the majority on this side of the Chamber have resolved to remain here until the vote is taken upon this question. I hope no overture will be again made from Senators on the other side of the Chamber; for it must be evident to them that the majority have resolved to sit this question out. The Senator from Michigan [Mr. STUART] left this Chamber an hour since, with the understanding, I believe, that the Senate would adjourn immediately after the Senator from New Hampshire had concluded his speech. I am very glad that he has gone home, for he will be here early in the morning, if the Senate intend to remain here during the night. It is now morning, I believe. Therefore, I would suggest to Senators upon the other side to resort to the remedy accorded by the rules of the Senate. If they get tired of speaking, move an adjournment or a postponement of the question. Let us hear no more propositions from that side of the Chamber for any compromise. ["Question!" "Question!"]

Mr. DOOLITTLE. I was upon the floor when this desultory debate sprang up. The question pending before the Senate, and upon which the yeas and nays are ordered, if I have not forgotten, is a motion to postpone this subject until to-morrow at half past twelve o'clock.

The VICE PRESIDENT. That is the motion.

Mr. DOOLITTLE. That means, I suppose, until half past twelve o'clock to-day?

The VICE PRESIDENT. It does.

Mr. DOOLITTLE. I was about to reply to the suggestion which was made by the Senator from Mississippi. He said that he either asked of us to state now that we would take the vote on Monday, or that we would to-morrow agree to take the vote on Monday; or that we would agree, if we did not come to that conclusion, that we would waive all right, by parliamentary law or otherwise, to postpone the time of taking the question. Now it is unfair, it seems to me, to press anything of this kind upon us when no opportunity has been allowed us to consult. We could not make the proposition if we would.

Mr. BROWN. Will my friend allow me a moment?

Mr. DOOLITTLE. I yield.

Mr. BROWN. I simply stated that if gentlemen in their individual capacity who had submitted this proposition failed to get their party associates to agree to take the vote on Monday, they, as individual Senators, would not engage in any effort to stave it off by calling the yeas and nays, and resorting to further parliamentary tactics, if he could not commit his friends to vote on Monday; of course not to commit them to any other policy. I only held that some four or five of those gentlemen might enter into an arrangement of that sort. I never understood that the whole party should be committed to anything until they agreed in caucus.

Mr. DOOLITTLE. The suggestion of the honorable Senator from Mississippi does not relieve the difficulty at all. As long as gentlemen act in party associations it is not proper, if a party caucus is to be called, for them in advance to pledge what they will do, or may not do; for when the matter comes to be consulted on it may be thought prudent, on consultation, that a certain course should be pursued; and in duty to the party obligations which they are under, gentlemen would not give a pledge of that kind in advance. We have had no opportunity to consult.

But again, Mr. President, this matter of delay in the discussion of this question is not to be charged upon our side of the Chamber altogether. It is true there was a good deal of discussion upon the President's message, but it was suggested by the honorable Senator from Virginia, [Mr. MASON,] and other Senators on this floor, that it was irregular; that the whole debate upon the merits of the Lecompton constitution was irregular and out of order, and ought not to be proceeded with by the Senate; and therefore it was urged upon those who desired to speak to wait until the committee had made their report, and the question came before the Senate in a practical shape, and the direct proposition was before the Senate for the time in its legislative capacity, and then it would be a proper matter for discussion.

Upon that suggestion I know that very many Senators on this side of the Chamber refrained altogether from preparing themselves for debate, or from taking any part in the discussion, until the Lecompton constitution should be presented. The very vote on that constitution in the Territory of Kansas did not take place until the 21st of December. The Legislature of the Territory passed a law on the 17th of December, that that constitution should be submitted to a vote of the people on the 4th of January. An election was held, in fact, on the 4th of January, whether that constitution should be accepted or rejected by the people of Kansas; and it was but just to wait until these events should transpire before entering into a full discussion of this question. For myself, I believe I have maintained, and I do now maintain, that the vote which was taken by the people of Kansas, on the 4th of January, under a law of the Legislature of that Territory, by which they rejected the constitution by over ten thousand majority, is a vote which is binding in good faith upon that people, and binding in good faith upon this Senate, the Congress, and the country. That matter, of course, could not have been discussed until it transpired. It took several days before it was known and understood here what that vote was—what the result of it was; and the subject was not fairly presented until brought into the Senate upon the report of the committee. Since it has come into the Senate on the report of the committee, there has been but about one month, and only one month, for the discussion of this question. Having myself occupied some considerable time of the Senate, I feel it but just to other Senators that they should have a fair opportunity to speak on this question; and so far as any influence that I can exert, or any vote that I can give, will allow them that fair opportunity, I am disposed to do it.

I did state to the honorable gentleman from Missouri, that if this matter could be continued for two weeks longer there would be a fair opportunity for all to be heard, if upon that side of the Chamber they did not occupy more than a fair portion of the time; but I believed that at least that time would be required to present this case properly, or give Senators here a fair opportunity to present their views upon it. Still, as there is such a strong disposition to have the vote taken, I am not quite certain but what we might agree that the vote should be taken at an earlier day than two weeks from to-day, when the vote should be taken; but I am not prepared now to pledge myself that it shall be taken at an earlier day than two weeks from to-day. The honorable gentleman from Ohio suggested, in the course of his remarks not long since, that if a day were fixed within two weeks it would be satisfactory to him.

What great reason is there, Mr. President, why this matter should be pressed? What great difference would two, three, or four days, or even a week, make? It is said on the one hand, if the Lecompton constitution is to pass, that it necessarily involves a civil war in Kansas. On the other side, it is insisted or threatened by some on this floor that, if Kansas be rejected under the Lecompton constitution, the Union is to be dissolved. Well, sir, I do not anticipate either event. I do not want a war in Kansas; I do not want a dissolution of the Union; and the longer you postpone the matter, the longer you postpone the evil day which seems to be anticipated on the one side or the other. If, as has been earnestly said here by honorable Senators, based upon the information which they derive from Kansas, there is any truth in the resolutions of that Territory that the passage of the Lecompton constitution shall be regarded as a declaration of war upon that people, and that they will resist it unto the last extremity, that it will light the torch of civil war—if there is any truth in this, it is a matter well to be considered. So, too, if there is any shadow of foundation for this intimation thrown out that the union of the States is to be broken up, if Kansas is not to be admitted under this Lecompton constitution, that is a direful calamity. For myself, sir, I am not prepared for either calamity. I would not hasten on the hour when either calamity could possibly ensue.

Now, I ask Senators, what difference is it

whether the vote is taken one day or six days later? within one week, or within two weeks? What difference is it to the interests of the country? We see, Mr. President—we have evidence in what has transpired upon this floor—what results from these night sessions, and from this attempt on one side to press the Senate to a vote on this question. The order of the Senate is broken down; the dignity the decorum of the Senate is destroyed, to a certain extent. Ill-feeling is engendered between Senators on this floor in consequence of it. I submit that the proposition of the Senator from Texas, [Mr. HOUSTON,] that the Senate commence its sessions at eleven o'clock, instead of at twelve o'clock—that all other business be laid aside for the purpose of debating this question, and for no other purpose, and thus give a fair opportunity for all to express their views, and then come to a vote—is a fair one, and ought to be adopted. There is no doubt that in this Senate there is a majority in favor of the passage of this bill in some shape. We expect that the majority will come to a vote at the proper time. We do not intend to resist it factiously. What has transpired to-night should not be taken as a factious opposition; for I protest to gentlemen that it has been understood upon our side of the Chamber—not that we will say there was a positive agreement to that effect, but it has been understood on this side of the Chamber, and such has been the understanding of every Senator with whom I have conversed, that this matter was not to be pressed to a vote on Monday; that, at all events, if we came to a vote any time during the present week, it would be all that was expected; and this effort to press it to a vote to-night has taken us by surprise. We have, therefore, been thrown upon the exercise of our parliamentary rights, upon motions to adjourn, and motions to postpone, for the purpose of enabling those who have prepared themselves, or are nearly prepared to deliver their views on this question, to have an opportunity to do so to-morrow.

Now, Mr. President, I have not said, I do not know that any gentleman upon this side of the Chamber has said, when this vote will be taken, nor have they indicated a period in which it shall not be taken. I hope the honorable Senators upon the other side will not undertake to press us to the point when we must take a resolution to make any delay for the purpose of delay. We have not desired to do it. We do not desire to do it. We desire only to afford an opportunity to every Senator who desires to express his views on this question to do so. We have no desire to make delay for the purpose of delay—none whatever. I hope the Senate will pass the resolution offered by the Senator from Texas, and then to postpone the further consideration of this question until half past twelve o'clock to-morrow, or to-day, rather.

Mr. HALE. To-morrow.

Mr. BROWN. To-day is to-morrow, legislatively speaking.

Mr. DOOLITTLE. If the Senate consent to let that resolution to meet at eleven o'clock be taken up and passed, I have no objection to have our sessions commence at eleven instead of twelve o'clock, and to postpone all other business, and discuss this question, and nothing else. We can then give gentlemen an opportunity to speak. Now, I am informed (I do not know whether correctly or not) that the honorable Senator from Kentucky, [Mr. CRITTENDEN,] the honorable Senator from Tennessee, [Mr. BELL,] and the honorable Senator from Texas, [Mr. HOUSTON,] desire to speak on this question. The honorable Senator from Illinois, [Mr. DOUGLAS,] it is known, desires to speak on this question. For the last week he has been confined to his bed by sickness, and is unable to speak now, and I submit it is not right on the part of the majority, under these circumstances, to press it to a vote to-night. I undertake, further, to say that it is not right on the part of the majority to press us to the point of saying that the vote cannot be taken to-night and shall not be taken to-night, nor for a week to come. We do not desire to be pressed to take that resolution on any question. We know that the majority have power in the Senate; we simply appeal to their sense of justice in this matter to postpone it until to-morrow. Pass, if you please, a resolution to commence the session at

eleven o'clock daily, and allow time for gentlemen to speak. I do not speak for myself. I speak for my friends. I have myself trespassed so long upon the time of the Senate that I feel as if I ought to speak for my friends, and ask an opportunity that they should be heard. I fear, if it shall not be allowed, I shall feel I have trespassed upon time when they ought to have been heard instead of myself.

The VICE PRESIDENT. The question is on the motion of the Senator from Connecticut, [Mr. FOSTER,] to postpone the further consideration of this bill until half past twelve o'clock to-morrow, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 9; nays 20; as follows:

YEAS—Messrs. Broderick, Clark, Doolittle, Fessenden, Foster, Hale, Hamlin, Polk, and Wilson—9.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—20.

The VICE PRESIDENT. There is no quorum voting.

Mr. GREEN. I move that the absentees be called.

Mr. TOOMBS. I move that the Sergeant-at-Arms be directed to request the absentees to attend. It is now early in the morning, and I make that motion that the Sergeant-at-Arms be directed to request them to attend to their senatorial duties.

Mr. HALE. I do not know what the circumstances are that require that motion now, when it was considered so improper a little while ago. I made that motion when I first came into the Chamber.

Mr. JONES. There was a quorum then, and there is not now.

Mr. HALE. I am speaking to the Chair. I want that rule in regard to speaking across the Chamber enforced. The obligation is upon Senators to attend here as much when there is a quorum as when there is not. I want to say a single word on a suggestion thrown out upon this subject by the Senator from Virginia, [Mr. MASON.] He seemed to infer that because the Constitution and the rule of the Senate said that a less number than a majority might compel the attendance of absent members, that that precluded the idea that a majority could do it; that as the express power was given to a less number than a majority to compel the attendance of absent members, a majority could not do it. That was the argument. Now, sir, if that honorable Senator will look into it he will see that that same provision of the Constitution and the rule which gives to the Senate, or gives to a less number than a majority, the right to call for the attendance of absent members, also gives the same power to a less number than a majority to adjourn, and if the adjournment be good—

The VICE PRESIDENT. There is no question of order before the body. There is no quorum present and the Chair does not think it proper for the Senator to make a speech on a question of order when there is no question of order before the body, and no quorum present. The Senate can adjourn or obtain a quorum for action on business.

Mr. HALE. I beg pardon of the Chair. Of course I submit to what the Chair says with great deference; but I contend that if the Constitution gives us power, being less than a minority, to entertain a motion, we have a right to discuss it. The Chair was about to put a motion to the Senate, and that was whether the Sergeant-at-Arms be directed to request the attendance of absent members.

The VICE PRESIDENT. There is no question of order before the Senate. The Chair cannot see what question the Senator is speaking to. The Chair entertained a motion—

Mr. HALE. I am addressing myself to that motion. I am against that motion, and I was arguing that motion. My point of order is this: that if the Senate can entertain it, it can be argued. If I have got to vote for it, I have a right to give the reasons why I vote. The Chair entertains the motion—

The VICE PRESIDENT. The Chair, of course, will hear any suggestions, but it occurs to him that it is hardly a debatable proposition.

When the Senate finds itself without a quorum, the Senate can take measures to enforce the attendance of a quorum or majority.

Mr. HALE. The Constitution confers on us power to entertain this motion. A majority of that minority may be against it, and does the Chair decide that this motion which the Constitution gives us the power to entertain, may not be debated?

The VICE PRESIDENT. The Chair has given no decision. He has expressed his impression on that subject.

Mr. HALE. The Chair knows the rules of order so much better than I do, that I should consider a suggestion of the Chair of more weight than my own conviction; but I move that the Senate adjourn. That is in order.

Mr. SLIDELL. If the Senate should now adjourn, I would ask if this subject goes over as the unfinished business?

The VICE PRESIDENT. It does.

Mr. SLIDELL. I do not know whether it would be strictly in order to speak of what has passed elsewhere; but I came here to-night, as most gentlemen associated with me in politics did, not with the expectation of getting a vote, but in the hope that gentlemen on both sides of the Chamber would, until a very late hour of the evening, address the Chair, and go far towards exhausting the argument on this subject. I am satisfied now that nothing is to be gained by remaining at this hour of the night longer. I think we shall economize our time by an adjournment, and, although I am a very strict disciplinarian, I think I am bound to look at the circumstances in the case. I shall vote for the adjournment, satisfied that we are losing our time, and probably producing unpleasant feeling, and not attaining any good results.

Mr. TOOMBS. As the gentleman has said a word, I hope I shall be allowed to say something too. I think the order which has been taken by the majority of the Senate, who are responsible for the public business, ought to be observed by those who participated in passing it, or who hold themselves bound by its action. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. HAMLIN. I wish to make a single statement.

Mr. PUGH. I object. Let us stick to the rules of order.

Mr. HAMLIN. I only want to say, that if the suggestion of the Senator from Louisiana be carried out, it will lead to an amicable adjustment of the matter.

The Secretary proceeded and called the roll.

Mr. SLIDELL. I wish to change my vote. I did not expect to find myself in the same company in which I am. [Laughter.] I therefore change my vote. I vote "nay."

The result was then announced—yeas 15, nays 20; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Fessenden, Foster, Hale, Hamlin, Harlan, King, Polk, Sevard, Wade, and Wilson—15.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—20.

So the Senate refused to adjourn.

Mr. BRODERICK. I move that the Senate take a recess until twelve to-morrow, or to-day, and on that motion I call for the yeas and nays.

Mr. FITCH. I submit that the motion is not in order; because it is a motion to take a recess to the same time at which the Senate meet.

Mr. BRODERICK. Then I will make it a motion to take a recess until half past eleven o'clock to-morrow; and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 21; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Foster, Hamlin, Harlan, and Wilson—9.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—21.

The VICE PRESIDENT. There is no quorum voting.

Mr. CHANDLER. I move that the Senate do

now adjourn. It is perfectly evident that we cannot get through with this bill to-night. It is now past two o'clock.

Mr. PUGH. I demand the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 21; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Doolittle, Foster, Harlan, and Wilson—7.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—21.

So the Senate refused to adjourn.

Mr. PUGH. I suppose the motion of the Senator from Georgia is now in order.

Mr. TOOMBS. I renew my motion, as it is now in order, that the Sergeant-at-Arms be directed to request the attendance of the absent members.

Mr. WILSON called for the yeas and nays on the motion; and they were ordered.

Mr. CHANDLER. I move, as an amendment, that he be ordered to bring in every absentee.

The VICE PRESIDENT. The motion is to direct them all to appear in the Senate Chamber.

The question being taken by yeas and nays, resulted—yeas 21, nays 7; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—21.

NAYS—Messrs. Broderick, Chandler, Doolittle, Foster, Hamlin, Harlan, and Wilson—7.

So the motion was agreed to.

The VICE PRESIDENT. The Sergeant-at-Arms will direct the order of the Senate to be executed.

Mr. DOOLITTLE. I move that there be a recess until eleven o'clock, in order to allow him an opportunity to bring in the absentees.

Mr. PUGH. I would like to know whether that motion is in order? Our power, as a minority, is to adjourn from day to day, and compel the attendance of absent members; but we cannot take a recess.

The VICE PRESIDENT. The Chair doubts whether it is in order, for another reason. There is a motion to postpone the consideration of this subject pending, upon which no quorum voted, and that will be the question properly before the Senate when there is a quorum.

Mr. DOOLITTLE. A motion to adjourn would be in order. I simply ask for a recess.

The VICE PRESIDENT. A motion to adjourn would be in order.

Mr. DOOLITTLE. Then I move that the Senate do now adjourn.

Mr. CHANDLER called for the yeas and nays on the motion; and they were ordered; and being taken, resulted—yeas 8, nays 19; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Doolittle, Foster, Hamlin, Harlan, and Wilson—8.

NAYS—Messrs. Allen, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—19.

Mr. TOOMBS. I believe nothing would be in order now until the Sergeant-at-Arms has executed the order of the Senate; but I suppose a little speaking would be in order.

The VICE PRESIDENT. No business can be transacted in the absence of a quorum; but the Chair will not interrupt any one in making a speech.

Mr. TOOMBS. Then it will be in order for my friend from Pennsylvania to make his speech.

Mr. BIGLER. Mr. President, whilst the Sergeant-at-Arms is bringing in the absentees, if there be no objection, I will speak to the main question. ["No objection." "Go on."]

Mr. President, I had not intended to discuss this subject further, and I do not now intend to do so at any considerable length. My object is to make myself understood on a few practical points; to make a record of a few additional ideas for my own use hereafter. At an early date in the session I pursued this vexed controversy at some length, and I need not now repeat its general history. First, then, as to the legality and regularity of the proceedings for the organization of Kansas as a State: I think, as to these, there can no longer

be reasonable doubt. The history of the organization of the several States fully vindicates Kansas on these points, showing that the proceedings in her case were not only more regular, legal, and binding, than in most cases, but that in these particulars she is an exception to the general practice. Some States have been prepared without any act of Congress, territorial or otherwise; some by enabling acts; some under the direct propositions of Congress; some by action of the Territorial Legislature, without first consulting the people. Some of the constitutions have been submitted to the popular sanction, and others have not. But in Kansas the movement commenced at the very fountain of political power. The people, at the regular election of 1855, were consulted as to their desire to change their form of government from a territorial to a State, and they decided to have a State government.

It is true that the Topeka party did not vote; but they had been clamorous for a State government from the beginning. A law was passed, accordingly, providing for a convention of delegates of the people to form a constitution and State government, preparatory to admission into the Union. This law, it is conceded, was well adapted to the end in view. It has been pronounced "right and just in all its objects and purposes." It was modeled, mainly, after a bill which this branch of Congress had passed to accomplish the same end. It was well designed to protect the purity of the ballot-box, and at the same time extend to each citizen a fair opportunity to exercise the high function of an independent elector. The opportunity to vote for delegates it is not pretended was universal or unexceptionable, but it certainly was fair, considering the character of the country. The registry of voters only was liable to reasonable complaint; but no candid man will pretend that it was so imperfect as to impair the legality or authority of the election for delegates. Whilst all were not registered, it will not be pretended that those who were had not the proper authority to make a constitution; for, according to the most conclusive authority, seven out of eight of the legal voters were registered, and had the right to vote.

The facts exhibited by the Senator from Missouri the other day, has completely put to rest the allegation that nineteen counties had been disfranchised—I need not repeat these details. There is enough to satisfy any reasonable man in a few general facts. Nine thousand two hundred and fifty-one names were registered in May; a clamor was immediately raised that the Republican party ought not to vote for delegates because the registry was so exceedingly defective; and yet at the October election, at the end of a violent partisan contest, each party charging the other with polling illegal votes, only eleven thousand seven hundred and eighty were cast for the Delegate in Congress. Here is conclusive evidence that the disfranchised vote as it is termed must have been very meager. But the fact, as exhibited in the returns, that the entire vote in the whole of the nineteen counties, at the January election, when there was no registry and no qualification except the age of twenty-one years, was less than fourteen hundred votes, is perfectly conclusive. If these counties contained but fourteen hundred votes in January, what number did they contain when the registry was taken in the preceding month of April, before the spring emigration could have reached the back counties? In my judgment, and I have repeatedly expressed the opinion before, those counties could not, at that time, have contained more than six or eight hundred voters. This was the only vital point ever presented against the authority of the Lecompton convention, and certainly this has been completely removed by the facts I have stated. The opportunity to vote was sufficient. The authority of the convention was therefore perfect, and its proceedings were regular.

Mr. DOOLITTLE. Will the honorable Senator allow me to ask him a question on that point?

The VICE PRESIDENT. Will the Senator from Pennsylvania yield the floor?

Mr. BIGLER. It is a very bad time of the night to be asking or answering questions; but let us hear the question.

Mr. DOOLITTLE. The question which I desire to put to the Senator is this: whether more

voters did not reside in the counties which had no register at all than all the voters that voted for the delegates to the Lecompton convention?

Mr. BIGLER. Certainly not, Mr. President.

Mr. DOOLITTLE. Did not Governor Walker so state?

Mr. BIGLER. Governor Walker did substantially so state. Governor Walker made other statements in reference to this question in which I cannot concur. Sir, the evidence is conclusive against the objection presented by the Senator from Wisconsin. In January, when there was no registry, and no qualification except the age of twenty-one, only one thousand four hundred votes were cast in all the non-registered counties.

Now, sir, I repeat, the opinion expressed heretofore, from what I saw in the Territory early in the season, that at the time that registry was made in April, before the spring immigration could have passed to the back part of the Territory, there were not more than six to eight hundred votes in the whole of those counties. That is the answer to the question which the Senator propounded; and I trust I have convinced him that the defects in the registry could not have been sufficient to impair the legal or moral effect of the election for delegates.

But it is said that but a meager vote was cast for delegates, and that is true; but that does not impair the force or effect of the election. Governor Walker gave the discontents full notice on this point. He told them that they would be responsible whether they voted or not. That any other doctrine would lead to anarchy. And there never was a truer sentiment. We must either accept or reject this doctrine; if we reject it, and hold that it requires an active agency on the part of the elector to give consent, then we lay down a doctrine that would lead to anarchy in probably every State in this Union. In my own State, on this principle, the fundamental law could be repudiated any day. That State contains five hundred thousand voters; at the last election certain amendments were adopted to the constitution, and the whole vote for and against did not exceed one hundred and thirty-eight thousand votes; and the highest affirmative vote reached only one hundred and seventeen thousand; who thinks of doubting the authority of those amendments? On this principle—and none other can be countenanced—the Lecompton convention had a more complete authority, I venture to say, than any other similar body which ever preceded it.

Now, sir, as to the action of the convention. The only objection raised worthy of note is that it did not submit the entire constitution to a vote of the people. I have said heretofore that, at the time, I preferred they should do so; but I never regarded the mode of making the constitution as a reason why the Territory should or should not come into the Union as a State. It was more important to know that what the people did was right in itself than to inquire into the way in which that right thing had been done. They had full authority to do it in "their own way." The right of the people in convention, by delegates, to make and adopt a constitution, was conceded by even Governor Walker. This was one of his special reasons for urging the people to vote for delegates. I think adoption by popular vote a good mode of making a constitution. I certainly do not think it the only good way. It is not the way in which the constitutions of nearly all the original States of this happy Confederacy were made in the earlier and purer days of the Republic. My own cherished State, than whom there is not a happier or greater in the Union, did not make her fundamental law in this way prior to the year 1838, when amendments to that instrument were submitted to a vote of the people, and adopted by a minority of the voters of the State.

I did hold, Mr. President, that the spirit of the compromises of 1850, and the organic act for this Territory, looked to the decision of the question of slavery by some direct action of the people; that there was a general understanding throughout the country that the question of slavery should not come back to Congress unaccompanied by an expression of popular will. I did, therefore, regard the Lecompton convention as under special obligations to submit the question of slavery to a vote of the people. But I never thought we out-

siders had the power to dictate on even that point, and there never was a time when I would not have said the submission of the vexed question of slavery is all that the people of other States had any right even to inquire into; much less have they right to dictate a mode of making a constitution as a condition on which the people who are to live under it may become a State. Yet, this high-handed dictation has been attempted by those who call themselves non-interventionists. That vexed question was presented: that question was voted upon. Now, Mr. President—

Mr. DOOLITTLE. Upon that point will the honorable Senator allow me to put a question?

Mr. BIGLER. Certainly.

Mr. DOOLITTLE. Was the slavery question in fact submitted to the people of Kansas?

Mr. BIGLER. Undoubtedly it was. I hold, Mr. President, that if the majority of the people had voted down the slavery article, that, in its own language, in the language of the schedule, "thereafter slavery shall not exist in the new State of Kansas," the institution would have been abolished, and there would have been complete authority in the Legislature to have wiped out the remnant of slavery that had previously been planted in the Territory.

Mr. DOOLITTLE. I desire to ask the Senator, does not the schedule expressly establish that property in slaves in the Territory shall not be interfered with?

Mr. BIGLER. The property value in slaves is protected. I never heard anybody even in Kansas object to that. But the Senator is certainly aware that there is another provision in that constitution, which says that the Legislature shall not emancipate the slaves without remuneration to the owners; they shall not interdict the immigration of slaves into the Territory so long as similar persons are held in bondage in the Territory.

Mr. DOOLITTLE. That is in the slavery article.

Mr. BIGLER. But they can, by making compensation, emancipate the slaves. The Legislature has that power. The Senator did not fail to see that the Senator from Virginia, on Friday last, in his able and eloquent speech, pointed out clearly the power in the Legislature to get clear of slavery in that Territory without any amendment of the constitution whatever. Therefore I answer that, so far as regards the question of slavery, taking these clauses together, the power is complete in the Legislature as it now stands.

Mr. DOOLITTLE. Let me understand the Senator. Is it complete with the slavery article in or with it out?

Mr. BIGLER. I said if the slavery article had been voted out.

Mr. DOOLITTLE. Well, what then?

Mr. BIGLER. Then slavery would have been completely abolished in the Territory by the people. That is what I said. I knew what the Senator had in view, that, because the schedule protected the property value in slaves, he would hold that the posterity of the slaves were to remain in bondage; that there was no power in the Legislature to wipe out that remnant or root of the institution. That is where he is mistaken. Now, sir, I want to notice another point.

Mr. DOOLITTLE. I wish to put one further question to the honorable Senator, with his leave.

Mr. BIGLER. If the honorable Senator will allow me, I wish to proceed to another point in the case.

Mr. DOOLITTLE. It is on this point.

Mr. BIGLER. It is now nearly three o'clock in the morning, and I have several points to make before that hour. [Laughter.]

Now, I wish to notice the extraordinary course and policy which has from time to time marked the conduct of the anti-slavery party in Kansas. I do not intend to review their acts of folly and insubordination, in standing out against the laws; nor their constant and persistent efforts to produce violence, rebellion, and civil war. Governor Walker's dispatches are full and complete on this point. He describes the Republican party as in open rebellion to the laws during nearly all his service, and as plotting for the overthrow of the Government. Against the other party, the Lecompton party, he made no complaints prior to his departure from the Territory. But I wish to

look for the evidence in the career of the Republican party in Kansas that they ever desired to settle the question of slavery. I can find no evidence that they did so desire; but much that they did not. In the language of a distinguished New York politician, (John Van Buren,) I do not understand "this free-State party in Kansas, who are all the while trying to make Kansas a slave State." The remark is witty and true. The free-State party in Kansas have never exercised their power when they could touch the question of slavery. In June last, when they had the opportunity of voting for delegates to make a free State, and when they daily boasted of being three or five to one of the population, they would not vote. Different pretexts were set up in different parts of the Territory, as I know of my personal knowledge. Some said, "we will not vote, because the laws under which this convention is to assemble are 'bogus laws.'" Others said, "none shall vote, because all were not registered."

I am sorry that I do not see my friend from Massachusetts in his seat; for as he took the liberty, the other day, of asking me a question relating to my experience in Kansas, he would not take it unkind if I asked him one touching his career in that noted country. I heard it said on more occasions than one that during that honorable Senator's tour in the Territory he had advised the free-State party in Kansas not to vote; and that he also concurred in the policy of attempting to make Kansas a free State by allowing the pro-slavery party to elect all the delegates to make the constitution. I know not whether the rumor be correct or not. It is not important to my purpose. But it is a significant fact that the Republican, or free-State party, did not vote in June when the fate of slavery was involved; and that in October, when nothing was at stake but offices and a Delegate in Congress, they did vote—they did rush to the polls and carry the election, regardless of the humiliation implied in the recognition of the "bogus laws." Then, again, in December following, on the direct question of whether slavery should or should not exist in the new State of Kansas, these anti-slavery men did not vote. The "bogus laws" and the "bogus convention" forbid that they should condescend to vote against slavery, and they did not vote. But less than a month afterwards, when the question of slavery was not involved, when office and honor and emoluments were at stake, they readily got over their scruples of conscience against the Lecompton usurpation and rallied to the polls and secured all the offices under, what they term, the "Lecompton swindle." Comment cannot add to the strength of this history. It is painfully significant. When it was necessary to get office, the "bogus laws" were promptly recognized; when slavery was at stake they were shrunk from as from the touch of death. Constantly boasting their power and determination to make Kansas a free State, these anti-slavery men carefully refrained from dealing the blow, when the institution came within their reach. They boasted of the power, but would not do the deed. The country is agitated from one extremity to the other about an alleged design to force slavery into Kansas; and yet, sir, within the last nine months, the party claiming to have the absolute power, and the will to do the deed, have had two opportunities of abolishing and forever interdicting the institution; but they would not. How many opportunities must they have? How long is the country to be harassed by the complaints of men who will not avail themselves of their prerogatives as freemen? They cannot be made to vote against slavery, and how can they be counted against it until they do vote?

But, Mr. President, I do not understand how honorable Senators on the other side can feel so free to interpose mere formal objections to the admission of Kansas as a State—how they can talk about informalities, or irregularities, or usurpations and frauds. They have claimed admission for Kansas on the Topeka constitution—a movement commenced without the authority of any law, territorial or congressional, and in derogation of the authority of the United States. It was conceived in avowed rebellion, and prosecuted in menace of the Federal authority. Nor was it sustained by the popular will. It had its origin in

a mass meeting of one political party, and had the sanction, its advocates say, of seventeen hundred votes at the polls; whilst its enemies say it did not receive exceeding seven hundred votes in all. In no particular, then, does it stand so well as the Lecompton movement, either as to regularity or authority. Nor will the historian be able to understand how a majority of five to one have been so constantly oppressed in that unhappy Territory—how one man has usurped the rights and powers of five or six or ten, as we are told. In one breath it is asserted that the free-State party are as five to one, or ten to one; and in the next, that they have been hunted down, driven from their property, and deprived of their political rights. Some logicians have a convenient mode of making out a proposition; but this is a little too sharp. I have noticed, in the discussion, that Governor Walker is given, by Senators on the other side, as conclusive authority as to the nineteen disfranchised counties; as to the great strength of the free-State party, and the malpractices of the other party; but when he testified officially as to the rebellious movements and the mischievous designs of the Topekaites, his views are promptly discarded and denounced. This is not fair to him, or to the country. The Governor has made up an issue against this party, and it should be met and answered.

But, Mr. President, holding, as I do, that the application of the people of Kansas for admission as a State has been made in due form—that their appearance at the doors of Congress with a constitution and State government is the legal and conclusive evidence of their application for admission, I conclude that an allowable opportunity is presented to admit them as a State; and it is to the alternatives thus presented that I wish to turn my thoughts for a few minutes.

Mr. HARLAN. I rise to a question of order. It is very evident there is not a quorum of Senators present, and I object to any Senator proceeding with the discussion of questions involved in the bill before the Senate.

Mr. BIGLER. I shall be done in a few minutes.

The PRESIDING OFFICER. (Mr. SLIDELL in the chair.) It is the impression of the Chair that the Senator from Pennsylvania was allowed to proceed by unanimous consent.

Mr. BIGLER. I yielded the floor to the Senator to explain, not to make objections. I have the floor. I got unanimous consent, and therefore I shall proceed.

Mr. HARLAN. Of course, then, I shall have no further objection.

Mr. BIGLER. I must be allowed to flatter myself with this interruption. I take it the Senator does not like my speech.

Mr. HARLAN. Allow me to explain. I supposed the remarks of the honorable Senator, judging from their applicability, would be better delivered to the Senate than to vacant seats.

Mr. BIGLER. I have no idea that I can say anything that will influence gentlemen of the Senate. They know as much about the subject as do I.

Well, sir, I have held that the application is legal and proper, and that I may vote for the admission of Kansas as a State, if I deem it wise to do so.

On the great question of admission or rejection, I have reflected long and seriously, and am a firm believer in the policy of admission. I think it best for Kansas, and for the whole family of States. And I believe, in addition, sir, that so soon as the popular mind is turned from the unpleasant strife in Kansas—from that war of crimination and recrimination—of alleged fraud and usurpations on the one hand, and persistent rebellion and violence on the other, to contemplate and count the consequences of admission against those of rejection, the measure will encounter much less opposition from the people. What great wrong can flow from admission? What interest or right of the people is to be damaged? Our ears are daily assaulted with graphic descriptions of the great wrong of forcing a government upon the people of Kansas. Yet no one proposes to do this. We make no government for them. They make it for themselves. If they do not like it, after they get into the Union they can abolish it and adopt other

forms. No power on the face of the earth, outside of the Territory, will dare to dispute their right to do this. That there is nothing in the constitution to interfere with this right for a single day, has been made so clear by the President, and by Senators, that I shall not discuss it again. It is a little singular, however, that this allegation of the want of power in the people by virtue of their "inalienable and indefeasible right" to alter, amend, or supersede their form of government at pleasure, should come from the advocates, *par excellence*, of popular sovereignty. Not only in this particular; but as to the right of the people to make a State constitution through the agency of delegates, have these expounders of popular sovereignty sought to impose serious restrictions upon the rights of the people. They would persuade the people that they are on the side of popular rights, whilst in fact their doctrines are the reverse.

But, sir, who can foretell the consequences of the rejection of the State? How will the act be interpreted by the people of the southern States? Will they believe that it was the consequence of the informalities or the want of popular sanction of the constitution, or will they believe that it was the consequence of nominal slavery in the State, and that they are bound to treat it as practical and positive evidence that no more slave States are to be admitted into the Union; that the faith of the compromises of 1850 is not to be carried out? It does not become me to say what they should believe, or what they should do if they believe the worst. I should, for one, hope for the best, and struggle to the end to maintain those fraternal relations between the States under which we have so long grown and prospered as a nation. The State I represent will contend for the just rights of all the States, North or South. She will stand by the Union with the Constitution, and resist the waves of sectionalism, come whence they may. But, sir, it is no difficult task to discover that the rejection of Kansas would tend to the perpetuity and aggravation of this fruitless strife about slavery—this bitter feud, which is so rapidly estranging the feelings of one section of our country from the other, rapidly exhausting those sources of fraternal affection without which your Federal ties would be a rope of sand. I believe in the cultivation of good feeling and affection amongst the people as the greatest agency in maintaining the family of States. That can only be done by dealing justly to all, especially toward the weak. The Constitution must be our bond and our guide. Let the two States of Kansas and Minnesota come in, one slave and one free, as an exemplification of the compromises of 1850, and the beauties of the Democratic faith. This will be wiser than the perpetuity of the war of crimination and recrimination, of assault on the one hand, repulse on the other. But if Kansas be rejected, what will be the truth of history on the subject? Will it be that the State was rejected because the mode of getting it up was not satisfactory, or because the constitution recognized slavery? I am confident some northern members of Congress are going against the admission of the State, who would not do so were the proceedings in Kansas satisfactory to them; but I am still more confident that but for the slavery article the opposition to the admission would scarce have amounted to respectability. On the stand as a witness I could give no other testimony. There may be those who would differ with me in this opinion; but, sir, it is too clear that whilst it is conceded on all hands that Kansas is to be a free State, the shadow of slavery that appears in the constitution is the real cause of hostility to the admission on the Republican side.

Then, again, sir, what would follow in Kansas were she rejected on her present application? Let her be turned over to the tender mercies of General Lane and his followers, and what will they do? Who will guaranty that they will make a constitution that could be accepted by Congress? What reason have we to believe that we should not have a repetition of the scenes of violence and excess that have so far marked the progress of that distracted people? Who believes that Lane and his party would exercise power with moderation? The conduct of the recent Republican Legislature is suggestive on this point. I should be disappointed—agreeably disappointed, sir—if the

rejection did not renew and heighten the strife and complications in the Territory. If the one party proceeded to make a State, the other would abstain from all agency in the work. Indeed, one party in the Territory are at this time engaged in electing delegates to another convention, to make another constitution. The other party refuse to participate, and allege that the election is being held without the authority of any law, the Governor having refused to sanction it; so we are to have a new complication. This new convention will be violently anti-slavery; and I shall be amazed if they do not incorporate some extreme anti-slavery feature, having the effect to keep the State out of the Union. They may interrupt the execution of the fugitive-slave law, or confiscate the property in the slaves that are now in the Territory. It is evident that even the Senator from Wisconsin does not like the constitution now before the Senate because it protects the property-value in the slaves now in the Territory. Is this to be the policy? Is this to be an issue? Is it to be held that, under the doctrines of the compromises guarantying to the Territories admission with or without slavery, slave-owners are liable to lose the property-value in slaves whenever a decision is made against the institution? When the people of all the States go to the Territories, carrying with them their property, of whatsoever kind, in case the Territory should become a free State, are the owners of slaves to lose the property-value in such slaves? That has not been my understanding of the policy of the Government. These complications and new issues could scarcely fail to perpetuate this bitter controversy, which is so rapidly uprooting fraternity and confidence between the northern and southern States, and even poisoning the very channels of communication between the people of the several States.

On the other hand, as I have inquired, what evil consequences are to flow from the admission of the State? As was so forcibly remarked the other day by the Senator from Louisiana, [Mr. BENJAMIN,] what possible wrong do we inflict on the people of Kansas by conferring upon them the rights and dignities of a sovereign State? We hear much about forcing a government upon Kansas; whilst the truth is, she has proposed to come in, and Congress is about to accept her proposition. That is all. It is said the constitution is not acceptable to the will of the majority. Well, sir, that is their business, not ours. If they do not like their fundamental law, they can change it. Some gentlemen talk about this constitution as though it was to be, like the laws of the Medes and Persians, unalterable. But so far from this, the question of slavery, like every other feature of the instrument, will be forever subject to the will of the majority. When this issue first came up, in December last, it was a question between admission under the Lecompton constitution on the one hand, and an enabling act on the other. An enabling act—what for? Why, to enable the people to make a State government to suit themselves, the answer is, why not do this under the auspices of a State constitution? I said then, as I say now, the constitution is the best enabling act that the wit of man can devise. It has all the good qualities of an enabling act, without its bad ones. It would terminate, instead of extend, the strife.

Then again, if, as alleged, the popular will has been smothered by this Lecompton party, admission is the most direct mode of complete vindication. It is under a State constitution that popular sovereignty is to have unrestrained sway. It is in this way that it rises to the complete majesty of its power. Those claiming and having that power, can have no well-founded objection to the remedy. Now, the power of the people of Kansas is not equal to the abolition of slavery. Slaves are now in that Territory; slaves can go there and be held there. Congress cannot prevent it. The people, or the majority, cannot prevent it, so long as they remain a Territory. But, when clothed with the sovereignty of a State, they will become equal to the task. I am for admission. I am for giving the people that power. Senators on the other side, whilst claiming a large majority for the free-State party, object to admission; object to giving the people the power to immediately abolish slavery; and yet they will tell

me that I am for slavery and they are against it. I seek to confer upon the people the power to abolish slavery. They object, and yet attempt to make the world believe that they are the peculiar friends of a free State. That is much after the plan that their friends in Kansas have used to abolish slavery. They would always vote when they could not vote against slavery. They would not vote for delegates, for their delegates might have rejected slavery. They would not go to the election on the 21st December, because they could have rejected slavery.

Now, sir, a few words more as to popular sovereignty. There are those who hold that, because the constitution was not submitted to a popular vote as an entirety, the process of making it was in violation of popular sovereignty, as recognized in the creed of the Democratic party. That is a fallacious view, unless our representative system be abolished and a common democracy be embraced as the system we prefer. Recognizing the representative system, it is perfectly competent for the people to delegate their sovereign power and authority to a convention to make and adopt a constitution and State government. My State did this; more than half the original States did it.

Mr. FESSENDEN. Will the Senator give way for a motion to adjourn?

Mr. BIGLER. Will the Senator permit me to utter a paragraph or two more?

Mr. FESSENDEN. I do not know that I shall want to adjourn then.

Mr. BIGLER. That is another compliment. The Senator does not like my speech.

Mr. FESSENDEN. Yes, I do; I am enjoying it very much.

Mr. BIGLER. It is near three and a half o'clock in the morning, and I have but a few words more.

The doctrine of non-intervention seems to have confused and confounded some people lately. They talk as though Congress had guaranteed that men should not cheat each other in Kansas; as though one political party should not take the advantage of the other; as though representatives should not deceive their constituents. This is more than was bargained for. Congress agreed that they would not interfere with the domestic affairs of the Territories, and that the States, as such, should not interfere; but that was all. It never was pretended that the Federal Government could interfere between the people and their proper local representatives. Nor did Congress guaranty that those who do not vote should carry the election; nor yet that the majority should rule, if they did not do so through the agency of the law. It is the right of the law to rule, and the right of the majority to make the law; but the majority is as much bound by the law, whilst it is such, as is the minority.

I intend to vote for the admission of Kansas as a State; and in doing this I do not wish so much to signify my approval of the manner of getting up the State, and the circumstances surrounding the application, as I do to declare my conviction that admission, prompt admission, is the best and wisest of the alternatives that are before us. There is much in the details of the proceedings in Kansas that is unpleasant and distasteful—partaking of evident abuse of the elective franchise on the one hand, and the attempt to supersede its lawful use by violence and faction on the other. Kansas should not be an example for future States; and I trust our country may never be required to witness such scenes again. But, sir, whatever may be the defects on the Lecompton side, on the other is matured, persistent, and avowed insubordination to the laws, if not rebellion to the Government. Between these, I prefer the former side.

The addition of two members to the family of States should be cause of general joy, as an event bringing fraternal affection, energy, power, stability, progress, and general prosperity, to the family of States and to our common country. That these blessings are to follow the admission of the two States now on the threshold of the Union, I hope and believe.

Now, sir, I have done for the present; and as it is after three o'clock, I think we should vote. [Laughter.] As I have said nothing for a long time, I may claim to close the debate.

Mr. BIGGS. I desire to make a few remarks

on this question, and a favorable opportunity being now offered, I avail myself of it.

I at one time expected to participate in the debate at large; but the subject is exhausted by argument, and the country is demanding and expecting prompt action. I had hoped that my respected colleague [Mr. RAN] would have been here before this; and to him I looked to express the voice of North Carolina on this exciting question. But the dispensations of an inscrutable Providence have ordered it otherwise, as he is now confined by a protracted illness at Richmond, Virginia, at which place he was arrested on his way here in the early part of January. He desires me to say that he would cheerfully vote for the admission of Kansas under the Lecompton constitution.

And, now, Mr. President, what is the state of the question? A constitution is sent to us by the President, adopted under all the forms of law requisite to secure and ascertain the will of the people; a constitution republican in its form; and, although the population of the proposed State is not so large as I would desire, yet it is manifest its admission is the surest and most expeditious mode to preserve peace and quiet, and withdraw from the political arena the source of agitation and discord which threatens a serious disruption of that bond by which we are linked together as a Confederacy—that Confederacy which is the hope and joy of the whole earth, and of all who cherish the love of liberty and the success of free institutions.

My course, therefore, is a plain one. I vote for the admission.

I do not see how the frauds, to which allusion has been made, can affect the question, as now presented. Admit all that has been charged, and deduct such votes from the calculation, and still there is an overwhelming legal majority of the people voting for the constitution. I disclaim the least sympathy for any frauds, or the perpetrators of them. They deserve the emphatic condemnation of all honest men. I frankly confess that, from many circumstances, I have misgivings whether the people of Kansas are of that character from which we may hope for an enlightened self-government; but, upon the whole, it is evident that this measure is the only hope of peace. It is now a contest between law and rebellion; between the supporters of the constitution and the constitutional rights of all the States, and those who, in principle and practice, are opponents of the constitution.

Again: it cannot be denied that the objection that this constitution has not been submitted to a popular vote, is not the true reason that influences the action of the Opposition. The convention that formed this constitution was called by the voice of the people. The convention represented their wishes, and being thus clothed with authority, had a right to submit the result of their labors to a popular vote or not. It is well known that in no case in the formation of a new State, until the case of Minnesota, was its constitution required to be submitted to a popular vote; but a complete answer to this objection is that we have no right to compel this submission. To do so, would violate the great doctrine of non-intervention by Congress.

But to allude to the great objection—this constitution tolerates slavery. It has been distinctly avowed by Senators here—by the Senator from Ohio, [Mr. WADE,] and the Senator from New Hampshire, [Mr. CLARK,] upon my inquiry—that, if all other objections were removed, this is a sufficient objection.

Now, it will be remembered that at the formation of the Constitution of the United States, slavery was not only recognized and protected in the States, but slavery formed a portion of the domestic policy of every one of the original States; certainly all, with one exception.

Now, I do not propose to discuss the morality of slavery. If it is immoral, upon us rests the responsibility. To those who profess to be over-righteous it is sufficient to say, to your own master will you stand or fall. I am alluding to the political aspect of the question. We formed the Constitution of the United States, all the States being considered and treated as equals, notwithstanding the institution of slavery.

Now, to adopt the principle that you consider

a State unworthy of association with you in this Union because it tolerates slavery, raises an issue which, if practically enforced, necessarily works a dissolution of the Union, because it changes the ground upon which the Union was formed, and my purpose now is, briefly but emphatically, to say in behalf of the State I have the honor to represent, that such a conclusion cannot, will not, be submitted to.

I beg gentlemen to recollect that North Carolina never has manifested the least disposition to take an extreme position, which had any tendency to widen the breach between the sections of this Union. In this feeling, as is well known, I fully concur. I do not sympathize with those who desire a dissolution of this Union. I would resort to every honorable means to avoid such a direful calamity; but it is due to candor and frankness to state that the most conciliatory in the South, in my opinion, could not, without a surrender of every honorable instinct, submit, in the practical administration of this Government, to the doctrine that the slaveholding States, or the slaveholders of the States, are inferior and unequal to others, because of their recognition of the institution of slavery. And this alternative is distinctly presented to them when they are told that we are unfit for political association in this Union.

It is evident the extremes are widening. The most prudent and moderate are compelled to look at the question calmly, and examine the tendency of things, if we wish to avoid the catastrophe which we so seriously deprecate. I would, therefore, invoke the moderate and patriotic of all sections never to make such an issue, which it is idle and criminal to suppose can lead to any other result than a dissolution of the Union.

I speak not in the spirit of idle alarm. To those who knew my public course, when I thus speak, I feel sure my convictions and conclusions will be fully appreciated; but I will assure those who do not know that course, speaking, as far as I am authorized, as one of the representatives of North Carolina, that she will *never—never!* submit to such a degradation, that would humiliate her in her own estimation, and disgrace her in the eyes of the world.

I do not propose to argue the question. I repeat, argument is exhausted. I thought it due to my State, in the absence of my colleague, thus briefly to define my position, and, as I believe, the position of my State.

Mr. FESSENDEN. I move that the Senate adjourn.

The PRESIDING OFFICER. (Mr. SLIDELL in the chair.) I will state to the Senator from Maine, that what is equivalent to a call of the House is in process of being enforced by the Sergeant-at-Arms; and I do not consider that a motion to adjourn is now in order.

Mr. HAMLIN. The practice has been the other way always.

The PRESIDING OFFICER. I understand that the Sergeant-at-Arms has now sent for various absent members of the Senate, and is expecting their presence here. Although quite inexperienced in these matters, my opinion is that under such circumstances a motion to adjourn is not in order. Having that conviction, I shall not entertain the motion.

Mr. FESSENDEN. I appeal from the decision of the Chair.

The PRESIDING OFFICER. That will be entertained, as a matter of course.

Mr. PUGH. A motion to adjourn was the last motion made, and therefore this motion is not in order.

Mr. HAMLIN. We have had a speech since.

The PRESIDING OFFICER. The Senator from Maine [Mr. FESSENDEN] has moved that the Senate adjourn. The Chair has given as a reason for not entertaining that motion, that the Sergeant-at-Arms, in the absence of a quorum of the Senate, has been directed under a rule of the body to notify absent members to attend. While he is in the performance of that duty, while Senators are being summoned here for the purpose of making a quorum, the Chair, submitting his views with great deference, because he does not pretend to be at all conversant with the rules, decides that the motion is not in order. From that

decision of the Chair the Senator from Maine appeals. The question is now on the appeal.

Mr. FESSENDEN. I ask for the yeas and nays on the appeal.

The yeas and nays were ordered.

Mr. TOOMBS. I move to lay the appeal on the table. It is altogether wrong. I suppose the object is merely by dilatory motions to take up the valuable time of the Senate. This is a dilatory motion.

Mr. FESSENDEN. No, sir; it is a motion to adjourn. It is not a dilatory motion.

Mr. TOOMBS. I said the appeal was.

Mr. FESSENDEN. No; but I want to overrule the decision of the Chair in order to adjourn, so as to advance the business of the Senate.

The PRESIDING OFFICER. The question is on laying the appeal on the table.

Mr. FESSENDEN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 20, nays 9; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Poik, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—20.

NAYS—Messrs. Broderick, Chandler, Clark, Doolittle, Fessenden, Foster, Hamlin, Harlan, and Wilson—9.

The PRESIDING OFFICER. The appeal of the Senator from Maine is laid on the table.

Messrs. HAMLIN and FESSENDEN. There is not a quorum voting.

Mr. PUGH. This is an appeal taken when no quorum was voting.

Mr. FESSENDEN. But how can you lay it on the table without a quorum?

Mr. TOOMBS. A motion to adjourn, and all motions growing out of that are always in order, and do not require a quorum to decide them.

Mr. HAMLIN. You have just decided a motion to adjourn to be out of order.

Mr. TOOMBS. I say a motion to adjourn by the minority of the Senate, less than a quorum, is not in order.

Mr. FESSENDEN. It does not appear until you take the vote that there is not a quorum.

Mr. TOOMBS. We have already decided that. Inasmuch as there has been no intervening business since the last motion to adjourn, the Chair decided rightfully, and the Senate affirmed the decision by a very magnificent majority. It is the law of Parliament from this out.

Mr. FESSENDEN. Since the original proceedings were taken, members may have come in, and there may be a quorum; and it cannot appear that there is not a quorum until a vote is taken. The vote having been taken by yeas and nays, it appears that there is not a quorum here.

The PRESIDING OFFICER. The Chair considers that the appeal is merely collateral to the question of adjournment, which the Chair decided could not be entertained in the absence of a quorum. It is a mere consequence of that question. I state again, as I stated before, that I pretend to no familiarity with the rules, but it appears to me to be the dictate of common sense; and I consider the point of order as well taken. I should, however, be much better pleased if the Vice President would take the chair, and relieve the present occupant.

Mr. TOOMBS. I do not think there is any necessity for that. The law of Parliament was well laid down by the Chair, and his decision has been sustained by the judgment of the Senate.

Mr. FESSENDEN. Does the Chair assume that there is no quorum?

The PRESIDING OFFICER. The Chair decides that, in the absence of a quorum of the Senate, the Sergeant-at-Arms having been directed to summon the absent members and request their attendance, no motion for adjournment can be entertained.

Mr. FESSENDEN. Then no business can be done, of course.

The PRESIDING OFFICER. The Chair considers the appeal dependent on the question of adjournment; and the same number of members who could decide the one question can decide the other.

Mr. BRODERICK. I hope the Senate will take a recess until half past ten o'clock.

Mr. PUGH. That is not in order.

Mr. BRODERICK. What is in order?

Mr. PUGH. Nothing.

Mr. TOOMBS. Nothing, until we bring in the absent members.

Mr. HARLAN. I desire to ask the Chair if a motion to suspend further proceedings under the call of the Senate would be in order?

Mr. TOOMBS. That is not in order, I undertake to say, because all we can do now is to wait for those members who are absent, and let those who are here speak if they choose. That is all that is in order.

Mr. FESSENDEN. Suppose we do not want to speak?

Mr. TOOMBS. We can sit and quietly take a doze.

Mr. FESSENDEN. I think that is the best thing we can do.

Mr. HARLAN. I desire the opinion of the Chair on the question I have asked.

The PRESIDING OFFICER. The Chair is of opinion that, pending the execution of the order of the Senate to request the attendance of absent Senators, no motion is in order. Gentlemen have been allowed to address the Senate by common consent. If any one member of the Senate had objected, of course that objection would have been valid; but they have thrown themselves upon the courtesy of the Senate, and they have been allowed to speak. If any other gentleman is disposed to speak now, the Chair will, with the unanimous consent of the Senate, permit him to do so.

Mr. FESSENDEN. With reference to that, I should like to ask the Chair, by way of conversation, as there is nothing going on, what will be done in a given case?

The PRESIDING OFFICER. The Chair will decide the given case when it arises?

Mr. FESSENDEN. The rule provides that if, when the Senate convene, less than a quorum be present, they may send for absent members. If those absent members are at their several homes at a convenient distance, according to the decision of the Chair, those who have sent for them must wait until they can be brought here, and we cannot adjourn in the mean time?

The PRESIDING OFFICER. That is the decision of the Chair.

Mr. FESSENDEN. We must sit here day and night until they are gathered from the different parts of the Union. Is that the opinion of the Chair?

The PRESIDING OFFICER. That is the opinion of the Chair.

Mr. FESSENDEN. A most admirable decision! It commends itself to the good sense of everybody, I think! I commend the President's courage.

The PRESIDING OFFICER. And now the Chair would be very happy to be relieved from his arduous duties.

Mr. FESSENDEN. I think the Chair performs his duties so well that there is no necessity for that.

The PRESIDING OFFICER. If any gentleman will take the Chair, and it be the pleasure of the Senate, I may as well say now a few words I have to say on the main question.

Mr. GWIN took the chair.

Mr. SLIDELL. The protracted debate on this exciting question is now drawing to a close, and I hope that we shall very soon come to the final vote. The discussion has been so generally participated in by Senators; every point, material or immaterial, has been so thoroughly investigated, that were I disposed to offer an elaborate argument I could not hope to say anything that has not been anticipated by those with whom I concur, if not in all their premises, at least in the conclusions at which they arrive. But I owe it to myself, if not to the State which sent me here, to give, as I shall do very briefly, the reasons that will control my vote. I shall enter into no details, if for no other motive, because I have not the presumption to suppose that at this late hour I could command the attention of a wearied Senate.

I voted reluctantly for the bill that passed this body in July, 1856, by the vote of every Democratic Senator, not that I did not heartily approve the principle on which it was based, but because I was opposed to admitting any new State until

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it had attained at least a population which is established as the basis of representation in the other House. I yielded that point, as I am always prepared to yield on any question of expediency, to the opinions and wishes of the majority of those with whom I am politically associated, and especially to the judgment of the Senator from Illinois, whom we were all then proud to recognize as our leader and champion.

I shall vote for the admission of Kansas with the Lecompton constitution, not that I now have, or ever have had, any strong hope that slavery will be permanently established there; but because I feel myself bound to discharge in good faith the obligations which I assumed in 1854 and 1856, and because, should she now be refused admission, I know that, whatever may be the pretext, the real motive is that she has presented to us a constitution recognizing slavery. Some rare exceptions in either House may be found of members honestly casting their votes against her admission on other grounds; but if that admission be now refused, the existence of slavery will be the determining cause, and such will be the unanimous interpretation of the South. We of the slaveholding States can have no reliance for safety in the future but on stern, uncompromising adherence to the absolute, unqualified principle of non-intervention on the part of Congress in the question of slavery. In this case we are the more imperatively called upon to insist upon the application of this doctrine, because we are contending only for the abstract principle, while our opponents will probably enjoy all the immediate party advantages resulting from the admission. It is this circumstance which makes the course of our opponents more offensive to us; with us it is a point of honor—we are struggling for the maintenance of a principle, barren, it is true, of present practical fruits, but indispensable for our future protection—one which we are determined never to yield. You are not willing even that Kansas shall become a free State unless you can at the same time inflict a gratuitous insult on the South. In this I am assuming to be correct the assertion so repeatedly and confidently made, and which in fact forms the staple of nearly all the argument and declamation which we have heard almost daily since the meeting of Congress, that a vast majority of the people of Kansas are opposed to the existence of slavery within her limits. If, then, she be refused admission because it nominally and temporarily exists there, what may we expect when application shall be made by a State of which it will be a real and enduring institution? The scale of political preponderance is constantly gravitating with increased rapidity in favor of the free States. If even now they are disposed to treat us with contumely and injustice, what may we expect when we shall be comparatively weak and defenseless? As yet we have abundant means to protect ourselves from aggression; and if the issue is to be made in our day or that of our children, it is wiser and safer for us to make it now. But we are assured that there is no reason for our apprehensions; that there is no considerable party at the North disposed to interfere with slavery in the States. No one who has observed the course of things here will place the least confidence in these asseverations. They are constantly falsified by the votes of Senators; and, as they gather courage from success, by their deliberate declarations, they now throw off the mask which has heretofore disguised their purposes. I will cite a very recent instance: A bill was reported from the Committee on Foreign Relations to pay from an unexpended balance in the Treasury a sum of money to certain persons for whom it had been received in trust, under a provision of the treaty of Ghent, for slaves carried off by the enemy in the last war with Great Britain. On what ground was it opposed by the senior Senator from New York? On the ground that the proof of loss and ownership was defective, or that the fund was exhausted? No; on the broad, naked ground that the Senator would never by his vote recognize the right of ownership of man in man. His name is consequently found recorded in the negative with those of every Senator of his party present, with the single exception of the Senator from Wisconsin, who sits furthest from me, [Mr. DOOLITTLE.] The same

Senator from New York still more recently said: "I expect to see this Union stand until there shall not be the footprint of a slave impressed upon the soil that it protects." Now, without being disposed to make indiscreet inquiries as to the age of that Senator, I may fairly infer, from the large space he has so long filled in the public eye, that he cannot want more than ten to fifteen years to attain that term which the inspired Psalmist has given as the ordinarily allotted period of human life—threescore and ten. The Senator expects to live to see slavery totally abolished in every State and Territory of the Union—that is, within fifteen years. He, of course, will not pretend to say that the slaves will be voluntarily emancipated in that brief interval. Congressional legislation and the strong arm of executive power must be brought to bear to effect such results; and I presume that the Senator only awaits the admission of a few more free States to initiate his plan of operations. Had these declarations been made by any other Senator, I should have paid but little attention to them; but, coming from his lips, they are peculiarly significant. He is "*facile princeps*," emphatically the chief of the Abolition party, or, as they please to call themselves, the Republican party. He always weighs well his words, and knows the full import of them; is invariably courteous and respectful in his language and deportment, and carefully abstains from saying anything personally offensive to southern men. It is this very moderation of manner that renders him the more dangerous enemy. What he says, he will act up to should his party obtain the ascendancy. Let us hear no more, then, of our rights being respected by that Senator and his associates, if ever they shall find themselves in a majority in both branches of Congress, with a President of their choice.

The State which I have the honor in part to represent is, from the character of her population, her peculiar geographical position, eminently conservative; the Union has on this floor no more devoted adherent than I am; in this, I obey not only the dictates of my individual judgment and feelings, but faithfully reflect the sentiments of a vast majority of the people of Louisiana. But it is the Union of the Constitution, the union of States having equal rights and privileges—that is the Union to which my allegiance is due, which I have sworn to support, and to which I shall ever be found faithful. I have not belonged to the ultra school of politics. Some, indeed, of my constituents, if asked, would perhaps be disposed to question the entire orthodoxy of my State-rights principles, as not being quite as advanced as theirs. This, however, we will not dispute about. I am willing to be judged by my acts, if unfortunately the time for action shall arrive. But let me tell Senators on the other side, be the shades of opinion among us what they may, that in whatever may touch the rights or honor of the South she will present an undivided front to resist encroachment, be the consequences what they may. As to the slang phrases with which our ears are constantly regaled here, of slave-drivers, slave-breeders, traffickers in human flesh, &c., &c., they excite in us no other feeling than contempt; they are only worthy of consideration inasmuch as they may be supposed to express the feelings and pandering to the passions of a majority of the constituents of those who employ them. A mere looker-on would observe no excitement here or among our people at home; he would perhaps be surprised to find that there were no popular meetings, no indignant speeches, no menacing resolutions. You misconstrue our calmness. The time was when declarations such as I have cited from the Senator from New York would have caused a general cry of angry defiance. We now listen to them with an apparent apathy, which you, perhaps, mistake for indifference. It is this very coolness which, if it were understood, would most alarm that portion of our northern brethren who really love the Union. It is the quiet, fixed, determined purpose, not wasting itself in idle words, infinitely more portentous of evil than the most clamorous demonstrations. Admit Kansas by this bill, and all agitation will cease. In a few short weeks the people of the North will marvel at the excitement produced by a question which to them has really no practical importance. How can it in any way

affect their interests, that a few hundred slaves shall be held by their masters in Kansas or in Missouri? The abolition of slavery in Kansas would not give freedom to a solitary being.

And, in this connection, it will be an economy of time for me to say now, that I fully recognize the right of a State Legislature, at all times, to call a convention of delegates of the people for the amendment or total change of an existing constitution, even although that constitution may contain provisions forbidding its amendment for a certain period, and establishing certain formalities and limitations for the exercise of the right. This right of the people of a State to be exercised through the majority of their Legislature is, in my opinion, absolute and inalienable; but were it not so at all times and under all circumstances, it is expressly guaranteed to the people of Kansas by the second article of their bill of rights; besides, I think that, general principles and the bill of rights apart, by the very terms of the constitution it may be amended at pleasure until the last day of December, 1864. Entertaining these views, I am prepared to vote, with a mere verbal correction, for the amendment of the junior Senator from Ohio, or for any other amendment of a similar character—not that I consider it in any degree necessary to guaranty the right of the people of Kansas to alter and amend their constitution in their own time and in their own way, but because it may remove doubts and scruples on the part of others which I do not share. The amendment will not be in any sense a congressional interpretation of the constitution of Kansas, but a mere declaration that it is not our purpose, even by implication, to impair or limit the rights of the people of that State, whatever they may be—a surplussage dictated by an abundant caution, and to which no reasonable objection can be made.

It has been suggested that this may be considered as a compromise. If I thought it in any degree, however slight, the compromise of a principle, it would not receive my assent; but I will not, from the fear of being charged with a disposition to compromise, withhold my vote from an amendment which some of our friends from the free States desire to see incorporated in the bill. They have, in despite of popular clamor and partisan denunciation, stood nobly by us in support of our constitutional rights, and are entitled at our hands to every concession, short of a surrender of principle, which they may ask of us. If we reject this bill, the agitation gotten up by plotting and unscrupulous politicians, operating upon the passions and prejudices of the people of the free States, will be prolonged and aggravated until a peaceful solution of this vital question of slavery will become impossible. We have every reason, so far as material interests are concerned, to be a united and harmonious people; but we cannot shut our eyes to the melancholy fact that at this day there prevails between the masses of the people of the eastern and southern States as deep a feeling of alienation—I might say of animosity—as ever existed between England and France. The fate of this measure will probably decide whether this feeling shall be kept alive and embittered until longer continuance of a connection so distasteful and repulsive to both parties shall be intolerable, or whether we shall strive by a generous emulation in the interchange of good offices, by an abandonment of all irritating subjects of discussion, to become once more what we were in the infancy of the Republic—States sisters in feeling as in name. What I have said of the consequences of the rejection of this bill is in no spirit of bravado or menace; it is uttered more in sorrow than in anger and with a full sense of the responsibility which attaches to it. I anticipate the old clamor of treason and revolution against all who venture to speak the truth on this question; but if it were not told now, it might be too late to avert the danger that threatens the existence of a Union which in better days I was wont to believe would be perpetual.

Mr. TOOMBS. I move that such of the absentees as have presented themselves be called upon for their excuses. I move that the Clerk call the names of such as are present, and that they give their excuses for their absence.

Mr. FESSENDEN. Does it require a quorum of the Senate to act on that matter?

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Mr. TOOMBS. *Non constat* that we have not got a quorum until we vote.

Mr. FESSENDEN. That is precisely what I contended for a short time ago.

Mr. TOOMBS. You were wrong then, and I am right now. [Laughter.]

Mr. FESSENDEN. As the Vice President is in the chair now, perhaps it would not turn out so.

Mr. TOOMBS. I move that the absentees who are present be called upon for their excuse for neglecting the business of the Senate.

Mr. FESSENDEN. I raise the point that it must first be ascertained that there is a quorum.

The VICE PRESIDENT. The Chair does not know that there is a quorum.

Mr. TOOMBS. I wish the Chair would count.

The VICE PRESIDENT. The Chair will do it. There are Senators within the walls of the Chamber who are not visible to the Chair.

Mr. DOOLITTLE. I move that we adjourn.

Mr. TOOMBS. That has been decided out of order, and so ruled by the Senate.

Mr. FESSENDEN. The appeal was laid on the table; there was no decision upon it.

The VICE PRESIDENT. Does the Senator from Wisconsin move that the Senate adjourn?

Mr. DOOLITTLE. Yes, sir.

The VICE PRESIDENT. The Chair feels obliged to entertain that motion.

Mr. TOOMBS. I do not wish to appeal from the Chair's decision; but he has overruled an express decision made a few moments ago, which was confirmed by the Senate.

Mr. FESSENDEN. The Senator is mistaken. It was not so decided by the Senate.

The VICE PRESIDENT. I was not in the chair when that question was raised. I understand that a motion to adjourn was made, and was decided to be out of order. An appeal was taken from that decision, and the question was disposed of by the appeal being laid upon the table. The Senate declined to consider it at that time, and laid the appeal on the table. The Chair must entertain the motion.

Mr. DOOLITTLE. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Collamer, Doolittle, Fessenden, Foster, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—16.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—22.

So the Senate refused to adjourn.

The VICE PRESIDENT. This vote shows the presence of a quorum. When the Senate lost its quorum, the question was on a motion to postpone the further consideration of this subject until half past twelve o'clock to-morrow, which now recurs.

Mr. HALE. I rise to a question of privilege. I staid here serving the country pretty faithfully until about three o'clock, and then went away, having honestly paired off with a gentleman. I am here again on invitation, and I see the Sergeant-at-Arms here. I want to know if he is executing the order of the Senate on the rest of those who are unfortunately absent?

The VICE PRESIDENT. The Chair can state to the Senator that he is informed by the Sergeant-at-Arms that he has sent the request which was passed upon motion by the Senate to all the absent members.

Mr. TOOMBS. I think the question of privilege I moved is proper, that we should call on the absentees in their order for their excuses. My friend from Ohio, [Mr. PUGH,] however, suggests that we can probably get a vote on the bill. I withdraw my motion, for the purpose of expediting the business of the Senate, and getting an early vote.

Mr. WILSON. I move that the further consideration of this question be postponed until half past twelve o'clock to-morrow.

The VICE PRESIDENT. That proposition is already pending.

Mr. WILSON. Well, sir, I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 22; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Doolittle, Fessenden, Foster, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—15.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—22.

So the motion to postpone was not agreed to.

Mr. COLLAMER, when his name was called, said: I have paired off with the Senator from Texas [Mr. HENDERSON] for to-night. Whether that extends to a matter of this kind I do not know, but I prefer not to vote.

Mr. CHANDLER. [At four o'clock, a. m.] As it is now somewhat early, and we shall have just about time to change our dress, and put ourselves in proper order before breakfast, I move that we take a recess for six hours; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 22; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Doolittle, Foster, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—12.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—22.

So the motion was not agreed to.

Mr. HOUSTON. I believe a motion was submitted by the honorable Senator from Georgia, that the absentees who are now in attendance should render their excuses. I am one of the absentees, and I should like to know what excuse the Senate has to render to me for disturbing me in my peaceful bed, at this hour. [Laughter.]

The VICE PRESIDENT. There is no motion before the Senate on that subject. The Senator from Georgia withdrew his motion. Is the Senate ready for the question? ["Question," "question."]

Mr. WILSON. I move that the Senate do now adjourn; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 20; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Doolittle, Fessenden, Foster, Hamlin, Harlan, Seward, Simmons, Trumbull, Wade, and Wilson—14.

NAYS—Messrs. Bayard, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Houston, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—20.

So the Senate (at ten minutes past four o'clock, a. m.) refused to adjourn.

Mr. FESSENDEN. I move that the Senate proceed now to hear the excuses of the absentees. I should like to render mine if I can be compelled to do so. I was sent for on the request of the Senate.

Mr. BIGLER. Let me suggest to the Senator that I should like exceedingly to hear a speech on the main question from that side of the House.

Mr. FESSENDEN. I make my motion, and at the same time I raise the question that the Senate had no authority to request the attendance of, or to send for, absent members.

Mr. PUGH. Is there a quorum of the Senate present?

The VICE PRESIDENT. Yes, sir.

Mr. PUGH. Then I move to dispense with all further proceedings under the call. I think that is a motion which supersedes the other.

Mr. SEWARD. On that motion I ask for the yeas and nays.

Mr. FESSENDEN. I think my motion has precedence.

Mr. PUGH. My motion is the previous one, because it supersedes the necessity for that.

The VICE PRESIDENT. The Chair may as well give his opinion on this question now as at any other time; and with the leave of the Senate, he will do so, as briefly as he can. The Senator from Maine moves that the Senate proceed to hear the excuses of the absentees who have come in. There is a clause in the Constitution of the United States, and one of the rules of the Senate bearing on the question, which the Chair will read to the Senate. The Constitution provides that "a majority of each" House "shall constitute a quorum to do business; but a smaller number may adjourn from

day to day, and may be authorized to compel the attendance of absent members in such manner, and under such penalties, as each House may provide." It will be observed that the Constitution authorizes a minority of each House to compel the attendance of absent members, under such rules as the House may provide; which remits us to the rules of the Senate for the authority. The only rule bearing on the question is the eighth rule, which the Chair will read:

"No member shall absent himself from the service of the Senate without leave of the Senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made as the Senate, when a quorum is convened, shall judge sufficient; and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the Senate at the legal time of meeting, as to each day of the session, after the hour has arrived to which the Senate stood adjourned."

It will be observed that this rule of the Senate refers to the convening of the body, which means the coming together, the assembling of the body. The rule does not say that a less number than a quorum are authorized to send the Sergeant-at-Arms for all absent members at any time the Senate may find itself without a quorum, or may happen to be without a quorum; but when the Senate shall convene, less than a quorum may send for absent members. The rule appears to the Chair to be express upon that point; and it goes on to provide that it shall apply as well to the first convention of the Senate, at the legal time of meeting—that is, to the meeting of the Senate at the first day of a session—as to every other convention or coming together of the Senate, as the Chair understands, after or when the hour has arrived to which the Senate stood adjourned.

The Chair does not undertake to do more than to construe the rule to the best of his judgment. He has looked at it with a good deal of care, and this is the construction he feels obliged to put upon it. He does not suppose that if the Senate finds itself with less than a quorum at any time during the progress of a daily session, that the minority of the Senate have the right to send the Sergeant-at-Arms for Senators, at their own expense, unless their excuses are sufficient; but that the rule refers to the assembling, convening, or coming together of the Senate. It may be said that it is an omission, a great lapse; but the Chair can construe the rule in no other way; and he is strengthened in his construction by a very careful review of his own opinion, and the first construction he had given to it. The first clause of the rule says:

"No member shall absent himself from the service of the Senate, without leave of the Senate first obtained."

Undoubtedly, the Senators in question did absent themselves, without leave of the Senate first obtained. They were requested by the Senate to make their appearance; they have done so, and the Chair sees no objection to the Senate requiring those Senators to explain why they absented themselves from the service of the Senate without leave of the Senate first obtained. They are here, and in that view of the case, the Chair will put the motion.

Mr. TOOMBS. The first part of the decision does not come up; if it did, I should take an appeal from it. I hold that not only under this rule, but under all parliamentary law, the body has a right to compel the attendance of its own members. It is a power inherent in every parliamentary body. On the construction of the rule, I differ from the Chair. I think he applies too stringent a construction to the word "convene." The latter part of the rule expressly declares that it applies as well to the first meeting at each session under the Constitution, the first Monday in December, as to the meeting of the Senate on every other day. To hold that that rule was intended merely to apply to our first meeting at twelve o'clock each day, is to give an absurd construction to the rule, to make it inoperative for all intents and purposes; because the moment after you convene each day, the question would not be ascertainable. There is no calling of the roll when the Senate comes to order every morning, to determine who are here.

Independently of that, I say it is a fundamental principle, and the power must inherently belong to every body to compel the attendance of its own members. It is so laid down in Mr. Jefferson's Manual. Besides, the Constitution specially provides that less than a majority can send for absentees. That a majority can prevent it is clear. The whole rule is to be taken together. According to the first portion of it, a member cannot absent himself without leave of the Senate. I do not see any necessity for the first portion of the Chair's decision in regard to the power to send for absentees, but if that is to be held to be the law of Parliament, I wish to enter my protest against it; and I would take an appeal from the decision of the Chair, but for the fact that the decision does not prevent the putting of the motion, and, therefore, it does not properly come up here. I wish to enter this protest now against such a construction of the rule. Even, however, if the rule had no wider construction than the Chair gives to it, the law of Parliament would stand, for that is to be our guide whenever our rules do not meet the case.

The VICE PRESIDENT. The Chair arrives at his conclusion by simply construing the Constitution and the rules, from which he supposes the only authority for this proceeding to be derived. The Chair will put the question.

Mr. HAMLIN. Mr. President—

The VICE PRESIDENT. The Chair perhaps did not distinctly understand the motion of the Senator from Maine, [Mr. FESSENDEN,] and may have gone further in expressing his opinion than was absolutely necessary on the motion raised. He thought, however, that his response was pertinent to the motion of the Senator from Maine.

Mr. FESSENDEN. I made a motion, and at the same time questioned the authority of the Senate to order the attendance of members, and requested the opinion of the Chair on that subject. The Chair has given it. His opinion being, as I understand, that the Senate has no authority under the rules to do so, I withdraw the motion I made.

The VICE PRESIDENT. The Chair desires the Senate to understand what he has said. The first part of the eighth rule provides that no member shall absent himself from the service of the Senate without leave of the Senate first obtained; and he supposes it is in the power of the Senate, there being now a quorum present, to hear from those Senators why they left without leave of the Senate.

Mr. FESSENDEN. As I understand the Chair, there being no power under that rule to enforce the attendance of members, no excuses are necessary.

The VICE PRESIDENT. The Chair held that, during the progress of the day's session, a minority, less number than a quorum, could not, through the Sergeant-at-Arms, compel the attendance of members until the regular period of convening; but certain Senators absented themselves from the Senate without leave of the body. There is a quorum now present, and it is in the power of the Senate, if it chooses, to hear explanations from those Senators on that point.

Mr. FESSENDEN. There is no penalty provided.

The VICE PRESIDENT. The Chair does not see any penalty provided.

Mr. HALE. I was one of those who came back upon an invitation or a suggestion; and, if it was the pleasure of the Senate to hear me, I could give, I think, a very satisfactory reason. As this is a voluntary matter, however, I think that those who have invited us to make this explanation ought to begin and make a clean breast of it themselves. Above all, I should like to hear the Senator from Georgia, who made this motion, explain why he has been absent heretofore. If I remember aright, he was absent at the commencement of this session for several days. I would not insist that there was any power to compel him to be here; but, as I am now here on invitation, I should like to have him explain his absence heretofore, before I explain mine now.

Mr. TOOMBS. No such fact appears by the record.

Mr. HALE. It is the fact, though.

Mr. TOOMBS. It is a question *in pais*; it is

an issuable matter. I by no means concede your allegation.

Mr. COLLAMER and Mr. HAMLIN. The first appearance of a Senator is on the record.

Mr. SEWARD. It will appear by the record that the Senator from Georgia—I do not mean to censure him for his absence—was not in attendance on the Senate for a period of about a month.

Mr. FESSENDEN. The public business was suffering very much on account of it.

Mr. SEWARD. There was great inquiry where the Senator was. I think the record shows the fact I have stated, and I should be very glad to know that there was a reasonable excuse for the Senator from Georgia absenting himself from the Senate without leave.

Mr. TOOMBS. I have not been sent for; nor has it been made to appear that I have been absent without leave. I do not respond in the Senate to any improper questions by members of the body. I will respond to the body when a question is put to me by its authority; but if these gentlemen want to inquire about any of my private affairs, they must do it out of doors, and I shall be ready at all times to respond to them with pleasure. I am responsible out of doors for anything I do out of doors. I shall respond to the Senate on any call they may make on me, but not to individual members in this body.

Mr. HALE. I propose to amend the motion so as to make it so broad as to cover all those who have been absent at any time during this session without leave of the Senate first had and obtained.

Mr. SIMMONS. I am willing to give my excuse for having been absent.

Mr. SEWARD. I think the honorable Senator is out of order in giving an excuse for his absence.

Mr. SIMMONS. I am going to tell the truth, and I may as well tell it now as at any time.

Mr. SEWARD. It is not in order.

Mr. SIMMONS. If it is out of order I will take my seat.

Mr. PUGH. I move to lay the motion on the table.

The VICE PRESIDENT. The Chair will put the motion to the Senate, but it is obvious that the essence of this question rests on the first decision the Chair made.

Mr. FITCH. Is that decision matter of record?

Mr. BENJAMIN. The Senator from Ohio moves to lay the motion on the table.

The VICE PRESIDENT. It was moved and seconded that the Senate proceed to hear the excuses of the absent members who have come in upon the invitation of the Senate, to which an amendment was offered to include all Senators who have been absent without the leave of the body during the session. The Chair believes that was the motion. The Senator from Ohio moves to lay the motion and the amendment on the table.

Mr. TRUMBULL and Mr. WILSON called for the yeas and nays, and they were ordered.

Mr. COLLAMER. Mr. President—

Mr. PUGH. I object to any debate.

The VICE PRESIDENT. The Chair recognizes the Senator from Vermont, not knowing what he desires to say.

Mr. COLLAMER. I wish to raise a question of order. I do not know that the authority of the Senator from Ohio is imperative on me to keep silent. He speaks, however, as if it was *ex cathedra*.

Mr. PUGH. No, sir; but I object to any debate on the motion. It is not debatable.

The VICE PRESIDENT. The Senator from Vermont gave notice to the Chair that he was rising to a question of order. The Chair must hear it.

Mr. PUGH. If he rises to a question of order, I do not object.

Mr. COLLAMER. Is it possible you do not object to that?

Mr. PUGH. The Senator need not take on so. I have a right to object until the Senator says that he rises to a question of order; and I am not to be deterred from my right by any expression, either of manner or language, from the Senator, or any one else.

Mr. COLLAMER. I guess you are as much deterred as I am.

The VICE PRESIDENT. The colloquy between the Senators is irregular.

Mr. COLLAMER. The question I wish to raise is this: a rule of the Senate provides that Senators shall not absent themselves without the consent of the Senate first obtained; and I wish to know whether in this manner that rule can be complied with by calling in members and receiving their excuses? Those of us who have come here, have come here by mere invitation.

Mr. GREEN. That is not a question of order.

Mr. COLLAMER. I wish gentlemen to hear me until the question arises. I insist as a question of order, if I must state it to begin with, that, when proceedings are to be taken against a Senator for absenting himself without consent of the Senate, it must be by some regular proceeding against him; and it cannot be taken in this manner, as you render excuses in the case of a call. If a Senator is voluntarily absent and voluntarily comes in, I take it, as a point of order, that he cannot be called on to give an excuse in this way. It must be by a regular proceeding for the purpose.

Mr. GREEN. That is not a question of order. The motion is to lay the whole matter on the table.

The VICE PRESIDENT. The Chair will let the Senate decide that question of order by their votes. If the Senate think the mode is unsuitable, they will vote it down. It is a mode that the Chair takes of submitting the question of order to the Senate. The question is on laying the motion and amendment on the table.

The question being taken by yeas and nays, resulted—yeas 27, nays 3; as follows:

YEAS—Messrs. Bayard, Benjamin, Biggs, Bigler, Broderick, Fessenden, Fitch, Green, Gwin, Hamlin, Hammond, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Mallory, Polk, Pugh, Sebastian, Silldell, Thompson of New Jersey, Toombs, Trumbull, Wilson, and Wright—27.

NAYS—Messrs. Clark, Dixon, and Simmons—3.

The VICE PRESIDENT. There is not a quorum voting.

Mr. BENJAMIN. Mr. President, the proceedings which are now taking place before the Senate, appear to be of a character that require some slight exposition, so that they may go before the country. I consider that a revolution has commenced, and commenced in this Hall—

Mr. FESSENDEN. I call the Senator to order. There is no question before the Senate.

Mr. JOHNSON, of Tennessee. There is no Senate here.

The VICE PRESIDENT. There is not a quorum voting.

Mr. BENJAMIN. I am going to address the President and the members present, on the very subject of the absence of a quorum. That is exactly what I am about.

Mr. FESSENDEN. That is no question.

Mr. BENJAMIN. I have a right to call the attention of the Senate to the facts, and suggest a remedy to get a quorum together.

Mr. FESSENDEN. I submit that the Senator has no right to speak, unless on some motion.

The VICE PRESIDENT. The Chair supposes, if Senators insist on it, that but two courses are left—one to adjourn, and the other to request the attendance of absent members.

Mr. BENJAMIN. I shall move that the Sergeant-at-Arms be sent to request the presence of the absent members, and on that motion I proceed to make the remarks I intended to make. I say, sir, that, in my judgment, it is necessary that a correct understanding of the position in which the public business of the country is arrested by this incipient revolution, should be known to the people.

Mr. President, this is no ordinary condition of things. A public measure is before the Senate. It is before us for action. The majority of the Senate is ready to act upon it. The minority say, in point of fact, in substance and essence, to the majority, "this business shall not be acted upon at all; we do not complain that we are not allowed to speak on the question before the Senate: that you allow us; we do not complain that every parliamentary privilege of amendment, which any license of debate could suggest, is not allowed us:

that you also allow us; the question is before the Senate; we say this to you simply, being in a minority, we do not choose that the public business shall go on; you shall not do it; the public business shall not be done; this bill shall not be acted upon; we have nothing to ask in relation to it; but we stand here and say, the public business shall be arrested at our beck and pleasure."

It becomes a serious question in these circumstances what the majority is to do. Ordinarily, in representative assemblies, there are rules; frequently these rules are perverted to the detriment of the rights of a minority; minorities often complain that the majority are trampling upon their rights, refusing them an opportunity of debating the pending question, or refusing them an opportunity of suggesting such amendments to the pending business, the bill before the body, as they may think proper to suggest. In our body there is nothing of the kind. Relying upon a sense of public duty, relying that gentlemen who reach this Chamber require nothing but a sense of the duty they owe their countrymen, and patriotism to do the public business, our rules allow unlimited discretion. For the first time in the history of the country, a minority abuses that unlimited license, by saying to the majority, "you shall not go on with the public business except in a manner to suit us; you shall not take a vote on the bill; you shall not discuss the bill; we of the minority give you these orders."

Now, sir, this revolution having already commenced by the party known as the Republican party in the Senate the question is submitted for the serious consideration of the majority. A mere physical contest never was contemplated as a legitimate means of determining the public business of the country. How long is this to last? How long is it consistent with the dignity of the majority to permit it to last? And what is the remedy?

Mr. President, for hours the factious minority of this Senate have folded their arms, and pursued the course which I have just mentioned. I know of but one remedy; my reflections on the subject suggest to me but one thing to do. It is for the majority of the Senate to leave this Hall, and, with a message left behind to the minority that when they will please to permit the business of the country to go on, and will send us word, we will come back, leaving it to them to break up the Government. I know of no other course.

What is to be done? Shall we sit here taking yeas and nays alternately on motions to adjourn, to take a recess, to postpone; to adjourn, to take a recess, to postpone; to adjourn, to postpone, to take a recess; without a solitary reason for one of these motions but the simple declaration by the minority, "you shall not do the public business; we will not speak; we will not vote; we will not debate; we will not offer an amendment; you shall not do the business of the country." That is the proposition now of the minority. If there is no inherent power in the majority to force a conclusion to this, then, I say, clearly a revolution has commenced in the Government, and the country should know it. In order that the country may know it, as we have no rules for such a case, I see but one course for the majority—to make a formal declaration to the minority that they will leave them in possession of the Senate Chamber, power over which they usurp to prevent the business of the country being done; to tell them when they are ready to go on with the business of the Government, and will inform us, we shall be ready to come back. Upon them be the responsibility of stopping the public business of the country, stopping it short, placing it in a position where nothing whatever can be done.

Mr. HALE. Mr. President, I wish to put the Senator from Louisiana right in a matter of history, and the history of this body. If this is a revolution, it is not the beginning. In the summer of 1848, when the bill for organizing the territorial government of Oregon was before this body, there was a clear majority of the Senate for applying what was then called the Wilmot proviso, or anti-slavery ordinance to that bill. We came into this House at ten o'clock on a Saturday morning; and the minority in the Senate at that time were not those who were contending, as we are now, against what we consider to be the aggression of the slave

power. I do not want to put it in any offensive shape; but the majority then was the anti-slavery party, and the minority were those who are opposed to it; and that minority took just exactly the course which the honorable Senator has indicated—speaking against time, and making motions to adjourn; and they kept that majority here from ten o'clock on Saturday morning until about ten o'clock on Sunday morning. The minority at that time were those who were opposed to the anti-slavery ordinance which was affixed to that bill. I do not see at this moment any member of the Senate now present who was then a member of the body.

Mr. HAMLIN. I was here.

Mr. HALE. The honorable Senator from Maine was present at that time; I had forgotten it. But, sir, the revolution, if it was a revolution, commenced long ago—ten years ago; and this mode of doing business, which the honorable Senator from Louisiana denounces, does not claim the paternity of the gentlemen who are now using it; but it was a game that was played then, and played by the very men who are now complaining of it. I say, therefore, that whatever of censure that honorable gentleman or his friends have to visit upon this course should be visited upon those who inaugurated and commenced this business in the Senate, and not upon those who have taken it up second-hand.

But, sir, I make a single suggestion further, if I may be so fortunate as to let what I say fall on as candid ears as I hope I address. I do not wish to repeat over and over again what has been so often said; but I think that, whether it was inaugurated by us or by others, the present minority are not obnoxious to the censure which the honorable Senator from Louisiana so eloquently and fluently attributes to us; and, for the humble part that I have in it, I have no fears of its going before an enlightened country. Sir, there is a right of debate, and there is a right of debate at seasonable hours; and as long as there has been no disposition manifested (and such a disposition has been disclaimed over and over and over again) of abusing the right of debate, but simply a disposition expressed to use it fairly, it seems to me that this complaint illy comes from those who are forcing us into such hours of the night as these, for the purpose of discussion. Having said this, I take my seat.

Mr. FESSENDEN. I wish to say a word in reply to the Senator from Louisiana. So far as regards myself, I have not acted, and I mean not to act, without consideration. My relations to this matter I have considered as coolly and deliberately as I could. Since this course was resolved upon, I have reflected upon the position in which I stand, as one of the Senators of the United States, before the country, and the responsibilities which I assume by the course I have taken. Having considered all these things, and having acted, I trust it is not necessary for me to say to that honorable Senator, and to others, that I am ready to meet before the country the responsibility of my course.

Sir, I am opposed, as a general rule, to this kind of action; and I regret, as much as any one can regret, that it has become absolutely necessary to resort to this course in order to protect the rights of the minority. What has this majority attempted to do? Let the country understand it rightly. They come into this Chamber when this bill is under discussion, and announce to us that we must have a permanent sitting until it is disposed of, unless we will make certain stipulations. On this side of the Chamber we tell them to a man—for there is nobody who objects to it—we tell them in the face of the country, that we desire to discuss the question; that we do not wish to waste the time of the Senate; that we simply want opportunities for a full and fair discussion by all those gentlemen on this side of the Chamber who desire to speak, and to express their opinions. We have offered them our pledge that as soon as that is done, we shall be ready to take the vote; and that in doing it we will not attempt to speak against time, as it is called; that is, protract the time for the mere purpose of debate. It has been said, over and over again, that the moment we attempt anything of that kind we shall have no blame to cast on the other side for

forcing a permanent sitting. What is the reply you make to us? "We cannot accede to these terms unless you fix a time, and a time to be designated within certain limits, and agree, as honorable men, to be bound by that time." We say to them that time is not sufficient, in our judgment; but if you will let us adjourn only over one night, until we can have a meeting and consultation among ourselves, and see what time we shall require, we will then make a proposal to you with reference to that matter. It is peremptorily denied. The majority offer us these terms, and these alone: "agree to take the vote within a certain time, or you must sit until this question is settled."

Mr. GREEN. You have had an opportunity to meet and consult.

Mr. FESSENDEN. We have had no opportunity to meet. We have asked barely for an adjournment, and that after the notice was given at five o'clock in the afternoon, or between four and five o'clock, that this sitting was to be permanent until the question was taken.

Mr. GREEN. It was given to you seven days ago.

Mr. FESSENDEN. Given seven days ago! And yet at the same time we were told by more than one honorable Senator that the design only was to give us an intimation that we must not waste time, that it was not designed to enforce it.

Mr. GREEN. You did waste time.

Mr. HAMMOND. What Senator had a right to say that?

Mr. FESSENDEN. My statement will not be denied by any Senator, I am sure.

Mr. GREEN. I will not deny it.

Mr. FESSENDEN. It was said by more than one Senator, and said to me. I went on with that understanding. I have wasted no time of the Senate in speaking. I know of no Senator on this side who has—certainly none until this evening, if you call it a waste, when the Senator from New Hampshire [Mr. CLARK] spoke longer than he otherwise would have done, perhaps, because it was the design of the Senate to force the question through to-night. That was the beginning of it.

Mr. BENJAMIN. Allow me to ask a question. I ask the Senator from Maine what the minority propose to do. He tells us what the minority want. The majority will not do what he asks. I should like to ask him whether the minority then means that no business of any kind shall ever be done until the majority will do for them just what they want.

Mr. FESSENDEN. No, sir; I do not mean any such thing; but it is a question before the country, and to go to the country, whether or not what we ask now in reference to this matter is, or is not, reasonable; and I am willing to go to the country upon it.

Mr. GREEN. What then?

The VICE PRESIDENT. The Chair must remind the Senator from Missouri that if he desires to interrupt the Senator from Maine, he must do so through the Chair. These colloquies waste time, and sometimes lead to unpleasantnesses.

Mr. GREEN. I have not the least disposition of that kind in the world, and I thought that the Senator from Maine would appreciate my question.

Mr. FESSENDEN. I take no exception to it at all.

Mr. GREEN. I knew he would take no exception; for we are on the best of terms, and I wished only to call his attention to the point.

Mr. FESSENDEN. I take no exception to what the Senator did. I was about to state that every case must stand by itself. The Senator from Louisiana asks whether I assume as a principle that the minority must impose its terms on the majority, and unless the majority agree to them, stop business? I say, emphatically, "no!"

Mr. BENJAMIN. I would inquire of the Senator what the minority proposes to do?

Mr. FESSENDEN. What the minority proposes to do now? It is very late, and the Senator will see what condition we are in. What we did propose was simply that the Senate adjourn over until to-morrow.

Mr. BENJAMIN. The Senator misunderstands my question. I take it for granted now,

as a matter of course, that the majority will not grant any of the terms the minority asks.

Mr. FESSENDEN. We do not ask it now.

Mr. BENJAMIN. Or that the minority may propose, I take it for granted, now. This is my point—a mere point of argument, the Senator will understand me—that the majority is determined to sit out this question until it is closed. The Senator says he wants to go to the country on it. My question is simply a parliamentary question in what way he proposes to go to the country upon it.

Mr. FESSENDEN. Oh; I was answering the suggestion of the Senator that here was a question of a revolution.

Mr. BENJAMIN. Exactly. So I think.

Mr. FESSENDEN. A revolution that had commenced; and necessarily, if a revolution has commenced, the majority of the Senate take what course they see fit to take, and the question would arise for the people of this country to settle by and by who were right and who were wrong—

Mr. BENJAMIN. Exactly.

Mr. FESSENDEN. Whether we demanded too much, or whether the majority exacted too much. That is all. Now, as to what we propose to do, I will answer the Senator.

Mr. BENJAMIN. That is the point.

Mr. FESSENDEN. If the majority chooses to accede to the idea of the honorable Senator and go out of the Chamber, and leave the minority in possession of it, the minority will adjourn the Senate until to-morrow morning at twelve o'clock, the regular hour of meeting; and when that time comes they will appear here, and being convened—if the majority comes so as to make a quorum—we shall be able to go along and do the business of the country as well as we can. If the majority do not choose to come, I do not know whether we shall have any power to compel their attendance.

Mr. BENJAMIN. The Senator still does not understand me. I say, suppose the majority continue their present course—not what I suggested, but just what has been going on all night—what then is the remedy the minority propose?

Mr. FESSENDEN. We propose no remedy at all. We leave the majority to find the remedy themselves, whether they will take the remedy suggested by the Senator from Louisiana or some other. We were notified substantially by the honorable Senator from Georgia that this was a question of physical endurance. We have accepted that challenge so far as that was concerned, and the battle seems now to be going on. For my part, I do not feel disposed to shrink from it.

Mr. TOOMBS. Mr. President, I wish to place this matter right by some few observations on the motion that is before the Senate, and I want to put the Senator from New Hampshire right. I think his history is entirely wrong. I was a member of Congress at the time when the question to which he alludes was debated. Gentlemen object that we are sitting all night on this question. I have known that to be done twenty times since I have been a member. Debating questions at night is the ordinary parliamentary mode, except with the present Black Republicans. They are the only people who will not discuss at night that I have met here, and I have been here thirteen years. I have never known a bill of this kind, or any of its cognate questions, that was disposed of without a debate at night. I have never known an important vote taken on questions connected with slavery, at least without a night session. The idea of physical endurance, as it is termed, is all the time presented to us. The minority will not permit any legislation without some difficulties; they have never permitted it since I have been a member of the body. The only pretense of complaint of the Republican party here is that you will not let them discuss the matter. When such efforts as these have been made in the other House, it has been charged there that the majority wanted to take the minority by surprise, or that one party sought to take a vote in the casual absence of a portion of the majority, or that they were attempting to break down the right of debate. Here unlimited debate is offered. The Opposition say they will not debate the question; they will debate anything else; they will debate physical endurance; they will debate putting it off until to-morrow; but they will not debate the

question. The point is not that we will not give them time, for we offer them just as much as they want; but they say we must give them time to talk in what they choose to call regular, usual, reasonable hours. I should like to know what are the usual hours. From one o'clock to four? The declaration is made that no other public business can be done until we allow them to deliver the number of speeches they tell us about, within what they call the usual hours? The House of Representatives, and every other legislative body that I have known in modern times, has had a power in the hands of the majority, whenever they are satisfied with the argument, to take the question. It is a new idea, it is the idea of the Republican party that this Hall is a conduit pipe in order to spirt their speeches upon the public. It does not belong to parliamentary law; for in all parliamentary bodies, when the majority are satisfied, they have the means of taking the vote. Are there any higher rights of debate here than in the House of Representatives? Has not that House the means of stopping debate peremptorily, in a moment? Did not the Republican party, when they had the power in that House during the last Congress, exercise the right given by the rules to stop debate? Have not their opponents exercised it? Has it not been adjudged by both parties in the country, for the last fifteen years, that this power of a majority is a rightful and proper power? Everybody but the Senate has deemed such a power necessary. The House of Representatives has gone further, and instead of allowing a speech of two days, as we do, has provided that no speech shall exceed one hour; and I believe that is as old a rule as the time of Demosthenes. That great popular assembly, the immediate representatives of the people, have put this restriction on themselves, and it has become American common law, sanctioned by all legislative bodies, that debate shall be restricted to one hour to those who speak; and that the very instant the majority of the House says debate ought to stop, it shall stop. The House of Representatives applies the previous question for that purpose; and even when a measure is pending in Committee of the Whole, a majority can take it out. These gentlemen are now availing themselves of the fact that the Senate of the United States, from 1789 until this time, has been composed of gentlemen who acknowledged the right of a majority charged with the public business to discharge it, and has therefore had no previous question. This is an omission that grew up somewhat like the fact related in Roman history, that there was no law in Rome for centuries against parricide; for it was a crime so horrible that it was not supposed to be possible. Debate has been unrestricted here, and no coercive measures of the majority have been passed in this body, on the same great principle that it was supposed the representatives of the sovereign States of this Union were incapable of arresting this legitimate power, this necessary power, of the majority, exercised by all bodies, and by more numerous bodies, with positive restricted rules.

Now, I come back to the question. As I stated when I was up once before, we commenced this debate on the 9th day of December. From that time to this, everybody has spoken on this question who desired to speak. This bill has now been directly before the Senate for one whole month, less three days. It has been continually urged by the majority. The minority voted against making it a special order at an early day. I recollect very well that when it was proposed to make it the special order for the Thursday succeeding its introduction the Senator from Vermont [Mr. COLLAMER] insisted on its going over until Monday. They delayed the taking it up; they delayed the time of acting on it; they adjourned soon, whenever it could be done; they adjourned from Thursday to Monday; and now they come to us and say, "we will go to the country on this question." Three months, the ordinary duration of the short session of Congress, have been open to them. They have not been restricted in debate. The popular branch restrains every speech to an hour, and the majority there has absolute power to close the debate on any question whenever they please. This principle is acknowledged by all the parties which have

been uppermost in this body since the foundation of the Government. I believe the previous question existed in the House of Representatives from the beginning, but it was not much enforced until twenty or thirty years ago. The hour rule was adopted in 1841; and the rule allowing a bill to be taken out of Committee of the Whole about 1845, or 1846—since my connection with the public service. The right of thirty, or forty, or fifty Senators to speak on a subject does not exist, and it ought never to be granted. It is impossible that the public business can go on with such a state of things. If gentlemen desire to address their constituents it should be done in another form. Bills, measures before us, should be discussed here. We all know to what this will lead.

As to the remedy, I do not agree with my friend from Louisiana; but I say that the Senate should do no other business; and for that purpose I shall move, if I can get the concurrence of my own friends, that this bill lie on the table, and nothing be done until the business of the House is put in the power of the majority by the previous question. That is the first, the last, and the only business this House should do until they get control of the business of the country. That is my judgment.

Mr. SIMMONS. I have no disposition to prolong this debate; but inasmuch as I was absent, and there seems to be some reflection cast on those who were absent and left the Senate without a quorum, I wish to make a suggestion. This matter has now assumed a different aspect; and the majority of the Senate desire, as I understand the explanation of the Senator from Louisiana, to put the case before the country—alluding, I suppose, to those who happened to be absent from physical necessity. He proposes to raise the question in the Senate, and suggests to the majority of the Senate to commence the business of revolution in this country by leaving this body without a quorum. It is well known that the majority party in the Senate is unusually large; they have two to our one. I had supposed that there was a sort of tacit understanding that we should sit six hours a day; and the Senator from Texas proposed that we should begin our daily sessions hereafter at eleven o'clock, and that was laid over. At the hour of six o'clock, last evening, when I had sat here six hours, I proposed an adjournment, supposing that was the understanding of the majority. It was refused. Having put myself under the care of a physician, I had to submit to his rules; and although I wanted to stay here as long as endurance would permit, I had to leave the Senate Chamber. When I came back at the request of the Senate I was ready to give my excuse, but the Senator from Louisiana voted down a proposition to enable me to do so. I voted not to lay these motions on the table, because I desired to make an excuse to the Senate.

The Senator from Louisiana now proposes to the forty-odd members of this body composing the majority, to withdraw and leave the responsibility on the minority. That is a most singular proposition to go before this country upon. The friends of the Administration in power have two thirds of the Senate; and unless they can have their own way about transacting the business of the Senate, they propose to leave the body without a quorum, pretending at the same time that the minority are revolutionary in their conduct because some of us are too sick to stay here to undergo a trial of physical endurance, when they can outvote us and half of them asleep!

Sir, I do not choose to submit to the imputation of being disposed to be factious when I leave here from mere physical inability to remain. I make no factious opposition in this body, or in any other body. If I had known that the rule of the Senate required it, I should have felt it my duty to ask leave of absence from the Senate while I could take the necessary rest to secure my health. I shall do that hereafter. No man in this body, no man in this country, shall ever have an opportunity to make such an imputation upon me as that I undertook to break down the deliberate action of this body. If men caucus, and choose to try a contest of physical endurance here, let the responsibility be with them, not with me. I never did such a thing in my life, and I never will do it.

But, sir, it is not possible for men to sit here always. It is a most unreasonable request to ask Senators to remain here during the twenty-four hours of the day, to talk to empty benches, while gentlemen of the majority may go away and rest part of the time, having watchmen to wake them up when the yeas and nays are called. Sir, I should have attempted to address the Senate on this bill before now, but I have often seen gentlemen on this side of the Chamber addressing empty benches on the other side. I attempted to get the floor in an irregular manner to make a few suggestions on this question, early in the session, but we were implored to let the Army bill pass, and let the President's message go by, and withhold our remarks until the Kansas bill should come regularly before us. I always take such a suggestion as conclusive on me, because I think that is the most proper way to debate a question in the Senate. I have not said a word on this subject since the commencement of the session, and I have refrained at the suggestion of gentlemen on the other side of the Chamber, who said it was more appropriate that the debate should be deferred until the measure was fairly before us. I desire at some proper time to say something upon this bill; I do not mean to occupy a great deal of the time of the Senate, on any question; but I desire to speak, because a great many imputations have been cast upon those with whom it is my pride and pleasure to act. We are told that this man speaks our sentiments, and that man speaks our sentiments. Sir, no man speaks my sentiments in this body, unless it is the Senator from Rhode Island, on this side of the Chamber. I do not converse with others about their purposes; but I do not believe there has been entertained on this side of the Chamber a purpose to protract this debate one minute longer than was necessary to give us a fair opportunity to lay before our fellow-Senators the convictions of our own minds on the important subject now before the Senate. Whenever we waste an hour, or a moment of the Senate's time in any idle purpose of debate here, for display elsewhere, or use this body as a conduit pipe, as the Senator from Georgia chooses to call it, to spout out speeches for the people, I will take my leave of this body before I will ever disgrace it by any such purpose.

I hope and trust that, having been physically unable to attend here, my absence will not be imputed to any factious purpose, and that Senators who hold the power in their hands will not now, at half past four o'clock in the morning, entertain a proposition to break up this Government by absenting themselves from the Senate of the United States. It is a proposition that I never heard made in this body before. I regret that it has been made now, and especially made with the view of placing this matter before the country. In my judgment, the most acceptable way that the Senate can place it before the country is to do its business orderly, respectfully to each other, and with a single regard to the interest and welfare of our common country.

Mr. WILSON. Mr. President—

The VICE PRESIDENT. Before the Senator from Massachusetts proceeds, the Chair will ask the Senator from Louisiana to restate his motion. We have been without a quorum for three quarters of an hour, and all this debate has been irregular. The Chair has not arrested it, because it seemed that the Senate might as well debate as vote. The Chair will request the Senator from Louisiana to restate his motion before the Senator from Massachusetts proceeds.

Mr. BENJAMIN. The motion I made was for the purpose of meeting a point of order that some gentleman was kind enough to spring upon me, and I withdraw it now. I really do not exactly remember what it was. [Laughter.]

Mr. KING. It was a proper motion to direct the Sergeant-at-Arms to request the attendance of absentees.

Mr. BENJAMIN. I withdraw the motion. I do not want to send the Sergeant-at-Arms out unnecessarily.

The VICE PRESIDENT. The Chair recognized the Senator from Massachusetts, and the condition of affairs now is that there is no quorum present, and no motion before the body.

Mr. WILSON. I wish to say a word or two. Mr. BENJAMIN. I think there is a quorum in the Senate obviously now.

The VICE PRESIDENT. If there is any suggestion of that kind, the Chair will ascertain whether there is a quorum.

Mr. BENJAMIN. I think there is a quorum in the room. I suggest that the pages step into the ante-chamber, and call in Senators.

The VICE PRESIDENT. There are twenty-eight Senators in the Chamber.

Mr. GREEN. And three in the passage, behind the chair.

The VICE PRESIDENT. That makes thirty-one.

Mr. FITCH. And there are two on the sofas.

The VICE PRESIDENT. There is a quorum, then, within the walls.

Mr. WILSON. I believe there is no motion before the Senate.

Mr. PUGH. The appeal is before the Senate.

Mr. WILSON. But no particular motion. I move that the further consideration of the bill be postponed until to-morrow, at half past twelve o'clock, and on that motion I wish to say a word or two. I desire to say to the Senator from Louisiana and the Senator from Georgia that if anybody here expects to make anything before the country upon what has transpired here to-night, for or against it, I think he will be mistaken. I am willing to take my share of the responsibility of this night. I am willing also to go to the country on the question before the Senate. What are the facts of the case? They are upon the record. The Senator from Missouri gave a sacred pledge to the Senate that we should have a full and fair opportunity to discuss this measure. Well, sir, eleven days have now been passed in its discussion. Twelve speeches have been made for the bill, eight speeches against it. I am informed personally by Senators who desire to speak, that there are fourteen who intend to speak—some of them will make short speeches, and some of them probably two-hour speeches—in opposition to the bill; and I am told that there are three or four Senators on the other side who intend to speak.

Now, sir, I want to say another thing. The Senator from Missouri made an appeal to me to-night in regard to his words to-day. I understand the fact to be that there was a meeting this morning—I speak legislatively—of the Democratic Senators.

Mr. GREEN. That is right.

Mr. WILSON. The Senator from Missouri came to my seat this morning, and said to me what he has stated, that he came as plenipotentiary, and wanted to know what I desired. I said to the Senator, as he will bear me witness, in good faith and in the kindest spirit, that I thought, from what we knew of the facts, we might close in the middle of next week; he thought we could not go beyond this week any way. I said to him, then let the debate go on, and towards the close of the week we can tell what to do.

Mr. GREEN. Will the Senator permit me to interrupt him?

Mr. WILSON. Certainly.

Mr. GREEN. My only object is to ask the Senator this one single question: whether I undertook to dictate and demand anything of him?

Mr. WILSON. I say very frankly, so far as any conversation I had with the Senator this morning is concerned, there was no dictation whatever.

Mr. GREEN. That is true.

Mr. WILSON. On the contrary, the language of the Senator towards me personally was of the kindest nature; and I think he will bear testimony that my answers were frank and kind.

Mr. GREEN. Certainly.

Mr. WILSON. I have no other feeling, I can assure the Senator, towards him or any other member of the Senate. Last Saturday the Senator from Louisiana [Mr. BENJAMIN] came to my seat and brought me the roll of the Senate, and said he found the names of twenty-three Senators there who, he thought, were going to speak, and asked me what I knew about them? I gave him what information I had; and I came to the conclusion that altogether, for and against this bill, there would be about twenty-one or twenty-two speeches to make when we commenced this week.

I conversed with Senators in regard to it, and I thought, as a matter of course, that at least this week would be allowed for debate. The Senator from Rhode Island [Mr. SIMMONS] has been lately quite unwell; but he is as much entitled to be heard as the Senator from Louisiana, who addressed us so ably the other day. The Senator from Illinois [Mr. DOUGLAS] has been confined to his room by sickness for several days. He told me very frankly that he did not believe the condition of his health was such as to allow him to speak this week, but that he would try to be here and speak on Monday, and he supposed the Senator from Missouri would reply to him. He thought, as there were so many speeches to be made, that it would be fair to make an arrangement to close the debate on Wednesday of next week. I think the debate may be closed on Monday, or early on Tuesday, and then the amendments will occupy a brief time.

Mr. GREEN. Would that be fair to me? Would it give me the same opportunity as the Senator from Illinois?

Mr. WILSON. I think so. Let me say to the Senator from Missouri, that I think his chances are far better. Both he and the Senator from Illinois have had this matter in mind all this session; they have studied it. One of them is here in the vigor of health, and has watched the whole proceedings; the other has been confined to his bed for days by sickness.

Mr. GREEN. He has been here to-night.

Mr. WILSON. He came here to-night at the peril of his health; and any man who saw him, any man who took his hand, perceived at once that he was not in a fit condition to be here. He said to me to-night, that he had not read a paper, or examined anything, for days; that he had written a letter this very day, and it had caused a reaction. That Senator says he cannot come here until Monday.

Supposing that this debate was to go on, believing from what was said on all sides that the Senate would adjourn about six o'clock in the evening, we were surprised to find the Senator from Missouri proposing, at half past four o'clock, when the Senator from New Hampshire [Mr. CLARK] got the floor, to take a recess until seven o'clock. I thought, and others of us thought, it was better not to take a recess, but to let the Senator from New Hampshire speak until six o'clock and then ask for an adjournment. At six o'clock we asked for an adjournment, but it was refused for the reason, as I supposed, that the disposition was to let him finish his speech. The Senator's colleague [Mr. POLK] stated that if the Senator from New Hampshire would finish his speech he thought it would then be fair to adjourn. The Senator from Illinois went home with the understanding that when the Senator from New Hampshire should close, the Senate would adjourn. We so understood it; but when he closed, the Senate refused to adjourn. Then the Senator from Maine [Mr. FESSENDEN] stated fully and distinctly what we wanted—that we desired to have an opportunity for consultation to-morrow to see when we could close the debate. He said he believed we could close it by Monday next, and I have not a doubt about it.

Mr. BENJAMIN. There is one fact which the Senator from Massachusetts forgets; and I will merely mention it. The colleague of the Senator from Maine, when appealed to, declared that he would not bind himself personally not to go on with this very action to-morrow night again.

Mr. WILSON. I think there was some misunderstanding in regard to that matter.

Mr. BENJAMIN. None whatever.

Mr. WILSON. I have said to Senators on the other side that we called a meeting of our friends for eleven o'clock to-morrow, with the expectation that the counsels of the Senator from Mississippi [Mr. BROWN] were to prevail, at which meeting we are to take the matter into consideration. I have no doubt we shall be able to come here unanimously, saying to you, as you are in great anxiety to close this debate, that we will shorten our remarks so as to close by Monday next. I have no doubt we shall come to you with that arrangement, in good faith, and there then need be nothing but the kindest and best feelings between us. I say now, to Senators in the majority, that I do

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not believe there is a man on this side of the Chamber who desires to occupy any position of unkindness towards the majority; and if they will adjourn and give us an opportunity for consultation, they will be met in the proper spirit. God knows there is enough in the question at issue to excite us, and to excite the country, without our adopting a mode of carrying it that may lead to bitter and unkind personal feelings which we shall all regret, perhaps to the day of our death. I have no desire to adopt any factious course here; it is not in my nature. I am the last man who would desire to cultivate unkind feelings to any one. I am ardent, earnest, and impulsive in my feelings; but I trust there is no bitterness in my heart.

Sensors see now what they have before them. We can sit here as long as they can. I can sit here a month without leaving the Capitol. Give me a crust of bread and a cup of cold water, and I can live here. It only requires ten men to sit in the Senate Chamber and hold you here for forty days and forty nights. I do not say this by way of threat; I do not wish to do anything of that kind. I think gentlemen in the majority ought to yield to the reasonable request we have made—adjourn the Senate, and let us meet at eleven o'clock to-day, or rather to-morrow, speaking legislatively. Let us see whether we cannot come here with a proposition that will enable all to go on harmoniously and kindly. I think this very debate will be likely to shorten the speeches that are to be made, and the matter can be closed before the sun goes down on Monday next. Although we expect the decision to be against us in this branch, we desire to see that decision effected in a way which shall leave behind no pangs, no unkind feelings, while we are members of this body.

Mr. GREEN. The majority of the Senate have no desire and no disposition to withdraw from the Senate in a factious spirit, create revolution, and leave the Government paralyzed, or to pursue a tyrannical and unjust course towards the Opposition. They think they have rights; they know there is a responsibility resting upon them; they believe it to be their duty to meet that responsibility so as to answer the just expectations of the country. If the opposite party will meet us in a proper spirit, all this matter can be disposed of without any difficulty; but it cannot be done otherwise. It must not be expected, it ought not to be expected, that the minority should dictate terms to the majority.

Mr. DOOLITTLE and Mr. WILSON. We do not ask it.

Mr. GREEN. Justice, equality, would simply say, let us meet on a corresponding ground, and with a corresponding spirit. If we yield a part, they must yield a corresponding part. It was the resolve of the friends of this measure, that the vote should be taken at the furthest on Thursday. I said to gentlemen on the opposite side—I said it in the kindest spirit; I said it in no spirit of dictation, as every one of them will bear me witness, notwithstanding what the Senator from Pennsylvania stated; I said it with a view of eliciting their opinion—that while my friends and the friends of the measure desired this vote to be taken at so early a period, yet give me your opinions, and see if we cannot harmonize upon the point. Every single one of them, without exception, said we cannot make any promise whatever; we think this, and we think the other. As the responsibility rested upon the majority, as the public expectation of the country rested upon the majority, it was to be expected that if they would not meet us, we would demand that the question should be taken at some reasonable time.

Mr. WILSON. Will the Senator consent to adjourn and let us meet at eleven o'clock, and come here at twelve, and say to gentlemen frankly what we can do? I have no doubt—I speak what I believe—that we shall meet the Senator in the kindest manner, and that then there will be no difficulty about this matter hereafter.

Mr. GREEN. I answer that, if the Senator will promise me that the vote shall be taken this week finally on the whole question, I will agree to it.

Mr. WILSON. How can I make a promise here before I have consulted with our friends? What we want is an opportunity to consult, to

see what we can do. We want time to meet for the very purpose of consultation.

Mr. GREEN. Have you not consulted?

Mr. WILSON. We have not. Some of our friends are not here?

Mr. GREEN. Have you not been in consultation?

Mr. DIXON, Mr. WILSON, and others. No.

Mr. WILSON. We have called a meeting at eleven o'clock for the very purpose of consultation. It is the most extraordinary position I ever witnessed in this body, to say the least, that a large number of members asking for a little time for purposes of consultation, cannot be trusted as men disposed to do an honorable, manly, and fair thing!

Mr. GREEN. Well, sir—

Mr. BRODERICK. Will the Senator from Missouri permit me?

Mr. GREEN. I cannot.

Mr. BRODERICK. Then I will wait until you get through.

Mr. GREEN. Of course you will; because I have the floor, and you cannot get it until I do get through.

Mr. BRODERICK. Oh, I do not want it.

THE VICE PRESIDENT. The Senator from Missouri will be good enough to address the Chair.

Mr. GREEN. I will. I yielded to the Senator from Massachusetts because he put a pertinent question. I answered it in a pertinent manner. It is now developed that they have never yet, and when I say they I mean those on the opposite side, honorable Senators who differ with us on this question, they have never yet agreed as to when they will take this question, and I therefore feel more than justified for every remark I made to-night. They have never agreed even that the vote shall be taken on Monday, or Tuesday, or Wednesday next, or any other day in the next week. I appeal to the majority of the Senate, are we to be perpetually put off with promises, made in good faith—for I will not impute bad faith to any man until that faith has been falsified—I cannot do it; it is not in my heart and nature; but in the absence of any certain evidence that we shall have a vote upon this question, what is the use of postponing its consideration? I know that a promise made from the other side in good faith, I can rely upon as much as I can upon the word of my own wife, which is as sacred as anything that God has ever given to man; but until I get that assurance, what are we to expect? While this vague talk is going on we have nothing to rely upon. Just give me the assurance and let me know what you intend to do, and we shall be prepared to meet you.

Mr. IVERSON. Mr. President—

THE VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. GREEN. Certainly.

Mr. IVERSON. On the suggestion thrown out by the Senator from Missouri I wish to make a proposition. I was one of those who left here last night about eleven o'clock, when I saw there was no chance of doing anything, because our friends on this side and the other were disposed to fritter away time in mere idle debate on questions of order. I felt unwell, and left. I have been sent for, and am here. It seems to me that our friends on this side are not acting with a generous spirit of forbearance towards the Opposition. I think we ought to have adjourned last night at ten o'clock, when the proposition was made to give them an opportunity to consult together this morning, and decide what they would do. Our friends met in caucus, as is well understood, and determined that we would sit out the question last night, unless the Opposition came to terms. That suggestion was made to them; but what opportunity have they had to consult together, for the purpose of deciding what terms they would submit to us? We say to them, "we will sit it out until you come to terms;" and yet we give them no chance to come to terms. I do not think that is fair. I believe we ought to have adjourned last night, and given them an opportunity to consult, and see whether they are disposed to act fairly or factiously in this body.

That was my opinion last night; and now I think it is due to them, and due to the country, and due to ourselves, in a spirit of magnanimity

and propriety, that we should adjourn at this time, and allow the Opposition to have an opportunity this morning of consulting together, and coming to a determination as to what they shall do. The whole matter can be arranged, if the Opposition are disposed to act properly, as I trust they are, by a committee appointed by the two sides. Let the Democratic Senators meet in caucus, and appoint a committee for consultation. Let the other side meet and appoint a committee to meet our committee. In this way, the whole matter can be arranged, if gentlemen are really sincere when they say that they desire to bring this question to a close, and do not want any unnecessary consumption of time.

How can we force the Opposition to come to a decision in this case? The proceedings of last night show us how easily they may defeat us from night to night, and from day to day, and from week to week, if they choose. My colleague talks about adopting the previous question; but would not that be delayed as long as this main question? Suppose a resolution were introduced here to adopt the previous question; that could be put off for a month, if the Opposition were disposed to interpose dilatory motions and dilatory action. We shall no more adopt the previous question, or any other thing designed to bring the vote, sooner than we can vote on the bill itself. It is folly, in my opinion, to talk about adopting the previous question if the minority are disposed to fight that, and I suppose they would fight that as much as they fight this bill. My views being what I have stated, I shall, as soon as the Senator from Missouri gets through, if I can obtain the floor, move an adjournment.

Mr. GREEN. The Senator from Georgia is a little mistaken about his notions of propriety. It was distinctly announced by myself and others on my side of this question, that, if the other side would permit the Senator from New Hampshire [Mr. CLARK] to proceed with and conclude his speech, we should then adjourn without another question. I announced it myself with the assent of my friends on this side of the Chamber. It was repudiated; and the other side determined to adjourn anyhow. The majority had no right to yield to the course dictated by the minority; and I think, therefore, with due deference to the Senator from Georgia, that we did right in standing out, and waiting for the conclusion of that speech, which was not finished until twelve o'clock.

Now, sir, being temporarily charged with the conduct of this matter, I present it only as the agent of the friends of the measure. I do it in no dictatorial spirit. I seek not to domineer over any man's opinions. I concede to all the right to think, to speak, to vote, to decide for themselves; but it must be conceded that there is a responsibility resting on the majority that we must take such steps as we deem proper to meet that responsibility so as to correspond with the just expectation of the public mind. This has been our whole hope, our whole desire, and our whole end. What the ultimate result may be I cannot anticipate, I need not anticipate. No hardship will be done to anybody; but, until we come to some definite terms, it must from necessity result in a matter of endurance, and it may as well come on now as any other time. If we can have terms, resting on the honor and the word of gentlemen, I am willing to receive them, and rely upon them, for I have never yet had occasion to doubt their word or their honor; but until I get their word or their honor pledged in this manner, I see no reason for a postponement.

Mr. FESSENDEN. I would state to the Senator that we have offered him repeatedly our word of honor that, if the majority will adjourn, we will do the best we can to fix as early a day as we possibly can when this question may be taken.

Mr. GREEN. That is not satisfactory to me.

Mr. FESSENDEN. Very well.

Mr. GREEN. The word is, as early a day as they can. There is nothing definite. They may report to us to-morrow that the earliest day they can agree to is the 1st of May, or the 1st of June, or the 1st of July. That will not do for me.

Mr. FESSENDEN. When I say that, I mean it in good faith. If I should propose the 1st day of May, or June, or July, I ask the Senator

whether he thinks that would be acting in good faith? Now, when other gentlemen and myself say that we will give our word that we will do our best to fix a point at the earliest day when we can have a vote, after saying what we have to say, without trying or wishing to protract the time, we mean it; I have no mental reservations—none of any kind or description; and other gentlemen have none. They mean what they say, that it shall be as early a day as they can possibly fix with reference to our speaking what we have to say, and without trying to protract the time by long speeches. Now, the Senator will take me as I mean, and not suppose there is a reservation back in the mind of any man here that, under such an arrangement, he will haul off and take more time than he wants.

Mr. GREEN. I merely construe the Senator, then, according to the proper construction of his words; and that is, that he will do it at the earliest day possible. That is the fair intent of what he has uttered.

Mr. FESSENDEN. Exactly.

Mr. GREEN. But on this side we say, that we must have it at the earliest day at which it can be had. We are equals, all of us. A majority say it can be had this next Thursday, and the minority say it can be had on next Monday.

Mr. FESSENDEN. Then, if the Senator will excuse me—

Mr. GREEN. I desire not to be interrupted on this illustration.

Mr. FESSENDEN. I desire only to interrupt the Senator for the purpose of explanation.

Mr. GREEN. The majority certainly have just as much right to say what is fair and just and proper as any other party. They think it is right and just and proper to decide this question on Thursday. The other side have rights, but they are subordinate rights to the majority in a Government in which is infused the great principle of popular sovereignty. They say they want until next Monday. I am willing to relax and give away two days. I have offered, and I now offer publicly, before the Senate and the country, that we are willing to allow until Saturday for taking the vote. If you will agree to decide the question on Saturday next, the majority yielding two days and the minority one, we will meet you by the hand and strike the bargain. That is all I can offer.

Mr. BRODERICK. Mr. President, I wish not to be considered in any bargains that are about to be made in regard to this question. I came here yesterday at twelve o'clock, and have remained here ever since, with the exception of about half an hour. I understood from the Senators on the other side of the Chamber, that after the Senator from New Hampshire [Mr. CLARK] got through with his speech, the Senate would adjourn. I was told so by Republican Senators, and for that reason I waited quietly and patiently until that Senator got through. But, sir, I ascertained in a very few minutes after, that there was no intention on the part of the majority to adjourn, and I resolved to sit here with the majority, and, if they felt disposed to sit the bill out, to remain here with them, but to vote, whenever the opportunity offered, for an adjournment. I wish to say now, that I am willing to assume my share of the responsibility of delaying this question, for I am unalterably opposed to the admission of Kansas under the Lecompton constitution. But, sir, I shall not be factious in my opposition. I have not been factious since I have occupied a seat on this floor, nor have I consumed the time of the Senate by speaking. I had intended to speak on this subject, but I refrained from doing so when I heard that my friend from Illinois [Mr. DOUGLAS] and my friend from Michigan [Mr. STUART] intended to address the Senate at length upon it, and I saw a disposition on the part of the majority to hurry the vote. For that reason, I did not care to take up, unnecessarily, the time of the Senate.

Now, sir, the Senator from Illinois is not able to speak. He commenced the war on this bill, and I desire that he should be here when the battle is to close. I am very anxious that he shall be present before the vote is taken, and I know very well that he is not able now to speak. For that reason I was anxious that this bill should be considered for eight or ten days longer, and the vote

then taken; but I am willing now to remain here as long as I can retain strength sufficient to stand upon my feet, or to sit erect in my chair. I shall make no complaint against the majority of the Senate; they may be perfectly right. If they can force the minority to take the vote to-day let them do it; but I doubt their power to do it. I find as strong looking men on this side of the Chamber as I do on the other side; and since it is to be a question of physical endurance, why, sir, the pride of both sides of the Chamber is now involved in the question. I am perfectly willing to sit here until twelve o'clock to-day. If I can find time to rest for a few hours, I may avail myself of them and come back into my seat invigorated. If not, I will remain here as best I may; so that I do not want to be considered in any of the bargains that are about to be made between the Republicans and the majority of the Senate.

Mr. IVERSON. I desire, amongst others, to give the gentlemen on the other side of the Chamber an opportunity to do what they profess they will do—consult together and submit to us a reasonable proposition. If they do it, it will be well to accept it. If they do not, the majority can go on and adopt any course they think proper to bring the matter to a conclusion. I think the minority ought at least to have an opportunity to determine what they will do, and let us see whether they are disposed to act as fairly as they represent themselves to be. I think they will. That is my impression; and for the purpose of enabling them to do it, I move that the Senate adjourn. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. FESSENDEN. It has been suggested to me that it is very possible that we may come to some arrangement. I have no hesitation in saying for myself, (but in the present stage of things so much has taken place that I cannot speak for anybody but myself,) and I think my friends will say the same thing, that if a majority of the Senate choose to adjourn at the present time, we will, or I will, honestly and fairly try to bring those associated with me here, to a proposition for fixing upon a time for taking this question at as early a day as we can consistently.

Mr. IVERSON. With the consent of the Senate, I will withdraw the call for the yeas and nays.

The VICE PRESIDENT. The yeas and nays have been ordered.

Mr. IVERSON. By unanimous consent the call can be withdrawn.

Mr. TOOMBS. I insist on the call.

The question being taken by yeas and nays, resulted—yeas 17, nays 17; as follows:

YEAS—Messrs. Broderick, Chandler, Doolittle, Durkee, Fessenden, Foster, Hamlin, Harlan, Houston, Iverson, Kennedy, King, Seward, Simmons, Trumbull, Wade, and Wilson—17.

NAYS—Messrs. Bayard, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Toombs, and Wright—17.

The VICE PRESIDENT voted in the negative; and so the motion to adjourn was negative.

The question recurred on the motion of the Senator from California, to postpone the further consideration of the subject until half past eleven o'clock to-morrow.

Mr. BRODERICK. On that motion I ask for the yeas and nays.

The yeas and nays ordered; and being taken, resulted—yeas 15, nays 18; as follows:

YEAS—Messrs. Broderick, Chandler, Doolittle, Durkee, Fessenden, Foster, Hamlin, Harlan, Houston, Iverson, King, Seward, Simmons, Trumbull, and Wilson—15.

NAYS—Messrs. Bayard, Benjamin, Biggs, Bigler, Fitch, Green, Gwin, Hammond, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Pugh, Sebastian, Toombs, and Wright—18.

So the motion to postpone was not agreed to.

Mr. WILSON. I move that the Senate do now adjourn, and on that motion I call for the yeas and nays.

Mr. HAMLIN, and others. Withdraw the call for the yeas and nays.

Mr. WILSON. I withdraw the request for the yeas and nays, but insist on the motion to adjourn.

The motion was agreed to; and the Senate (at five minutes past six o'clock, on Tuesday morning) adjourned.

DEBATE IN THE SENATE.

THURSDAY, March 18, 1858.

The Senate resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. TOOMBS. Mr. President, I agree with my honorable friend from Kentucky, [Mr. CRITTENDEN,] whose speech, delivered yesterday, gave me so much pain, that this is not a sectional question. It rises far above a mere sectional issue. It is true, that, in my judgment, it involves the rights, the safety, the honor of fifteen States of this Confederacy. It is true, that, in the judgment of many of those fifteen States, the principle involved in this question is worth more to them than the union of these States. Yet, sir, this is a great constitutional question, and not a sectional one. Let us not deceive ourselves. Such deception is not wisdom; it is folly. You know, sir, and I know, and we all know, that the anti-slavery shibboleth, that "there shall be no more slave States in this Union," strikes this question from bottom to top, and is the living, breathing spirit that animates the opposition to the admission of Kansas into the Union under the Lecompton constitution. Without that, it is nothing; without gentlemen holding these opinions, it is nothing. This is the sentiment pervading a large portion of the people of the United States. This is the principle which actuates a large majority of the opponents of this measure on this floor. No man who hears me doubts that the admission of Kansas will be their defeat or that its rejection will be their victory. So it is felt, so it is treated, so it is acknowledged by the universal, popular feeling of this entire Republic, with individual exceptions too small to enter into the calculation of the mighty elements now warring in this great struggle.

Then, sir, it becomes us to inquire what foundation has this principle, what support has it, in that fundamental law, the Constitution? In the first place, I shall direct my inquiries to this only source of political power in the Federal Government. Is it authorized by the Constitution of the United States? It must be found there expressly, or it must be necessary to carry out some acknowledged power, or it exists nowhere. It is true, that in some of the incidents of this question it widens and deepens. It involves the further question of the power of Congress over the constitutions and the forms of government of States, foreign or domestic, seeking admission into the Confederacy. There are two clauses in the Constitution of the United States having direct reference to this subject. In the first place, it is declared, in the third section of the fourth article, that "new States may be admitted by the Congress into this Union." The power is broad; in its objects it is unrestricted. We may admit directly foreign Governments; we may provide for their future admission, by organizing Territories to be admitted as States at a future time. All this we have done. This interpretation has received the undisputed sanction of this Government. I may, therefore, assume that to be a just interpretation of this power. There was an effort in the convention which formed the Constitution of the United States to limit this power to the then existing territory; but the wise men of that day foresaw the great destiny of this Republic. One of the most distinguished men of the Revolution, both in the field and in the Cabinet, I mean Mr. Hamilton, then early foresaw and declared that we should finally get Louisiana, all Mexico, and squat at South America. A part of his prophecy is history; the rest is destined soon to be. Then, I say, as to the object of this power, there is no dispute in the Republic. By virtue of this constitutional power the foreign independent State of Texas has been admitted into the Union.

In what manner shall this broad, comprehensive power be exercised? First, there are general principles that govern it. All power must be used for the benefit of those for whose benefit it is conferred; and the Constitution has expressly placed this great limitation on that power, that the governments which shall be introduced into this Confederacy of States shall be harmonious, shall be republican. They had seen the evils of dissimilar governments, in ancient and in modern times, united in a confederacy. They were warned

by these evils. Therefore this power was subject to this great restriction, that the forms of government of the States to be admitted into this Union should be republican. It was not necessary that it should have a constitution, unless constitutions are held to be necessary to republican governments; and I do not think they are. If a foreign State, or a State carved out of two or more States of the Union, under the terms of the Constitution, or out of our own territory, presents itself to take its place in this family of States, it is the duty of Congress, in exercising this power to admit new States, to take care that the form of its government be republican. This is the only express power you have over their constitutions or forms of government.

Guided by this clear light, and marking the great fact, that the equality of the States is the cardinal feature of our Federal system, that it results from the system itself that each and every State, old or new, must of necessity be the equal of every other State, we now have no difficulty in finding the true and just interpretation of this power. This equality is demonstrable from the fact, that when in the Union, all the Federal rights, duties, and obligations of a State are measured by the Constitution, and not by any previous compact, not by any previous understanding. The Federal rights of all are the same; their obligations are the same; their duties are the same; and they are measured only by that same great standard—the Constitution.

This being the acknowledged standard for determining these questions as to States in the Union, it necessarily follows that the right of congressional interference in a State out of the Union, applying for admission, must be tested by the same rule; and, therefore, it must follow that you have precisely the same power over the form of government presented to you for admission into the Union as you have over the form of government of a State already in the Union—no more and no less. This is clear, because, the instant of admission, you put the constitutional test. Everything must fall before that. If a State comes in by a concession of any of the rights legally belonging to a State of this Confederacy already in the Union, it falls before the supreme law of the land—the Federal Constitution.

I think it, therefore, clear, that you have a right, in the exercise of this power of admitting new States, which is the question now before this body, to look into the form of government of the State applying for admission only to see whether it is republican. If it is, your inquiry must stop. If Ireland, or any other foreign State, had presented constitutions, asking admission into our Union, many other questions of political expediency might present themselves for the fair consideration of the American Congress; but when you come to look to its constitution, your inquiries of its capacity to come in must be measured by these two great principles—its equality with the rest of the States, and the republican form of its government. That is the utmost limit, the extreme bound of your power on that point.

This, in my judgment, embraces the whole case on principle—principle deduced from the Constitution; principle deduced from the very nature and form of our Government, and covers the whole case on that point. I desire next to look into the question of authority. The views I have already presented on the question of power are in accordance with the judgment of the great majority of the wise and good men of this Confederacy, under the old Confederation and under the Constitution, from the beginning to this day.

The ordinance of 1787, which, as it declares on its face, was a contract between the State of Virginia and the United States under the Confederation, and the people of the Northwest Territory, provides that when they shall have sixty thousand inhabitants, or sooner if it be judged prudent, they should be admitted into the Union as a State upon a perfect equality with all the rest of the States, and it made provision for forming five States out of that Territory. The State of Kentucky was admitted without inquiry further than into the points I have stated; and so were the States of Tennessee, Vermont, Maine, Alabama, Mississippi, and Louisiana. When Missouri came forward for admission, for the first time the

question arose as to the power of Congress over a State constitution. It had stood unquestioned and unquestionable up to 1820. The Federal party, with Mr. King at its head, had been defeated on the popular issues before the Republic; condemned on the measures of the administration which they had supported and proposed. For the purpose, according to Mr. Jefferson, of wriggling themselves into power, they started this unfounded heresy in order to recover, by appeals to sectional passions, that power which they had so justly lost. Rufus King has worthy successors in the distinguished Senator from New York [Mr. SEWARD] and his friends. He is but the imitator of his great prototype.

They are following up the same idea for the same reasons. Condemned by the popular judgment, declared to be unfit to carry on the affairs of this great country, they have sought to arouse, to direct, and use a popular fanaticism in their own section of the country in order to seize the government of the whole. Their aim and their policy have this object, and none other. Of course it is not avowed, but none but the willfully blind can fail to see their objects. When Missouri presented her constitution, it was not pretended that her boundaries were not correct; it was not pretended that her population was not sufficient; it was not pretended that her constitution was not republican; it was then only objected that her constitution tolerated domestic slavery—an institution which pervaded all the States during the Revolution, and up to the time of the formation of this Government. That was the objection, and the sole objection. That effort was resisted; and it was defeated with great difficulty. That ground was maintained by the great majority of the Representatives of the non-slaveholding States from the beginning to the end. The cry of the Union was raised, and timid men sacrificed principle for peace, and got no peace by the sacrifice. It is not the proper time for me to express the opinions which I have on that subject. I have done that before. I will, however, now say that the sacrifice ought not to have been made. We are not the only portion of the Republic to whom the Union is valuable. I have calculated its value to others as well as to ourselves, and I am prepared to announce one of the results of that calculation; and that is, whatever may be its value to the whole people, that its value to the South is less than to any other portion of the Republic. That is my judgment; and the subject has been long and well considered. We of the South have not sought your legislation to protect our industry or foster our pursuits. New England has scarcely struck a lick on the land or the sea since the American Revolution without prohibition, protection, and bounties, and is constantly clamoring for their increase. We have never sought, we have never got it. I represented one district of Georgia for eight years in the other House. I never had a citizen from that district apply to me to procure the passage of a single law to benefit his industry, and I will add, to their credit, to get them an office here under the Government. Sir, they are a bold, industrious, just, self-relying people. They begin to think they have been outraged about long enough under the protection of your fraternal bonds.

The objection that was made to the admission of Missouri was founded on naked usurpation. It claimed support, then as now, not on the ground of right, but of power. They said the North is the stronger section; this is her will; let it be done—though the Constitution fall. But, sir, there were then, as now, patriotic men from the non-slaveholding States; there were real republican men; there were men who were prepared to take all risks that duty demanded at their hands. They took them; they united with a considerable portion of the South, and they admitted Missouri; but put a clause, known as the Missouri compromise, the fatal eighth section of the act, which declared that slavery and involuntary servitude, except for crime, shall never exist in all that territory acquired from France north of 36° 30' north latitude, and outside of the State of Missouri. That law gave satisfaction nowhere. It was wrong; therefore, the mother of discord, not peace. The North repudiated it everywhere, and in all forms; by public meetings, legislative resolves, and the ballot-box; for they drove from Congress every man,

I think, but four, from the non-slaveholding States who voted for it. We are told it was a compact. We hear it reiterated every day that it was a solemn compact. In the first place, Congress cannot make a compact with a State or Territory; and in the second place, it did not make any. It passed a law, and a very bad law, and, as has been affirmed by all the tribunals entitled to respect in this country, an unconstitutional law.

The Supreme Court of the United States has so decided; and the great body of the people of the North, up to a very recent occasion, have declared that tribunal to be the final arbiter on all questions arising under the Constitution. That has been their doctrine ever since the passage of the Virginia resolutions of 1798, and the report of 1799, which announce great principles of government so often derided, despised, and jeered at by those who never took the trouble to read them. This tribunal was declared to be the ultimate arbiter over the sovereign States of this Confederacy by every non-slaveholding State in this Union; and such has been the concurrent universal judgment of all the organs of public opinion in those States up to the time when the decision was against them. That is the first time its authority was ever denied by the North. That is the first time it was ever denounced by the North—then, forsooth, there was a bargain; then there was intrigue; then there was collusion; then there was fraud; when it opposed itself and the law as a barrier to this fanaticism, and stood by the Constitution, it became the object of bitter denunciation. The court said the restriction was constitutional; the President said so; Congress said so. This judgment was placed upon your statute-book by the great coordinate branches of the Government, legislative and executive, and maintained by the judiciary. It is said now that it has no claim to legality, and my honorable friend from Kentucky unites his voice to swell the tide of denunciation against the Supreme Court, which I know he has ever considered one of the bulwarks of the Constitution.

This tribunal only ceased to be the proper arbiter of constitutional questions when it decided this constitutional point against the fanaticism of the North! But, sir, we have also gone to the final arbiter and have been there sustained; we have appealed, under the Constitution and laws of this country, to the great inquest of the nation boldly; with the judgment in hand of the President and of Congress, with all the assaults, and every means for making them formidable, of the enemy, we appealed to the people, not to the people of the South alone, but to the universal people of this whole country entitled by its political organization to speak. I have heard new and strange theories of popular sovereignty and of majority governments. I tell you, Mr. President, mankind made a long step in the right direction when they said irresponsible minorities should not govern; a long step and a good step, when they overturned kings, aristocracies, and oligarchies; when they said that an irresponsible minority had no right, human or divine, to govern the State; but, sir, they made a longer and better and higher and a nobler bound in the right direction, when they determined and declared that irresponsible majorities should not govern. This is our noble system; it was a bolder, a braver step for the security of human rights. These great and universally conceded rights of life, of liberty, of property, are not confided in this country of ours to a minority, they are not confided to a majority, but we have hedged about minorities and majorities with great republican organizations, with checks, with balances, with constitutions, which prevent minorities from usurping, and majorities from trampling under foot, the rights of the people, of all of the people, and each and every one of them.

Sir, we have affirmed the great principle that society shall govern; that government is not for the benefit of minorities, as was held in the olden time; that government is not for the benefit of majorities—a principle equally wrong and equally unfounded—but is instituted for the whole of society and every man in it. Majorities only govern in this country in questions submitted to them by the organic law. It is not because of a divine right. They have no more divine rights than other kings. In fact, all power of majorities out-

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side of that is a mere question of force—nothing else. Where shall you find the natural right of one hundred men to govern ninety-nine? There is but one reason why this maxim has ever received any force. It is that in the greater number ordinarily may be found the greatest strength; and that is the basis of all human society. In the greater number you will most usually find the greater wisdom; and therefore all questions that you submit to be determined by the body of the people, you refer to the greater number. You do it here, standing as we do the representatives of thirty-one sovereign States, two from each State. We pay no attention to the principle of mere numbers. The Senator from New York represents his three millions of people; I represent less than one million, of all ages, sexes, colors, and conditions. In passing upon questions involving the rights of the whole country upon all matters submitted to us under the Constitution, my vote and his are equal. We have agreed to determine by the majority of the members of this body, not the majority of the people, the passage of all laws which may be rightfully passed, except in the cases of treaties, in which the rights of the whole are still further protected by requiring two thirds of this body to concur in them.

Sir, this great principle underlies our whole system, that majorities shall not rule except in cases submitted to them by consent, in the organic law.

In that sense the majority rule is wise; in that sense it is as discreet as wise; because, first, a majority ordinarily can enforce its judgment by superior power; and, in the second place, other things being equal, society secures a better chance for the requisite wisdom to carry on government in this system than in any other. But, then, when we speak of majorities, we speak of majorities which are ascertained by law, according to its forms, according to its regulations, its technicalities—its technicalities, so happily, but, I think, unfortunately, derided by my honorable friend from Kentucky. Sir, it is the sole protection of liberty; it is the sole bulwark against anarchy; it is the sole barrier against determining all questions by brute force. Strike out what the Senator calls your "little legalities and regularities," and where is the security of the weak against the strong? where is the distinction between legal right and wrong? where the difference between liberty and license? In these are to be found the landmarks which separate government from anarchy, regulated liberty from perpetual discord.

My honorable friend differs with the Supreme Court upon the right of Congress to make its will supreme over the present thousands and the future millions who may inhabit our Territories. He differs from the decision of every branch of our Government within the last ten or twelve years. He is certainly entitled to his opinion; I do not intend to deny it to him; but I wish to appeal to his judgment. I know of no man in this Republic, of whatever party, upon whose patriotism and integrity I would sooner risk any great question connected with the honor and safety of his country. I doubt nothing, then, but the correctness of his judgment. But I have too often seen in public life party prejudice obscure the brightest intellect and benumb the most earnest patriotism, to doubt the causes which have disabled him from the fair consideration of the overwhelming weight of evidence against his present position.

Whenever there has been a slave State admitted into the Union, from 1820 to this day, it has been opposed for that reason by a greater or less number of the Representatives of the non-slaveholding States. There, sir, the seeds of this discord were sown by the Federal party; there they sowed the wind; and if the whirlwind is to be reaped, they are the authors of whatever calamities or mischiefs may inure from it. As for me, it is my duty to-day, not to determine whether discord shall reign; not whether rebellion shall break out or continue in Kansas; not whether the ten thousand men already proclaimed by the President of the United States to be in rebellion to your Government shall be sustained or put down; but it is to inquire where is the right, and to follow it to its results; to follow it to its consequences. That I intend to do.

The attempt to resist the admission of Missouri

was against the judgment of the great body of the patriots of the land. All authority, except the authority which I have just stated, was against it. So there is an end of it on the point of authority, until recently. Jefferson opposed it. Madison opposed it. All the fathers of the Republic then in public life opposed it, except Mr. King, and those who followed him in his attack on the Missouri constitution; and I believe, since that time, the great majority of the people of the North have almost universally declared that the principle was wrong. My honorable friend from Kentucky was a member of the Cabinet of Mr. Fillmore. During his administration the great question arose as to the power of Congress over this subject in the Territories of the United States. We were unable to solve it. We agreed to let the question of power over the Territories rest; but we declared, in the acts for the organization of Utah and New Mexico, that when they should be admitted into the Union as States, they might come in with or without slavery, as their constitutions at the time of admission might prescribe. This was affirmed by the whole Republic, with the exception of the bigoted Abolitionists. My honorable friend over the way [Mr. DOUGLAS] was supposed to have concurred in that judgment. My honorable friend from Kentucky was supposed to have concurred in that judgment, belonging, as he did, to an administration that claimed throughout the borders of this land the merit, if not of its conception, at least of its success. I am happy to award it to anybody that chooses to claim it; so that the great and correct principles are established, I am indifferent who gets the credit of them. Those measures had the approbation of my judgment, and they received my vote. When the national conventions of the old Democratic party and the Whig party met, in 1852, at Baltimore, the one unanimously affirmed the correctness of those measures; the other did not affirm them unanimously, but a large majority did, although there were sixty-six opposing them, but they supported the candidates who affirmed the principle. It is, therefore, fair to assume that, if they did not approve, they acquiesced in this universal judgment of the Republic. That sentiment was based on the principle that there was no rightful authority here to interfere with the constitutions of States seeking admission into the Union further than to see that they established republican forms of government.

Mr. CRITTENDEN. Will the Senator allow me to interrupt him?

Mr. TOOMBS. With great pleasure.

Mr. CRITTENDEN. I may not have made myself understood on the point; and if the gentleman did not understand me yesterday as perfectly acceding to the principle, and agreeing that, in my judgment, every State not only ought to have, but had, an indefeasible right, when making her constitution, to determine upon this question of slavery as to her seemed best, I wish to say that I have always entertained that opinion, and now as fully as ever.

Mr. TOOMBS. I did not misunderstand my friend. This part of my argument is more directly addressed to a very large number of his present associates who are endeavoring to defeat the admission of this State for the reason I have stated; and I shall also try to show to my friend, and others, that, if you take away that objection, there is no legal or valid reason against the admission of Kansas; and, more than that, no opposition to it in either House sufficient to defeat it.

I think I have established the principle for which I contend by authority—authority fully conceded and acknowledged by my honorable friend. Upon policy, is it not wise, is it not just, under our system, that the people who cast their lot in our distant territory, who are to be affected by their domestic institutions, shall judge for themselves what institutions, in their opinion, will best promote their own happiness, and perpetuate liberty to their descendants? I will not argue that point now; the time has passed for that.

I say, then, that, upon principle, upon authority, and upon policy, the declaration held by the minority in the Senate of the United States, that there shall be no more slave States in this Union, and that Congress has a right to look into the

State constitutions for any purpose they please, to make them conformable to their ideas of what is just and right, and for their advantage, has no foundation in either of those three great elements of sound constitutional construction.

It may be needful, in the examination of the second great branch of this inquiry, to ascertain when Congress may exercise this power to admit new States. In the first place, at what time may it exercise it? It is only a question of time. In the practice of the Government it has been left to the sound discretion of Congress. Therefore, in 1802, when we acquired Louisiana, we covenanted by treaty that we would admit those people into the Union as soon as it could be conveniently done. We did the same thing with Mexico. We did the same thing with Texas. We said we should divide her into four States more, as soon as her population would authorize it. It was done in the ordinance of 1787 as to the five States to be formed in the Northwest. It was done in the contract with the State of North Carolina and the State of Georgia; and the great and important exercise of this power in advance of the moment of admission is spread over your statute-books in compacts, in charters with the people of the Territories themselves. You claim and exercise the right to govern these people to the full extent of your constitutional power. I have ever acceded to that right. In the early history of your Government you gave them judges; you gave them Governors; you declared that their laws should be binding when submitted to and approved by you. When population increased, you gave them representative government, but with the same subjection to the will of Congress. You then gave them Territorial Legislatures, making their laws good and valid when you approved them. In another class they were good and valid unless you disapproved them.

Finally, in the case of Kansas and Nebraska, you gave them the power to legislate overall rightful subjects of legislation without any supervision from you, with no other control but the Constitution of the United States, and you declared that the people who might cast their lot in them should come into the Union with or without slavery, as their constitution might prescribe. Therefore Kansas has now a triple right to admission here. First, she has it under the treaty with France of 1803; second, she comes here under your general declaration in the settlement of 1850; third, by the express provision of the charter you gave her in 1854. It is her existing law. It is the compact you made with all the people going to Kansas. You have given her Legislature control over all rightful subjects of legislation—the same powers you had, and to the full extent that you hold them—subject only to the Constitution of the United States, which is a limitation on you as well as on them. You went further; you parted with the power of admission, as to this State, in 1854. You told her that she might regulate her domestic institutions; that you did not intend to plant slavery in the Territory, or exclude it therefrom, but to permit her to form her domestic institutions in her own way; and you have told her that when the time came for her admission she could come into the Union with or without slavery as her constitution might prescribe. She has come. Now, it is for you to keep your faith. Will you do it?

Upon the true construction of this organic act I agree with my honorable friend from Illinois, [Mr. DOUGLAS.] In his speech of the 9th December, he declares we established no new principle in territorial government, we only place slavery on the same basis as other domestic institutions. By the act of 1820, slavery was forever prohibited, no matter what might be the wishes of the people. They were permitted to regulate everything else their own way, except slavery; we struck out the exception and left the general, long established rule to operate in that, as well as in all other domestic relations and institutions upon this point. We did nothing more; we intended nothing more; by no just intentment can it be carried further. Its language is express; the interpretation is plain. Therefore, I take occasion to say that I agree with the distinguished Senator from Illinois in the interpretation of this great charter.

By virtue of the Legislative authority thus con-

ferred, in conformity with the authority thus given, this constitution of Kansas was brought into existence. It was made with extreme caution, with extreme regularity—even with offensive regularity. It was too regular, it seems, for many of my honorable friends. It was made with strict legality. First, the Legislature passed a law leaving it to the inhabitants of that Territory to determine for themselves whether they would come into the Union. They decided that they would; nobody objected; it was a universal sentiment there. All, all agree that this is a thing fit to be done in order to terminate these difficulties. Then there is no dispute about boundary; none about population. We have no question with reference to the form of government; no one doubts that it is republican.

The Territorial Legislature of Kansas, by virtue of this broad right in their charter, in conformity to the popular will, called a convention. It met. It made this instrument. It adopted a constitution, full, ample, and complete—a government republican in its form, and declared to be the constitution of the new State of Kansas, when she should be admitted into the Union, except as to one clause. As to everything else but this clause it was a finality. That one clause involved the question of domestic slavery, and that they referred to the people. This clause was fairly and legally submitted to a vote of the whole people—all who were entitled by law to vote. The result was that this pro-slavery clause was adopted by more than five thousand majority. My honorable friend from Kentucky repeats the oft-repeated charge that there was some illegal voting at that election; that names of distinguished public men known not to be in Kansas, appear on the poll-book. Grant it. In the first place, it does not appear who did it; it is alleged on the other side, and the intrinsic evidence would seem to support it, that "an enemy has done this thing." But it does appear that a great majority of these votes are indisputably legal. This fact is nowhere denied, and it settles this case. A legal election is not void because illegal votes may be cast at it, but it must appear, before it can affect the result, that there were enough of illegal votes to defeat the legal vote. This is not pretended in any quarter.

It seems this constitution is to be attacked on new principles. It is the first time I heard it asserted anywhere that a whole constitution was void because an illegal vote was given for it, or many illegal votes were given for it. If the illegal votes given for it override the legal votes against it, then it was fraudulent and void, and ought not to stand a moment; but until my honorable friend establishes that, he no more weakens the constitution of Kansas than he does that of Kentucky, on account of the outrages in Louisville in 1855.

There were over six thousand votes cast for the slavery clause of this constitution; there were not two hundred against it. I say its legality stands on the fact that no man pretends to deny it, not even the last Kansas Legislature, whose outrages do not seem to have shocked my honorable friend from Kentucky, but whose statements are treated by him almost as record evidence; and this extraordinary and, I think, ill-placed credit, not only extends to resolutions of that body, but also to any member or officer of theirs who may venture an opinion on this subject. They say that there were three thousand of these six thousand votes fraudulent. Grant it. That is their case. The other three thousand were good. The other three thousand are as good to establish this constitution against those who failed or refused to vote as if every man in the Territory had voted for it. My friend was not warranted in saying that these whole proceedings were fraudulent, by a shadow of evidence. He is not authorized to say that this Lecompton constitution has ever had even an allegation of fraud sufficient, even if true, for its invalidation, much less proof. I say there is no such allegation. As far as I know, it never was made here; it never was made in Kansas. I will take the case of its enemies, and I say that, so far from proving fraud, they have not even made a specification which, if true, would invalidate the constitution; yet it is to go out to the country that the Lecompton constitution is a fraud, and the great name and high character of my honorable friend are to be used to bolster up

this charge, unsupported by evidence and untrue in fact. My honorable friend does himself great injustice in accepting, without full examination, as true, allegations which have been, again and again, on this floor and elsewhere, disproved.

But there stands the case. Did not the Legislature of Kansas have a right to pass a law submitting the question of calling a convention to the people? If it be rightful legislation, they had. Is it a wrongful subject of legislation? Did they not have a right to take the sense of the people as to their wishes on this subject, and to follow that will and protect its exercise against fraud and violence? This is not only a rightful, but an ordinary exercise of legislative power, even without express grant from Congress; but here the grant is express, clear, and unquestionable. The action of this convention, thus legally called, was the act of the people of Kansas in the exercise of sovereign power. The constitution they made was the constitution of the people the moment the conditions they annexed were complied with and Congress assented. My friend says submission is not necessary. When this discussion first arose in Congress, at this session, that was the main point of assault. Some very adroit gentlemen thought they had a great popular point in the declaration that it never had been submitted to a popular vote, and therefore it could in no sense be considered a constitution. That could not stand argument; it could not stand public judgment. It proved too much. It proved the original thirteen States were wrongfully in the Union. It proved the objectors out also. It became necessary to back down. They found that the judgment of the country, that principle and the practice of the country, had all been against it, and therefore they changed their tactics and commenced raising the hue-and-cry of fraud, fraud! And this cry is now put forward as the main, if not exclusive, argument against it—that this is not sincere, but it is a pretext, and not a reason, with many of the objectors; that they first opposed it for other and untenable reasons, and that all the transactions in which fraud has been alleged arose after they had taken fierce and uncompromising ground against it. The vote on the slavery clause of the Lecompton constitution was taken on the 21st December. The election for State officers under the constitution was held on the 4th January last. This opposition commenced before the meeting of Congress.

We are now told that Governor Walker and Mr. Stanton promised to have the constitution submitted, and declared it must be submitted. I believe they did. From the day they went to that Territory until the day they came away, they were both engaged wrongfully interfering with rights of the people of that Territory, violating the provisions of the fundamental act, and bringing the Administration into disrepute with the country. What right has the Governor of a Territory to promise what a convention of the people shall do? The requirement of submission was presented to the Legislature, and rejected. When the convention bill was passed by the Legislature of Kansas, the then Governor vetoed it upon the express ground that it did not provide for submitting the constitution to the people. This was not a surprise; this was not a fraud. Nobody was cheated by the non-submission. If Mr. Walker promised that it should be submitted, he had no right to give the promise; and he gave it in the face of the declaration of the Legislature that they wanted a convention, the embodiment of the popular sovereignty of Kansas; that its voice should be the voice of the people. Sir, that Legislature were right. They not only acted upon principle, but they acted upon a principle affirmed by the Senate of the United States, including my honorable friends from Illinois and Kentucky, that no such submission was necessary. In 1856, when I felt it my duty to submit an enabling act to the Senate, that enabling act, as it passed this body, did not provide for a submission of the constitution or any part of it to a vote of the people of Kansas. It may be necessary for me to give a brief history of a transaction which has been much controverted; but my history shall be simply a record history.

I saw there had been complaints and allegations and counter allegations of fraud from the beginning of the organization of that Territory.

Murders, conflagrations, and other outrages, were the ordinary pastimes of many of the people. The people were not only divided, but hostile to each other. I knew that it was difficult to get fair elections even in quiet times in frontier countries; and I thought I would put an end to it at once by authorizing the people to elect a convention and make a constitution. The first twelve sections of the bill took the whole power out of the territorial government. I ignored Governor, Council, and Legislature. The first twelve sections provided the machinery for executing the bill, so that there should be no dispute as to its fairness. The other sections containing only the formal parts of the bill incident to every enabling act, I cut them off with my scissors from a printed bill before me. The first twelve sections are in my own writing. In the thirteenth section, under the usual clause stating that the following shall be the fundamental conditions of admission, there were words requiring a submission of the constitution to the people. That I did not observe.

When the bill came up for consideration between some gentlemen of the committee and myself, there being no provision in the bill for a second election; there being no safeguards for such a popular election; the bill being incongruous as to that purpose, I suggested the striking out of this clause. It was done, as the report shows. It having got there by accident, it was stricken out at my suggestion, as a matter of course. The principles on which that measure was based were these: first, that all the legal voters of the Territory should have a fair opportunity, free from force or fraud, to elect a convention, and to make a constitution; and then that they should come into the Union under that constitution, without referring either the constitution to the people, or the question of admission again to Congress. It was intended as an assent to admission in advance.

On consultation with friends, among whom was the present distinguished Secretary of State, it was objected that the bill was a novelty; that it was at least necessary for it to come back to Congress for final action before admission. I referred them to Ohio as a precedent. That State was admitted without either submitting her constitution to the people, or bringing it again before Congress. Her enabling act was construed to have given the assent to admission in advance.

But it is objected that the Kansas organic act is but an enabling act. That is certainly true in some sense; but the difference is unimportant to this issue. The Kansas territorial convention act was to every extent, and for all purposes, as lawful, binding, and obligatory on the people of Kansas, as though Congress had passed it. The convention called into existence by it was as much the representative of the people, and had the same powers, as though Congress had passed it. It differed from an enabling act only in this: it bound her people as firmly, but did not bind Congress. Congress, for just cause, could reject this action; whereas, if Congress had passed the act, and the people of Kansas had complied with the conditions, Congress would have also been bound by this action. The two bills now before me illustrate my idea.

The Judiciary Committee reported unanimously, the other day, that Minnesota having complied substantially with the act of Congress, was entitled to instant admission. Kansas makes a proposition which, if it be fair, legal, and just, and if it comes within the rules you have a right to consider, must be admitted too. That is the distinction. Indeed, the territorial act is most binding on the people of the Territory. The people of that Territory have only done what we intended they should do at the last Congress. They took my bill, in the main, as their model. A large majority of this body, including my friend from Kentucky, determined, in the then condition of the Territory, it was best to get the people together fairly in convention, and let the convention make a constitution, and then induct them into the Union. We held then, that the voice of the people could be fairly expressed through the convention, and that we would accept such action as their will. The Territorial Legislature but conformed to this action, and present you to-day the result in a mode approved by us in advance.

Yet they are sought to be turned away, because a faction in the Territory refused to acknowledge the law, and refused to exercise the right to vote for members of this convention, thus fully and fairly offered to them, and that offered upon them by the Governor, and protected in its free and impartial exercise by the military power of the Government.

My honorable friend from Kentucky further objects to this constitution, for the reason that it appears, from an election held on the 4th of January, that there were ten thousand votes against it, and therefore he asserts that it is not the act and deed of the people. This position cannot stand the test of reason or principle, and has already been answered by the principles heretofore established. This constitution was concluded and finished before this vote was taken. It was a nullity. This Territorial Legislature had no more power over it than it had over the constitution of Kentucky. It was a complete act of the people in their sovereign capacity, and was beyond the reach of the Territorial Legislature. Their powers were wholly derived from Congress, and were exhausted with the act calling the convention. Neither the Legislature which called the convention, nor any subsequent, could recall the act or modify or control in any way this sovereign act of the people. It is not a legislative power to control the people in forming a constitution; this is true of State Legislatures, much more of a Territorial Legislature, deriving its powers, not from the people, but from Congress. The case of Iowa is analogous, if sound.

My friend from Kentucky says the Territorial Legislature called a new convention and made a new constitution, superseding the old one after the action of Congress. I will reserve criticism on this precedent for the future. It is sufficient to say this Territorial Legislature did not appeal to that source of power—the people—to control their constitution, but undertook the work themselves. The honorable Senator confounds the powers of a Territorial Legislature over a constitution with the powers of the people over the same subject. Many of the States have never submitted their constitutions to the people. Can their Legislatures do so now? If not, why? How have they lost the power, if they ever possessed it? The whole doctrine is a fallacy, and a dangerous fallacy, subversive of popular rights and dangerous to public liberty. Like

“The fruit
Of that forbidden tree, whose mortal taste
Brought death into the world, and all our woe,”

it runs through all the descendants of the original culprit. But there seems to be a sovereign cure for their polluted, evil bodies. Dip them in the turbid waters of Black Republicanism, and they become clean. Then the last became a good Legislature; the others were bad ones! I admit it was a good Legislature; it was as legal as any of them—no more, no less. But when this constitution was adopted by the convention, all except the clause submitted by them became the will of the people, legally, constitutionally expressed, not to be gainsayed here or elsewhere. On the 21st of December, when that clause was submitted and affirmed, the work was complete: nothing but the power which created could destroy it.

Then it follows, that the vote of ten thousand on the 4th of January was taken without authority, as the President has justly stated. I think my honorable friend was not successful in his attack on that argument. I think it stands on the soundest principles of public and constitutional law. I think that, as well as the masterly exposition of all the events in Kansas concerning the adoption of the Lecompton constitution, by the President of the United States, has really left nothing for me, or for its advocates on that branch, except to repeat those unanswered and unanswerable arguments.

But gentlemen go outside of the constitution. They say again, it is not the work of the people because it was established by usurpation and fraud. I wish to call my friend's attention to a very important branch of this controversy between him and me. He says that the first Legislature was elected by usurpation and fraud, and that that has become history. Who wrote that history?

It is not to be found in the legislative records; it is not to be found in your executive records, unless you call the statements of runaway Governors executive records. They spoke a different language when in power, and this infirmity seems to have been common with Kansas Governors. The first Governor (Mr. Reeder) who went there thought this Legislature legal and fair, until it would no longer subserve his gainful operations. I believe he started a quarrel when they moved the place of sitting from his town to somebody else's town, and then it became an unconstitutional and illegal body! The assertion that the first Legislature was a Legislature set up by violence and fraud, is not supported by history, or by one particle of evidence, and I will show it before I take my seat. I now propose to show to my friend that the minority and the majority, that all parties in the Legislature of Kansas, and Reeder himself, maintained the validity of that Legislature; that it was a fair and honest election, as to a majority of both branches. My friend from Illinois, in one of the ablest reports he ever drew, settled this point beyond all peradventure with reference to the action of the Legislature; and here are his comments upon it, in his report of the 12th of March, 1856:

“So far as the question involves the legality of the Kansas Legislature, and the validity of its acts, it is entirely immaterial whether we adopt the reasoning and conclusions of the minority or majority reports, for each proves that the Legislature was legally and duly constituted. The minority report establishes the fact, by the position that the Governor's certificate was conclusive, and that he granted certificates to ten out of the thirteen Councilmen, and to seventeen out of the twenty-six Representatives, who finally held their seats, which was largely more than a quorum of each branch of the Legislature. The majority report establishes the same fact, by the position, that after going behind the Governor's certificate, and carefully examining the facts, they confirmed these same ten Councilmen and seventeen Representatives in their seats, and then awarded the seats of the other three Councilmen and nine Representatives to the candidates whom they believed to have been legally elected at the general election on the 30th of March.”

That is the evidence furnished by the Legislature of Kansas. That is the evidence furnished by the minority and majority of her first Legislature. All the rest of the seats were unanimously affirmed but the seven. The election took place in March; the Legislature did not meet until July, and there were but seven seats contested. The Missouri invasion started here and went back to Kansas. There of course it was dressed up with all the art of the masterly agents who were employed in the business. The same fact was established by a report in the other House, the official document to which I will turn my attention. In both the reports of the majority and minority, even of this roving commission that was sent out to Kansas to get up materials for the presidential campaign of 1856, and who brought back enough of it, perhaps too much—more than the people believed at all events—facts are given disproving this allegation. Compare the tables there given. Thirty days before the 30th of March, according to the organic act, a census was taken. Reeder was Governor, and was required to take the census of the actual residents of the Territory in order to divide the Territory into election districts. The census showed sixteen hundred men from southern States, one thousand from free States, and two hundred from foreign countries. There were nearly two thirds, a majority of six hundred southern men, at the first election by the official report for the purpose of dividing the Territory into election districts. Then the legality of the elections was admitted by both committees in the Legislature and by Governor Reeder himself. Yet my friend says it is history that this was an invasion. The acts of Reeder while Governor, the official action of all parties in the Legislature, are to be set aside before that great history contained in Black Republican reports and stump speeches.

If the speech of the honorable Senator from New York [Mr. SEWARD] is history, then frauds are historically established. If the speech of the honorable Senator from Massachusetts [Mr. WILSON] is history, then also are they thus established. The statement I make is to be found in the copy of the official records before me. This census was taken before a single disturbance in Kansas, taken under the organic act by the first Governor, for the legitimate purpose of dividing

the Territory into election districts according to population, and therefore is freer from suspicion or taint than any other evidence on this subject. The men sent by the Massachusetts aid societies had not got in there; and my friend now gives the authority of his great name to a charge which I say is entirely unsupported by a particle of evidence, but is disproved by the strongest and most irrefragable documentary evidence admitted by all sides of this question.

Mr. CRITTENDEN. Will my friend allow me a word of explanation?

Mr. TOOMBS. With pleasure.

Mr. CRITTENDEN. I did suppose, sir, that it was generally recognized fact that the history of Kansas was sufficient to show that that election was carried by votes intruded upon the soil of that Territory. I have not been very diligent in tracing the memorials or the written evidences of these matters; but I relied chiefly on the fact that I had conversed with some gentlemen, and I consider them as reliable as I claim to be myself, who told me that they were of the invading party themselves; that they went themselves and acted a part in it; and that the truth was as stated.

Mr. COLLAMER. Does the Senator from Georgia know the number of votes cast at the March election, 1855?

Mr. TOOMBS. The document is before me, but I have not turned to the point.

Mr. COLLAMER. It is in the same document. When the census was taken in February, there were some twenty-seven hundred inhabitants, and there were about six thousand votes cast in March.

Mr. TOOMBS. Yes, sir; there was a great increase.

Mr. COLLAMER. A sudden increase on that day.

Mr. GREEN rose.

Mr. TOOMBS. Excuse me, if you please.

Mr. GREEN. I desire to ask one question of the Senator from Kentucky, with the permission of the Senator from Georgia.

Mr. TOOMBS. I prefer not. Ask me questions, if you wish; but these cross fires sometimes lead to difficulties. I will answer any question myself.

Mr. CRITTENDEN. I would very much prefer that the Senator would allow the question to be put.

Mr. TOOMBS. I am quite sure that in any statement my honorable friend made he was perfectly sincere. I know he was. I did not doubt it then or now. Hence, I say, I felt constrained to examine his statement, as it was going forth under the sanction of one so well entitled to the credit and confidence of the country. It is due to the cause, it is due to truth, it is due to this great question, that any inadvertence of my friend, or want of examination on his part, should be corrected. That men went from Missouri to the polls in Kansas, in not exceeding seven districts, is what I stated before to have been alleged, when the first Legislature met; but I do not understand that a foray on one ballot-box is to overturn an election in a State or Territory. My friend may have seen a hundred who said they went to the polls and voted illegally. It is often the case everywhere; but to the great majority of the Council and Assembly the certificates were granted by Reeder, and their right to seats was affirmed by the Legislature, by all sides unanimously. Ought not that to outweigh the history of partisans, who at the time the Legislature met, and before the seven contested seats were decided, unanimously affirmed the legality and rightfulness of the election of two thirds of the Council and Assembly? There was no dispute about them. They did say that in three, four, five, six, or seven districts, there was a dispute. It went only to the election of seven men. That was the whole extent of the invasion, as then contended. I say that up to the decision of this question by that Legislature, there cannot be found in the records of Kansas, nor in the memorials to this House for relief against it, even an allegation that in more than seven districts the polls were wrongfully and fraudulently usurped; and in these the allegation is not supported by satisfactory evidence. I have a strong opinion, from a former very thorough investigation of this point, that no man was molested or pre-

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vented from voting. Massachusetts men and Missouri men, who claimed to be residents, on an intention to reside there, did go into the Territory, and vote in some of these seven districts, and that is about all the foundation for this cry of usurpation.

The Legislature stands by as rightful a tenure as this Congress. It is alleged that the people were intimidated in different parts of Kansas at these elections. It is well known that more men have been killed in one day, at a single ballot-box, in the old States of this Union, than have ever lost their lives in all the disturbances in Kansas. These events have been distorted and magnified by telegraphs and by newspaper articles for the purpose of deceiving the great masses of the honest people of this country. I stand upon the record made by the Executive, made by the Legislature of all sides, and that must stand as long as the social fabric stands. Whether it was true or false, it is the only test. They must decide their own elections. You might as well call the government of Kentucky a usurpation. Some men say that the government of Maryland, or at least of Baltimore, is a usurpation; but when it is decided by proper authority to be valid, it must stand. I have nothing to say about it. I only speak of these allegations. Probably if statements of partisans, if statements of an unsuccessful party can make history, three years hence that will be history. It will have as good a right to be. The outrage at Louisville will be history too; and a sad history will it be for future patriots to contemplate.

I have shown that a majority of the first Legislature of Kansas were lawfully elected; were not usurpers; were not fraudulently elected. Then, at the second election, the Abolitionists having failed to get power, gave no votes. Who is to blame for that? Our opponents find it difficult to get rid of this Legislature, because only one side voted. It was elected without a contest, under the authority of the organic act, and was sustained by every department of this Government. Its authority was as fully recognized as that Legislature which elected my friend from Kentucky. This Legislature has not even been assailed by any person here or in Kansas, except upon the ground that it was the successor of what they please to term the Missouri usurpation. This Legislature called the convention in obedience to the expressed and nearly unanimous will of the people. They adopted a constitution, submitted a single provision of it to the people; and my friend from Kentucky attacks this election on the authority of the President of the Council and the Speaker of the House of Representatives which succeeded them; protesting against the principle that the evidence of a man holding office is official evidence. I would inquire, what was their evidence? They say about three thousand of the votes cast on the 21st of December, in favor of this clause, were, in their opinion, fraudulent. I looked into their evidence. My friend takes it in trust from a bad source, the minority report of the Senator from Vermont. He did not give all the facts.

Mr. CRITTENDEN. It is in Judge Douglas's report.

Mr. TOOMBS. Very well. I believe the statement is in both minority reports; yet it is bad authority in both cases. Now, because these men said so, it is to be taken as true! They give their reasons for saying so. They do not pretend to say that they were there, or that they have any other evidence except their general acquaintance with the country; and that evidence my friend accepts as official evidence of a fact!

Mr. CRITTENDEN. I am very sorry to interrupt my friend, but I wish to be understood.

Mr. TOOMBS. Certainly.

Mr. CRITTENDEN. I quoted from what I saw reported to the Senate. I supposed that was as good authority as could be, and it is without contradiction.

Mr. TOOMBS. Certainly.

Mr. CRITTENDEN. I quoted from that as the expression of the opinion of these officers, who say that they were well acquainted with the country.

Mr. TOOMBS. That is their statement.

Mr. CRITTENDEN. I went on further, and I referred to the report made by the board of com-

missioners since appointed by the Legislature of that Territory to investigate those frauds, which report I had here, and which report shows that the Speaker and the President who made that statement were only mistaken in this: that there were seven hundred more fraudulent votes, according to the evidence, than they supposed there were. If I recollect their statement, they supposed there were two thousand fraudulent votes. The evidence before this board of commissioners shows that there were twenty-seven hundred.

Mr. TOOMBS. I was commenting, before I got to that point, on the testimony which my friend took from this statement. I had no doubt that he intended to give the facts correctly, and I want to show him that this statement is not supported by the evidence. I have looked into the matter. In the evidence of those two gentlemen, the Speaker of the House and the President of the Council, they give, as their means of knowledge, the fact that they knew the country. I do not think that is very good evidence. I submit to him, as a question of evidence, the utter worthlessness of such statements as evidence of a fact.

Now, Mr. President, let us group the allegations presented by my friend from Kentucky to sustain the charge of fraud, which he has so broadly and, as I think, incautiously made, against the Lecompton constitution.

The first allegation is, that the original Legislature was elected by fraud and force. This I have already disposed of; and besides, if it were true, these events happened nearly three years before this constitution was made; and the convention that made it was not even called by this Legislature. Secondly, he avers that there were great and flagrant frauds perpetrated at Oxford, in Johnson county, at the election in October last. These were transactions affecting the present Territorial Legislature, and were perpetrated, if at all, before the Lecompton constitution was either made or promulgated, and had no legal or other connection with that instrument. Thirdly, that there were frauds on the 4th of January, in the elections for State officers. These transactions were after the constitution was ratified and proclaimed, and could therefore no more affect its validity than frauds in Kentucky at a State election could invalidate their constitution, and are probably cognizable before another tribunal, and not by this body or the Territorial Legislature. Does it need argument to repel these unfounded charges against this constitution? If there be solid objections against this constitution, they will be equally good against any constitution that ever shall be made by the people of Kansas. If it be a ground of exclusion now, it will be a perpetual ground of exclusion; and if they are solid objections, truly founded on fraud, how can the Senator remove or cure them by a resubmission of the instrument to the people? The taint of fraud, if it truly exists, cannot be thus washed out. My friend cannot stand on these grounds; they are unfounded and untenable, and must fall before the public judgment, and his own calmer consideration of the question. None of these allegations affect the vote of the people to call the convention that made the constitution. None of them affect the validity or legality of the second Legislature which authorized the convention. None of them the vote by which the pro-slavery clause was adopted. All these are legal, valid, untainted acts, and stamps the character of this Lecompton constitution, and rescues it from these unfounded assertions. I know the honorable Senator has been deceived by the statements of persons who have objects far different from his own. They care nothing for these alleged frauds. With him they are reasons for his conduct; with them they are but pretenses, fraudulent pretenses, to cover up their hostility to the original Kansas act, that great measure of constitutional right.

As further evidence of the fact that this constitution does embody the will of the people, I am referred to Governor Walker and ex-Secretary Stanton, and the present Legislature of Kansas. These gentlemen are willing but competent witnesses, standing upon no better footing than ordinary men, and they are indebted to my courtesy for refraining from further criticism of their conduct in Kansas. They state their opinion against the truth as uttered by the ballot-box; and this Le-

gisature asserts that nine tenths of the people are against it. I am obliged to them for furnishing this most indisputable proof of extravagance and want of reliability of their statement. They admit about twenty-five hundred legal votes to have been cast on the 21st of December; and if their statements are true, there must be about twenty thousand votes against it. No election in the Territory has ever shown as many as fourteen thousand votes, counting fraudulent as well as legal; therefore their statement is necessarily untrue. They usurped jurisdiction in an election over which they had no control, which greatly weakens their general credibility; and their atrocious and unconstitutional enactments, when they got power, have marked them as better fitted for the criminal's box than the witness stand. Against all these mere statements, I oppose and offer to the Senate the highest evidence known to our laws, of the popular will—that will as legally uttered through the ballot-box.

I leave this branch of the subject—though not exhausted, my strength is nearly so—and invite your attention to a single remaining point in the argument of the honorable Senator. I deeply regretted to hear him say that he disapproved the repeal of the Missouri restriction; that the prohibition of slavery north of 36° 30' had the sanction of great and patriotic names, among whom he enumerates, as one preëminently entitled to the credit of that measure, the name of one of Kentucky's greatest, noblest sons, and one of the brightest ornaments of the Republic—the name of Henry Clay. I am quite sure that it must have escaped the recollection of my friend, that in 1850 that great statesman, in his place in this body, corrected that popular error, and expressed his surprise that so well established a fact should so long have been misunderstood by the public. I quote, sir, from memory, but his speech is fully reported in the Globe. He then stated that he was not the author of that measure; that it originated in the Senate while he was a member of the House. It was proposed by Mr. Thomas, of Illinois, and he did not know that he ever voted for it; but he did not doubt his concurrence with his southern friends on that occasion; but that he had no agency whatever in originating or carrying it through either branch of Congress. These are substantially the facts; and this unjust, unequal, and unconstitutional legislation cannot lighten its sentence of condemnation by the authority of that illustrious statesman. In 1850, after thirty years' trial, he condemned and repudiated it, and placed the legislation of the country on the very basis that the Kansas act maintains and upholds.

My honorable friend regrets its fall; regrets its just condemnation by Congress, the country, and the people. From the bottom of my heart I rejoice at it, and renew my gratitude to the Ruler of men and of nations that it has fallen: it was a delusion and a snare; it was the mother of slavery restriction in the Territories, of discord, of strife, of injustice, of wrong. Let it perish forever. I do not now wonder that I should differ with my friend on this question; it is the legitimate result of the overthrow of the Missouri restriction. What was the effect of this repeal upon his constituents and mine? what upon all the people of every section of the Union? It simply restored our common property to the equal common enjoyment of its joint owners. We asked no advantage, and sought none, over any portion of the Union. We demanded that all the people of all the States should not be forbidden by an act of Congress to enter the common domain with their families and property of every sort, but should be protected by our common Government in the peaceable enjoyment of their rights, until the new Territory should be strong enough to take upon herself the duties and burdens and rights of a sovereign State, and then that she might adopt such domestic institutions as she might prescribe in her constitution. We restored to the Kentuckian, in common with all of his brethren of the Union, the long-lost right to carry his slave, on these terms, into all the Territories of the Union. This edict of exclusion was overthrown, and his countrymen and mine were thereby restored to their just rights in the Territories. This is her right, sir; is Kentucky prepared to surrender it? No, sir, never, never! I know her history; it is one

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of which she may be justly proud. I know the valor, the prowess, the intrepidity, and the lofty patriotism of her sons. I know, too, that, like my friend's, her devotion to the Union is deep and abiding. I have sometimes feared that her danger was that she might "love, not wisely, but too well;" that her worship of it bordered on idolatry. Yet for all this, she will maintain her just and equal rights in the Confederacy; and if these shackles are again put upon her stalwart limbs; if she is deprived of these rights restored to her by the repeal of the Missouri restriction; if she shall be degraded from her high position of equality in this Union, no State will feel more keenly, or resist more firmly this great wrong, than Kentucky. Nor will the anguish of her great heart be lessened by the consciousness that the fatal blow is struck by one of her own beloved and cherished sons.

"Keen [will be] pangs, but keener far to feel,
She nursed the passion which impelled the steel."

Mr. President, there is another test of the nationality of this policy, to which I would, for a few moments, invite your attention. Not alone in the South, whose interests are mainly and more immediately affected by it, but throughout the non-slaveholding States, from the Atlantic to the Pacific, its supporters are to be found, men who, rising superior to local and sectional prejudices and passions and influences, brave, dare all for the public weal.

At the head of this noble column of patriots stands the President of the Republic. Having reached, by the voice of his countrymen, the loftiest pinnacle of honorable ambition, at once the reward and testimonial of a long, able, brilliant, and patriotic career in the service of his country, surely none can doubt the disinterestedness of his counsels, or the purity of his motives. His sands of life have nearly run out. At home and abroad, in the Cabinet and in the Senate, he has won unfading laurels for himself and shed luster over the annals of his country. His political record is made up; it is submitted to the future, to time, and to truth; full of years and of honors he can now only seek to make a record that shall stand the scrutiny of the Judge of all the earth. Looking at this question at his lofty eminence, above the clouds and passions which obscure the mental vision of the active combatants, he supports this great policy which I have reviewed, and decides this measure to be wise, just, and necessary to the peace of the Republic. By his side stands another venerable patriot from the same section of the Union, who has passed the ordinary period of life allotted to man; one whose life has been patriotically devoted to the service of the country, to the practice of virtue, and the pursuit of truth. He, too, gave his voice and his vote against the Missouri restriction, and gives his support to the measure before us. Connecticut and Pennsylvania supply two other able, upright, and distinguished sons in the Cabinet to enlarge this patriot band and to vindicate these measures.

Many of the truest, firmest, and most able defenders of this policy are to be found on this floor and in the other House, among the representatives of the northern Democracy. Shoulder to shoulder with ourselves have these noble patriots struggled through long years against the rage and fanaticism of the common enemies of equality in the Territories and the independence of the States. From the beginning of this conflict, with unswerving devotion to their convictions, to the right, they have struggled on, defying prejudice, passion, and the torrents of defamation with which they have been assailed. A large majority of the northern Democracy in Congress voted to strike this restriction from the statute-book, and thus restore the rights of their southern brethren. Their enemies tauntingly point out to them daily the wrecks and ruins of the political hopes of their comrades, who have fallen in this great constitutional battle. Every wave of this fanaticism, to arrest which they have thrown themselves with such heroic and patriotic virtue into the breach, sweeps away some of them. Others will share the same fate; yet the noble remnant are undismayed. Standing for the right, upholding the Constitution, they present a spectacle of moral sublimity which challenges the admiration of friend and foe, and has no parallel in ancient or modern times.

This is true heroism. It deserves a monument more durable than brass. While some of their comrades have fallen honorably in the contest, others less fortunate have deserted and swelled the advancing hosts of the enemy, and left the lessened band to bear the brunt of this great contest. Their intrepidity, their courage, their patriotic devotion to their principles have risen with the occasion. Every increase of danger has been met with a sturdier, a more defiant courage. They have thrown their banner on the outer walls; and, neither chagrined by treachery, nor disheartened by desertion, nor overawed by numbers, they display a magnanimity and courage as great as the occasion, as prolonged as the conflict. All honor to this noble band of patriots!

Mr. CRITTENDEN. I propose to occupy a few moments to correct a mistake which I believe is rendered necessary by the remarks of my friend from Georgia. I have listened to him with great pleasure, and have cause to thank him for much that he has said.

I knew, sir, that Mr. Clay was not the author of the Missouri compromise; I knew that he did not draw the bill; but I knew, from his own declarations in conversation and in his speeches, that he did approve and concur in the passage of the bill. He gave it his sanction. He thought there was nothing unconstitutional in it. I have been brought up in the opinion that it was not only constitutional, but one of the most beneficial acts that had ever been passed by the Congress of the United States; that it had produced more of good than all the tariff laws or all the revenue laws that had ever been passed. It produced you, sir, a revenue of peace and good will among the people of the United States, and that is above all tariffs. Whatever other sanctions it may have failed in the names of the great men who supported it at that date, it has received abundantly from the people of the United States for the thirty-odd years it remained upon the statute-book, and for that number of years, in respect to the territory which it embraced, it gave us peace. It was for that I valued it, and for nothing else.

This opinion was adopted by me more than thirty years ago, perhaps without much examination; it had grown up as a fixed fact in my mind that that compromise formed one of the most beneficial acts of legislation that it was ever the good fortune of this Congress to pass. I have often, falling for a time into that common error to which the gentleman has alluded, and ascribing it to Mr. Clay, as its great author, rather than to any mere actual manual part he had in the work, extolled him for it; and, as I said yesterday, it was one of the claims in the opinions of the people which entitled him to the noble denomination of pacifier of his country. Sir, I have not been able to cast away that impression. I admit the Supreme Court to be the great arbiter, as the gentleman claims; and while I differ from it, I do not the less admit its constitutional and sovereign power in all the matters that come within its jurisdiction, and the chances are that any one is in the wrong who differs with it. I admit all that; but yet there are some things we cannot yield up. Our own convictions we cannot yield. We may obey, and yet disbelieve. I entertain the opinion now, that I have entertained for forty years—I am sorry to give so long a date to it. Since the passage of the Missouri compromise act, (not quite forty years ago,) I have always thought it was a constitutional and beneficial one. But I acknowledge the duty of obedience and submission to the decisions of the Supreme Court of the United States. I acknowledge that its decision, within the province the Constitution has assigned to it, is just as conclusive as your decision and mine within the limits to which we are confined.

My friend has said that I seem disposed to give no confidence whatever to the action of any of the Territorial Legislatures of Kansas, until they fell into the hands of the Black Republicans. Certainly he cannot suppose that that furnishes any ground of particular favor or attachment in my mind. I considered it merely as the Legislature of the Territory, the actual Legislature. How its members may be divided in politics I do not know, nor do I care; nor was it at all material for my purpose. It is enough for me that it is the Legislature of the Territory, and that it appointed a vote

to be taken upon this constitution on the 4th of January. The vote was taken, and the result was as reported to us. I have heard nothing to impeach that vote, nor any single fact alleged against it. The result of it was a majority of ten thousand against the constitution. Certainly, those ten thousand have, at least, as good a right to be claimed against it, as the six thousand returned as having voted on the 21st of December have to be counted in favor of it. That was my object. It was to show that there was a majority against this instrument; and, assuming all this action to be equally legitimate, the members of the convention had no more right to order a vote to be taken by the people on any part of the constitution, it seems to me, than the Territorial Legislature had to order an election to be taken on the whole constitution. Both proceeded from organized, recognized bodies, one the Legislature, the other the convention. When, therefore, the common appeal is made to us and the constitution is brought before us, it seems to me that we ought equally to take into consideration both these facts. Furthermore, I adverted to the evidence going to show that, from the six thousand in favor of the constitution, there were many spurious and fraudulent votes to be deducted.

Mr. President, I acknowledge that forms are not only useful, but in many cases necessary. I agree that if, at an election, two thirds of the people stay away from mere apathy or negligence, the votes of those who do act and do vote must be effectual and must control. I agree, also, that the return is a necessary form, and that the revision of that return is subject only to the particular authority appointed for it, and when that is done there is an end of the case, there being no further tribunal to whom we can appeal; but I supposed and argued that, when this constitution was presented before us, the supreme power, now called upon to recognize the validity of these acts, called upon to recognize what was the will of the people in respect to them, we have a right to look to all the evidence, as well to that which is furnished in form, as to that which impeaches the formal papers on the ground of fraud.

I have spoken on these conclusions, and I shall act on them in voting against the acceptance of this Lecompton constitution. My friend, I have no doubt in perfect sincerity, regrets that my conclusions have forced me to this course; but I have followed my conclusions, and I mean to do my duty as I understand it.

Mr. President, I am not wanting, I think, in those feelings of our nature which connect us with our neighbors. Although we have a common country to look to, and ought to have a common patriotism which would embrace the whole, our natural affections and our natural feelings bind us with those with whom we are more immediately associated; to whom we are more nearly assimilated in manners, customs, and institutions—ay, peculiar institutions. I am not wanting in these sympathies; but what is my duty, as one belonging to a particular section, by his nativity and by his residence—what is my duty when a great question of this sort comes up? What is my duty to those neighbors to whom, by natural sympathies and affections, I am most bound? Is it not my duty, in this House of our common councils, to give the best counsel and advice I can; or am I to inquire whether this is to be regarded as a sectional question, and follow whatever course is indicated by a majority of its sectional members? Is it not rather my duty to my friends to give them the best counsel I can? I want to see the South, for instance—to apply this matter to her—always right. How am I to accomplish that? By advising always what my best judgment thinks is right, and by endeavoring to prevail upon her to take that course. Is not that my duty? Is not that my duty to my common country? and more especially is it not my duty to those with whom circumstances more nearly connect me? I have done that. I should have been gratified if the South had taken the same view of this subject that I have. I am sure she would have lost nothing by it. The question of slavery is not in the case. I think there is not one gentleman here who entertains the hope that Kansas can ever be really a slave State. If it be, it must only be for a little moment—a little, feverish moment—filled up with strife and angry

controversy. No gentleman here believes it will really and permanently be a slave State. There is nothing, then, to be gained by the South, as I regard the subject. The element of slavery is only thrown in for the purpose of arousing feeling on the one side or the other. It is no real element in the question before us, because no man has any hope that Kansas will be a slave State. We learn that from every source. The hope of it was disclaimed before the Kansas-Nebraska bill was passed; that view is now turned into conviction by all that has occurred since; and there is nobody who deceives himself so much, or would deceive the South so much, as to tell her that Kansas will be made a slave State by the adoption of this constitution, except, it may be, for that miserable and feverish period to which I have alluded, and which would be filled up in a struggle that could serve only to exasperate parties, and make the contest there more fierce than it has been.

If the South could have taken the view of the case which I have taken, it seems to me it would have been better for her. Then she would say, "the South scorns to take advantage of the little circumstances that might enable her to press her claims upon a reluctant and unwilling people—press the claim to impose slavery against their will; we snatch at no such accidental advantages; we see that the question is determined partly by climate, and more certainly and decisively by the majority of the people; the determination has been against slavery; we stand up in our justice, and in our honor always untarnished, and constituting our great strength as Commonwealths and States; and we say we will make no strife about it." If this element of slavery could be discharged out of the case, put out of our minds, put out of our debates, and we could look at this question singly, with an eye to the fairness of the instrument before us, and to the evidence which leads to the issue whether it is or is not the will of the people, I think there is none here who would be willing to give his sanction even for a moment to an instrument the existence of which, in respect to its fairness, was at all questioned.

Why need we of the South be impatient and anxious to hasten the admission of Kansas into the Union? Whatever constitution you put upon them now will not last; but you will have two Senators immediately from there. Should the South be in a hurry to have two more such Senators here as you would now get from there? But these are small matters. If the South could view this subject as I do, if they could have looked at this constitution, and the circumstances from which it had its origin, and those which attend it, as I do, they would have acted the very part which I have indicated; they would take no ignoble advantage; they would occupy no ignoble position of standing upon little points and nice estoppels. No, sir, the South would say—it is in her character, in her spirit, to say so—we go upon great principles, and we go for the truth. Occupying that position, the South would have stood where I have been proud so often to look upon her, and regard her as standing.

Sir, gentlemen of the South who differ with me, misunderstand me very much if they suppose that it is my purpose by these remarks, in any degree or in any way to impugn the integrity of feeling and motive by which they are now actuated. They view this question differently from me, and their course is made to conform to their convictions. I have performed my duty as one of the Senators belonging to the same section; I have given my opinion and my advice, and whether that advice be regarded or disregarded, I cannot be accountable for the result. I have given you the reasons why I have taken the course which I have indicated. Whatever course others choose to take, I hope it may turn out contrary to any anticipation of mine, to be most beneficial and most advantageous to the great interests of the people of the United States. I lament, only, that the course which I have indicated, and which I am pursuing, is not that which a different view of this subject would have led every Senator from the southern States of this Union to pursue. I think it would be the proudest and the noblest position for the South to occupy. She has no truer or more faithful son than I am. I can desert nobody, for I am

enlisted under nobody. I am here the Senator of the State of Kentucky. I came here with the purpose, not of acting the character of a party man, or a partisan. I thought I had grown old enough to rid myself of the misconceptions and the prejudices that belong to the partisan; and my pride and ambition, when taking my seat here, were that I should now be able to act rather the part of the patriot than the partisan. I am a true son of the South, and I am a true citizen of the United States, one and all, inseparable and indivisible, now and forever. That is what I am. But whatever fate may betide this or that measure as to the South, no man wishes her better. May the sun shine forever upon her head, and prosperity fill all her borders. The duty which I owe to her, and to my common country, I intend to perform in no pride, in no feeling of affectation, in no feeling of superiority of judgment—God forbid—but simply because I believe it to be my duty to the South and my duty to the whole country and to my own integrity and my own convictions.

MR. BELL. Mr. President, it is my misfortune to be obliged to address the Senate at this late hour of the day, upon a subject of so much importance, or not at all. After the speech of the honorable Senator from Georgia, [Mr. TOOMBS,] I shall be compelled to trespass longer upon the indulgence of the Senate than I had hoped would be necessary. He has made issues, he has stated facts, he has promulgated doctrines and arguments from his seat in the Senate to-day, which no man can pass unnoticed who takes the views I do of this question. He says, in substance, that it is a question of union or disunion; it is no sectional question, but one which concerns the whole country—the North as well as the South. He has proclaimed to the Senate that he has estimated the value of the Union, and that, upon a proper occasion, he is ready to state that value. With him it is a myth, a false idol; and he fears that the State of Kentucky, which my honorable and eloquent friend [Mr. CRITTENDEN] so well represents, has worshiped and loved, not wisely but too well. He has brought the question to a point—an issue which it becomes us all to ponder. I have been fearful that there were such calculations as he has suggested, founded on the possible result of this question; but I had before no evidence of it. It was only a vague dread, an impression resting on my mind; but now we must meet it as an admitted fact. It is now placed before us openly, boldly, directly; and therefore I feel called upon to notice it in every aspect to which he has pointed.

I do not mean to go into an estimate of the value of the Union, nor of the consequences which would flow from its destruction; but I mean to go into an investigation of the question before the Senate—the proposition to admit Kansas into the Union under the Lecompton constitution—to show that the rejection of this measure would not be a fit pretext to be adopted by the South for the purpose of leading to that final issue to which the Senator from Georgia has alluded. It concerns not only the Senate, but the whole country, to look at this question in a different light from that in which the honorable Senator from Georgia has presented it. I am tempted by these considerations to depart from any regular course of argument, such as I had prescribed for myself, in order to notice at the outset some of his most unfounded statements in regard to the true facts of the case. I do not mean any personal disrespect to the honorable Senator; I do not mean to say that he has willfully presented a false view of the case; but many of his statements of fact are wholly unfounded.

I propose to go back to the original organization of the territorial government in Kansas—a part of the history of the Territory which I had intended to pass over, with a summary statement only of such facts—undisputed facts—as might be found chronicled in the public journals, without going into any minute investigation of them; but I now feel compelled to look more carefully into all the details of the subject, by the exigencies and importance of the question, by the demands which I consider the country has on every man having a seat here, to be well informed upon every material point connected with the subject. Like the honorable Senator from Kentucky, I do

not mean to refer to the organization of the territorial government in Kansas for the purpose of justifying the party who have opposed that government, for I mean to become the partisan of neither side of this controversy. I have considered from the very origin of these difficulties—the passage of the Kansas-Nebraska act—that there has been more of party interest and necessity than of any possible good to the country connected with this whole movement; and when I say this, I do not mean to impugn the motives of the honorable Senators who disclaim any such party interests. They may be unconscious of them. I therefore give them credit for their disclaimer.

I shall not at this time enter into a full statement of the facts connected with the election of members to the first Territorial Legislature, which took place in 1855, or with the armed intrusion of the people of the western borders of Missouri into Kansas, at that election. The Senator from Georgia says that the statements which have been made on this subject are entitled to no credit. He ridicules them so far as they are made on the authority of individuals engaged in that invasion, as it has been called, as the idle boasts of vain-glorious individuals. I admit that, as a general rule, little credit is to be attached to such statements; but I will lay before the Senate some facts that are founded upon that sort of record which the honorable Senator says will last as long as society lasts. I shall refer to authentic, well-confirmed facts, proved at the time of their occurrence by cotemporary evidence—testimony taken by men of credit and good character. I refer, in this particular case, to the investigations of members of Congress, and of both sides in politics, commissioned and authorized to investigate.

Now, what are the most material and prominent facts connected with the election in 1855? I may possibly go into a fuller statement of the circumstances of that election before I close my remarks. A census was taken under a provision of the organic law of Kansas one month before that election, and the returns showed that there were twenty-nine hundred and three qualified voters then in the Territory of Kansas. The election came on, and six thousand three hundred and seven votes were polled, as appeared from the poll-books. Of the twenty-nine hundred and three returned on the census list, only eight hundred and ninety-eight voted. Where were the remainder of the twenty-nine hundred and odd reported in the census returns? As the honorable Senator from Kentucky has spoken of interviews he has had with gentlemen connected with this transaction, I will tell what I have learned from similar sources. I understand that the census returns were, in part, made out in the border counties of Missouri; and it appears from an examination of the poll-books, that two thousand persons, and upwards, whose names were on the census lists did not vote in the election. We cannot draw any certain inference whether the two thousand who did not vote were free-State men who were driven from the polls, or how otherwise. I only state the simple fact, that but about nine hundred of them voted. The argument on the other side is, that of the twenty-nine hundred persons whose names were on the census returns, seventeen hundred were emigrants from the southern States, and but twelve hundred from the free States. We do not know what proportion of the nine hundred who voted were free-State men from the northern States, or what portion came from the southern States; nor is it material to decide that question, for only about one third of the whole voted. The honorable Senator has spoken of intrinsic evidence; he has appealed to what he considers the monumental record that is to last as long as society lasts. I appeal to it, too.

MR. TOOMBS. Do I understand my friend to say that of the twenty nine hundred voters recorded on the census only nine hundred voted?

MR. BELL. Yes, sir.

MR. TOOMBS. I assure my friend he is mistaken, for my friend from Vermont [Mr. COLLAMER] said in his report that six thousand voted. His complaint was that they doubled.

MR. BELL. I see that my friend from Georgia does not understand the question at all, and I was utterly astonished when I heard him in his

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statement passing over or denying the principal facts of the case.

Mr. COLLAMER. Will my friend from Tennessee allow me to say a word?

Mr. BELL. It is needless; I know the facts; but I will allow the Senator from Vermont to say a word, as he was alluded to by the Senator from Georgia.

Mr. COLLAMER. The names of the six thousand who voted are all on the roll; and when you count those names, there are but eight hundred of them who are on the census list.

Mr. TOOMBS. I do not understand that.

Mr. BELL. Does the honorable Senator from Georgia say he has examined the names?

Mr. TOOMBS. They have been examined by a friend of mine.

Mr. BELL. Is it not a fact that only about nine hundred of those whose names were on the census list voted?

Mr. TOOMBS. I think that is a mistake.

Mr. BELL. I can refer to the evidence.

Mr. TOOMBS. What evidence?

Mr. BELL. To the report of the names that were polled, compared with those on the census list.

Mr. TOOMBS. That, I think, you will find not to be a record. That is the difficulty.

Mr. BELL. But it shows the returns of the election, and is evidence.

Mr. TOOMBS. There is no such record in the world. Let me explain to my friend what I mean. The census that was taken was a record. As for all these accounts, by which it is made to appear that only eight hundred of those who were on the census list voted, they do not appear by any lawful authority—by any record. Has any person, on whom the Senator from Tennessee relies, ascertained the fact?

Mr. BELL. Yes, sir.

Mr. TOOMBS. It was never ascertained by any authority.

Mr. BELL. The committee of investigation of the House of Representatives ascertained it.

Mr. TOOMBS. I do not consider their report a record; but perhaps I do not understand what a record is.

Mr. BELL. Perhaps I do not know what a record is. I refer to all the record that could exist in such a case, and I say that this fact is stated on sworn evidence. Will that pass for evidence? It was testimony taken by authority of the House of Representatives, by members of both political parties.

Mr. TOOMBS. If it is evidence in itself, it is evidence for the purpose—not otherwise.

Mr. BELL. The clerk of the committee of investigation compared the names on the census rolls with those on the election return lists or poll-books, and of the twenty-nine hundred returned on the census rolls in February, 1855, he could find only eight hundred and ninety-eight names recorded on the poll-books or list of voters returned in March. Now, the question is, where did the other five thousand and odd votes that were polled on the 30th of March, 1855, come from? From over the borders, of course, or made up by forged returns. These are facts, as well authenticated as facts of the kind could be—not in ancient times, not in the dark ages, but in the present day of light. These facts were ascertained under the supervision of a joint commission of partisans on both sides of the question. I do not desire, however, to pursue this inquiry now, for I mean to resume it at another time. I will merely say here, that at this election, by these means, every member of the Council and House of Representatives elected, except one, was of the pro-slavery party. Governor Reeder set aside the election certificates in several cases, on the ground of irregularity or fraud, and new elections were ordered; but in those cases where free-State men were returned elected, the Legislature rejected their claims to sit as members, and admitted those who had been set aside by the Governor. The pro-slavery party thus secured the whole Legislature, except one member, as I understand the history of the case.

Mr. TOOMBS. That is true.

Mr. BELL. The honorable Senator admits that to be true. It was all a one-sided affair, and made so by the five thousand and odd voters in

that election not found on the census returns. The honorable Senator in the course of his speech appealed to the judgment of the impartial—to such as have no connection with either of the parties in Kansas—and asked what would be their decision upon this question? I appeal to the same impartial tribunal. That Legislature was elected chiefly by voters from Missouri; by citizens who had no right, by the organic law, to interpose in the election. It was irregular, and unlawful in every sense of the word.

But, sir, I am anticipating my argument. I thought, however, that I would travel out of my course for a few moments, in order to show that the honorable Senator from Georgia was totally mistaken as to the facts that I considered fundamental in coming to a right understanding of this question. I saw that the honorable Senator from Kentucky, not having looked into these points as carefully, perhaps, as I had done, was utterly amazed, he seemed to be confounded, when his friend from Georgia gave such a totally different version and coloring to the facts connected with the election of 1855, from what he had understood.

The honorable Senator from Georgia has furnished me, in the course of his argument, with some points for consideration for which I thank him. He tells us in substance, and plainly enough, that it is victory which is now to be contended for. This measure must be carried, now that an issue is made up on it. He has pronounced high and overwrought eulogies on the course of the distinguished gentlemen now at the head of affairs in relation to this question. I shall attempt to show how far, and with what justice, they are entitled to the eloquent eulogium of the honorable Senator from Georgia; and this I shall not do with a view of manifesting any personal disrespect to those high functionaries. I do not seek, in anything I shall say now or at any time, to detract from the high personal character of those distinguished gentlemen. I am not sure, however, that they have been the bold and undaunted men that they ought to be in the positions which they occupy, at such a time as this, in such a crisis as this, and upon such a question as the present. I fear that they have cowered and quailed before such bold men as the Senator from Georgia, and others who concur with him as to the policy which ought to be pursued in relation to Kansas affairs.

The Senator from Georgia, throughout his speech, seemed to be resolved upon victory, in carrying out all his plans connected with Kansas affairs, whatever consequences may follow; and I am afraid that the President and his Cabinet may have been constrained to espouse this measure under the positive and imperious requisition of such gentlemen as the Senator from Georgia.

I intend, if I have time, to review the Kansas-Nebraska act, and its consequences, respectfully towards the authors of it personally, that the country may learn a lesson from it. I shall not undertake to teach the Senate to what extremes the passions of men may lead them when they once get fully committed to a violent controversy on such questions. It was the passion for victory that carried the Kansas-Nebraska bill through Congress, under circumstances more extraordinary than ever attended the passage of any measure, so important in its consequences, through any legislative body, except, perhaps, in the times of revolutionary France. I do not mean to say the gentlemen were actuated by bad principles, or mischievous purposes; but Senators and Representatives seemed to me to have been so inflamed and exasperated by the fierce collisions of sentiment and opinions between them and their opponents, that their reason was taken captive; they became infatuated, and all their energies came to be concentrated upon one purpose, that of victory. It will be well to contrast the circumstances and results of that measure with the circumstances attending the present question, that we may form some rational estimate of the real value of those principles or objects sought to be established or accomplished by urging this measure through Congress, on the one side, and of the evil consequences which may follow its adoption, on the other. It is more than indicated; it is boldly assumed by some gentlemen, that the rejection of

this measure will be regarded as a decision that no more slave States are to be admitted into the Union, and the consequences which may follow such a decision are pointed to in no unequivocal language.

There is no gentleman here with whom I differ as to the value of the Union of these States, to whom I do not accord honesty and patriotism of purpose. There is simply between us a difference in judgment as to the true interest of this great country; the true interest of the South as well as of the North, connected with the Union. When my attention is invited to the consideration of the advantages and blessings that may follow disunion to the South, I shun the subject as one that is speculative only, and prematurely brought forward. That is a field of inquiry into which I do not propose now to enter. When an issue is made; when a question does arise demanding such an inquiry as that, I shall be ready to enter upon it, and to estimate the value of the Union; but I will not anticipate the occurrence of any such contingency. When the North shall, by any deliberate act, deprive the South of any fair and just and equal participation in the benefits of the Union—if, for example, the Territory now proposed to be admitted into the Union as a State had not been subject to an interdiction of slavery for thirty years—if it were a Territory such as that lying west of Arkansas, by climate adapted to slave labor, and by population already a slave Territory; and if, on an application of such a Territory for admission into the Union as a slave State, the powerful North, without any of the feelings and resentments naturally growing out of the repeal of the Missouri compromise in regard to Kansas, should deliberately announce to the South, "you shall have no more slave States," that would afford a pretext with which the South might with some reason, and with some assurance of the approval of the civilized world and of posterity, seek to dissolve the Union. I know that it is supposed by some that the day will come when the North, in the arrogance of its power, will furnish just such a pretext as I have indicated; and the Senator from Georgia and others have argued this question on the ground that it will come; but I must see it come before I will calculate the value of this Union. I trust that day will never come. I do not believe it will come if the South is wise and true to itself. I would not have the South trundle or surrender any of their rights. I would not have them yield one jot or tittle of their rights; but I would have them make no questionable issues in advance, stir up no strife upon unnecessary abstract questions, having no practical value; but to do always what is just and right upon all questions. When a people or a Territory applies for admission into the Union under a constitution fairly formed, with the assent of the people excluding slavery, I would admit it promptly; and when an application comes, on the other hand, from the people of a Territory who have fairly formed a constitution recognizing slavery, I would insist upon its admission as a slave State. If the North should not agree to this, it would then be time enough to consider of the proper remedy. But I would make no such issue with the North now, and before any occasion for it has arisen; and I regret most sincerely to hear any Senator from the North suggesting that such an issue will ever be tendered from that quarter.

I have been led to make these remarks altogether out of the course of argument I had intended to pursue, by reason of the unexpected speech of the Senator from Georgia on this question; his extraordinary statements and avowals, both as to doctrine and matters of fact. I have felt it necessary, at the outset of my remarks, to meet some of them.

Now, Mr. President, unless this is to be the inauguration of a sort of saturnalia of principle; unless, from this time forth, there is nothing to be considered as established or permanent in this country; unless all the old landmarks are to be removed; unless the waters are to be let out, and all the highways are to be broken up, it would be an easy matter—the most easy task in the world—to demonstrate that, according to all sound principles, there is at this time no application before Congress, with the assent of the people of Kansas, for admission into the Union as a State. I

35TH CONG....1ST SESS.

Kansas—Lecompton Constitution—Mr. Bell.

SENATE.

do not know whether other Senators have thought of the question in that aspect or not.

What is the true doctrine on this subject? I had supposed that there could be no disagreement as to the true principles connected with the rights and powers of the people in forming a State constitution; but since I have heard the speech of the Senator from Georgia, I do not know what principle he agrees to. I say that in no disrespect; but I thought he was particularly wild, shooting *extraflamantia maniamundi*, on those high points of doctrine which he, in some parts of his speech, thought proper to enunciate. Does any person here deny the proposition, that the people of a Territory, in the formation of a State constitution, are to that extent—*quoad hoc*—sovereign and uncontrollable, though still owing obedience to the provisional government of the Territory? Will any Senator contend that the Territorial Legislature can either give to the people any power over that subject which they did not possess before, or withhold from them any which they did possess? The Territorial Legislature cannot dictate any one provision of the constitution which the people think proper to form. Who is prepared to contend that Congress can do anything more in this respect than a Territorial Legislature? It is usual for the Territorial Legislature, when the people desire to apply for admission into the Union, in the absence of an enabling act of Congress, to pass a law providing for the assembling of a convention to form a State constitution. But that is a mere usage, resorted to when Congress has not thought proper to pass what is called an enabling act. What is an enabling act? Nothing more than to signify to the people of a Territory that if they shall think proper to meet in convention and form a State constitution, in compliance with certain forms therein prescribed, to insure a fair expression of the people's will, Congress is prepared to admit them into the Union as a State.

But such an act gives no more power to the people over the subject of a constitution than an act of a Territorial Legislature. But suppose the people, either under an act of the Territorial Legislature or of Congress, meet in convention, by delegates chosen by the people, and form a constitution: what then? Has it any vitality as a constitution? Does it transform the Territory into a State? Has it any binding force or effect either upon individuals or upon the community? Nobody pretends that it has any such force. It is only after the acceptance of the constitution, and the admission of the Territory into the Union as a State, that there is any vigor or validity in a constitution so formed. Before that time, it is worth no more than the parchment on which its provisions are written, so far as any legal or constitutional validity is concerned.

But, upon principle, the people of a Territory, without any act of the Territorial Legislature, without an enabling act of Congress, can hold public meetings and elect delegates to meet in convention for the purpose of forming a constitution; and, when formed, it has all the essential attributes of a valid constitution as one formed in any other way. Many Senators contend that it is the inalienable and indefeasible right of the people of a State at all times to change their constitution in any manner they think proper. This doctrine I do not admit, in regard to the people of a State; but, in reference to the formation of a constitution by the people of a Territory, there can be no question as to the soundness of this doctrine. They can form a constitution by delegates voluntarily chosen and sent to a convention, but what is it worth when it is formed? Nothing at all, until Congress shall accept it and admit the Territory into the Union as a State under that constitution. It is worth no more in that case than in the case of a constitution formed under a territorial act, or an act of Congress; but it is worth just as much.

The honorable Senator from Georgia says that the special message of the President on this subject will stand as a lasting monument of his patriotism, boldness, and adherence to the high principles of constitutional justice and right. I say that, according to the doctrine of that message, the people of a Territory have the right at any time to meet voluntarily in convention, in mass

or by delegates, and to form a constitution; and when so formed, that, in virtue of the same powers of sovereignty over the subject, they can alter or change it, or form a new constitution, at any time before Congress shall have admitted them into the Union as a State, under the constitution as first formed and adopted in convention.

I know that the honorable Senator's argument upon this point was so mixed up with qualifications—such as that this act of sovereignty must be exercised in regular form—that I cannot assert that he has admitted the principle I have laid down; but others have. All agree that no constitution formed by the people of a Territory, whether formed in one way or another, has any validity or binding force, until the admission of the Territory into the Union as a State under it. Then, according to the admitted principle that the people of a Territory have a right to form a State constitution, with or without an enabling act of Congress, or with or without any act of the Territorial Legislature, where is the limitation or restriction upon the power of the people of Kansas to change or wholly set aside any constitution formed by them, at any time before Congress shall have accepted it? Gentlemen say that the Lecompton constitution was regularly and fairly formed, under the provisions of an act of the Territorial Legislature. Let all this be admitted to be true, as stated. What follows? Have the people lost all power over the constitution so formed, before it is accepted by Congress? Suppose the people of Kansas should become dissatisfied with the constitution they first agreed upon, and should desire to change some of the features of it, or to frame a new one, before the one first formed has been presented to Congress; or, if presented, before any action has taken place in regard to it; could not the people, either before the presentation, or between the presentation to and the acceptance by Congress, through the same regular forms in which the constitution was originally formed—that is to say, under an act of the Territorial Legislature—decide to set aside or reject the constitution which had been previously formed, and proceed to form a new one? I should like any honorable Senator to state why they have not ample and complete power over the whole subject until the last moment before the admission of the Territory into the Union as a State; and this upon every principle of sound doctrine and constitutional law known to this country? Certainly they have. Now, take the case of the Lecompton constitution. Admit that it was regularly formed, as gentlemen contend, and that it will not do to look into any frauds nor any contrivances that may have been resorted to in its formation; suppose it to have been formed with all the regularity and fairness that they insist it has; have the people, in that case, so tied up their hands, have they so fettered their inalienable right and power over the subject of their form of government, that they cannot alter, reform, or abolish it; that it must stand as it was originally formed, until Congress shall have passed upon it, accepting or rejecting it?

The idea of the President is, that when a Territory is once prepared for admission into the Union by the formation of a State constitution, the Territorial Legislature has no power over it.

That is not the question. The question is, have the people of the Territory the power over this constitution, and have they exercised it? The Legislature elected in October did proceed to provide for taking the sense of the people in regard to this constitution with the same regularity, and at least as unquestionable in regard to fairness as the original election of delegates to the convention which formed the Lecompton constitution; and the people have decided, by an overwhelming majority, against that constitution.

I say, therefore, that when you come to examine this question on every principle connected with the inalienable rights of her people, announced by the President and his principal supporters here, there is really no application before us for the admission of Kansas into the Union without the assent of the people of that Territory. Nevertheless, there may be such a condition of public affairs as to override all established principles; but it must be a very strong case to do that. It may possibly be that a case exists which may

justify us in disregarding the manifest will of the people of Kansas, and taking this instrument presented to us by the President as the legitimate exponent of the sense of the people of that Territory, and admit it into the Union as a State. But unless such a case of overruling necessity can be made out, I maintain that it is enough to say, in opposition to this measure, that there is no application made to us by the people of Kansas for admission into the Union under this constitution.

Having disposed of this point, as the Senate has already determined that it will take a recess until seven o'clock, I request that, as but a minute intervenes between this and the appointed time for taking the recess, they will do me the favor to take it now.

On motion, the Senate took a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m., and resumed, as in Committee of the Whole, the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. BELL. I regret that the speech of the honorable Senator from Georgia was of such a character and tenor as necessarily compels me to go more into detail on this subject than I had supposed would be proper after the very full investigation and discussion which have already taken place on most of the material points connected with it.

Unless this bill, when it is put to the test of a final vote, shall assume some different shape, I shall be compelled to cast my vote against it; and after what has been said by the Senator from Georgia, I feel it necessary to make a record of the facts of this case, as I understand them—not such a record as I can hope will stand as long as society lasts, in the language of that Senator; but such as I think will stand the scrutiny not only of the present but of future time.

I need say but little in regard to my position in relation to this subject, now or heretofore. I will say, that I may claim to be impartial between the parties that divide upon it. I owe no allegiance to either of them, nor am I swayed by any pride of consistency which some may feel, leading them to support all the measures that may be regarded as part and parcel of the original movement—of the repeal of the Missouri compromise. The honorable Senator from Georgia treated this question as directly connected with the Kansas-Nebraska act of 1854. The contest at this time he regards as involving a principle and policy embraced in that act. I did not believe, after examining that measure maturely and looking at it in all its aspects, that it would ever bring any solid benefit to the South. I never impugn the motives of honorable gentlemen who took a different view of the subject, but I did not believe that it would lead to the permanent establishment of any principle of any practical advantage to the South; but, on the other hand, that it would prove injurious to southern interests. I think so still.

With regard to the present question, I lay down as the basis of my conclusion as to what ought to be done, that the solution of it which promises the speediest termination of this dangerous slavery agitation is the true one. This dangerous agitation has continued long enough. There has been no mitigation of it in the last four years. There have been intervals of apparent repose, but it was just such repose as foreboded increased disorder and commotion. It is time to terminate it.

The question is, what is that solution which promises the speediest and most permanent remedy for these difficulties? Divine that to me, whoever can, and I will follow his lead. How shall we cut this Gordian knot of Kansas politics? Shall we cut it by the sword? Shall we first subdue the rebellious faction said to exist in Kansas by arms, or shall we attempt to unravel this tangled skein by some more peaceful means? The President assures us that the best, and I believe I am warranted in saying, from the language of his message, the only mode by which this dangerous slavery agitation can be quieted, and peace be restored to the whole country, is to admit Kansas under the Lecompton constitution; or, at all events, that to adopt this course will localize agitation, and leave the country and the Halls of

Congress free from strife upon this exciting subject.

The President, furthermore, appears, from the tenor of his message, to consider that Congress is under an obligation, binding it in good faith to admit Kansas under this constitution. He states this proposition in his message, "that the organic law recognized the right of the people of the Territory, without an enabling act of Congress, to form a constitution, is too clear for argument." The assumption then is, that this is a constitution formed in pursuance of authority derived from the organic law of Kansas, enacted by Congress. He adds, that "it is impossible that the people could have proceeded with more regularity in the formation of a State constitution than the people of Kansas have done."

In another passage of his message, he speaks of this constitution as having been "fairly submitted for the ratification of the people." Hence the conclusion, that to reject the application of Kansas to be admitted into the Union under these circumstances, would be a violation of plighted faith. It is also said that such rejection would be justly considered as an outrage upon southern rights and feelings, inasmuch as the only objection that can be taken to this constitution by those who would reject it is, that it recognizes slavery. That is the position assumed by the President and those who support his policy upon this subject, with this addition, that we have no right to go beyond what appears on the face of the constitution, and the official authentication of the public acts and proceedings which led to its formation and subsequent ratification by the people; and that whatever irregularities or frauds may have occurred or been practiced connected with its formation or ratification, are altogether foreign to the question before us; and so of the question which has been raised as to whether a majority of the people of Kansas approve the constitution or not. All such inquiries are repudiated as irrelevant. Such is the issue made up and presented on the part of the supporters of this measure. On the other side, it is said that the Lecompton constitution has been formed in pursuance of no legal authority; that the organic act vested no such power in the Territorial Legislature; that it does not reflect the will of a majority of the people; that great irregularities took place in the election of delegates to the convention that formed it; that the constitution was not fairly submitted to the people for their ratification; and, upon these grounds, they say it would be an outrage on the rights of the people of Kansas to impose this constitution upon them. Now, how are the facts? Has this constitution been formed in pursuance of legal authority derived from the organic act of Congress? This I understand to be the main pillar on which the argument rests, that Congress is bound to admit Kansas under the Lecompton constitution, without inquiry as to the truth of any alleged irregularities or frauds connected with it, or as to whether the majority of the people approve it or not.

I noticed that my friend from Georgia argued the general question to-day on the assumption that that act did give to the people of Kansas the power to form a constitution; but he afterwards said that Congress was not bound to accept the constitution when formed under such authority; though he did contend that Congress would be bound, provided it had passed an enabling act, and the people of the Territory had accepted and acted under it. If Congress would not be bound to accept a constitution formed under territorial authority, derived from the organic law, what is that but an admission that the organic law does not contain the power claimed? If the power is given by the organic law, it is in the place of an enabling act, and would be just as binding on Congress when the people of Kansas accepted it as would be an enabling act accepted by the people of the Territory. With all due deference and respect to the opinions of the honorable Senator from Georgia and the President of the United States, I think there is no pretext for the assumption that the organic law of the Territory conferred any such power as is claimed. If it did, the organic laws of Utah, New Mexico, and Nebraska, conferred the same power on the people of those Territories; for the language is identical in all

those laws. The Kansas organic law, after describing the boundaries of the proposed Territory, proceeds to declare that—

"The same is hereby erected into a temporary government by the name of the Territory of Kansas; and when admitted as a State or States, (if divided,) the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission."

The organic laws of New Mexico, Utah, and Nebraska contain similar provisions, without the variation of a word.

I make no account of the other clause in the Kansas organic law, which provides that its true intent and meaning was, to leave the people to form their domestic institutions in their own way; because I agree with the Senator from Georgia, that that gives not one jot of power which was not given to the people of the Territories of Utah, New Mexico, and Nebraska by their organic laws. The authority given in those acts to the Territorial Legislatures extended "to all rightful subjects of legislation, subject to the Constitution of the United States." Why was the peculiar language I have adverted to employed in the Kansas organic act? The purpose it has answered we are all well advised of. We know that it answered fully and completely the design with which it was incorporated into the Kansas-Nebraska act. It served to conciliate the support of northern men. It would be a most mischievous doctrine, indeed, if it were true that the organic law of Kansas gave the people the power to form a State constitution when they pleased, without any limitation as to time or population, and to demand admission into the Union as a right, which Congress could not resist without a violation of good faith. According to this construction of the organic law of Kansas, not only Kansas, but New Mexico and Utah, must be admitted into the Union whenever the people of those Territories shall think proper to apply for admission. It might be no great outrage to admit New Mexico at any time; but to admit Utah, with its Mormon population, upon compulsion, would not be so seemingly upon the principle sought to be applied to Kansas. The people of the Territory of Nebraska, though not exceeding probably some four to five thousand in number, would have a right to form a State constitution, and demand admission into the Union now, or as soon as they think proper to form a constitution and demand admission.

The idea that the Kansas organic law confers on the people of Kansas power to form a State constitution, and demand admission into the Union at their discretion, is subversive of every principle that has been considered established heretofore in connection with the admission of new States. Unless we mean to tear up all the old landmarks which have regulated us on questions of this description, it is a heresy which ought to be met at the threshold. Nevertheless, it is solemnly maintained by the President. I think it is sufficient proof that this is a heresy, that the Senator from Georgia, who indorses everything else in the President's message, abandons the President on this point, after he had stated in his message that this point was "too clear to admit of an argument."

Well, sir, to employ the language of the President, it being too clear to admit of an argument that the organic law of Kansas confers no power upon the people to form a State constitution, and there being, of course, no obligation of good faith resting upon Congress to admit that Territory into the Union under the constitution now presented to us, how stands the main question, and upon what principles are we to decide it? Just as all like questions have stood heretofore, when Congress had passed no enabling act, and is to be decided upon like principles of reason, expediency and propriety. The present application of a Territory to be admitted into the Union under a constitution formed without the authority of Congress, is an appeal to the discretion of Congress, which has power to admit or reject, as may be thought expedient or proper, under all the circumstances of the case. The application is open to all exceptions which may be taken to it—to all fair and reasonable objections—as, for example, that the constitution does not reflect the will of the people; that a majority or any respectable minority of them have not been represented in the

convention which formed it; that a strong feeling of discontent and opposition exists among a large portion of the people upon the subject. One object that Congress ought to have in view in such cases would be, to give general satisfaction, to lay the foundation of good-neighborhood feeling among the inhabitants of the proposed new State. Not only should the complaints of the majority be inquired into, but those of a minority also. I do not know of any instance where Congress has admitted a State where there was a respectable protesting minority.

Let us now examine the grounds upon which this application stands, according to the principles I have thus laid down. I am afraid I shall be somewhat tedious, because I propose, at the risk of some repetition of what I have before said, to note all the leading facts and circumstances connected with this subject to be found in the brief and disorderly annals of Kansas. When the Kansas-Nebraska bill was first brought forward in the Senate, in January, 1854, there were probably not over a hundred white inhabitants in the Territory, excluding some few United States troops. As soon as the bill passed, the whole Territory, except the Indian reservations, was thrown open to free competition between the North and the South, between anti-slavery men and pro-slavery men, to settle, by superiority of numbers, whether Kansas should be a free or slave Territory; for, at that time, the popular understanding and interpretation of the Kansas-Nebraska act was, that the people of the Territory were authorized to settle that question by an act of the Territorial Legislature, and before they should come to form a State constitution. To be sure, there was a clause in the organic law that this power was to be exercised, subject to the Constitution of the United States; but the Constitution had been in existence more than half a century, and there had been no judicial interpretation of the Constitution which could lead the people to suppose that they were not fully authorized to decide the question of slavery by a territorial enactment. A considerable portion of the people of the North and East, in resentment of the repeal of the Missouri compromise, and resolving that the South should not derive any benefit from what they considered the wrong inflicted upon them by that measure, in the establishment of a new slave State, resorted to the organization of an emigrant aid society, by which they were enabled to furnish large facilities in money, and in other modes to quicken emigration, with a view to provide a sufficient number of settlers to control the election of members to the first Legislature, which it was supposed would decide the question of slavery in the Territory.

The people in the western counties of Missouri, living in slaveholding communities, and feeling a deep concern that Kansas should not become a free Territory or a free State, formed associations on their part, and adopted such other measures as they thought necessary to secure the ascendancy of the pro-slavery settlers in the election of members to the Legislature. When the day of election came, on the 30th day of March, 1855, many armed companies of Missourians appeared at the polls in most of the election districts and precincts; and where they found the judges of election opposed to their views, by threats of violence drove them away, and substituted others in their place; where they found the judges friendly to their views, they allowed them to remain in the discharge of their duties. The result, without going into further details on that point, was, that every pro-slavery candidate but one was returned as elected. The returns of the census, taken, under a requirement of the organic law, one month before this election, showed 2,903 qualified voters then in the Territory. At the election 6,307 votes were polled. Of the 2,903 whose names were upon the census rolls, only 898 voted at the election. This fact appears by the comparison of the names on the poll-books with the census returns. These facts speak for themselves. Either the census returns were false, or the Free-Soil voters were driven from the polls. But, be that as it may, it appears certain that some four or five thousand Missourians voted at the election, or the returns were fraudulent.

Complaints were made from several precincts

that the election was carried by violence, and Governor Reeder set aside the returns in several cases, and ordered new elections; and in all these cases, except one, Free-Soil candidates were returned elected. When the Legislature met, however, they were all ejected, and the persons first returned as elected allowed to take their seats—so that the Legislature may be said to have been a unit on the slavery question.

That body proceeded to enact a code of laws. No act was passed establishing or prohibiting slavery. The question was not put to a vote in any form, except on the passage of stringent laws for the protection of slave property; and, among others, a law was enacted, making it a felony, punishable by two years' imprisonment at hard labor, to assert, either by speech or writing, or to circulate pamphlets, magazines, or any printed matter asserting, that it was not lawful to hold slaves in Kansas. Test-oaths were prescribed for voters and other regulations for the conduct of subsequent elections, well calculated, if not designed, to enable the pro-slavery party to carry all elections, and to keep the government of the Territory under their control; and they succeeded in that object until October, 1857.

In explanation of, and in justification of, these high-handed proceedings, commencing with the election in March, 1855, it is alleged that a gigantic fraud was committed by the Emigrant Aid Society in attempting, by unusual and violent means, to make Kansas a free State. I have no defense to make of the proceedings of that society; but it is material to state that, upon investigation, I find that before the first election in March, 1855, only one party or company of emigrants arrived in Kansas under the auspices of the society, consisting of one hundred and sixty-nine souls, men, women, and children, and that thirty-seven of them voted at that election. I deplore, as much as any man can do, the spirit in which this Emigrant Aid Society was gotten up. I believe that it tended strongly to promote and foment discord not only in Kansas, but throughout the country.

The Territorial Legislature having passed acts of the character and tendency I have stated, from that time forth, it is fair to both sides to state that the mass, at least much the largest portion of the Free-Soil party, or Abolitionists, as gentlemen, according to their tastes, choose to call them—and no doubt many of them were Abolitionists—avowed their determination never to submit to the authority of the territorial government, nor to yield obedience to its laws. That spirit of resistance and rebellion against the territorial authorities continued to exist to October last.

I trust that I have, so far, given the history of Kansas affairs truly and fairly. I agree with the Senator from Virginia [Mr. HUNTER] that, as a question of duty and public morals, the free-State men ought to have submitted to the authority of the territorial government, and to have waited, like good citizens, with patience, a remedy for their grievances, which time could not fail to bring, or, at least, so long as any hope remained that relief would come in a reasonable time; for, as the Senator from Virginia says, and says truly, whether a government be founded in fraud or usurpation, or not, there is a necessity for some government; no society can endure in a state of anarchy; civil war and bloodshed are worse evils than the endurance of an unjust government for a short period.

To resume my narrative. The second election for members of the Legislature and Delegate to Congress came on in October, 1856. The Territorial Legislature having passed an act in 1855 for taking the sense of the people upon the call of a convention to form a State constitution, at the election in October, 1856, a vote was taken accordingly on that subject. The number of votes polled at that election was about twenty-five hundred, the free-State party not voting. All the votes cast, I believe, were in favor of the call of a convention, and none but pro-slavery men were elected to the Legislature.

I have omitted to state in the regular order of time that the Free-Soil leaders called a meeting of the people in 1855, at which delegates were chosen to meet in convention at Topeka, in September, of that year, to form a State constitution. The convention met, formed a constitution, and applica-

tion was made to Congress for the admission of Kansas into the Union, as a State, under it. The House of Representatives, in 1856, passed a bill to admit Kansas into the Union under that constitution, but it was rejected in the Senate. What the motive was to this proceeding on the part of the Free-Soil party may well be supposed to have been, as it is alleged it was, to be relieved from the unjust legislation of the territorial government.

The Topeka constitution has been stigmatized as a revolutionary movement. If a government had been set up under it, it would have been so, undoubtedly. But, though there have been two elections of a Governor and members of the Legislature under that constitution, yet no government has been put in operation under it; though I have no doubt that some of the more desperate leaders of the party which formed this constitution were prepared to take that step, and would have done so if they had not been overruled by the more moderate portion of their followers. The Senator from Virginia [Mr. HUNTER] took no notice of the formation of the Topeka constitution, except to ridicule it as General Jim Lane's production.

I am not sure that he was warranted in treating it with so much disrespect, when the President put forth the doctrines to be found in his special message upon the subject of the right of the people at all times to change their form of government; unless you deny to the people of a Territory a right which you concede to those of a State in that respect, which would be contrary to the principle of popular sovereignty so strongly maintained by the authors of the organic law of Kansas.

The Legislature elected in October, 1856, met in January, 1857, and, in conformity with the vote of twenty-five hundred of the people in the preceding October, they passed an act providing for the election of delegates on the 15th of June to a convention to meet in the following September. Governor Walker made his appearance in the Territory in May. He published an address to the people of the Territory, which was declared to be in conformity with the views of the President and his Cabinet. In that address he assured the people of his determination to use every means in his control to prevent all disorder and violence at the election to be held on the 15th of June, and earnestly advised the free-State party to go to the polls and vote for delegates to the convention, warning them that, although he would use all his influence to have the constitution, when framed, submitted to a vote of all the *bona fide* inhabitants, and had no doubt that it would be so submitted, yet he had no authority to dictate that course. By the act of the Legislature providing for the election of delegates to the convention, the most obnoxious of the test oaths prescribed by her first Legislature was repealed, and a census was directed to be taken, and a register made of the qualified voters in each county, which was to be the basis of the apportionment by the Governor of delegates among the several election districts into which the Territory was divided, and also the test of a right to vote in the election. One objection to going to the polls, as stated by the free-State party, was, that of the thirty-eight counties of the Territory, including Arapahoe, in which there was no population, there had been no register made of the qualified voters in nineteen of them, as the law required, and that no census had been taken in fifteen of those nineteen, and that, as a matter of course, the people in those counties could not vote. Governor Walker and Secretary Stanton confirmed this statement, and the fact is indisputable. I do not see what could be a greater or more fatal irregularity in getting up a convention to form a State constitution. Sir, one half the counties of a Territory left unrepresented—allowed no voice in the convention! Is that no objection to a constitution formed by a convention so constituted? The Senator from Georgia passed this irregularity over as a matter of slight or no consequence. It had, he said, been satisfactorily answered and accounted for. Where is the explanation or justification to be found of this gross irregularity? Upon what evidence does it rest? I have seen or heard of none which does not appear to me a mere pretense—an evasion. To say that some free-State men in some one, two, or three of

those counties refused to be registered, and threatened the officers with personal violence if they persisted in the discharge of their duties, was a sufficient reason for taking no census and making no register at all in nineteen counties, appears to me to be preposterous. When gentlemen talk of there being no irregularity in forming the convention I must believe that they have not examined into the facts connected with the subject. It is alleged that the population in the nineteen neglected counties was small. In many of them that no doubt was so. But still, after deducting the nine thousand two hundred and fifty-one legal voters returned on the register made out in the other nineteen, judging from the number of votes polled in October, 1857, and again in January following, there cannot have been less than three thousand legal voters in the neglected counties. Thus it appears that the sixty delegates to the convention were elected by the nineteen counties in which registers were duly made out; while not a single delegate was voted for or elected in the other nineteen counties of the Territory. Governor Walker, in one of his letters to Secretary Cass, states that in some of the neglected counties the people made out a register on their own authority, and elected delegates to the convention; but they were not allowed seats on the ground that their election was irregular. And the further significant fact is stated by him that in the election of October, 1857, more votes were cast in three of the neglected counties than were given to the twenty-eight delegates who formed the Lecompton constitution.

But I am departing from the order of my narrative. The election of the 15th of June for delegates to the convention was held. The free-State party did not participate in it, assigning, as reason for their refusal to do so, besides the one I have just mentioned, that they had no confidence in the officers who were to hold the election, and the opinion given by Governor Walker, that any constitution which might be framed would be submitted, for ratification or rejection, to a vote of all the people in the fall, whether they voted at this election or not. At this election, when it may be presumed the pro-slavery party put forth their whole strength, only twenty-two hundred votes were polled—less by three hundred than the vote polled in October, 1856; but the loss may be fairly accounted for by the exclusion of the pro-slavery voters in the nineteen counties in which there was no register.

The convention met on the 5th of September, but adjourned to a day in October, as it was understood, to await the result of the territorial election fixed for the first Monday in that month. Governor Walker had given the strongest assurances of his purpose to use all the means in his control to preserve order and prevent violence at that election. Conventions were called, nominating candidates on both sides. On the one side, they were called National Democratic candidates; on the other side, free-State candidates, or, if you please, Abolition candidates; it is no matter by what name they were called. By that time two thousand regular troops had arrived in the Territory, sent at the earnest request of Governor Walker, who stated that this was the only mode of preserving peace and preventing bloodshed. He stationed them at different and the most exposed points, on election day, to prevent inroads from Missouri, or any other disturbance at the polls. The result was, that the free-State party proper cast some seven thousand six hundred votes, and the national Democratic party, composed of pro-slavery men and such of the free-State Democrats as united with them in the election, polled some three thousand seven hundred votes. It is material to state that Ransom, the candidate for Delegate to Congress nominated by the national Democratic party, was Free-Soil in his principles. Altogether, there were upwards of eleven thousand votes cast in that election, after rejecting some twenty-eight hundred votes found to have been fraudulently returned; sixteen hundred from the famous Oxford precinct, and twelve hundred from McGee county, in which no poll was opened. These are all strong facts, but the Senator from Georgia can see nothing in them. That Senator asks for the evidence by which these alleged frauds were proved. He said that Governor Walker and Secretary Stanton were

not entitled to any greater credit than common witnesses, and by courtesy alone did he concede them that. He said they traveled over the country, looked about, and came to the conclusion that so great a number of voters could not be there. This was the sort of evidence upon which his friend from Kentucky held his immense fabric of fraud and unfairness. Sir, not only did Governor Walker and Secretary Stanton examine the matter, but others of undoubted integrity have confirmed the existence of the frauds alleged. A census has been taken, and forty-nine is returned as the number of residents in the Oxford precinct.

Mr. WILSON. There are forty-three voters in the precinct of Oxford, according to the actual census returns.

Mr. BELL. There could not be many in that county, because the Shawnee Indians own nearly all the land. How many are there in the whole county?

Mr. WILSON. Three or four hundred voters in the whole county.

Mr. BELL. I have examined the proof, but I cannot retain all the facts in my memory. The Oxford returns were rejected by Governor Walker on the ground of irregularity in the returns. Singular as it may seem, he appears to have considered it necessary, to justify his interposition, to find out some irregularity in the certificate or return, although he was convinced from the first that the return was fraudulent. Well might the eloquent Senator from Kentucky exclaim that fraud seems to have become native to the region of Kansas, and to claim the privilege of being a sort of established institution there.

The result of the October election was, that nearly every member elected to the Territorial Legislature was a free-State man.

The convention reassembled in October, according to adjournment, and formed the constitution which is now before us. When the fact transpired that the convention had not submitted the whole constitution to a vote of the people, and that the question of slavery alone was to be submitted, and that in a form and under the restriction of a test-oath which would prevent the free-State party from voting, such a commotion immediately arose as threatened to lead to bloodshed and civil war. In this condition of affairs, acting Governor Stanton, as a means of averting such a calamity, called an extra session of the Territorial Legislature. That body, when assembled, passed a law for taking the sense of the people upon the constitution recently formed, on the 4th of January last—the day fixed by the constitution for an election of State officers and members of the Legislature under that constitution. The 21st of December last was appointed by the convention to take a vote of the people upon the slavery clause of the constitution in this form—"the constitution with slavery," "the constitution without slavery." There were six thousand seven hundred and ninety-three votes returned as cast on that day—six thousand two hundred and twenty-six for the constitution with slavery, and five hundred and sixty-seven for the constitution without slavery. The remarks of the honorable Senator from Kentucky in regard to that election were justified by the circumstances of the case. Votes enough were returned in favor of the constitution to overcome any majority that had ever before been given in the Territory. There had been eleven thousand and odd votes given in the October election, and it was arranged to show a vote to exceed one half that number. It is well established by a commission appointed to investigate the subject under authority of the Legislature, that two thousand seven hundred, or nearly one half the six thousand and odd votes returned as having been cast on the 21st of December in favor of the constitution were fraudulent; and about an equal number returned as polled for State officers and members of the Legislature on the 4th of January last. In the vote taken by authority of the Territorial Legislature, on the 4th of January, on the Lecompton constitution, there were ten thousand majority against it. The Senator from Georgia says that on the same day there were over ten thousand votes cast for State officers and members of the Legislature under the constitution; and that to sustain the fairness of the votes against the constitution the joint vote should

have been twenty thousand. I must conclude that on that point the honorable Senator from Georgia made his statements altogether in the dark, and at random, in regard to the true facts and circumstances attending the votes taken on the 4th of January. He asks the reason why these ten thousand claimed as a majority vote against the constitution did not vote in the election for State officers and members of the Legislature. The explanation must be obvious to all those who pretend to know anything about recent events in Kansas. A convention was called by the free-State party to decide whether they should vote or not in the election for State officers and members of the Legislature, on the 4th of January. It was contended that if they voted it would be taken as a ratification of the constitution, just as the President now construes the vote actually given in that election by a portion of that party. This view being taken by a majority, the convention came to a resolution not to vote; but after the regular convention adjourned the minority got together, and, after considering the question fully among themselves, decided that it was best to make an effort to carry these elections; and those who chose—more than half their party—voted under the recommendation of the minority of the convention.

I believe that no attempt has been made, from any respectable source, to cast a doubt on the genuineness of the vote cast against the constitution on the 4th of January last. The result of that vote shows, incontestably, that there must be a majority of at least four or five to one, of the people of Kansas, against this constitution.

I have now narrated the most important facts in the history of Kansas affairs, which have any material bearing upon the question before the Senate, and upon which we may rely in deciding whether this constitution should be accepted or rejected. These, however, are not the only material facts connected with the case—I mean facts calculated to show whether it is expedient, just, or politic to admit Kansas with this constitution. Assuming it as a point that cannot be contested, that a large majority is opposed to the constitution, what are the further facts connected with this subject material to be noticed? Governor Walker declares to you that a large majority of the people of Kansas are determined to resist the organization of a State government under this constitution. Mr. Stanton expresses the same opinion. The people themselves tell you the same thing through their Territorial Legislature. Resolutions have been adopted by that Legislature pledging their fortunes and their lives in resisting this constitution. But there are some facts that speak louder than words. The President has now under him two thousand troops in Kansas; and he expresses the hope that when this measure shall pass, he may be able to withdraw them. Why has he not withdrawn them before? He tells us why. It is not considered safe to do so. When and how long after the adoption of this measure, before he will consider it safe to withdraw the troops from Kansas? Of course, after the people of Kansas shall, voluntarily or by force, have yielded to the authority of this constitution. It may take twice two thousand troops to force this constitution on a people of whom such a large and determined majority are opposed to it; and who have shown, by their obstinate persistence in opposition to the territorial government up to a late day, that they are of a character and cast of men that we may justly apprehend will continue their resistance. They say that no State government shall be organized under this constitution if it be accepted by Congress. I know it is calculated that the friends of law and order, and the natural tendency to reaction after all great excitement, will induce submission. The result may still be civil war; but I trust they will submit.

But, sir, I am not yet done with the evidences in my possession to show the true state of affairs in Kansas. More than fifteen months ago the leading pro-slavery men in that Territory abandoned the idea of making it a slave State; and I desire to go a little into detail on that point, because I know that, if this measure be rejected, it will be said in some quarters of the South, nay, the idea is already artfully propagated, that a slave State can be established permanently in Kansas if the meas-

ure now before the Senate should be adopted. The Senator from Georgia said to-day that his friend from Kentucky only had the evidence of Governor Walker and Secretary Stanton as to the frauds alleged to have been practiced in Kansas; and who are they? Those gentlemen, he said, did nothing from the time they went to Kansas until they were taken out of it, except to violate the Constitution of the United States, the organic law of Kansas, and to break down the Administration that had sent them there. Those statements confirm me in the impression that the Senator from Georgia has made his entire speech with but very little knowledge of the state of things in Kansas. Will he recognize the name and authority of Dr. Stringfellow, who, for the first two years of the existence of Kansas under the territorial government, was the very soul of the pro-slavery party—the Speaker of their House of Representatives during the first two Legislatures. What is his opinion? I have no direct authority to speak for him, but am told that he has published a letter, which is to be found in one of the public journals, stating that since July last he has abandoned all hope of making Kansas a slave State, and considers it idle to make any further effort to effect that object. Will the Senator from Georgia recognize the name and credit the statements of such men as Dr. Tebbs, a leading and influential upholder of the pro-slavery party in Kansas, while there was any hope of success?—of A. W. Jones, who traversed the South to obtain recruits to sustain the pro-slavery cause in Kansas? If the Senator ignores the authority of these names, will he respect that of General Whitfield, so well known as the former Delegate from Kansas in the other House? Will he please to point out a single pro-slavery leader in Kansas, unless it be John Calhoun, the surveyor general of the Territory, who now maintains that Kansas can be made a slave State? Will they point out a single pro-slavery leader, who has been in that Territory from the first, who did not concur with Governor Walker and Secretary Stanton in their views and in their policy in relation to Kansas affairs? Of the twenty pro-slavery journals in Kansas, all but one approved the policy of Governor Walker. They agreed that it was idle to attempt to make Kansas a slave State at any time since January, 1857, the time Governor Geary left the Territory. If the Senate will bear with me, I will read a few passages from a slip that has been placed in my possession, taken from the press of the Washington Union. I am informed, on authority that I can rely, if any question is made about it, that the publication of the letters which are copied in this slip was suppressed by a member of the Cabinet, and I do not know but by the President himself. These are the prefatory remarks of the editor of the Washington Union:

"The following letter, addressed to a gentleman in this city, has been handed to us for publication. We cheerfully give place to the letter for the purpose of removing any erroneous impression which may still linger in the minds of some of our southern friends in regard to the present feelings, sentiments, and position of the pro-slavery men of Kansas. Mr. Tebbs, the writer, is widely known and universally respected. He is a Virginian by birth, a slaveholder, and is one of the early settlers of Kansas. He has been a member of every Legislature since Kansas became a Territory; and it is scarcely necessary for us to add, that in each instance representing a very decided pro-slavery constituency. His radical views on the slavery question have rendered him peculiarly obnoxious to the Black Republicans of the Territory."

Then comes the letter of Mr. Tebbs, from which I take this extract:

"Now, sir, how can it be that Governor Walker has done so much, as is charged, to abolitionize Kansas? If Kansas is abolitionized it has been done by the pro-slavery party, and not by Governor Walker, for they had adopted this policy long before he had entered the Territory. But every one did man will see at a glance, and must admit, that neither Walker nor the pro-slavery party have done it; but the simple fact that more anti-slavery men than pro-slavery men have gone to Kansas, whether from interest, natural or unnatural causes, it matters not, they are there. But I will not anticipate events or hazard predictions. Let the great principle of popular sovereignty be fairly and honestly carried out. That is all I ask."

Let me also read an extract from a letter of General Whitfield to the editor of the Union, dated Washington city, September 2, 1858:

"I have seen the letter addressed by Dr. Tebbs to a gentleman in this city. His letter fully and fairly represents the condition of parties in Kansas, both before and after the advent of Governor Walker. And I have been perfectly astonished, upon my arrival here, to find the crusade from

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the South upon Governor Walker, charging him with an attempt to 'abolitionize Kansas.' It required no action from Governor Walker to make Kansas a free State. Its doom, if it is fixed, was fixed long before Robert J. Walker ever entered the Territory.

"I repeat again, sir, that, knowing Dr. Tebbis well, and knowing him to be thoroughly posted upon Kansas affairs, I indorse fully his views and conclusions as expressed in his letter to you."

Dr. Tebbis makes this further statement in the letter from which I have just read:

"That in January, 1857, four or five months before Governor Walker arrived in the Territory, the pro-slavery party held a convention of all the members of the Legislature and of delegates from every county in the Territory to discuss the condition of parties, and leading pro-slavery men deliberately declared it as their opinion that the pro-slavery party proper was in a hopeless minority."

The convention to which I have just alluded concluded that it was no longer worth while to attempt to form a slave State in Kansas. When a convention was held, in July last, to nominate candidates for the October election, over which Judge Elmore, one of the largest slaveholders in the Territory, presided, the same opinions were announced. Not only that, but, from the date of January, 1857, the position was taken by the leading pro-slavery men that the constitution to be formed by the delegates to be elected on the 5th of June should be submitted to the people; and if not, that it ought to be rejected by Congress. General Whitfield himself said, in a speech made last summer, that it ought not to get ten votes in Congress, if it were not so submitted.

I have adduced the testimony furnished by the letters and verbal statements of the early and most influential pro-slavery leaders in Kansas, to show that the views I have presented of the actual state of things in that Territory do not rest exclusively upon the information furnished, or the opinions expressed, by Governor Walker and Secretary Stanton. I was, myself, under the impression last spring and summer, that Governor Walker, as well as the President and his Cabinet, was looking more to party and political objects than the support of any particular interests the South could have in the management of Kansas affairs; and it is due to that gentleman, whose course has been so harshly denounced in this debate, that he should be vindicated and sustained by a reference to the course and policy of leading pro-slavery partisans, upon whom no shadow of suspicion rests, as to their perfect fidelity to the slavery cause in Kansas. It appears now, incontestably, that long before Governor Walker arrived in Kansas, and even before the advent to power of the present Administration, the idea of making Kansas a slave State had been abandoned by those leaders who had the deepest interest in the question, being slaveholders themselves. The utmost they had any hope to accomplish, by the conciliatory policy adopted in the convention held on the second Monday in January, 1857, and again in the convention held in July following, so far as the interest of slavery was concerned, was to protect the right of property in the slaves then in the Territory. Governor Walker, in his letter to Secretary Cass, dated 15th July last, states that "It was universally admitted here (Kansas) that the only question is this: whether Kansas shall be a conservative, constitutional, Democratic, and ultimately free-State, or whether it shall be a Republican and Abolition State?"

After it became known in Kansas that the Administration had changed its policy, and particularly after the increased exasperation of the free-State party, which ensued upon the promulgation of the Lecompton constitution, I learn from a well informed and reliable source, that a large proportion of the slaves have been sent out of the Territory; and that of the two or three hundred there a year ago, not more than one hundred remain—some say not exceeding fifty.

It is a most striking and remarkable feature in the present status of this question in Kansas, that it is not the slaveholders who are most active and forward in keeping up this controversy against all hope of making Kansas a slave State, but political adventurers, chiefly office-holders or office-seekers, who have not the slightest interest in the questions beyond the expectation of some personal benefits. Henderson, who is implicated in the perpetration of election frauds, is, I am informed, a special mail agent; Calhoun is surveyor general of the Territory, and McLain his

chief clerk. Others I might name, who are only seekers of office. I fear Lmay have done General Whitfield, who is an office-holder, an injury by quoting him as authority in support of the policy of Governor Walker. The Senator from Missouri, [Mr. GREEN,] in his opening speech, announced that he had seen a telegraphic dispatch, stating that he had been notified by the free-State party to leave the Territory. I hope that is not true; and as there has been no confirmation of the statement, I conclude that there was no foundation for it. The danger to which I may have exposed him lies in another quarter. I hope he has had the prudence to abstain from taking any part in this question since he was informed of the President's present views, which would expose him to executive vengeance.

My friend from Florida [Mr. MALLORY] said, in his able speech the other day, that it would be difficult to persuade the people of the South that if this constitution be rejected by Congress, it will not be upon the ground that it recognizes slavery. That is also the opinion of the honorable Senator from Georgia, and others. Unless it be that these honorable Senators want some immediate pretext for a movement in the South, I advise them to investigate this question more fully than they seem to have done, before they conclude to make the rejection of this measure, should it be rejected, a *casus disjunctionis*. We are told that it will be difficult to persuade the people of the South that any other objection exists to this constitution except that it recognizes slavery, and these opinions are avowed in the face of accumulated frauds and irregularities connected with its history, and though it is clear that four fifths of the people of Kansas are opposed to it.

It will not do for these gentlemen to say that there is no record, or other satisfactory proof, to show the frauds and irregularities alleged against the Lecompton constitution, or of many other statements made by the opponents of this measure in relation to the state of things existing in Kansas. The supporters of this measure in the Senate and in the House of Representatives have obstinately persisted in voting down every proposition to investigate and take proof upon the contested questions of fact; and I take it for granted that this course would not have been persisted in, unless it was understood that the facts would turn out to be as they have been charged.

If I have not wholly misconceived and misstated the material points in the history of Kansas affairs which preceded the formation of the Lecompton constitution; if I have not misrepresented the facts connected with its formation; if I am not wholly mistaken in the views I have presented of the existing state of public sentiment in Kansas in relation to this constitution, is it becoming the character of the national Legislature to accept this instrument as the organic law of the new State which is proposed to be admitted into the Union?

Is it fit, is it becoming the Senate of the United States, to stamp this constitution, with all its attendant circumstances, with their approval, and send it to Kansas to be abided by or resisted to blood by the people there? Surely, sir, there ought to be some great and overruling political necessity existing in the condition of affairs to justify such a proceeding. The President, I understand, from his special message, to say that such a necessity does exist. He insists that in no other way can this dangerous slavery agitation be terminated, and peace be restored to the whole country. He insists that, if Kansas shall be admitted into the Union under this constitution, this sectional controversy will, at all events, be excluded from the Halls of Congress; that the agitation upon this subject will be localized, and confined to the people whom it concerns. This is no new conception; such an experiment has been made before. The country has already had the benefit of a great lesson upon this subject, if it will only profit by it. If I may venture to trespass on the patience of the Senate, I propose to sketch the history of that experiment and its results. I think it will be found rich and abounding in suggestions as to the probable consequences of the renewed experiment proposed to be made, in localizing slavery agitation in Kansas.

Four years ago, when it was proposed to repeal the Missouri compromise—to adopt the principle

of non-intervention, and to concede to the people of the Territories the right to settle the question of slavery in their own way—it was said by the advocates of the measure that as soon as the principle of it came to be understood all agitation and discussion upon the subject of slavery in the Territories would be localized—excluded from Congress—and the country would be left in undisturbed repose. So boldly and confidently were these views maintained that the whole southern delegation in Congress—Whigs and Democrats, with seven or eight exceptions, together with many Democrats from the free States—came into the support of the measure. How were these bold predictions verified? In less than one month of the time during which the Kansas-Nebraska bill was pending in Congress, nearly the whole North was in a flame of resentment and opposition. Old men, of high character and great influence, who had for twenty years opposed the policy and designs of the abolition faction in the North, suddenly became its allies and coadjutors. Thousands of the best citizens at the North, who had exerted all their energies to repress all opposition to the execution of the fugitive slave law of 1850, became suddenly converts to free-soilism. The religious feelings of whole communities became frenzied. The pulpit was converted into an engine of anti-slavery propaganda, and hundreds of thousands of sober-minded and conservative people at the North, who had never countenanced sectional strife on the subject of slavery, evinced that they had thrown off their conservatism, and were ready to array themselves under the banner of any party leader or faction to check the progress of the South in what they considered its aggressive policy.

After that demonstration of opposition at the North, but little more was said in debate of the tranquilizing character of the measure. But its most influential supporters from the South, becoming inflamed and irritated by the fierce invectives with which the measure was assailed, both within and out of Congress, became, in their turn, reckless (apparently at least) of all consequences, and seemed only bent on victory—on obtaining a triumph by passing the bill! It was in vain that they were admonished that they were adding largely to the abolition faction at the North; that they were increasing the free-soil element of political power in that section. They admitted no distinction between Abolitionists and Free-Soilers, and denounced all at the North, who opposed the bill, as Abolitionists and foes to the South. Some gentlemen declared that the screams of the Abolitionists were music to their ears. It was idle to warn men, in such a tempest of passion, that, instead of sowing the seeds of peace, as they had promised, they were sowing dragons' teeth, that would spring up armed men. So intense did the feeling become on the subject, that some southern members of Congress, who had gone into the support of the bill on the idea that the Missouri restriction act was a violation of the treaty with France, and who would not have listened for a moment to the admission of aliens to the right of suffrage in the Territories, lost sight of these views under the influence of the furor that was gotten up among the friends as well as the opponents of the measure; and they became even more determined champions of the bill when these grounds of their original adhesion were entirely swept away—one by the rejection of the Clayton amendment, and the other by the Badger proviso—than they were at the outset. There were, however, a few of the supporters of the bill who to the last contended that the intemperate demonstrations of opposition at the North were but the ebullitions of temporary excitement, which would subside as soon as the equitable and just principles of the bill should be exhibited in their practical operation in Kansas. On what flimsy grounds that delusion was indulged, and how soon and under what circumstances it vanished, I need not recount. The recollection of every patriot must still be painfully impressed with them. It is enough to say, that soon after these principles were put in operation in Kansas, disorder, anarchy, and civil war, ensued in rapid succession. It required the strong arm of the Government of the United States, and the interposition of the military force, to sustain the territorial govern-

ment; and even now, after the lapse of four years, we still find that the presence of a military force is necessary to maintain peace. So much for the effect of that measure on Kansas and the country. How has it been in Congress? Need I ask that question? Has not the subject of slavery in the Territory been the absorbing subject of our thoughts and discussions at every session of Congress since the passage of the Kansas-Nebraska act? And as for the character and temper of the debates upon this subject, have they not, in asperity and fierceness, far exceeded those of any antecedent period of our history?

Seeing that the principles of non-intervention and popular sovereignty established by the Kansas-Nebraska act had not been successful in repressing slavery agitation and sectional controversy, the friends of that measure appear, in the last resort, to have invoked the Supreme Court to interpose its ermine to stay the fratricidal strife; and that august tribunal, the last stay and hope of the Constitution to preserve the balance of justice even amid the storms of dangerous and powerful factions, has plunged into the vortex of political and sectional controversy. But that high tribunal, with all the advantages of the respect, veneration, and confidence which it has justly enjoyed for sixty years, has not been able to stem the tide of sectional controversy, which still rolls onward and threatens to sweep us on to a fatal catastrophe.

The President tells us in his special message that every patriot had hoped the Kansas-Nebraska act would have put a final end to the slavery agitation which for twenty years "convulsed the country and endangered the Union." That statement is not quite fair. If he had gone back thirty-seven years he would have included the Missouri compromise. Every patriot hoped that that measure was a final settlement of all difficulties in regard to the Territories then belonging to the United States. If the President had adverted to that other period, 1849 and 1850, when there was another slavery agitation that convulsed the country and endangered the Union, he might have said with perfect truth, that every patriot had hoped that the compromise measures, then adopted, would put a quietus upon slavery agitation. The great men of both parties, the distinguished statesmen of the country at the period of 1820 and 1850, realized by their wisdom and patriotism the expectations of the great founders of our system, who anticipated difficulties on this subject. So important was the promised exemption from future slavery agitation held out by the compromise measures of 1851 felt to be by the people, so highly appreciated and hailed with such joy, that in 1852, when the two great parties of the country met in convention to make their platforms and nominate their candidates for the presidency, both felt compelled, by public sentiment, to solemnly pledge themselves to abide by, or acquiesce in, the compromises of 1850, and never again to countenance agitation on the subject of slavery in any form whatever. Each of the nominees of the two parties, General Pierce and General Scott, in his letter accepting his nomination, pledged himself that, if he should be called to the Presidency, he would faithfully conform to the policy to which his party had pledged itself upon this subject. So deeply was the interest diffused throughout the country in favor of maintaining the compromises of 1850, that, though there was not a breath of suspicion against General Scott's fidelity and sincerity in maintaining the cause of peace, yet, because it was supposed that he had some prominent friends who had not that object so much at heart, that slight ground of distrust had the effect to turn the election in favor of the more trusted candidate of the Democratic party, General Pierce—more trusted for the devotion of his friends to the maintenance of the compromise of 1850—by the overwhelming number of two hundred and fifty-two electoral votes to forty-two, given to General Scott; while the distinguished Senator from New Hampshire, [Mr. HALE,] who allowed his name to be run on the Free-Soil ticket, received in the whole Union a popular vote of only one hundred and fifty-seven thousand, and not a single electoral vote. That, however, is not the strongest evidence of the feeling that was manifested in regard to the compromise measures of 1850. In

the elections which came off in the fall of 1852, and in the succeeding spring, one hundred and fifty-nine Democratic members were elected to the House of Representatives, giving the Democratic party a majority of eighty-four in that House.

Mr. HALE. And I lost my election to the Senate the same year.

Mr. BELL. Yes, sir; and others, then members of the Senate, as well as yourself, might never have been returned to the Senate again but for the passage of the Kansas-Nebraska act.

When Congress met in December, 1853, the Democratic party had the large majority in the House of Representatives before stated; and among the minority there were only three or four members who desired to further agitate the question of slavery, while in the Senate there were only five Free-Soilers, all told; so effectually had the Free-Soil movement in the North been put down by the compromises of 1850.

The Senator from Georgia said to-day that the compromise of 1820 had never given satisfaction or quiet anywhere, South or North. Let me tell him that at the last session of the Thirty-Second Congress—the very one that preceded the introduction of the Kansas-Nebraska bill—a similar one, saving the clause repealing the Missouri compromise, and establishing the principle of non-intervention, passed the House of Representatives, with scarcely an allusion to the slavery restriction act of 1820. There were only forty-three votes against the bill in the House, and some of them from the North. On that occasion there was not a word said of the propriety or justice of repealing the Missouri compromise. On the last night of that session I contributed, with the distinguished Senator from Texas, [Mr. Houshoun,] to defeat the passage of that bill in the Senate. The objections urged against it were, that there was no white population in the Territory; that the measure would be a violation of numerous Indian treaties; and at last the bill failed, more from the want of time than from any other cause; not a single southern Senator, besides myself and the Senator from Texas, interposed a word against the bill. So much as to the correctness of the statement of the Senator from Georgia, in relation to the effect of the Missouri compromise. That bill was laid on the table on the last night of the session—the 3d of March, 1853. General Pierce, on the next day, in his inaugural address congratulated the country on the restoration of peace and harmony, and, true to his former pledge, he solemnly promised that he would do nothing during his administration to disturb the condition of things then so happily existing in the country. In the first message, on the meeting of Congress in December following, he renewed this pledge; but in less than two short months from the date of that message, the whole political heavens, then beaming brightly and sending joy and gladness to the hearts of the people of the whole country, the scene as it were, in a twinkling, and as by the agency of some diabolical magic, was changed. The political skies were suddenly overcast by dark and portentous clouds, out of which a storm arose, which, in the language of the President, "has convulsed the Union and shaken it to its very center."

I now ask the attention of the Senate to the effect of the experiment of localizing slavery agitation in the Territories made in 1854, in changing the complexion of parties both in Congress and in the country. In the Congress which passed the Kansas-Nebraska bill we have seen that there was, at the commencement of the session in December, 1853, a Democratic majority of eighty-four in the House of Representatives, and only four Free-Soilers; and in the Senate a like number—so small, yet so distinct in their principles, that neither of the two great parties then known to the country knew well how to arrange them on committees.

Mr. HALE. You left them off.

Mr. BELL. The Whigs were afraid to touch them. Mr. Chase was a Democrat, and was so recognized by his brethren in the Senate, and was taken care of by them in arranging the committees; yet he was one of the gentlemen whom I have designated as Free-Soilers. Now, let us see what was the effect of the Kansas-Nebraska act on the elections which ensued in the fall of 1854,

just on the heels of the adoption of that measure. One hundred and seven Free-Soilers were returned to the House of Representatives; and the Democratic party, instead of having a majority of eighty-four in that House, found itself in a minority of seventy-six; and in the Senate the number of Free-Soilers was increased to thirteen. Such was the complexion of the two Houses of Congress in the Thirty-Third Congress, which assembled in December, 1855. Now we find in the Senate twenty Free-Soilers. How many more they may have in the next Congress will depend upon the disposition we make of the question now before the Senate. I call upon the Senator from Georgia to say whether he will have that number limited or not. Does he want a sufficient number to prevent the ratification of any future treaty of acquisition? How long will it be before we have that number if the southern Democracy persist in their present course? They would seem to be deeply interested in adding to the power of the Republican party. I consider that the most fearful and portentous of all the results of the Kansas-Nebraska act was to create, to build up a great sectional party. My friend from Ohio, who sits near me, [Mr. WADE,] must allow me to say that I regard his party as a sectional one.

Mr. WADE. Is not the other side a sectional party?

Mr. BELL. So far as they are confined to the South they are, but they say that they lap over.

Mr. WADE. Lap over further South still. [Laughter.]

Mr. BELL. I consider that no more ominous and threatening cloud can darken the political horizon at any time. How formidable this party has already become may be well illustrated by the fact that its representative candidate, Mr. Fremont, was only beaten in the last presidential election by the most desperate efforts; and I feel warranted in saying, that but for the imminent prospect of his success which shone out near the close of the canvass, Mr. Buchanan would not have attained his present high position.

Such have been the trophies of the victory—the triumph achieved in the passage of the Kansas-Nebraska act in 1854. It is with all this sad experience of the effects of that experiment in localizing the slavery agitation in the Territories, that we are now called upon to renew it. To be sure, we are told the circumstances are not the same. They are not identical, I admit. For instance, we are told that if there is any wrong done by accepting the Lecompton constitution, the people of Kansas can easily redress it. They have, it is said, an inalienable right to change their constitution when and how they please, and that they are not fettered by any restrictions contained in this constitution. I was sorry to hear the honorable Senator from Virginia, [Mr. HUNTER,] whom I regard as one of the old-fashioned supporters of sound principles—to whatever inconvenience they sometimes lead—say, in his late speech, that he was inclined to think the provision in the Lecompton constitution which prescribes that after the year 1864 it may be amended in the way therein pointed out, does not prevent any alteration or change of it which the people may think proper to make before that time; nay, I may say that I was astonished to hear such a declaration coming from that Senator, when we all know that the only purpose of that provision in the constitution was to prevent any amendment before 1864. This is the very restriction relied upon to give color to the change already made and propagated in some of the slaveholding States, that those members of Congress from the South who may by their votes defeat this measure, will have prevented the establishment of a slave State in Kansas.

But the President takes the bolder ground that the restriction in the Lecompton constitution, though intended to prevent any amendment before 1864, is altogether unavailable. He asserts the doctrine that the people of a State can change their constitution at any time; and this he says is a fundamental principle of American freedom. He refers to the second clause of the bill of rights in the Lecompton constitution, to show that the people of Kansas have recognized this fundamental principle. In that clause it is declared that "all political power is inherent in the people, and all

free governments are founded on their authority and instituted for their benefit, and therefore they have, at all times, an inalienable and indefeasible right to alter, reform, or abolish, their form of government in such manner as they think proper." This language is identical with that employed in the bill of rights to be found in the constitutions of Connecticut, New Jersey, Tennessee, Alabama, and Mississippi, and probably in those of many other States, for I have not had time to examine them all. What is meant by this declaration to be found in the bill of rights of most or all of our State constitutions? Nothing more is meant than to assert the right of revolution—the antagonistic doctrine to that of passive obedience, at one period so strongly maintained in England.

It will be difficult to maintain, by any sound process of reasoning, that this recognition of the right of the people to change their form of government has any reference to a change of their constitutions; for, in all of them, their right to do that is not only recognized, but the mode in which it can be done is distinctly prescribed. The principle asserted in a bill of rights, in any State constitution, is, that the people, when their rights of person and of property are trodden down; when their dearest interests are disregarded and sacrificed by an unjust, arbitrary and oppressive government, they have a right to change or abolish it by a resort to the sword, if found necessary. They have a right, under the circumstances I have described, to establish a pure democracy, and dispense with the use of all organic laws or constitutions, if they choose. They may even establish a monarchy, if they believe that their rights and interests would be best protected and promoted under such a form of government; but the right to do all this is clearly a revolutionary one. There is no danger in the recognition of this right; but there is danger in the admission of the doctrine avowed by the President, that a majority of the people of a State may set aside all the guards in their constitution against sudden and capricious changes of its provisions, and change it as often and when they please. Such a doctrine reduces all organic laws to a level with acts of the Legislature. If such a doctrine shall come to be generally admitted and practiced upon, it cannot fail, in the end, to lead to oppression and anarchy, and make a resort to revolution and a change of the form of government the only means of safety.

I had supposed that the chief merit of the great American invention of written constitutions and organic laws was in the protection they afforded to the rights of the minority against the tyranny of an arbitrary and capricious majority. The doctrine of the President strikes down at a blow the whole system of defenses and guarantees intended for the security of minorities. Majorities can always protect themselves.

But it is said that the great States of New York and Maryland have practiced upon the doctrine of the President in changing their constitutions. If that be true, I maintain that they acted upon a revolutionary principle; and the sooner that is understood the better for the country and its institutions. A general acquiescence among the people in an irregular mode of changing their constitutions may result in no immediate danger; it is in the precedent that the danger lies.

The honorable Senator from Georgia announced some great truths to-day. He said that mankind made a long step, a great stride, when they declared that minorities should not rule; and that a still higher and nobler advance had been made when it was decided that majorities could only rule through regular and legal forms. He asserted this general doctrine with reference to the construction he proposed to give to the Lecompton constitution; and to say that the people of Kansas, unless they spoke through regular forms, cannot speak at all. He will allow me to say, however, that the forms through which a majority speaks must be provided and established by competent authority, and his doctrine can have no application to the Lecompton constitution, unless he can first show that the Legislature of Kansas was vested with legal authority to provide for the formation of a State constitution; for, until that can be shown, there could be no regular and legal forms through which the majority could speak. But how does that Senator recon-

cile his doctrine with that avowed by the President, as to the futility of attempting, by constitutional provisions, to fetter the power of the people in changing their constitution at pleasure? In no States of the Union so much as in some of the slaveholding States would such a doctrine as that be so apt to be abused by incendiary demagogues, disappointed and desperate politicians, in stirring up the people to assemble voluntarily in convention—disregarding all the restrictions in their constitution—and strike at the property of the slaveholder.

The honorable Senator from Kentucky inquired what, under this new doctrine, would prevent the majority of the people of the States of the Union from changing the present Federal Constitution, and abrogating all existing guarantees for the protection of the small States, and any peculiar or particular interest confined to a minority of the States of the Union. The analogy, I admit, is not complete between the Federal Constitution and a constitution of a State; but the promulgation of the general principle, that a majority of the people are fettered by no constitutional restrictions in the exercise of their right to change their form of government, is dangerous. That is quite enough for the purposes of demagogues and incendiary agitators. When I read the special message of the President, I said to some friends that the message, taking it altogether, was replete with more dangerous heresies than any paper I had ever seen emanating, not from a President of the United States, but from any political club in the country, and calculated to do more injury. I consider it in effect, and in its tendencies, as organizing anarchy.

We are told that if we shall admit Kansas with the Lecompton constitution this whole difficulty will soon be settled by the people of Kansas. How? By disregarding the mode and forms prescribed by the constitution for amending it? No. I am not sure that the President, after all the lofty generalities announced in his message in regard to the inalienable rights of the people, intended to sanction the idea that all the provisions of the Lecompton constitution in respect to the mode and form of amending it should be set aside. He says the Legislature now elected may at its first meeting call a convention to amend the constitution; and in another passage of his message he says that this inalienable power of the majority must be exercised in a lawful manner. This is perplexing. Can there be any lawful enactment of the Legislature in relation to the call of a convention, unless it be in conformity with the provisions of the constitution? They require that two thirds of the members of the Legislature shall concur in passing an act to take the sense of the people upon the call of a convention, and that the vote shall be taken at the next regular election, which cannot be held until two years afterwards. How can this difficulty be got over? The truth is, that unless all constitutional impediments in respect to forms be set aside, and the people take it in hand to amend the constitution on revolutionary principles, there can be no end of agitation on this subject in less than three years. I long since ventured the prediction that there would be no settlement of the difficulties in Kansas until the next presidential election. To continue the agitation is too important to the interests of both the great parties of the country to dispense with it as long as any pretext can be found for prolonging it. In the closing debate on the Kansas-Nebraska bill I told its supporters that they could do nothing more certain to disturb the composure of the two Senators who sat on the opposite side of the Chamber, the one from Massachusetts [Mr. SUMNER] and the other from Ohio, [Mr. CHASE,] than to reject that bill. Its passage was the only thing in the range of possible events by which their political fortunes could be resuscitated, so completely had the Free-Soil movement at the North been paralyzed by the compromise measures of 1850. I say now to the advocates of this measure, if they want to strengthen the Republican party, and give the reins of Government into their hands, pass this bill. If they desire to weaken the power of that party, and arrest the progress of slavery agitation, reject it. And if it is their policy to put an end to the agitation connected with Kansas affairs at the earliest day practica-

ble, as they say it is, then let them remit this constitution back to the people of Kansas for their ratification or rejection. In that way the whole difficulty will be settled before the adjournment of the present session of Congress, without the violation of any sound principle, or the sacrifice of the rights of either section of the Union.

But the President informs us that threatening and ominous clouds impend over the country; and he fears that if Kansas is not admitted under the Lecompton constitution, slavery agitation will be revived in a more dangerous form than it has ever yet assumed. There may be grounds for that opinion, for aught I know; but it seems to me that if any of the States of the South have taken any position on this question which endangers the peace of the country, they could not have been informed of the true condition of affairs in Kansas, and of the strong objections which may be urged on principle against the acceptance by Congress of the Lecompton constitution. And I have such confidence in the intelligence of the people of the whole South, that when the history and character of this instrument shall be known, even those who would be glad to find some plausible pretext for dissolving the Union will see that its rejection by Congress would not furnish them with such a one as they could make available for their purposes.

When the Kansas-Nebraska bill was under discussion in 1854, in looking to all the consequences which might follow the adoption of that measure, I could not overlook the fact that a sentiment of hostility to the Union was widely diffused in certain States of the South; and that that sentiment was only prevented from assuming an organized form of resistance to the authority of the Federal Government, at least in one of the States in 1851, by the earnest remonstrance of a sister State that was supposed to sympathize with her in the project of establishing a southern Republic. Nor could I fail to remember that the project—I speak of the convention held in South Carolina, in pursuance of an act of the Legislature—was then postponed, not dropped. The argument was successfully urged that an enterprise of such magnitude ought not to be entered upon without the coöperation of a greater number of States than they could then certainly count upon. It was urged that all the cotton-planting States would, before a great while, be prepared to unite in the movement, and that they, by the force of circumstances, would bring in all the slaveholding States. The ground was openly taken, that separation was an inevitable necessity. It was only a question of time. It was said that no new aggression was necessary on the part of the North to justify such a step. It was said that the operation of this Government from its foundation had been adverse to southern interests; and that the admission of California as a free State, and the attempt to exclude the citizens of the South, with their property, from all the territory acquired from Mexico, was a sufficient justification for disunion. It was not a mere menace to deter the North from further aggressions. These circumstances made a deep impression on my mind at the time, and from a period long anterior to that I had known that it was a maxim with the most skillful tacticians among those who desire separation, that the slaveholding States must be united—consolidated into one party. That object once effected, disunion, it was supposed, would follow without difficulty.

I had my fears that the Kansas-Nebraska bill was expected to consolidate the South, and to pave the way for the accomplishment of ulterior plans by some of the most active supporters of that measure from the South; and these fears I indicated in the closing debate on that subject. Some of the supporters of that measure, I fear, are reluctant now to abandon the chances of finding some pretext for agitating the subject of separation in the South in the existing complications of the Kansas embroilment.

To what extent the idea of disunion is entertained in some of the southern States, and what importance is attached to the policy of uniting the whole South in one party as a preliminary step, may be inferred from a speech delivered before the southern convention lately held in Knoxville, Tennessee, by Mr. De Bow, the president of the convention, and the editor of a popular southern

Review. I will only refer now to the fate to which the author resigns those who dare to break the ranks of that solid phalanx in which he thinks the South should be combined—that is, to be "held up to public scorn and public punishment as traitors and Tories, more steeped in guilt than those of the Revolution itself."

I have but a few words more to say on this subject. I have been pained at many things which I have heard in the progress of this debate. The honorable Senator from New York [Mr. SEWARD] and the honorable Senator from South Carolina [Mr. HAMMOND] opened new and wider and more alluring fields for discussion—alluring, not by their tendency to train the public mind to contemplate the destruction of the Union with complacency, but as suggesting subjects of debate which offer an unlimited range for intellectual display—rich themes for the gildings of fancy. I shall not venture beyond the borders of these new fields of discussion. I could not but be struck and fascinated by the grand outlines and the gorgeous yet beautiful filling up of the picture of southern power and resources presented by the able and eloquent Senator from South Carolina; but the fascination was all gone when my eye was at leisure to rest for an instant on the dark background which the rich pencilings of a master artist were intended to light up. Still these changing emotions did not prevent me from feeling some surprise that the eloquent Senator, whom I know to be both just and generous, could find in his heart to close his speech without some slight expression of gratitude—offering some small tribute to the worth of that glorious old Federal Union, which, after all its plunderings by tariffs, navigation laws, internal improvements, and national banks, had still left the South in the possession of such multiplied riches and blessings.

I wish I could, with propriety, pass without notice some passages in the speech of the Senator from New York, [Mr. SEWARD], towards whom personally I have no unkind feeling. It was with pain and regret that I listened to the utterance of sentiments by that Senator affording material of the most effective nature for agitation at the South; and calculated to excite the feelings of those who still cling to the hope that the Union may be perpetual. That honorable Senator spoke with deliberation; and what he said cannot be considered to have escaped his lips in the heat and excitement of debate. Several weeks ago, he vauntingly proclaimed to the Senate that the battle of freedom was already won. But that was not enough. When he was last on the floor, assuming an oracular mien and air, he read to us, "as from the book of fate, the decrees which he seemed to think it concerned the South to know."

Some of us had flattered ourselves that when the Kansas question should be settled, peace and quiet would reign in Congress and throughout the country. The honorable Senator from New York announced to us that this was a gross delusion; that the admission of Kansas as a free State would not terminate the slavery agitation in Congress or anywhere else; that neither Congress nor the country is to have any respite from its evils, and that there never will be quiet on the slavery question until the South shall have abandoned all further efforts to extend slavery under the Federal Constitution. He even undertakes to advise the South on this point. He could counsel nothing less. No conquering general in a cooler manner, or with an air of greater authority, ever dictated to vanquished foes the terms on which they could have peace. But he does not encourage us with the hope of peace and quiet, even if the South should yield to his counsel, and seek no further extension of slavery. Agitation, he informs us, is to go on until the Supreme Court of the United States is reorganized, or shall recede from some of the doctrines, so abhorrent to him, it has lately promulgated. I shall not enter into any discussion of these doctrines. I will say, however, that if the opinions announced by that court are founded on sound principles, and formed within the pale of judicial authority under the Constitution, they will stand, and ought to stand; if otherwise, like hundreds of decisions in the judicial history of this country and Great Britain, they will yield to further and closer investigation without any disorganizing interposition of the

legislative power. If, as many gentlemen here say, they were extra-judicial opinions, *obiter dicta*, voluntary announcements of sentiments and opinions, they can do no injury in any quarter; because, whenever the same questions shall again arise, they will be open to argument and readjudication. Whatever may be the decision of that court on the power of Congress to interfere with the question of slavery in the Territories, and however clear and well-founded in principle and authority its decision may be, I have supposed that inasmuch as it is a question of constitutional construction or interpretation, and relates to the jurisdiction and power of a separate department of the Government—a department always more or less under the influence of political considerations—the question would not be regarded as permanently settled; and that whenever in future, as heretofore, Congress shall be called upon to legislate concerning a Territory, the question will again become a subject of discussion and such decision as the majority shall think proper to declare. Congress was never swayed by the opinion of the Supreme Court on the question of its power to establish a national bank; nor will it be controlled by any of its opinions on questions involving political considerations. If I am right in these views, and when it is clear that no injury can be done to either the North or the South by the opinions recently pronounced by the Supreme Court upon this question, why should it be made a pretext for continuing this dangerous slavery agitation?

As to the opinion of the court on the question of the recognition of property in slaves by the Constitution, I will say but a word or two. I will not enter into any argument of it; but I will refer the honorable Senator from New York, and others who agree with him, to an authority which I think they will not disavow, and for which all who have any admiration for great ability, associated with all those personal qualities that give weight and character to a statesman, will respect. I allude to Rufus King, of the organic period of our history. I allude to him not only as authority on a point of constitutional law, but as a model of senatorial propriety in the discussion of questions affecting the personal sensibilities and interests of brother Senators. He is known to have been, if not the mover, the ablest champion of the slavery restrictive policy. He was also a member of the convention that framed the Constitution. In his speech at the commencement of the controversy upon this subject, in 1817, in reviewing the history of the concession made by the convention which framed the Constitution, to the slaveholding States, of a representation founded upon three fifths of their slaves, added to their free population, he contended that it was unequal and unjust to the free States, on the ground that it was a representation founded on property, and so understood when the concession was made; and if the principle was right, it ought to have extended to property in the free States as well as in the slave States.

That eminent man, while he showed himself a determined opponent of the extension of slavery, never sought to weaken or undermine any of the securities which existed for the protection of slave property, by the announcement of any doctrine or sentiment not in strict conformity with the obligations and requirements of the positive institutions of the Government in the councils of which he participated. He always spoke within and under the Constitution. He may have held slavery in as great abhorrence as the Senator from New York professes to do. He may have considered that, as a question of Christian ethics, man cannot be the subject of property; but, if such was his opinion, the greater the honor that will attach to his memory, as a man and as a statesman, for his forbearance to set up his private opinions as of higher authority than the Constitution and Government in the service of which he was engaged.

The honorable Senator from New York further announced to us, in exultant tones, that "at last there was a North side of this Chamber, a North side of the Chamber of the House of Representatives, and a North side of the Union, as well as a South side of all these;" and he admonished us that the time was at hand when freedom would

assert its due influence in the regulation of the domestic and foreign policy of the country.

When was there a time in the history of the Government that there was no North side of this Chamber and of the other? When was there a time that there was not a proud array of northern men in both Chambers, distinguished by their genius and ability, devoted to the interests of the North, and successful in maintaining them?

Though it may be true that southern men have filled the executive chair for much the largest portion of the time that has elapsed since the organization of the Government, yet when, in what instance was it, that a southerner has been elevated to that high station without the support of a majority of the freemen of the North?

Do you of the North complain that the policy of the Government, under the long-continued influence of southern Presidents, has been injurious or fatal to your interests? Has it paralyzed your industry? Has it crippled your resources? Has it impaired your energies? Has it checked your progress in any one department of human effort? Let your powerful mercantile marine, your ships whitening every sea—the fruit of wise commercial regulations and navigation laws; let your flourishing agriculture, your astonishing progress in manufacturing skill, your great canals, your thousands of miles of railroads, your vast trade, internal and external, your proud cities, and your accumulated millions of moneyed capital, ready to be invested in profitable enterprises in any part of the world, answer that question. Do you complain of a narrow and jealous policy under southern rule, in extending and opening new fields of enterprise to your hardy sons in the great West, along the line of the great chain of American lakes, even to the head waters of the father of rivers, and over the rich and fertile plains stretching southward from the lake shores? Let the teeming populations—let the hundreds of millions of annual products that have succeeded to the but recent dreary and unproductive haunts of the red man—answer that question. That very preponderance of free States which the Senator from New York contemplates with such satisfaction, and which has moved him exultingly to exclaim that there is at last a North side of this Chamber, has been hastened by the liberal policy of southern Presidents and southern statesmen; and has it become the ambition of that Senator to unite and combine all this great, rich, and powerful North in the policy of crippling the resources and repressing the power of the South? Is this to be the one idea which is to mold the policy of the Government, when that gentleman and his friends shall control it? If it be, then I appeal to the better feelings and the better judgment of his followers to arrest him in his mad career. Sir, let us have some brief interval of repose at least from this eternal agitation of the slavery question. Let power go into whatever hands it may, let us save the Union!

I have all the confidence other gentlemen can have in the extent to which this Union is entrenched in the hearts of the great mass of the people of the North and South; but when I reflect upon and consider the desperate and dangerous extremes to which ambitious party leaders are often prepared to go, without meaning to do the country any mischief, in the struggle for the imperial power, the crown of the American Presidency, I sometimes tremble for its fate.

Two great parties are now dividing the Union on this question. It is evident to every man of sense, who examines it, that practically, in respect to slavery, the result will be the same both to North and South; Kansas will be a free State, no matter what may be the decision on this question. But how that decision may affect the fortunes of those parties, is not certain; and there is the chief difficulty. But the greatest question of all is, how will that decision affect the country as a whole?

Two adverse yet concurrent and mighty forces are driving the vessel of State towards the rocks upon which she must split, unless she receives timely aid—a paradox, yet expressive of a momentous and perhaps a fatal truth.

There is no hope of rescue unless the sober-minded men, both of the North and South, shall, by some sufficient influence, be brought to adopt

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the wise maxims and sage counsels of the great founders of our Government.

Mr. President, I will not longer trespass upon the indulgence of the Senate.

Mr. FOSTER. It is my wish to be heard by the Senate before the vote is taken, but I cannot ask them to sit here and hear me at this late hour of the night.

On motion of Mr. FESSENDEN, the Senate adjourned.

FRIDAY, March 19, 1858.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. FOSTER. Mr. President, the objections I have heretofore urged against this high measure were confined exclusively to what seemed to me to be the obnoxious features apparent on the face of the proposed constitution. At the same time, I recognized other objections, strong and conclusive to my own mind, against this measure; and I intimated a purpose, on another occasion, should opportunity offer, to ask the indulgence of the Senate to present my views more at large, and on other points connected with this most important subject. To do this, and as briefly as possible, is my present design.

The real question at issue here can certainly be brought within very narrow limits. Such, however, has not been the course of the discussion; that has taken the widest range. Slavery and its incidents have of course attracted a large share of attention; the question of union and disunion has not been neglected; aggressions of the North on the South, and the South on the North, have been adverted to; and the power and resources of the different sections of our country have been exhibited, not altogether to place them in friendly competition, but rather in hostile array.

Mr. President, I regret all this. It would be unbecoming in me to lecture any Senator here on the proprieties of debate. I assume no such ungracious office. Others have judged these topics proper and necessary in this discussion; possibly they are. If the necessity exists, I must be permitted to say that I regret that necessity.

Of slavery, sir, I propose now to say nothing; of union and disunion, and our mutual aggressions, nothing; of the resources, productions, and strength of the different sections of our country, very little. I glory in our country—in its united strength as one country. It is a magnificent, a majestic country; it is my own native country. I glory in each and every of its sections, as parts of one great whole. In any section, when put in array against any other section, I glory not.

A lesson of wisdom is taught us by the cunning hand of the artificer who wrought out the marble mantels back of the chair you occupy, Mr. President, in this Chamber. My attention was first called to them by the late Senator from Delaware, Mr. Clayton, whose death made a great breach in this body and in the councils of this country. In words too impressive to be forgotten, and but a short time before his death, he asked me to notice the fact that the bundle of rods chiseled on the one defied the efforts of the mightiest giant to break them, because bound together; on the other, taken separately, they were snapped asunder by a boy's hand.

Our strength is in our union. Which section would be the stronger, and which the weaker, in the event of disunion, I will not undertake to decide. The subject has no attractions for me. Those whose tastes lead them in that direction may make the calculation. Late be the day that proves either their truth or their falsehood.

It is, sir, a mischievous error, a fatal mistake, to suppose that any portion of this Union is not dependent on other parts. We are mutually dependent. Take the great staple of the South—cotton—the “king,” as the honorable Senator from South Carolina, [Mr. HAMMOND,] in his speech the other day, so complacently styled it. What Warwick was the “king-maker” of cotton? Who gave “King Cotton” his crown and scepter? The inventive genius, the mighty hand of Eli Whitney, of Connecticut. But for him, the kingdom of cotton would be yet to come. The honorable Senator was very full, and, I pre-

sume, very accurate, in his statistics; he will pardon me for suggesting that he omitted one very important item, and that is, how much did the invention of Whitney—Whitney, of Connecticut—add to the value of all the cotton lands in the southern States? I cannot answer the question myself; perhaps the honorable Senator can; and though in his calculations he deals with very large sums of money, I hazard the assertion that this amount, when ascertained, will be the largest of all. I have alluded to this, Mr. President, to illustrate my position that we are mutually dependent, even where we may, perhaps, feel that we are most independent.

I expressed a determination to say but little as to the relative resources and strength of the different sections of our country. I intend to carry out that determination. As the honorable Senator from South Carolina seemed to place the claims of the South mainly on a single production—cotton—I could not but recall to mind the fact that it is but a few years that cotton has been grown in any considerable quantity in this country. It is no longer ago than about 1790, that a few bales of cotton on board an American vessel at Liverpool were seized by the revenue officers, because articles not the growth of our country could not be imported by American vessels; and this, though claimed to be the product of the United States, was not believed to be so. So great are the changes in sixty years. Within that period in the future, may not this staple be cultivated to a great extent in portions of the globe now producing little or none? The reign of kings is proverbially brief in our times—that of “King Cotton” may not be an exception. And if it should, he may erect his throne and hold his court far nearer the gates of the Orient than the plains of Carolina. We are a republican people—not fond of kings, crowns, thrones, and scepters.

It is not for any lack of confidence in the power or resources of my own immediate section that I refrain from pursuing this portion of the subject. It is not, in my judgment, germane to the matter in hand; and I therefore dismiss it with the single remark, that the South is no doubt strong—strong in what it has pleased the God of nature to do for that section in soil and productions. The North is no doubt strong—strong in what it has pleased the God of nature to enable its people to do for themselves.

To bring this discussion within its just limits, to decide the question involved on its real merits, we have but to determine these simple points: Is the constitution of government proposed for the new State the work of the people to be affected by it? Is that constitution of such a character as to harmonize with the principles on which our Government rests? If both these questions can be answered affirmatively, the State should be admitted; if either is answered negatively, it should not be admitted.

In discussing these, indeed in discussing any questions connected with this subject-matter, I am aware that I am entering a field which has been gleaned by abler hands than mine. Nothing new, perhaps, is left to be said that can be said appropriately to the subject. I may say, however, that it is assented to on all sides of the Chamber, that this constitution ought to be the embodiment of the people's will before we can admit this State under this constitution. All, I say, assent to that proposition; but, while they do so, they, almost in the same breath, fritter it away by the manner in which they tell us the will of the people may be ascertained. There are certain forms, more or less technical, or solemn, or imposing, which we are to take as proofs. The constitution here before us is surrounded by certain forms, which, in the opinion of some gentlemen, conclude us from going behind them to ascertain what the will of the people really is.

Does not this, Mr. President, instead of making it our duty to ascertain the real will of the people, simply make it our duty to see whether certain forms have been complied with? Is that our whole duty in the premises? Forms may be simulated. They are, as I believe, in this case. We are always in danger of being imposed upon by forms. I have hoped I never should hear, in the Senate of the United States, on a question whether a State should be added to the Confederacy, that

any form, no matter how solemn or how imposing, should intervene between us and the will of the people whom we are called to organize into a new State. There is danger, great danger, if we allow any partition to be built up between us and the will of the people in such a case as this. No wall should be considered so high or so thick that we were not at liberty to look over it and through it; not only at liberty so to do, but, faithfully to discharge our constitutional duties, I believe we are bound so to do. It is not enough that we have certain evidences before us of the will of the people. We are to be satisfied that those evidences prove the truth. We are not to be satisfied with any form of evidence short of the actual truth. Gentlemen, however, insist that a constitution coming, as it is claimed this does, from a convention, that convention having been called by the Territorial Legislature, that Legislature having been organized under the organic act creating the Territory, comes to us under such sanctions as that, the work of ascertaining the people's will is already done by these forms.

Now, Mr. President, it becomes necessary in this state of things, to see what these forms really mean, and how much real authority attaches to them, at least, in this particular case. This convention held at Lecompton which made this constitution, was called, I believe, by the second Territorial Legislature, so styled of the Territory of Kansas. All of course, so far as validity and constitutional authority goes, depends upon the character of the first Territorial Legislature. What evidences have we before us in regard to the character of that assemblage? Was it what it purports to have been—the Territorial Legislature of the people of Kansas, organized under the act styled the Kansas-Nebraska bill? On that subject I am aware there is a contrariety of opinion. To my mind, however, the evidence is full and satisfactory that that Legislature was in no proper sense the Territorial Legislature of Kansas.

It appears from an examination made under the authority of the House of Representatives that in November, 1854, there was an election in Kansas for a congressional Delegate. The pro-slavery party, as it was called, at that election polled twenty-two hundred and fifty-eight votes, and of those there were illegal seventeen hundred and twenty-nine, leaving of legal votes at that election polled by that party five hundred and twenty-nine only. The people of the Territory, generally, took but little interest in that election; not more than half of the people of the Territory authorized to vote voted at all. In February and March, 1855, a census was taken, and that census showed of voters in the Territory twenty-nine hundred and five. On the 30th of March, 1855, when the election for the Territorial Legislature was had, just after the census was taken, as I have stated, which was completed in March, 1855, showing twenty-nine hundred and five voters only—the returns show that the pro-slavery party polled fifty-four hundred and twenty-seven votes, of which it is shown were illegal forty-nine hundred and eight, leaving only of these fifty-four hundred and twenty-seven votes polled by their party the number of five hundred and nineteen legal votes. If these facts are true, can anybody say that that was a Legislature entitled to any regard or respect as the Legislature of the Territory of Kansas? The same authority to which I have just adverted, the authority of the House of Representatives, speaks on this subject in this manner, through their committee. They say:

“First. That each election in the Territory, held under the organic or alleged territorial law, has been carried by organized invasion from the State of Missouri, by which the people of the Territory have been prevented from exercising the rights secured to them by the organic law.

“Second. That the alleged Territorial Legislature was an illegally constituted body, and had no power to pass valid laws, and their enactments are, therefore, null and void.

“Third. That these alleged laws have not, as a general thing, been used to protect persons and property, and to punish wrong, but for unlawful purposes.”

Such, sir, as I claim, was the character of that so-called Territorial Legislature. I am aware that this is denied; but it is denied, as it seems to me, in the face of evidence which ought to satisfy any candid, unprejudiced mind. This by no means is the only evidence. I allude to it as being evidence, as it seems to me, entitled to respect in this body; coming, as it does, from a coördinate branch

of this national Legislature. It is not, as it seems to me, enough to say that this is simply the offspring of party spirit, and is not in fact true. That may be said of any fact proved ever so clearly, ever so solemnly. It may be denied; but, unless there is evidence of its falsity, unless there is something far stronger than a simple denial, I ask whether unprejudiced minds can fail to come to the conclusion that this Legislature was really a usurpation; that those who came into that Territory, conquered the Territory as directly through the ballot-box as any people were ever conquered through the cartridge-box? A subjugation of a people through the ballot-box is far more complete and perfect than it ever can be through the cartridge-box. Where a people are conquered through the ballot-box, the forms of law over them are continued, and the subjugation appears under a more mitigated form than when the arm of a conqueror is openly and palpably stretched out over them; but the actual subjugation, I repeat, is more complete.

Not only is this denied, however, as a matter of fact, but it is also said that, even if the fact be true, it is now too late, and that this is not the tribunal to examine those facts. We are concluded, it is said, by the action of this Legislature itself. The question of their election, or the election of any members of that body, we are told, must have been decided by the Legislature itself, and at all events that body is now to be considered as having been a lawful Legislature. If I am right in the claim I make, that the Legislature was a direct usurpation, the idea of submitting the question of usurpation or not to the usurpers themselves, is little less than a mockery. The present Emperor of France, I believe, claims his throne under an election by the people of that country. Some of the inhabitants have questioned whether that election was entirely fair and legal; but did it ever occur to any of the inventive geniuses of France to submit the question of the legality of the election to his Imperial Majesty, and did it ever occur to anybody that, until it was submitted to him and decided by him, the people were absolutely prevented from questioning the legality? What is the difference between one usurper and a multitude of usurpers in point of principle? Why should we submit the question of usurpation to the many and not to the one? I think it would be far better, and I should greatly prefer, under the circumstances, to submit it to the one; for where there is only one, there is a sense, even in abandoned men, to some extent, of individual responsibility; where there is a body of men together they will do acts which each alone would scorn to do by himself. There is no sense of personal responsibility in the one case, and there is some in the other.

Mr. President, I have endeavored to show that this Legislature was elected under such circumstances as that it was a perfectly unauthorized body, an illegal body, a body having no authority to enact laws for any people on the face of the earth; and to answer, so far as I have answered, the objection that this tribunal cannot pass upon that question. My argument, however, permits me to waive the objection, and to admit that this so-called Legislature was a legal tribunal, and clothed with all the authority with which a Legislature could be clothed under the organic act; and yet I arrive at the same result upon principles and authorities which seem to me perfectly incontrovertible, in regard to the validity and force with which this constitution comes before us; for I hold it to be established as a perfectly settled principle, in our Government, that a Territorial Legislature cannot call a convention which shall have any authority whatever to institute proceedings to create a State government. It is (and this certainly would strike every mind on reflection) an inadmissible principle that the territorial government is authorized, in and of itself, to institute a government to overthrow itself. I am not going to argue that question at any length. I allude to authorities on this subject which seem to me cannot be controverted. They have been alluded to before. I allude to the authority of Attorney General Butler, during General Jackson's administration, in regard to the then Territory, now State, of Arkansas. The same question arose at that time that arises now, in regard to the power of a Territorial Legislature

to institute proceedings creating a State government. The Attorney General, supposed, I take it, to speak the language of the Cabinet and the Administration, says on this subject:

"To suppose that the legislative powers granted to the General Assembly include the authority to abrogate, alter, or modify the territorial government established by the act of Congress, and of which the Assembly is a constituent part, would be manifestly absurd. The act of Congress, so far as it is consistent with the Constitution of the United States, and with the treaty by which the territory, as a part of Louisiana, was ceded to the United States, is the supreme law of the Territory; it is paramount to the power of the Territorial Legislature, and can only be revoked or altered by the authority from which it emanated. The General Assembly and the people of the Territory are as much bound by its provisions, and as incapable of abrogating them, as the Legislatures and people of the American States are bound by and incapable of abrogating the Constitution of the United States. It is also a maxim of universal law, that when a particular thing is prohibited by law, all means, attempts, or contrivances to affect such thing are also prohibited. Consequently, it is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to form a constitution and State government, nor to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the Governor of the Territory, would be null and void. If passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void."

Well, Mr. President, surely that covers the whole ground, unless there be something in the organic act—the Kansas-Nebraska act—variant from the act which incorporated the Territory of Arkansas, of which I may say a word presently. To my mind, there is, in this regard, no difference. The cases stand on the same ground, and are to be governed by the same rule. If so, even if this Territorial Legislature had called this convention in the most solemn and technical manner, and the people had elected their delegates to the convention freely and lawfully, without obstruction, and all who were qualified had voted, who chose to vote, and no others, still, a constitution so made by such a convention, would possess no authority. It would be simply a petition or a memorial to Congress for admission into the Union, clothed with no higher sanction than an instrument made by any other equally large number of the citizens of the Territory.

We have, moreover, the high authority of the gentleman who is now the President of the United States. When the admission of Michigan into the Union was under discussion here, Mr. Buchanan, who was then a prominent member of this body, on this same question, expressed these opinions:

"We ought not to apply the rigid rules of abstract political science too rigorously to such cases. It has been our practice heretofore to treat our infant Territories with parental care, to nurse them with kindness, and when they had attained the age of manhood, to admit them into the family without requiring from them a rigid adherence to forms. The great questions to be decided are: Do they contain a sufficient population? Have they adopted a republican constitution? And are they willing to enter the Union upon the terms which we propose? If so, all the preliminary proceedings have been considered but mere forms, which we have waived in repeated instances. They are but the scaffolding of the building, which is of no further use after the edifice is complete. We have pursued this course in regard to Tennessee, to Arkansas, and even to Michigan. No Senator will pretend that their Territorial Legislatures had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

And yet, sir, notwithstanding those plain, direct, and unequivocal averments, it is now insisted, and pertinaciously insisted, that because a Legislature has called a convention and that convention has formed a constitution, we are bound to take that constitution as embodying the will of the people, and cannot go behind these forms. As I said, I believe the first Territorial Legislature was a usurpation, and we all know that usurpation begets usurpation, and only usurpation; and the little finger of the offspring is frequently thicker than the loins of the parent. What began in usurpation strengthened in usurpation; and this constitution, vauntingly spoken of as it may be here, as embodying the will of the people of Kansas, has its origin in usurpation, and nothing but usurpation.

It has, however, been intimated, and more than intimated, that in the organic act—the Kansas-Nebraska bill—power was given to the people of Kansas to a more enlarged extent than was given to these Territories to which I have been calling attention. Efforts have been made to show that

the Kansas and Nebraska act was an enabling act, so called. This question has been answered most triumphantly, as it seems to me, on both sides of this Chamber. I do not propose to add anything—I could not, however earnestly I might attempt it—to add to the force of that answer. I will say this, however, Mr. President, that if this claim was correct, if the Kansas-Nebraska bill contained directly authority to the people through their Legislature to call a convention and form a constitution, and bring that constitution here in order that the new State might be admitted into the Union, I submit, with great confidence, that it would be the duty of this Senate still to ask the question, is this constitution acceptable to the people who are to be affected by it? Nothing short of an honest answer in the affirmative to that question could justify us, even then, in taking another State into this Union, no matter what was the character of her constitution.

I repeat what I have said before, that no form should be substituted for the substance; for it is perfectly within the bounds not only of possibility, but of probability, that a convention, called ever so legally, formally, and solemnly, elected ever so fairly, consisting of men ever so capable and respectable, may after all fail in drafting an instrument which the people who are to live under it are willing to recognize as their constitution; and although the people may either inadvertently or deliberately—I care not which—bestow on a convention the authority to make for them a constitution without submitting it to them, or part, so to speak, with the sovereignty which was in them, and transfer it to a convention—although under such circumstances, so far as the people themselves are concerned, if nothing more were in the case, it might be the constitution of the people, still, if, as in this case, a constitution so formed has to come before another tribunal, and that tribunal are bound by their official duty before they admit the Territory as a State, under that constitution, to be satisfied that that constitution embodies the will of the people, they are not justified without first ascertaining that it is the will of the people, notwithstanding all these forms. We are to go behind the convention even then, because our duty is imperative. We cannot, unless we are prepared to do an act of tyranny, impose a constitution on a people who we know would not accept it if they had an opportunity to accept or to reject it. Granting all that is claimed in regard to this, granting that this Legislature, the original one and the subsequent one, have all been legally elected, and are, to all intents and purposes, what they purport to be; granting that the Kansas-Nebraska bill is an enabling act; that the census, that everything, which, as I believe, is now actually tainted with fraud and corruption, were all sound; granting all that, we cannot, I repeat, unless we are prepared to do an act of tyranny, impose this constitution on the people of Kansas, because we know as well as we know that we are living men, that, if this constitution were submitted to the people of Kansas to-day, a great and overwhelming majority of them would repudiate it, and trample it under their feet.

In this state of things, Mr. President, I care not what forms surround this instrument. I for one am not prepared to do an act which is despotic and tyrannical, and shelter myself behind forms and shadows which must prove unsubstantial. Where is it found that this high tribunal is compelled to submit to these technical, and I must say, to some extent, absurd rules? Where is the work on pleading behind which we can or should shelter ourselves when we are performing one of the highest—the highest possible—of our constitutional functions, the creation of a new State, an empire State, a State which I trust will uphold millions of happy people when we are all gathered to our fathers? Is it in the text books of the English or American law that we find any principle which controls this high tribunal in this most important of its high duties? Shall we look into Chitty, or Gould, or Stephens, and find some technical rule of pleading which prevents us from looking at the truth? I trust not.

Whether, then, we regard the Legislature which called the convention as a legal or illegal body; whether the organic act was an enabling act or not; whether we regard the members of the convention

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as having been fairly apportioned and legally elected, or otherwise; whether it was the understanding that the constitution, when prepared, should be submitted to the people or not, the same question after all comes back to us: is this constitution the embodiment of the people's will? That it is not, is most conclusively shown from various sources of proof. I need not pause to enumerate them. The vote of the people on the 4th of January last, taken, let it be remembered, under the authority of the Legislature of the Territory, showed a majority against the constitution of ten thousand and sixty-four votes. This surely will convince any one who is not predetermined not to be convinced, that the people of Kansas oppose this constitution.

The other day, under somewhat inauspicious circumstances, I addressed the Senate upon the objections that were apparent to me on the face of this constitution. The honorable Senator from Missouri, who sits furthest from me, [Mr. POLK,] took occasion, in the course of his speech on this subject, to allude to the fact that nobody but the Senator from Connecticut had scrutinized the provisions of this constitution, or claimed that it was not republican. It may be that the honorable Senator thought that so long as the objection was confined to that source, it was unnecessary to answer it. To disabuse the mind of the gentleman, should that have been his impression, I beg leave to call the attention of the Senate, and of the Senator from Missouri, to certain facts connected with the admission of his own State into this Union—facts which I am bound to presume are quite familiar to that honorable Senator, but had he recalled them to mind, he would not, as it strikes me, have disposed of the objections which I took to this constitution in quite so summary a manner, nor passed them by quite so speedily as altogether unfounded.

The Territory of Missouri, Mr. President, memorialized Congress in the month of December, 1819, through their Delegate in the House of Representatives, for authority to make a constitution preparatory to their admission as a State into this Union. The great question in both Houses of Congress was, whether an enabling act, as it is now, and was perhaps then called, should be passed, giving to Missouri such authority, without any restriction in regard to the subject of slavery? The Senate passed an act of that sort, without such a restriction. They added, however, to it, by way of amendment, a section prohibiting domestic slavery north of the line of 36° 30' in all the territory which was acquired by the Louisiana purchase. This amendment was made part of the enabling act in the Senate by a vote of 34 yeas to 10 nays. The bill as thus amended, was engrossed and passed. The vote on the engrossment was 24 yeas to 20 nays, two gentlemen only—Mr. Macon, of North Carolina, and Mr. Smith, of South Carolina—from the southern States voted against the bill. That bill went to the House of Representatives. They had already passed an enabling act, but with a restriction upon the people in regard to the subject of slavery. They therefore struck out the proviso, or rather the amendment of the Senate, prohibiting slavery north of 36° 30', by a vote of 159 yeas to 18 nays. The House, for a time, persisted in the restriction forbidding slavery in the new State, but finally struck it out, by a vote of 90 yeas to 87 nays. They then concurred with the Senate in passing the bill with an amendment prohibiting slavery north of 36° 30', by a vote of 134 yeas to 42 nays. The bill thus became a law, and went into effect on the 6th of March, 1820.

Up to this time, Mr. President, no constitution was before Congress from the State of Missouri, and it was a matter of conjecture entirely what would be the character of the constitution which that State would adopt. It was believed that the people would prefer establishing slavery within the new State; and this act, thus passed, was supposed to give the assent of Congress to the formation of such a constitution. It was the expectation of Congress, and of the country, that when it should come, as it did, come the next session of Congress, with a constitution, although there might be a clause establishing slavery in the new State, it would nevertheless be admitted into the Union.

Congress came together in the month of November, 1820, and Missouri came with her constitution asking admission. There was, however, in her constitution, in addition to the clause in regard to slavery, which was anticipated, and which had been, under these circumstances, consented to, a clause making it the incumbent duty of the Legislature of the State of Missouri, after this constitution should have been adopted and the State organized and have a Legislature, to pass laws prohibiting the immigration of free persons of color into the new State. That feature of the constitution of Missouri was regarded by a large portion of the members of Congress in both Houses as being an infringement of the provision of the Constitution of the United States which declares that the citizens of each State shall be entitled to the privileges and immunities of citizens in the several States; and although the contest in regard to the question of domestic slavery in Missouri was over and gone, a contest arose in regard to that feature of the constitution of Missouri, scarcely less exciting than the original controversy on the subject of slavery. The result arrived at in the two Houses was this: In the Senate the constitution was referred to a committee to ascertain and report whether the constitution was conformable to the act, and whether, under those circumstances, the State was entitled to be admitted. The Senate committee reported favorably. The question on the passage of a resolution admitting the State being before the Senate, Mr. Eaton, of Tennessee, moved an amendment to the resolution, which was in fact a caveat, that nothing in the resolution should be construed to imply that Congress meant to give its assent, or in any way admit the validity, of any clause in the constitution of the proposed new State which should infringe at all upon the Constitution of the United States. That resolution, so amended, passed the Senate, and went to the House. In the House it was referred to a select committee of thirteen, at the head of which was Mr. Clay. The committee reported in favor of the passage of the resolution. The House, however, refused to accept the report, and the resolution was lost by a vote of 80 yeas to 83 nays. In this state of things conferences were had between the two Houses, and the result finally was the passage of the resolve which admitted the State of Missouri. I will ask the Secretary to read that resolution.

The Secretary read it, as follows:

"Resolution providing for the admission of the State of Missouri into the Union on a certain condition.

"Resolved by the Senate and House of Representatives of the United States in Congress assembled, That Missouri shall be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen, of either of the States in this Union, shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof, the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."

Mr. FOSTER. That resolution was passed by the House by a vote of 87 yeas to 81 nays, and also in the Senate by a vote of 29 yeas to 14 nays. Now, sir, what I want to call the attention of the Senate to in this connection is this: the feature in the constitution of the State of Missouri, it will be noticed, was one simply requiring the Legislature to pass certain laws, excluding persons of a certain class from coming within the jurisdiction of the State, and that provision was deemed so obnoxious, that Missouri could not obtain admission into the Union until her admission was qualified according to the terms of that resolution, making it incumbent upon the people of the State, through their Legislature, to assent to an entire abrogation of that provision. Congress did not assume the right of amending that constitution, or stating how it was to be construed, as I understand gentlemen very gravely propose to do here. They did this: they made the admis-

sion of Missouri dependent on the fact that the people of the Territory, through the Legislature, in fact through the convention, should consent to erase the obnoxious feature from their constitution; and Missouri did it. Otherwise, *non constat*, she never would have been a State of this Union; certainly she would not under that resolution.

Now, Mr. President, when I took exception the other day to the feature of the constitution of Kansas which said, in express terms, no free black shall be permitted to live in this State under any circumstances, the honorable Senator from Missouri disposed of it in the unceremonious manner I have described. I think, in view of these facts regarding his own State, the objection is not got rid of so easily. If Congress, in 1820, would not admit a State until they abrogated a provision saying that the Legislature should pass a law excluding free blacks—if that created so much excitement then, and if the result to which I have called attention was arrived at then, I beg to know whether the fact that this constitution for Kansas contains so obnoxious a feature as this is not an objection entitled to some weight? So thought the Congress of 1820. I repeat again, the feature in the constitution of Missouri was much less obnoxious than this. If Congress, in 1820, required the abrogation which that resolution did require of the State of Missouri, prior to its admission, *a fortiori* should we require an abrogation of this clause in the constitution of Kansas before that State can be admitted, or that Territory, more properly speaking, can be admitted as a State.

The question then, and now, is wholly independent of the question of slavery. Why, sir, many of the men who, at the session of Congress ending in the spring of 1820, voted for the bill enabling the Territory of Missouri to form a constitution preparatory to her admission as a State in effect tolerating slavery, afterwards uniformly voted against the admission of Missouri under the constitution which she brought, not on account of slavery, but on account of this clause. Mr. Storrs, of New York, a leading member of the House of Representatives, having few superiors in that House or the country, was one of that class. He insisted that free blacks were citizens; that there was no distinction among native free-men, whatever their color, in this country, so far as citizenship was concerned. So thought many other leading and distinguished men, and the contrary was very faintly asserted by anybody. True, it was by some, but it was not resisted on that ground. Members, and distinguished members of the House, insisted upon it that granting that free blacks were citizens, the State ought to be admitted and Congress could not take exception to that clause. The great majority, however, thought otherwise. I will not pursue this subject further, except merely to add that on this question of citizenship, which has latterly become a topic of great interest, I say so faintly as I asserted in any quarter at that time that free blacks were not citizens, that Mr. Hemphill, of Pennsylvania, said that he understood the report, recommending the admission of the State, to admit that free blacks were citizens, although a majority of the committee were, of course, in favor of the admission, and spoke, it may be presumed, the opinions of their party. I am by no means, however, disposed to go over the ground which I went over the other day, and should not have alluded even to this had it not been for the remark of the Senator from Missouri.

I come to the result, then, Mr. President, that the constitution before us is not an embodiment of the people's will; that it contains provisions not in harmony, but directly repugnant to the principles on which our Government rests; and for these reasons this Territory ought not to be admitted as a State. What excuses are urged why it should be admitted? There are many. Among them are, it will give peace, calm the agitation, quiet the troubled sea on which we are now tossed. Mr. President, it is not a statesmanlike reason for doing a legislative act. We should be just and fear not. Besides, I do not believe that the passage of this bill, and the admission of this Territory under this constitution, will give peace—nay, sir, I believe it will give the sword. I do not urge that as a reason why we should not pass

it, for I do not propose to address any argument to any gentleman's fears. It is merely in reply to an argument urged on us to vote for it, that it will give peace, and for no other purpose. I disclaim any appeal whatever to the fears of any gentleman. While I disclaim an appeal to the fears of any one, I must also say that any arguments addressed to fears on the other side have very little weight with me. It is said that certain sections of the country will be so dissatisfied that they will secede from the Union if this bill should not pass, and Kansas should not be admitted. All that weighs very little with me. It is no argument. What weight has it? It is lighter than a feather shaken from a linnet's wing.

But we are told, if it is distasteful to the people, they can change it. Is that an argument for imposing a constitution or a law upon a people, that, if unsatisfactory, they can change it? Why, sir, the same remark would hold true of any despotism on the face of the earth. The people under the sway of the Czar of Russia can change their Government if they wish to. So can the people of Turkey; the people of France; the people of any Government, no matter what its principles are. If the people choose to rise up, they can change their Government; but do they? can they, practically? At all events, is it an excuse for those who tyrannize over them, that if the people are not satisfied, they have the power to make a revolution? Are we about to impose a constitution on a people, and say, "we do not know whether you are in favor of this constitution or not; we incline to think you are not; but if you do not like it, we impose it upon your necks, and you have nothing to do but to change it?" That, sir, is an argument from statesmen to statesmen in the Senate of the United States! That the people cannot, except by revolution, change this constitution in any mode differing from the mode specified in it, has been shown.

But then it is proposed, as I understand it, to amend the bill which we pass so as that this constitution shall be made more acceptable, more tolerable, better than it is. I ask where is the power in this body, or in Congress, to change one letter of that constitution, to alter it, to construe it, or to affect it directly or indirectly? We are, it is true, if we pass this measure, assuming a power which would imply that; and we might just as well make a constitution for them, and say, "this is your law, live under it," as to do what, if we pass this bill, we shall do; but after all, does any man, or can any man claim, under our Constitution and laws, that we have one jot or tittle of authority to touch the provisions of that constitution in any manner? I utterly deny any such power to this body. It does not exist. The constitution which comes here we must leave just as it is, and admit or reject the State, leaving the constitution just as it is; or if we make any amendment, or propose any alteration, we can only refer the subject back to the people that they may come in as a State with a constitution satisfactory to us, indeed, but nevertheless made altogether by themselves.

There is another reason assigned for this measure, and that reason is found more fully and explicitly stated in the resolutions of an assemblage of highly respectable gentlemen who met at Tammany Hall, in the city of New York, on the 4th of March, on this subject. At the close of the resolutions by that assemblage of citizens where they give their reasons one after another why Congress, in their judgment, ought to admit Kansas under that constitution, the climax of reasons is this:

"Because James Buchanan, the President of the United States, recommends it. Elevated to a position which enables him most accurately to ascertain the exact truth amid the conflicting statements coming from heated partisans in that distant frontier of the Union," &c.

That, sir, I repeat, is the climax of reasons which I have heard why the Congress of the United States should admit Kansas into the Union as a State under this constitution. It amounts to this: the party require this act to be done; and the President is so situated that he can know the real truth about this matter better than anybody else. In regard to the requirements and the discipline of party, it does not become me, who am an outsider in that particular, so far as the party

alluded to is concerned, to say much. I will only say, from my observation of the operations of party on this subject, your party, a short time ago, read gentlemen who were veterans—who had borne the burden and heat of the day under the Democratic banners—out of the party, because they disapproved of the Kansas-Nebraska bill, and were honestly opposed to it. It now, as I understand it, proposes to read men of like character out of the party, because they are honestly in favor of the same measure. If, under such circumstances, men can keep afloat on the current of party, I bid them God speed on their voyage.

The other reason, that the President is so situated that he can learn the exact truth and know all about this measure from the distant frontier in consequence of his elevated position, I must say, had it not come from gentlemen who certainly are entitled to respect, I should have thought the most frivolous, I was going to say the most ridiculous, of all statements that I ever heard made. The position of the President of the United States one peculiarly well fitted for learning the truth in regard to a political question! Why, sir, king's palaces are not proverbial for the amount of truth that is uttered in the ears of the king. Indeed, it is probably one of the most repulsive features that surround a man having the kingly office, that from the day of his birth to the day of his death he never hears the honest, simple truth spoken. The President of the United States, it is true, is not a king; but some of the incidents attaching to kings attach to him, and one of those incidents is that he is less likely than almost any other man in the nation to hear the truth spoken. Who are the men that surround him, and what are their purposes and objects? To speak the truth? Does he hear the truth from them? Oh no, sir. They are men having other purposes and other objects than to tell the truth. They have an eye to fat contracts, to gifts, and emoluments. They do not go there to offend the ear of majesty by speaking the truth, unless it should be pleasant to the ear of majesty to hear it. About king's courts, and, I fear, about presidential mansions, there are many who may, without impropriety, be styled toads, who live upon the vapor of the palace. They may have the precious jewel of truth in their heads, but they are specially cautious not to have it on their tongues.

I come, Mr. President, to the result that the excuses urged for the passage of this measure are frivolous, unsatisfactory, untrue. They form no excuse whatever for doing an act which I have before characterized as being despotic and tyrannical. Without occupying the time of the Senate further, I say, then, that my objections to this constitution rest mainly on the fact that it does not embody the will of the people, and is not in harmony with the principles on which our Government rests. For either of these objections I should deem it my duty to stand here in opposition, by my voice and by my vote, to prevent the adoption of the measure. The question of slavery, in one point of view, I pass by altogether. It may be that because slavery is in this constitution the people of Kansas are opposed to it. Of that they are better judges than I. My objection to imposing this constitution upon them is that they are opposed to it. Sir, if it had not one word in it about slavery—on the other hand, if it had a clause abolishing slavery within that Territory forever—if I was as well satisfied that that constitution was as distasteful to the people of that Territory as I am satisfied this is, I would oppose it with the same earnestness that I oppose this. I repeat, I do not know but that it is their objection that slavery is in it. My objection is that they object to it; and I would as strongly resist imposing a constitution on them which made their Territory a free Territory forever, as I would resist the adoption of a constitution imposing slavery upon them, because it would be an act of usurpation in both cases.

Mr. POLK. Will the gentleman allow me to interrupt him for a moment?

Mr. FOSTER. Certainly.

Mr. POLK. I desire to ask the Senator from Connecticut whether he would vote for the admission of Kansas under any circumstances, if her constitution tolerated slavery?

Mr. FOSTER. I have said that I should not.

If the gentleman doubts whether he has convinced me, I repeat that I certainly would not.

Mr. POLK. If I had so understood the Senator, I would not have asked the question.

Mr. FOSTER. I stated so the other day, and I repeat it now. I could not, consistently with what I believe to be due to that Territory, vote for the extension of slavery over the line of 36° 30'. I went somewhat at length into that question the other day. I will not repeat now the arguments I then made, but my views are unaltered. I was saying at the present time, that if this constitution was perfectly unexceptionable in regard to the matter of slavery, and if it had a clause in it prohibiting slavery within the Territory forever, still, if I was as well satisfied as I am now that the people of the Territory disapprove this Lecompton constitution, I would not vote to impose it on them. By that I stand, and I stand by the principle also to which the honorable Senator from Missouri has called my attention, namely: the exclusion of slavery from the future States of Kansas and Nebraska.

Mr. CLAY. Mr. President, at the beginning of the session I did not design or desire to participate in any discussion of the Kansas or slavery issues; for if not identical, they are inseparable. After the protracted debates of those issues, I feel reluctant to weary the Senate or myself with so trite a theme; but having been placed, instead of my colleague, upon the Committee on Territories, during his detention from the Senate by severe illness, it may be expected of me to say something in support of the bill which, as one of the majority, I agreed to report, and recommend to the Senate. Besides, the unanimous action of both Houses of the Legislature of Alabama, in providing for calling a convention of the people of that State to "determine their course of action," in case of the refusal of Congress to admit Kansas into the Union, has been alluded to by Senators in terms of reproach and of ridicule. Identified with Alabama by my birth, education, interest, and affection—regarding her as "my nursing mother and my grave"—indebted to her for the highest honors and greatest trusts she could bestow, and standing here as one of her ambassadors in this Council Chamber of sovereign States, I feel it my duty, as well as privilege, to justify or excuse, as far as I can, all her acts relating to her sister States or to the Federal Government. I shall speak rather in vindication of her Legislature than of my vote, and more of the principles and purposes of the Free-Soil party in Kansas and in Congress, than of their objections or arguments against her admission into the Union.

Mr. President, the people of Kansas ask admission into the Union. Men of all parties and of every political faith have signified in some manner, at some time, their desire to enter the Union. All parties in Congress have indicated at some time, and in some manner, a willingness to admit Kansas into the Union. Disguise it as we may, sir, it is nevertheless true that Kansas would ere this have been admitted into the Union without serious objection or protracted debate, but for the sectional struggle in that Territory and in Congress upon the subject of slavery.

I have heard, with amazement and regret, the assertion, on the part even of southern Senators, that slavery is not implicated in these Kansas issues. Sir, those men must be deaf or blind to the passing events of the hour who can hug to their bosoms that delusion. Parties in a Territory may wrangle and war upon each other never so fearlessly; may dissolve legislative bodies and conventions; may defy Federal authority; may resist territorial laws; may enact rebellion; may do all these, with impunity from Federal legislation, and immunity from Federal or State intervention; provided, they are not divided upon geographical questions, or engaged in a sectional struggle involving sectional rights of property.

Look at Utah, from the settlement of Brigham Young and his followers at Salt Lake, in a state of open, undisguised rebellion against your Government, rejecting Federal officers, refusing obedience to Federal laws, and establishing an insurgent government. Look at Nebraska, dissolving her legislative body, defying her Governor, and enacting anarchy and revolution. Look

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at Minnesota, dissolving the convention called to frame her constitution, each party segregating to itself, and determining by itself; yet what Senator thinks these matters of momentous concern, or any cause of care and solicitude? What section or what State in the Union has been frenzied, or agitated, or disturbed by these outrages and enormities? None, sir—none. The revolutions of Mexico or of Europe disturb our repose quite as much. The reason is obvious: there is no geographical or sectional issue there; there is no negro implicated. But, sir, the introduction, or the attempted introduction, of his head into a Territory of this Union seems to be regarded by the dominant party of the northern States like the wand bound round with wool, which was carried by the ancient Athenian herald—a declaration of war.

Why was the passage of the Nebraska-Kansas act resisted so strenuously? Because it permitted the introduction of slaves into that Territory. Before that act had passed, an organization of members of Congress was formed with a view of controlling the destiny of that country by emigrant aid societies. The most noisy, active, and efficient agents of that party repeatedly declared that they intended to colonize Kansas with men "who could not do without the aid of that association;" "to be retained in its service;" "to be under its control;" "to be bound by it;" "to be under bonds to make Kansas a free State." To wrest from the South every foothold in that Territory, all the means have been invoked which fanaticism, avarice, ambition, hatred of the South, or lust of dominion over it, could suggest. The western nation in the twelfth century were not more grieved that the Holy Land was in the hands of the Moslem, than this party were, or affected to be, that Kansas, "a soil consecrated to freedom," was opened to the immigration of the slaveholder. Ministers of the Gospel, like Peter the Hermit, traversed the North, inflaming religious zeal, and arousing Christian crusaders to the rescue of that consecrated soil from the sacrilegious tread of the slaveholder. Political leaders aroused the lucrative desires of the North by highly-colored pictures of the exhaustless treasures and the incomparable charms of her virgin soil; or appealed to the lust of dominion, the vengeance of mortified pride, or the indignation of insulted justice against the violations of plighted faith, the aggressions and the outrages of the "slave oligarchy." In the madness of their zeal, or the bitterness of their hate, they declared that if they failed to expel slavery from Kansas by moral means, they would do so by fire and sword. Such a declaration in the northern Republican convention at Philadelphia was greeted with tumultuous applause. Such were the weekly and Sabbath-day counsels of the Beechers and Parkers, who disgraced the northern pulpits and dishonored the cause of the Prince of Peace they professed to advocate. Such were the daily menaces of the leading northern Republican papers. Such were the repeated suggestions in the form of prophetic admonitions to the South, uttered by Senators on the other side of this Chamber.

Sir, the Free-Soil party in Kansas have fully illustrated the principles and purposes of their advisers and advocates in Congress and in the North. In their first meeting to call a convention to frame a constitution, they solemnly resolved that the laws of that Territory were without validity or binding force, and that they would resist and defy them, even to a bloody issue, if they found that peaceable remedies would fail. Governor Reeder, addressing that party, declared "we must conquer, or mingle the bodies of the oppressors with the oppressed upon the soil which the Declaration of Independence no longer protects." The president of the Philadelphia Republican convention of June, 1856, declared "such a rebellion was sanctioned by God and man;" and he but echoed a sentiment we have often heard uttered upon this floor. Hence, in accordance with the edicts of the New York Tribune, whose power over its party is superior to that of any individual, if I may except the distinguished Senator from New York, [Mr. SEWARD,] who is sometimes honored with the sobriquet of "the Wizard of the North," they continued to "pour free settlers into Kansas, well armed with Sharpe's rifles or

other convenient weapons." Hence they refused to coalesce or to cooperate with southern men, in elections either to the Legislature or the convention. Hence their secret organizations, their formation of military companies, their preparation for war, and their attempt to establish an insurgent government. These men went to Kansas not so much to build as to destroy a State; not so much to organize as to disorganize; not to promote order, but to produce disorder; not to vindicate acknowledged rights, but to avenge imputed wrongs; not to meet in the peaceful contest of the ballot-box with southern brethren, but to engage in hostile encounters of the cartridge-box with southern enemies. They went, in the language of the same New York Tribune, "not for commerce, but for vengeance." They went to meet southern "enemies," "vandals," "a dishonorable and perfidious privileged class," "heartless, grasping, and tyrannical robbers." Such were the characteristic names applied even by Senators to southrons, or at least to slaveholders. The President truly characterizes this contest in Kansas, when he says:

"The dividing line there is not between two political parties, both acknowledging the lawful existence of the Government, but between those who are loyal to this Government and those who have endeavored to destroy its existence by force and usurpation—between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress."

The President is sustained in that assertion by the declaration of Governors Denver, Stanton, Walker—of all the Governors of that Territory. He is sustained by the confessions—yea, by the bold avowals of that party themselves. He is sustained by the very convention which assembled to frame that Topeka constitution, and by the manner of its presentment here. A convention, called in pursuance of no enabling act of Congress or act of the Territorial Legislature; in accordance neither with Federal or territorial executive authority; in obedience to no expressed will of the people, but called by audacious and violent party leaders, representing, according to their own confessions, as expressed by the Free-Soil papers of that Territory, but seven hundred out of near seven thousand voters—this convention, representing but one tenth of the voters of that Territory, undertook to frame a constitution and State government, and sent that constitution to Congress for admission into the Union. They were so inflated with the spirit of rebellion that they even insulted Congress in their memorial while asking its favor, and renounced Federal authority while invoking its sanction of their work, by declaring that a territorial government was unknown to the Constitution, and extra-constitutional, and could not remain in force against the will of the people living under it. Thus they asserted their will to be paramount to the laws of the United States, and their right to enter upon the public domain, and to annul all the laws of Congress, to be beyond all question. Yet, sir, this constitution, thus presented, met the approval of the northern Republican party, I believe, in both Houses of Congress. They passed a bill to admit Kansas under this constitution through the House of Representatives, and it received the favor of all the Senators of that party. Thus encouraged by the approbation of their party in Congress and throughout the northern States, I am not surprised that these men should have continued to this day in an attitude of rebellion and defiance against the Federal Government. These are the men, or "the people," who oppose the admission of Kansas under the Lecompton constitution. The Senator from Illinois [Mr. DOUGLASS] understood and portrayed their character truly in his report and speeches during the last Congress. Governor Walker understood and presented them truly in his communications to the President, and the President fairly portrays their character in the paragraph which I have read from his message. Shall we, sir, defer to these malcontents, factionists, and rebellionists? Shall we refuse to admit Kansas because of the opposition of this faction, dignified by the name of party; or the people of Kansas? If so, why shall we do it?

Not because there was no enabling act passed; not because they want the requisite population for admission into the Union; not because the question of calling a convention of the people was

not fairly submitted; not because the law providing for a registration of voters was not regular, just, and fair in all its provisions. Nor, I think, because that law was not fairly executed; for the Senator from Missouri on my left, [Mr. PORTER,] in the able argument made by him the other day, showed clearly and conclusively that if that law was not fairly executed, it was not the fault of those who made it, or those who endeavored to execute it. He showed that in some counties where no registration was taken, there were no voters to register; others, where no registry was taken, were attached to adjoining counties and formed one district, in either of which counties they might have been registered, or might have voted; and that in a few counties no registry was taken, because the free-State party would not permit it. In the language of Governor Stanton, "they resolved not to take part in the registration; and we may well attribute any errors and omissions of the sheriffs, to this well-known and controlling fact."

Sir, there are but two objections made to the admission of Kansas, in my opinion, worthy of consideration—the only two which involve any question of principle. One is, the whole constitution was not submitted to the people. I am surprised to hear this objection preferred by Senators at this day, with the experience afforded us by near seventy years of republican government. No support for this objection can be derived either from the practices of our States or Territories, or from the genius and theory of our governments, or from any legislation of the Congress of the United States. In the younger and purer days of our Republic, constitutions were not submitted to the popular vote. The Federal Constitution was adopted by a convention of delegates, in the first instance, from the several States, and afterwards by delegates in conventions in the several States. It was never submitted to the popular vote. Neither of the original thirteen States submitted its constitution to a vote of the people. A majority of the States now in this Union adopted constitutions without ever submitting them to the popular vote. Precedents and authorities are numerous to sustain the course of the conventionists at Lecompton, in declining or refusing to submit the constitution to a popular vote. In my opinion, they would have acted in stricter accordance with the spirit and genius of our institutions if they had not submitted it, in whole or in part, to the popular vote. Our governments are republics, not democracies. The people exercise their sovereignty, not in person, at the ballot-box, but through agents, delegates or representatives. Our fathers founded republican governments in preference to democracies, not so much because it would be impracticable, as because it would be unwise and inexpedient for the people themselves to assemble and adopt laws. They were satisfied from reading, and from reflection, of the truth of Mr. Madison's observation about pure democracies, that they "have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property, and have in general been as short in their lives, as they have been violent in their deaths." They knew from the examples furnished by Greece and Italy, that it is impossible, in a pure democracy, to remove the causes or control the effects of faction; that an absolute majority is oftener swayed by passion than by reason; that its voice is oftener that of a demon than of a god; that it is the most cruel, rapacious, intolerant, and intolerable of all tyrants. They knew that it is a wholly irresponsible power; acknowledging no superior, for it is itself supreme; owing no obedience, for it is its own master; respecting no authority, for it is a law unto itself; subject to no control or restraint, except the still small voice of conscience, which is too often drowned in the tumultuous waves of party or of faction. It might sacrifice public good or private rights to any ruling passion or interest of the hour, with impunity. It had robbed the rich to relieve the poor, and oppressed the poor to aggrandize the rich, with equal ardor or indifference. It had voted hemlock to-day and statues to-morrow, to its best citizens. They suffered no man to be a judge in his own case, lest he should be biased by passion or by interest; and could

find no better reason why a large body of men, although a majority, should be the supreme and final arbiter of its cause. On the contrary, they knew that a large body of men is more liable to be controlled by passion or by interest than a single individual, and is more apt to sacrifice the rights of the minority, because it can be done with more impunity. Hence they endeavored to impose restraints upon themselves. Hence they committed the making of all their laws, organic or municipal, to their delegates or representatives; whose crimes they could punish, whose errors they could correct, and whose powers they could reclaim.

The great security of our rights of life, liberty, and property, is in the responsibility of those who make, and of those who execute the law. Establish as a principle that to give sanction to law it must be approved by the majority at the ballot-box, and you take away this security and surrender those rights to the most capricious, rapacious, and cruel of tyrants. I regret to see the growing spirit in Congress, and throughout the country, to democratize our Government, to submit every question, whether pertaining to organic or municipal laws, to the vote of the people. This is sheer radicalism. It is the Red Republicanism of revolutionary France, which appealed to the sections on all occasions, and not the American Republicanism of our fathers. Their Republicanism was stable and conservative; this is mutable and revolutionary. Theirs afforded a shield for the minority; this gives a sword to the majority. Theirs defended the rights of the weak; this surrenders them to the power of the strong. God forbid that the demagogism of this day should prevail over the philanthropic and philosophic statesmanship of our fathers.

But we are told that the will of the majority has not been expressed in this constitution; that it has been achieved by force or fraud. Three times have the voters of Kansas been authorized and enabled to vote upon this question of a constitution: first, whether a convention to frame it should be called; next, in electing delegates to the convention; and lastly, whether the slavery clause should be retained or rejected. Previously to the last vote, two elections for a Legislature, and three for Delegate to Congress, had been held; and in all these elections, except the last for Delegate, the Free-Soilers were beaten, and in that succeeded by only a small majority, and then because of the division of the Democratic party. And yet, notwithstanding oft-repeated defeats, they have ever claimed a larger number of voters than the majority cast at each of those elections—first, they have claimed two to one, ten to one, and even twenty to one, of the pro-slavery party. Admit the assertion, and it follows that this large majority have either from want of courage, energy, and resolution, feared and failed, or from want of patriotism and self-love and concern for their welfare, neglected and refused to assert and exercise their right and power to control elections and possess themselves of the Legislatures and of the convention, and thus form the municipal laws of the Territory, and the organic law of the State, to suit themselves. They either dared not, or cared not, to make the laws and mold the domestic institutions of Kansas. They were either submissionists from cowardice, yielding to the domination of a feeble minority, or anarchists from choice, unwilling to govern or be governed according to the forms of law and theory of American governments. In either case, they are unworthy of our sympathy or countenance, because unfit to frame or execute laws for a State or Territory. Such men should be governed. They are deficient in the moral qualifications for forming or administering free governments. I do not share in the charitable commiseration for that large and oppressed majority, or in the generous indignation towards that small and tyrannous minority, that has been so feelingly expressed on this floor. I feel rather disgust and contempt for that majority, and respect and regard for that minority. These are true popular sovereigns—those, servile submissionists or rebellious anarchists.

But, sir, knowing as I do that northern men are not deficient in wit to discern, or tact to manage, or courage to maintain their rights, I have never believed that the Free-Soilers in Kansas, if in a majority, have ever been cheated out of their

rights or had them ravished by force. Often as I have heard that chaste and striking expression—a constitution crammed down the throats of the majority of the people against their will and in violation of popular sovereignty—it has failed to produce in me any qualms of conscience as an accessory after the fact in voting to admit Kansas, although I confess to some revulsion of stomach in contemplating that prodigious and marvelous operation. I have wondered less at the miracle than at those who repeated it. That sage and sober Senators should credit, or seem to credit, or expect intelligent people to credit, this exceeding miracle, is matter of "special wonder." If it had happened but once, I would have believed it; but I cannot believe that so large a majority has been overcome by fraud or by force six or more times in succession; it is contrary to my reason and to my knowledge of the character of American freemen. But, if true, they are unworthy of their rights, because unfit to exercise them.

These are plausible arguments, but cannot be controlling objections to the admission of Kansas into the Union. There is no constitutional, or legal, or moral obstacle to her admission, unless it be that the right of property in slaves is recognized and guaranteed by her constitution. The Senator from New York [Mr. SEWARD] told us truly and frankly, that the question presented to us is, "whether there shall be slavery or no slavery in the Territories." The shibboleth of the party, of which he is the acknowledged leader, was, during the last canvass for the Presidency, and still is, "no more slave States." Many of the most prominent of that party deny that property in slaves is protected or even recognized by the Federal Constitution. Such was the explicit denial of the Senator from Maine, [Mr. FESSENDEN.] All of them deny that it has any sanction in Divine or moral law, or common law, and denounce it as hostile to our republican institutions. The platform adopted by the northern Republicans at Philadelphia, in June, 1856, alleges all these objections to the institution of slavery, and commits them against the admission of any slaveholding State. If all the voters in Kansas desired admission into the Union under the Lecompton constitution, no northern Republican could vote to admit her without violating the principles of that platform; and some have conceded that the recognition of slavery by that constitution was to them an insuperable objection to her admission. There are Senators, I believe, who are not actuated, in opposing her admission, by the principles or sentiments of that party, but they are exceptions to the general rule of opposition.

If, as alleged by the Senator from New York, [Mr. SEWARD,] the principles and sentiments of his party predominate in the northern States; if the toleration of the expansion of slavery has been death to all parties there but the Democratic, and is fast hurrying that on to the same fate; if the North demands the ultimate emancipation of all men, and leaves the South only the election "whether it shall be effected with needful and wise precaution against sudden change, or hurried on by violence;" then it behooves the South to deliberate and determine whether she will yield herself to these northern ministers of her fate, or assert her right to shape her own destiny. Within the Union she cannot control her destiny against the preponderating majority of the North, when imbued and influenced by the principles and sentiments proclaimed by the northern Republicans. When they get the control of the Federal Government, (which they vauntingly predict,) the southern States must elect between independence out of the Union or subordination within it. The principles of that party are not only hostile to the constitutional rights of those States, but to their political integrity and social organization. They are not only unconstitutional and sectional, but radical and revolutionary. Alabama, in common with the southern States, has repeatedly declared that she will not submit to the measures of that party, and especially to the refusal to admit a slaveholding State into the Union; and if she be true to herself, she will resent and resist those measures, or either of them, even to disunion.

Property is the foundation of every social fabric. To preserve, protect, and perpetuate rights

of property, society is formed, and government is framed. No government was ever formed to destroy the property of its citizens; although some have been perverted to that end by usurpation. No government ever existed, the design of whose framers was to enable some of them to seize and appropriate, or abolish, the property of others; although, by the tyranny of force or fraud, such results have ensued. On the contrary, the primary, fundamental, and inseparable idea of every social or political organization is, to guard and secure to every member thereof in the freedom, use, and enjoyment of his property. These are self-evident truths which every tyro in political law understands, and no intelligent man will deny. A necessary corollary of these principles is, that Government is bound to take care that foreign Governments do not rob its citizens, and that its citizens do not rob each other; and much more is Government itself bound not to rob its own citizens. These are absolute duties of Government, independent of any injunctions of the organic law. To fulfill these duties, powers are conferred.

But our forefathers were not content to rest their rights to freedom of property upon these necessary implications. They knew that life, liberty, and property are so intimately blended in the social state, that they must coexist in order to preserve the full enjoyment of either, and that sovereignty over one could not be surrendered without imperiling the safety of the others. They had learned from experience, as well as history, the overwhelming and endless evils that flowed from the sovereignty of Government over property, either public or private. They had read that, at one period of English history, kings and barons bestowed and resumed lands at pleasure; and at another, that Parliament enriched the few at the expense of the many, by means of bounties, pensions, titles, monopolies, and exclusive privileges. Hence, in their petition to the Crown for redress of grievances, they declared that they regarded "the giving of their property by their own consent alone, as the inalienable right of the subject, and the last sacred bulwark of constitutional liberty;" that "to deprive them of this right, would be to reduce them to a state of vassalage, which no free people can long endure;" and that "they would be utterly unworthy of their English ancestry, which is their claim and pride, were they tamely to submit." In contending, however, that their property could not be taken without their consent, they admitted, whilst colonies of England, that it might be taken and expended by their representatives, without restraint, in accordance with the English theory of the sovereignty of Parliament. But, when they established their independence, they renounced this dogma, and formed their Constitution upon the theory that sovereignty resides in the people, and that governments are their trustees. They knew that even election and representation, when coupled with a sovereign right over property, afford no refuge of protection to popular rights; and they endeavored to prescribe the duties, limit the powers, and control the action of their representatives, both in respect to persons and property, by a written Constitution. The word sovereign is not found in that instrument, or the Declaration of Independence, and does not belong to our governmental dialect. It would have been inappropriate, because inconsistent with their intention, to form a Government of limited and specific powers, to be held in trust for their benefit. The form, tenor, and spirit of the Constitution, all show a purpose to withhold from Government sovereign power over property, either public or private, and to retain for the people freedom of property, as well as of conscience, and of all other personal rights.

They instituted separate departments of Government, defining the rights and duties and assigning the patronage of each, and divided the powers transferred among them, that they might serve as mutual checks and balances.

They gave exclusive power to originate revenue bills to their Representatives, because they were the servants over whom they could exercise most immediate control.

They required that all duties, imposts, and excises, should be uniform throughout the United States; that no capitation or other direct tax should

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be laid unless in proportion to the census; that no preference should be given, by any regulation of commerce or of revenue, to the ports of one State over those of another State; thereby inhibiting and restraining a geographical majority from indulging partiality for themselves, or prejudice against a geographical minority, by sectional or class legislation, whereby the property of some States or classes of citizens might be taken and transferred to other States or classes of citizens, or other acts of oppression or injustice might be achieved.

They gave Congress power to pass "uniform laws on the subject of bankruptcy throughout the United States," because, if that power was reserved to the States exclusively, injustice might be done the bankrupt or his creditors, when they resided in different States, or he held property in several States.

They inhibited the States from "coining money, making anything but gold or silver coin a legal tender, or passing any law impairing the obligation of contracts;" empowered Congress to "coin money and regulate the value thereof and of foreign coin, and to fix the standard of weights and measures;" and declared that "private property shall not be taken for public use without just compensation therefor;" and that "no person shall be deprived of life, liberty, or property, without due process of law." All of which were precautions for the freedom of property and its defense against the usurpations or assaults of Government.

In the same spirit, to enable citizens of each State to trade or travel in any other State, or to hold property therein, free from confiscation, escheat, unequal taxation, robbery, or other injury, by that State or its citizens, they declared that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

No power was given Congress to define property, except in respect to money, or to discharge any article from being property. These powers were retained by the States or the people. And to "make assurance doubly sure," they superadded two amendments to the Constitution, declaring "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people;" and "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Thus was sovereignty over property not only withheld from the Federal Government, but specifically guarded against. All these delegations and prohibitions of power were efforts to protect the rights of private property, or the rights of individuals to what belongs to them. They evince the jealous anxiety and care of the people to preserve the free use and enjoyment of their property, and to prevent Government from exerting over it any absolute or indefinite power.

One species of property, held in all the States except Massachusetts, (where it was abolished by judicial construction and not by intentional legislation,) was an object of peculiar solicitude—that was slave property. That property which had existed among the most cultivated nations of the earth from the days of Abraham, was then recognized and tolerated not only in America, (as shown by the Senator from Louisiana, [Mr. BEXJAMIN], in his very able argument a few days since,) but by the first Powers of Europe. It was recognized by customary or common law, or by prescription, in the larger portion of Christendom. And notwithstanding the oft-quoted and misapplied phrase of the Declaration of Independence, "that all men are born free and equal," the author and signers of that instrument were either slaveholders or their representatives. Indeed, a clause reproaching the enslaving of the inhabitants of Africa was struck out of that instrument, Mr. Jefferson says, in compliance to South Carolina and Georgia, and our northern brethren; thereby refusing to acknowledge their right to freedom and equality with white men.

The framers of the Federal Constitution, too, were either slave-owners or their representatives. I believe they were all white men; were not bastards or foundlings, but knew their parentage and race; and were not theoretic amalgamationists,

contemplating with complacency the commixture of their blood with that of their negroes, and the transmission to a mongrel progeny of the political inheritance they were amassing. Hence, I presume that by the words "ourselves and our posterity," in the preamble of the Constitution, they meant to secure to white men the blessings of liberty. I am confirmed in that opinion by the intrinsic evidence of the Constitution itself.

As slaves were then recognized as property by nearly all of Christendom, and by all the States of the Confederacy but one, and as no power was given Congress to define property, except as to money, or to abolish property, slave-owners would have been entitled to governmental protection of their slave property without any constitutional recognition of it, by force of those clauses of the Constitution which I have quoted; and even without these, by virtue of those fundamental principles of society to which I have alluded.

But the framers of that charter did not rest their rights upon necessary intentment or implication from those clauses of the Constitution, or from general principles of social organization, but superadded cumulative, specific, and stringent provisions for the protection and preservation of slave property.

It was, as Mr. Madison said in the Federal convention, the most material cause of the division of interests in the United States; and had to be adjusted before a common government was formed. It was one of those "particular interests" the convention had to provide for and defend, in order to secure the union of South Carolina, Georgia, and North Carolina, with the other States. Hence, no power was given Congress to abolish, impair, circumscribe, or restrain that institution, but, on the contrary, the framers of the Constitution provided for augmenting, strengthening, guarantying, and maintaining it.

They recognized, tolerated, and even encouraged it, in sanctioning the importation of slaves, by expressly denying to Congress power to prohibit it before 1808, or to impose on it a tax or duty exceeding ten dollars for each negro imported; and by further inhibiting the States from amending that clause of the Constitution within that period. Here was given the triple guarantee of the States and Federal Government for the augmentation of slavery; in inhibiting Congress from suppressing the slave trade, or from discouraging it by heavy taxes or duties, and in inhibiting the States from empowering Congress to suppress or restrain it, by amending that clause, for twenty years. But, while the power of Congress to prohibit or discourage was thus limited, no limitation was placed on its power to extend, revive, or even perpetuate the slave trade. The Constitution said to Congress, you shall not prohibit the importation of slaves for twenty years, but, thereafter, you may prohibit or allow it. And Congress might, at this day, license that trade with strict conformity to the spirit and intent of the Constitution. Yet, strange to tell, this clause of the Constitution has been cited as proof of its disfavor of slavery!

They not only recognized, but consolidated and strengthened slavery by adopting it as a federal institution, in making it the basis of federal representation and of federal taxation; thus preferring and fostering it above all other property, by making it alone, of all property, an element of political power in the Union, as well as a source of revenue to the Federal Government. Inasmuch as the "revenue is the State"—for without revenue the State could not exist—and as representation is a vital principle of republics, it may be truly said that the Federal Union owes its being at this day, and its birth in 1788, in part to slavery, and that slavery enters into the very life-blood which nourishes the Federal Government.

The Constitution recognizes slavery as a federal institution in providing for its protection and preservation, by inhibiting each State from destroying or impairing the right of property in slaves, by any law or regulation discharging from service any slave that may escape into it, and by requiring that he be delivered up on claim of his master. "At that time," says Chancellor Walworth, in *Jack vs. Martin*, (14 Wend. 526,) "the existence of involuntary servitude, or the relation of master and servant, was known to, and recognized by, the laws of every State in the Union, ex-

cept Massachusetts; and the legal right of recaption by the master existed in all, as a part of the customary or common law of the whole Confederacy."

Yet, notwithstanding this customary or common law, the constitutional right of recaption and constitutional obligation not to discharge but to deliver, were superadded as higher and stronger and surer guarantees for the defense and preservation of slavery.

Thus are slaves acknowledged and warranted in the Constitution as property—property to be imported, to be taxed, to be represented, to be delivered upon demand of the master. Thus was slavery shown, in several respects, by the Federal Constitution, peculiar favor instead of disfavor. It is the only property that is specifically provided for and placed beneath the ægis of the Union. The Constitution recognizes it as a reserved right of the people and of the States, but imposes a federal duty on the States and their common Government to respect and uphold it, in several particulars and relations, above all other property. Power to abolish, circumscribe, or restrain it, is withheld; but power is granted, and the duty imposed on the Federal Government to protect and preserve it. Congress cannot touch it, except to take care of it.

The Constitution further guaranties the institution of slavery in two other clauses, by empowering Congress to call forth the militia to suppress insurrections and repel invasions, and by requiring the United States to protect each State against invasion, and on application of her Legislature, or Executive, (when the Legislature cannot be convened,) against domestic violence. Thus, by delegations and prohibitions of power, the framers of the Constitution endeavored to hedge about, guard, and fortify slave property against all assaults and above all other property.

But, notwithstanding property is the foundation of the social fabric; notwithstanding slave property was recognized by nearly all Christendom, by all the States of the Confederation, and was held in all but one when the Constitution was adopted; notwithstanding the framers of that instrument were slave owners or representatives of slave owners; notwithstanding it is so zealously and sedulously guarded and guarantied in that Constitution; notwithstanding it formed one of the bases of the Federal Union, enters into the frame-work of the Federal Government, is one of the elements of its existence, is one of the elements of the life-blood that courses through the veins of the Federal Republic, and is entitled to the defense of its sword and shield; the northern Republican party is pledged, by its party platform of 1856, and by the principles and policy of its leaders, proclaimed here, to a war of extermination upon slavery. I shall quote from that platform instead of the speeches of Senators, because they but elaborate the ideas it contains, and it is the most authoritative, as well as the most condensed summary of their party creed. That Philadelphia platform of June, 1856, denounces slavery as barbarous, unchristian, contrary to the law of nature, the Declaration of Independence, and the purpose and design of the Federal Government.

The first resolution pledges the party to maintain the principles promulgated in the Declaration and embraced in the Constitution.

The second resolution specifies those principles to be the right of all men to life, liberty, &c., and declares "the primary object and ulterior design of our Federal Government were to secure those rights to all persons within its exclusive jurisdiction."

It asserts that those principles promulgated in the Declaration are embodied in the Constitution, and to maintain them "is essential to the preservation of our republican institutions."

It denies "the authority of Congress, or a Territorial Legislature, or of any individual or association of individuals, to give legal assistance to slavery in any Territory of the United States, while the present Constitution shall be maintained." It claims "that the Constitution confers on Congress sovereign power over the Territories of the United States for their government, and that, in the exercise of this power, it is both the right and the duty of Congress to prohibit in the Territories

those twin relics of barbarism—polygamy and slavery.”

The preamble of the Constitution declares its object was to secure liberty to white men—if, forsooth, by “ourselves and our posterity” the framers meant to designate the Caucasian race. But this platform blackens the faces or the fame of the framers of that instrument, by declaring those words embrace, or were intended to embrace, the African race, or a mongrel race of white and black.

The Constitution recognizes property in negro slaves in at least three clauses, encourages its acquisition, and binds the Federal Government to assist in maintaining the owners’ right to, and possession of, such property. But this platform asserts the inalienable right of all men to liberty, by virtue of the laws of God, the Declaration of Independence, and the Federal Constitution! And northern Republican Senators frequently deny here, in explicit words, that there can be any property in man!

The Constitution guaranteed to each State its reserved right to import slaves, and provided that the Federal Government should participate in the profits of their importation for the first twenty years after the birth of that Government; thus providing for the protection of slave property on board of vessels bearing the Federal flag on the high seas, where its jurisdiction was exclusive of the States and of any other Government. But this platform alleges the primary object of that Government was to secure liberty to all persons within its exclusive jurisdiction!

The Constitution guarantees to slave property representation in Congress; thus recognizing it as one of the elements of our republicanism. But this platform alleges that the maintenance of the right of all men to liberty is essential to the preservation of our republican institutions.

The Constitution recognized slavery as of federal importance and having a federal existence, and encouraged the indefinite multiplication of slaves by importation, and their illimitable expansion by giving its sanction to the foreign slave-trade, and by securing to each State the right of importation of slaves. All power to interdict or interfere with the inter-State slave-trade also was withheld.

One of the arguments used by Mr. Mason, of Virginia, in the Federal convention, against the foreign slave trade was the spread of slavery over those Territories west of Virginia, North Carolina, and Georgia. After alluding to the prohibition of slavery by Maryland, Virginia, and North Carolina, he said:

“All this will be in vain if South Carolina and Georgia be at liberty to import. The western people are already calling out for slaves for their new lands, and will fill that country with slaves if they can be gotten through South Carolina and Georgia.”

Thus forewarned that slavery would take its way westward, beyond the limits of the original States, and would be used to form other and new States, and urged to prevent this consummation, the framers of the constitution refused to do so, but gave their consent and encouragement to its expansion over the western wilderness. But this platform repudiates slavery as without the pale of the Federal protection, where the Federal Government has exclusive jurisdiction, denies the power of Congress, or of any Territorial Legislature, or of any person, to aid or protect it in the Territories, and maintains the power and duty of Congress to prohibit or abolish it in the Territories.

The Constitution provided for augmenting, consolidating, preserving, and perpetuating slavery, by making it one of the pillars of the Federal Government, in securing its representation, and by binding the Government to protect it against foes within or without the Union; in inhibiting the discharge from service of a fugitive slave by any law or regulation of any State, and in pledging the States and their common Government to protect it against foreign invasion or domestic insurrection. But this platform maintains that the primary object and ulterior design of our Federal Government was to secure liberty to all men within its exclusive jurisdiction.

The Constitution conferred on Congress no power to define property, except money. But this platform claims for it power to say what shall,

and shall not be property wherever it has exclusive jurisdiction. The Constitution conferred on Congress no power to discharge any article from being property. But this platform claims the right of Congress to discharge negroes from being property. Our ancestors declared they regarded the giving of their property by their own consent, the inalienable birthright of the British subject; but you, northern Republicans, assert your right to take away the property of American people, who are sovereigns and not subjects, against their consent.

Your platform expressly repudiates the obligations of the Constitution. It is hostile to rights of property existing before the Union in all the States, which formed one of the bases of the Union, and which are better guaranteed by the Constitution than any other property in the Union.

If Congress has no authority to give legal assistance to slavery in a Territory, it cannot give it any assistance in this District, in any navy-yard, fort, arsenal, barracks, hospital, custom-house, court-house, or prison, belonging to the Federal Government, or on any spot on sea or land covered by the Federal flag, and not under the jurisdiction of a State.

If it may not pass laws for the recapture of a fugitive slave in a Territory, it may not pass laws for his recapture anywhere within the exclusive jurisdiction of the Federal Government. The power of Congress is certainly as great in this District, or in any navy-yard, fort, or any of the places designated, as in a Territory; for in those places the right of exclusive legislation is expressly granted by Congress.

The Federal flag that covers slave property on board a vessel at sea, or in this District, a navy-yard, or fort on land, instead of being an emblem of protection, is like the blue lights in our last war with Great Britain—an invitation to plunder, held out to foreign and domestic foes.

If Congress cannot pass laws for securing the right of recapture of fugitive slaves in the Territories, or in this District, or in a navy-yard within the States, or in any place where the Federal jurisdiction is exclusive, *a fortiori* it cannot pass laws for recovery of fugitive slaves in the States, where its power is concurrent; for its power is certainly more limited where it is concurrent than where it is exclusive.

Under the northern Republican administration of the Government, if the slaveholder carry his property into a Territory, this District, a navy-yard, or sea, in a non-slaveholding State, anywhere beyond the limit and jurisdiction of the slaveholding States, he must do so at the peril of its loss. If robbed by a public enemy or a domestic foe, the Government would not enforce restoration of his property or exact indemnity. In such case it must look on an impassive and neutral spectator. It must abdicate its power, or abnegate its duty to protect that property. The Government will be potent to destroy, but impotent to protect. It may and must prohibit, deny, and defeat his right of property, outside of the slaveholding States; but may not, and cannot, admit, sustain, and secure that right. The slaveholder must live in perpetual quarantine, confined to the spot on which he resides, denied all egress by land or sea, in the Territories, non-slaveholding States, this District, or the public vessels, under menace of robbery of his property, without recovery or indemnity. He must keep in his prison-bounds, or become an outlaw, beyond governmental protection.

The Government must not only abdicate its power to protect, it must confederate with his enemies to destroy the slaveholder’s property. It must discriminate against the South in favor of the North; it must denounce southern laws, defining and regulating property, as inhuman and execrable—northern laws as benign and admirable; it must sustain the latter and counteract the former. Congress and the Federal executive officers must become allies of abolition, and, in compliance with the behests of the original American anti-slavery society, established in 1833, “must abolish slavery in all those portions of our common country which come under its control,” or, in the language of this northern Republican platform, “must secure the right of liberty to all persons within its exclusive jurisdiction.” In other

words, Congress must abolish slavery in this District, the navy and dock-yards, forts and arsenals, and vessels at sea; must inhibit it in the Territories, inhibit the inter-State slave trade, repeal the fugitive slave act, and, in the language of Abolition orators and essayists, must “sever the Government from all connection with slavery,” and “efface so foul a blot from the national escutcheon.” Thus the Constitution, which was designed to serve as a shield to protect, is converted into a sword to destroy slave property. Such is the programme of Federal legislation laid down by abolition societies for a quarter of a century, and such is the import and meaning of this northern Republican platform. Those societies declare their meaning in language not to be misunderstood. This platform only announces the single measure of inhibiting slavery in Territories; but its declaration of principles and of the power and duty of Congress, commits that party to all the measures of those societies. Those measures are the logical and necessary consequence of the principles of the platform put in act.

Yea, more, the right and duty of Congress to assail slavery in the States may be fairly deduced from the doctrines of this platform, notwithstanding the vain boast that “the rights of the States, and the Union of the States, shall be preserved.” It declares that the principles promulgated in the Declaration are embodied in the Constitution; pledges the party to maintain those principles; asserts those principles, thus promulgated and embodied, to be the right of all men to liberty, &c.; and alleges that the primary object, and ulterior design of the Federal Government was to secure liberty to all men within its exclusive jurisdiction. If true, why should not Congress so legislate as to secure liberty to all persons in the United States? Where in the Constitution is found this right of all men to liberty; or that to secure this right to all men, within the exclusive jurisdiction of the Federal Government, was the primary object and ulterior design of the Federal Government? Where in the Constitution do you find evidence that it was the design of the Federal Government to secure liberty to negro slaves? Where, in that instrument, do you find a design to secure liberty to negroes wherever the Federal Government had exclusive jurisdiction? Where is the proof of any intention of the framers of that instrument to secure liberty to all men in a Territory, or in this District, but not in the several States? What privilege, immunity, or liberty, is guaranteed in a Territory, that is not equally guaranteed in the States? It cannot be found. There is no evidence of a design to secure other or greater blessings, liberties, or rights to men, within a Territory, or where the power of the Federal Government is exclusive of the State governments, than to men within a State, or where the Federal and State governments may operate concurrently. There can be shown no contrary or antagonistic designs in the Federal Constitution. If it had an anti-slavery design upon the Territories, it had the same design upon the States, and must carry out that design to the extent of its powers—in the latter as well as the former.

There is abundant evidence in the Constitution of the design of its framers to show no geographical, sectional, or personal partialities, but, on the contrary, to secure the same common and equal rights, privileges, immunities, and blessings, to citizens of the United States, wherever they might dwell within the bounds of its operation. It was intended to secure the blessings of liberty to “ourselves and our posterity” throughout the Union, where it was to operate exclusively or directly, and where it was to operate concurrently or indirectly. If it was formed by negroes or for negroes, as well as white men; if the sweeping generalities and cabalistic abstractions of the Declaration about the liberty and equality of all men are embodied in the Constitution; if the words “ourselves and our posterity,” for whom it was formed, embrace blacks, as well as white men, (as alleged by this platform,) then those who administer the Government are bound to exert its powers to the extent given in the Constitution, so as to abolish slavery in the States. It was formed with no double meaning or contrary objects and designs, but with the same meaning, object, and

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design, in States or Territories. If its objects and design were to secure liberty to *all men* anywhere, the same object and design in every other place may be deduced from the same premises.

This platform thus pledges that party, if they get the control of this Government, to exert it on the side of negro freedom everywhere. It warrants and encourages assaults upon the right to slave property in the States, notwithstanding its expressed regard for the rights of the States. If its principles be embodied in the Constitution, then its framers were guilty of the insane folly of founding a Government for the destruction of the property of its citizens; for encouraging foreign nations to plunder them, and one class of States or citizens to plunder another class of States or citizens; a Government for taking their property without just compensation therefor; for depriving them of their property without due process of law; for taking their property without their consent. And they did this while protesting against the sovereign power of the mother country over their property, while professing a contrary purpose and design, and while actually providing against the invasion or abuse of their rights of property.

The principles enunciated in this platform and expressed on this floor by northern Republicans, if they ever prevail in the administration of the Federal Government, will place the slaveholding States under its ban and induce abuses and oppressions such as no brave and free people will long endure. They condemn the political and social institutions of those States as barbarous and inhuman. They deny their equality in the Union, and the equality of the slaveholder among the citizens of the Union. They pronounce against him sentence of outlawry. They denounce his title to his slave property to be irreconcilable with the Divine law, the law of nature, or of nations, or even the Constitution of his country! They reprobate the institution of slavery as hostile to our republican institutions, as the crime of the South, and the reproach of the Union.

What can we expect but neglect and disregard of our claims to protection of our property from those who deny our title? What can we expect but habitual and systematic insult, injury, and outrage, from those who profess to abhor, condemn, and loathe our domestic institutions? condemning alike "those twin relics of barbarism, polygamy and slavery." What respect for our right of property in slaves can we expect from those who maintain that they are bound by the Constitution, as well as "higher law," to secure the blessings of liberty to all men? What inducement or motive could the South have to remain in the Union under a Federal Government whose legislative, executive, and judicial departments were administered by men imbued with the sentiments, principles, and opinions, which northern Republicans entertain or profess? The South united with the North in conferring on their common Government certain powers to fulfill certain duties. If it refuses to discharge those duties it betrays our trust. Protection in the enjoyment of equal rights and privileges, in equal security of person and of property, is the political bond of our Union. If such protection be denied, the bond is broken, and she can have no worthy motive for longer preserving the Union. The Federal Government will become towards her a worse tyranny than that of any autocrat. It will exact support without yielding protection. It will extort tribute, not for her advantage, but for northern aggrandizement; not for her defense, but for her despoliation; not to maintain her independence, but to effect her subjugation. It will require of the South payment of taxes and performance of military duty to acquire territory, and yet deny her any share of it, or admission into it—in virtue of the power claimed and the duty felt to prohibit therein "those twin relics of barbarism, polygamy and slavery." It will tax us and our slaves to support armies and navies, and yet refuse to exact or demand indemnity for slave property stolen or snatched from us by foreign foes, upon the ground that such property is not recognized by Christian nations. It will tax us and our slaves to support a judiciary that will always decide for the freedom of the fugitive slave and against slavery—upon the ground that the Constitution does not recognize or protect slave property—in order to achieve that

reform the Senator from New York [Mr. SEWARD] so fondly anticipates and so confidently predicts. It will tax us and our slaves to support post offices and carry mails, to disseminate incendiary documents among our slaves and incite them to insurrection, arson, and assassination—in order to prevent any abridgement of the freedom of the press. It will tax us and our slaves to support soldiers to man forts, arsenals, and navy-yards, and to keep a Federal constabulary in our towns to vindicate freedom of speech, or the right to tell our slaves that they are oppressed and should slay their oppressors. It will tax us and our slaves to build forts, arsenals, navy-yards, custom and court-houses, which shall serve as sanctuaries for fugitive slaves. It will tax us and our slaves to keep its janissaries on the highways that lead across the boundaries of the slaveholding States, to prevent the carrying of slaves from one State to another—asserting its right to do so, under the power granted Congress to regulate commerce. It would effect the destruction of the institution of slavery by these indirect means, and within the letter of the Constitution, though in utter violation of its spirit and meaning. It would render that property not only insecure and valueless, but a curse and a torment to the southern people. In fact, it would subvert our State governments and our social organism, without, perhaps, ever passing any act of Congress directly abolishing slavery in the States. Suffer that party to take into its control the legislative, executive, and judicial powers of this Government—extending its Briarean arms around and over the entire southern States—and it would stealthily and gradually achieve their ruin and desolation. It would distill from the fruit of southern fields the fatal poison it would administer to their owners.

None can doubt the justness of these charges who believe you northern Republicans are sincere in the faith you profess, or would redeem the pledges you have given. That you would break through all constitutional restraint, and go to the furthest extreme to despoil and subjugate us, in order to gratify fanaticism, avarice, and ambition, we have full assurance in the sad experience of Kansas, and in the admonitory lessons of the last Congress. If these prophetic warnings are not unnoticed or unheeded by the South, she will be forearmed for those struggles for dominion which we are assured by the Senator from New York [Mr. SEWARD] the freemen of the North will continue in the Territories and in the slaveholding States until the foot of a slave does not press the soil of the United States.

With the control of but one House of Congress, and opposed by the other and by the Executive and judiciary, you tried, with sublime audacity, to seize the reins of Government, and absorb the powers of all its departments, in order to expel slavery from Kansas, and annihilate southern power in that Territory. To achieve that purpose, you endeavored to arrest the wheels of Government and to revolutionize it, to nullify all laws and subvert all authority in Kansas, and to subject its people to all the horrors of anarchy and fratricidal war. Great indeed would be the humiliation and degradation of submission to your demand, by surrendering to you the exclusive occupancy of all the Territories of the United States. But that would not purchase our peace or satisfy your demands. And if the South decide to yield this demand in the vain hope of an inglorious peace, let her check her pride, and make up her mind with becoming meekness and humility to live, while she is let live, in a state of subjugation, subordination, and subserviency to the North, impetrating mercy of her masters, instead of exacting justice of her equals.

I do not doubt that you think she will yield all you demand. I do not doubt you believe you can extort from her fears of your power all that you cannot seduce from her love of the Union. I believe you expect to excite discord among her own sons, and to array against the slaveholders all who are not slaveholders, by persuading these that they are oppressed and wronged. But the example of Kansas, where there cannot have been more than two hundred slaveholders out of six thousand pro-slavery voters, should have taught you that the sons of the South know and feel that they have a common interest in preserving the institu-

tion of slavery; that they must keep the negro in his normal condition of slavery or destroy him, or surrender to him their country. I do not fear that you can delude and beguile them to their own self-destruction, or the desolation of their country. I know you count largely upon the defections and desertions of southern leaders; and I confess, with shame and regret, that you have but too good reason for your calculations in the mortifying examples we have furnished of those who have betrayed their trust and broken their allegiance to the South, not, perhaps, because they loved her less, but the Union more, and themselves most. I know it is idle to try to disenchant your minds of impressions which you are fond to retain and wish to be true, but which I think dishonor the South, wrong the North, and may dissolve the Union. Yet, at the hazard of your ridicule, I must tell you that Alabama, in common with all her southern sisters but two, has, by the universal voice of her people, as expressed by party conventions, by popular assemblies, and by her late and former Legislatures, resolved—

"That she will and ought to resist, even (as a last resort) to a disruption of every tie which binds her to the Union, any action of Congress upon the subject of slavery in the District of Columbia, or in places subject to the jurisdiction of Congress, incompatible with the safety, the domestic tranquility, the rights and honor of the slaveholding States; or any refusal to admit as a State any Territory hereafter applying, because of the existence of slavery therein; or any act prohibiting the introduction of slavery into the Territories;" "or any act repealing or materially modifying the law now in force for the recovery of fugitive slaves."

If this be mere bravado, she shares the folly and the shame in common with twelve of her southern sisters. While I have indulged, and shall indulge, in no menace, or promise or prophecy of her course, yet I can, and will say, for myself, that in the day of her self-degradation, by disregarding her pledges and submitting to your Government, I will not sit here to endure the contumely and reproach which you justly may, and certainly will, heap upon the heads of her Senators.

Mr. President, I have not been addicted to singing peans or uttering eulogies about the Union, or accustomed to regarding it as "the paramount political good," or "the primary object of patriotic desire." I have ever felt that I owed my first and highest allegiance to my State, and that her sovereignty, her independence, and her honor, even without the Union, should be dearer to her sons, than the Union and her subordination, dependence and dishonor within it. Yet, sir, the Union of the Constitution, which our fathers made, I love and reverence and would preserve; but this Union without the Constitution, or with it as construed by northern Republicans, I abhor and scorn, and would dissolve, if my power were equal to my will. To this Union, the South is commended as a choice of evils, and commanded with menaces of compulsion. Whether she will choose the Union as a lesser evil, or submit to it by compulsion and abandon her self-government and surrender her destinies to your control, you will surely test, if you get the power, and time will surely prove. If she yield to your advice or to your commands, she will deserve to suffer all the wrong and all the shame you can and will accumulate upon her head. But as honor, interest, self-preservation—all that is dear to freemen—all urge her to maintain her individuality and equality as sovereign States, either within or without the Union, I trust she will give you full demonstration of her courage and self-reliance, by refusing any, the least concession to your demands, and by resenting your menaces and repelling your attempts at coercion in such manner as will prove that the spirit of the fathers, who, at Yorktown and at New Orleans, consummated in triumph our two wars of independence, yet lives in her sons.

Mr. DURKEE obtained the floor.

Mr. BELL. I should like to ascertain from my honorable friend from Alabama whether, in some remarks that he made, in which he alluded to defections, desertions, and betrayals, he alluded to anything that had taken place in the debate yesterday on the part of myself or the honorable Senator from Kentucky? I only ask him if he meant anything personal in relation to myself?

Mr. CLAY. I certainly did not intend to make any reflection upon the Senator from Tennessee.

35TH CONG....1ST SESS.

Kansas—Lecompton Constitution—Mr. Clay.

SENATE.

Mr. BELL. That is satisfactory. I did not hear that portion of the Senator's remarks distinctly, and that was the reason why I asked the question.

Mr. CLAY. I had no personal allusion.

Mr. HOUSTON. I have no expectation of making a speech, nor had I any intention of uttering a syllable upon this subject; but as my friend from Alabama—

The PRESIDING OFFICER, (Mr. JONES in the chair.) The Senator from Wisconsin is entitled to the floor.

Mr. HOUSTON. I only wish to say a word.

Mr. DURKEE. I yield the floor.

Mr. HOUSTON. It was not my intention to have uttered one word in relation to this subject, nor do I now intend to address the Senate upon the topic before it; but an observation which fell from my friend from Alabama, in relation to the passage of the Nebraska bill, demands of me a passing observation. The remark was, that those who opposed the passage of the Nebraska bill, opposed it on the ground that it opened the Territory to slavery. I opposed that bill, sir. My objection was very different from that. I had the assurance of every gentleman from the South within my hearing—others may not have said it—that slavery never would go to Kansas.

Mr. CLAY. Mr. President, I can perhaps save my friend from Texas the necessity of a speech, by telling him that, in any remarks I have made, I certainly intended no moral impeachment of any Senator upon this floor. It may have been a political impeachment. I certainly have regarded these things as a betrayal of trust and of duty to my section of the Union. I did not mean to impute that they intended it as such, or felt it as such. In respect to the vote of the Senator, I made no remark about any man, South or North. I spoke of the general opposition to the bill. I have no doubt that some, on the part of the South, opposed that bill simply upon the ground that they preferred quiet error to boisterous truth; that they preferred living in inglorious peace rather than hazard war in vindication of their rights. Now, sir, I will not say that that influenced the distinguished Senator from Texas, who has a great deal of military as well as civil reputation, and who has illustrated his courage on the field, as well as his wisdom in council. I wish him not to suspect me of intending to impeach his motives in the course of argument which I have pursued. I have indulged in general remarks, without really one particle of unkindness towards any of those whom I regret to find differing with me on this occasion, as well as that to which he alludes.

Mr. HOUSTON. Had I anticipated any personal reflection, Mr. President, I would not have referred to the gentleman as my friend. It was the political reflection that I intend, in a few words, to repel. The gentleman is pleased to compliment me on the score of martial achievements and personal courage. They are properties, I presume, that every American has, or ought to have; and, if I have any attribute of that character justly imputed to me, the glory of my life was, that I had the moral manhood, on that occasion, to stand up against the influences which surrounded me, and to be honest in the worst of times. There are two or three other things I intend to notice. The bill of 1854 was not to open, or to prevent opening, the door to slavery in Kansas; for I had the assurance of honorable gentlemen who participated in the debate, that slavery would never go to Kansas. Was it interposing an objection to the march of slavery if I voted against opening that Territory, when we had the assurance of the oldest and most distinguished Senators in this body that slavery never could go there, because God, by his fiat, had interposed an impediment to its location there? Is that the reason why I voted against it? No, sir; my motives were higher and holier. I was not the enemy of slavery, nor was I its propagandist; nor will I ever be.

My opposition to that measure was because it broke up the deep fountain of bitter waters that were to flow over the land, and that now have deluged it, with occasional spouts of blood mingling with its current. It was to keep that down and to repress it that I voted against the Kansas-Nebraska bill. It was a subject I had not particularly looked

into, but I had a right to believe my southern associates were honorable gentlemen, and that they did not intend to introduce slavery there; for it would have been unworthy of southern chivalry, and the nobility of southern sentiments, by base artifice to conceal the primary design of introducing slavery there, when they asserted the contrary. I thought they had pride and chivalry enough to declare their object; and, as I believed it was breaking down the barrier that secured our institutions in the South, and was only opening the door to free soil, and violating southern pledges given to the Indians and recorded at least here, if not in Heaven, I opposed that bill with all the indignation of an honest heart, at least, if I had not the glory of a triumphant defeat of it. These were my objects.

Now that wall of partition is broken down, and what is the result? South of 36° 30' free soil has made its footprints, and where will it stop? Before it had a barrier at that point; but it has none now. I opposed it to prevent a conflict in future time; not to submit to an inglorious peace. My object was to preserve and perfect an honorable peace according to the compromise of 1850. This line had been established by the wisdom of wise men, and it ought to have remained a perpetual monument of peace and harmony. It should have had some manifest dedication to it as a glorious memorial of an occasion that had transformed and given peace to the country. The repeal of that measure dissolved the harmony that existed in the country. It broke peace with the North. I thought there was sufficient free-soil preponderance before this region of country was opened to its inroads, and, as a southern man, I stood up against the repeal of the Missouri compromise.

Sir, I protest against gentlemen speaking of "my State," or "my section." I have heard it long enough. I will have none of it. I am a southern man; and no one has ever raised his arm or bared his breast to give wider extension to its territory, or to vindicate its rights, more than I have done; and I am always ready to do it; but I have no war of words to bandy, I have no agitation to foster. Sir, I have heard too much in the councils of the nation about sections. I know none of your sections. The State from which I come was united to the American Union and confederated with sister States, but she did not come in as a sectional appendage. I want to feel that this is a confederated community and nation, and that it must be preserved. Let us resolve to preserve the Union, and bestow the same pains, care, investigation, and research to give cement and stability to that Union that are now bestowed to create faction and discord, and we shall accomplish a work worthy of gods to contemplate. But factious proceedings are unworthy of men, unworthy of Senators, unworthy of patriots. I have not acted for a section. I will know no section. I am not going to encourage the fell spirit of discord; and when I can interpose an objection of mine to its progress, I will arrest it at the peril of my life.

I wish it to be distinctly understood that there are more people in the South than the statesmen and politicians who are seen in her public assemblages. There is a gallant yeomanry, a chivalrous and generous population, whose hardy hands are adapted as well to toiling for the procurement of the necessities of life and the nurture of their families as they are to the application of arms to vindicate their rights. They are the men whose voice will be heard when you carry the question of union or disunion to their homes in their peaceful cabins, with their little yards surrounded by their domestic animals, and all those things which are endeared to them. Then they will speak of the Union, and they will think of it; and when they contemplate the comforts which they have, and know how uncertain these would be if they were to cast all to the issue of anarchy, they will stand by the Union.

Mr. President, I said that I would not take up the time of the Senate, nor have I any disposition to do so; but I do say that was the best act of my life. My life has been a long and varied one. The only achievement that failed and brought sorrow to my heart was, that I could not defeat that fatal measure which was fostered by demagogues, originated in ambition, was intended for

no valuable interest of the country, but to unite the South, and, with a few scattering northern States, make a President, and continue the succession. That was the iniquity of it. I said then that the oldest man living at that time might say he had seen the commencement of trouble, but the youngest child then born would not see the end of the calamities which would result to the South from that measure, if adopted. It has been adopted, and what has been the result? That is a subject on which I have nothing to say. My actions may speak of what I think of it; but I do not desire any misapprehension of my motives or my conduct to be entertained. Whenever a gentleman presents himself who has given stronger assurance of patriotic devotion to his country than I have done to the Union and the Constitution and to every section, then I will defer to him, and hear a rebuke for the sentiments which have been nourished and cherished in my heart while living, and will be buried with me unless they ascend to a higher destiny.

Mr. CLAY. I have no idea of replying at length to the remarks of the Senator from Texas. I think I could show very distinctly, and very satisfactorily and conclusively, that the Missouri compromise, as it was misnamed—or the Missouri restriction, as it really was—which placed the badge of inferiority upon the slaveholding States of this Union; which opposed a bar, a prison-bar, beyond which they dare not go, but at the same time did not oppose (as suggested by the Senator from Texas) any barrier, any resistance to northern immigration south of that line—so far from being a bond of peace, has proven an eye-sore, an evil, a curse to both sections of the Union. I could show that Mr. Jefferson denounced it at the time as a struggle on the part of the North for power, on the part of the South for existence; and that he then predicted, with prophetic forecast, the geographical dissensions and contentions which have been its legitimate and necessary offspring. I could show, by the illustration of popular feeling in the Senator's own State, that he stands in a lean minority in his opinion. Thank God, there are tens of thousands, where you can find hundreds, who, like him, are willing to concede to the demands of power what justice would never accord.

Sir, I am not the trumpeter of my own fame. That is the privilege of older men. I do not get up to make protestations of my patriotism or of my heroism, either in physical combat or moral struggles; but I profess an allegiance to my State, which, in virtue of my State-rights principles, in virtue of the instinctive feelings which animate us to love our mothers rather than any other human being, constrains me to seek her rights and to vindicate her honor, at all hazards and to the last extremity. I confess, sir, to some mortification and regret to find that sentiments, which I regard as honorable as they are natural, meet with rebuke from the Senator from Texas. Perhaps it is the privilege of his age to rebuke me. If he cannot derive it from his seniority, he has no title to that privilege.

I have suggested, what he knows to be the fact, that his own constituency have condemned his course upon that measure; yet in alluding (and I do not know that I did allude) to the repeal of the Missouri restriction line, I had no personal allusion to him; and I have been amazed at the feeling which he has displayed on this occasion. I do not think I have given him cause for it. Indeed, I am conscious that there was no pretext for it. I regret that he has shown it. I sincerely had no desire to wound him, and I do not care to protract this controversy further.

Sir, I want no controversy with any one, but especially not with southern men. I rejoice in the hope and belief that at last party strife and party dissension, which has divided and disabled my section of the Union from the true vindication of her rights, is yielding to that common sentiment of duty, of honor, of self-interest, ay, to that instinctive sentiment of self-preservation, which admonishes us to prepare to defend our rights, and to resist the aggression which is meditated and threatened upon them. I rejoice in the hope and belief that never before, at any period of the history of this country, was public sentiment in the South more harmonious, more ac-

cordant, more uniform, than it is at this day on the subject of southern rights and the menaced aggressions on the part of a party in the North. I trust that my northern friends, on this or the other side of the Chamber, have not appropriated what I have said in respect to northern sentiment to them, or to the constituents whom they faithfully represent. I feel that they are my friends; that they are the friends of the South; and what is more, far more creditable to their statesmanship and their patriotism, they are the friends of the Constitution. I feel that they are moral heroes in this strife, who are entitled not only to the thanks, but to the respect, to the love, and the admiration of southern men. They stand as sentinels on the outer wall of the Constitution, resisting the assaults which, if successful, must overthrow the temple of the Union. They have been driven, I know, to the extremest verge, and are now menaced with destruction by that tide of popular fanaticism which threatens to submerge everything that is sacred and dear in the memory of the past, or in the promises of the future. They have displayed a courage which is higher and nobler than that of the mere man of bone and muscle and strong heart, who, like the beast of the field, may display his prowess in physical encounters. They have displayed that high moral courage which distinguishes man from the brute. In any remarks that I have made about the unconstitutional and radical doctrines in the North, I have not intended any allusion to, far less any imputation upon, them; but I have spoken upon the propositions which have been announced in the Republican platform, upon the principles which have been advocated upon this floor, and upon the distinct enunciation which has been made here that this war is never to cease; that from the great northern hive the freemen of the North are to pour down upon the South, as to a banquet of victory, in vindication of the rights of free labor, and the extermination of slavery. It has been in reply to such sentiments, to such assertions of purposes, and such prophecies of the future, that I have endeavored to respond.

Mr. President, I had no thought of saying thus much. I regret exceedingly that I should have unwittingly provoked the remarks of the Senator from Texas.

Mr. HOUSTON. Mr. President, I am opposed to the extremely improper sentiments uttered in the North, as I am in the South. I am opposed to both extremes; I favor neither. There is a middle ground; and there we shall find rectitude and propriety and all that is desirable. It was not the gentleman personally that I wished to rebuke. I referred to his sentiments. Since he has made allusion to my State, I will say a word on that point. I grant him, very truthfully, that I have received an earnest and gratifying assurance from my constituents that they intend to relieve me from further service here. I say gratifying, for in the recent election they beat me; and it is gratifying, as I had every disposition to retire, on the 4th day of March next, from public life. How it was brought about I can not exactly tell. I know that I had a cavalier and ex-President mounted with boots, spurs, and whip, and a hind rider from Illinois, both after me ever since I voted against the Kansas-Nebraska bill; and that was enough to break down an old gray horse. [Laughter.] Besides, all the Federal influence was marshaled, drilled, and prepared for the combat, and I was defeated. I am very much obliged to my State because they have not disowned me in beating me—they have only preferred another. I have this further assurance, that I made the State, but I did not make the people; and if they do wrong, the State still remains in all its beauty, with its splendid and inviting prospects, with nothing on the earth to surpass it in climate, soil, and productions, all varied and delightful. It remains the same beautiful Texas. I made it. I did not make the people. They came there and they are there; but the State remains, and I am a citizen of it.

The gentleman says he loves Alabama because he was born there. Sir, I, too, love Alabama; I have endearments of the most delicate character connected with Alabama. More, sir, when it was an unbroken wilderness, forty-four years ago; when the savage and the wild beast roamed over it, and every man who went there had to go with

his life in one hand and his weapons of war in the other; it was there that I kindled camp-fires and sat by them and kept vigils. I assisted in re-deeming that land from a wilderness and a desert, and I watered it with the richest blood of youth that flowed in these veins. Ought I not to love the South? Yes, sir; I cherish every manly sentiment for the South; and I am determined that, while I live in it, none of the fraternal bonds which bind it to this Union shall be broken.

Mr. DURKEE. After the many and able speeches which have been made on this Kansas conspiracy in both Houses of Congress, it would be idle in me to suppose that I could say anything calculated to change a single vote on the final issue. But there is a higher tribunal to which the friends of "free Kansas" may be called upon to take their appeal—I mean the tribunal of public opinion; and it is in anticipation of this contingency, as not unlikely to be forced upon us, that I desire to add my testimony against this monstrous iniquity. Too great indifference is still manifested throughout the country in regard to this disturbing element, which more than ever threatens the integrity and perpetuity of the Union; and until the whole people become aroused to the true nature of this question, it were better that the discussion should go on.

The honorable Senator from Connecticut thinks slavery might be left entirely out of view in this discussion. Why, sir, it is the very gist of the question on which we are about to vote, made such by the advocates of the Lecompton conspiracy. Not one of them, on this floor or elsewhere, will deny that it was to prop slavery, and strengthen its influence, and increase its power in the Government, that this Lecompton scheme was originally concocted. It is too late to plead blindness in this respect. The avowals of southern statesmen and southern Legislatures and conventions, to say nothing of southern newspapers, have been too frank to leave any doubts on this subject. No, no, Mr. President; it is the slavery question we are discussing, and that, too, in its widest sense. It is that same question, notwithstanding partisans in national convention assembled here, over and over again, "resolved" it out of Congress! And, sir, but for the *nationalization* of slavery, which the framers of the Constitution intended to be a temporary and local institution purely, our Federative Union might have remained a political Eden to this day. It is the only element of national discord which remains to haunt us; and it is because the enemies of freedom have persisted in transferring this satanic question from a distant Territory to the national Capitol, that this new contest has arisen, and discord been invoked into our otherwise peaceful councils.

Not only have we the slavery question before us, but we have it in its most startling and odious form. Here, in this Lecompton constitution, and its famous—shall I not rather say infamous—"schedule," we have not simply the question whether the colored race have any rights which the white race are bound to respect; but we have the strange and startling question propounded, whether white men there have any rights which white men here, in this Senate Chamber, are bound to respect? Sir, this treasonable constitution which the majority of this body seem resolved to force upon the people of Kansas, is nothing more nor less than an attempt to enslave the freemen of a whole Territory at a single blow! This is, indeed, slavery grown to manhood, and now grasping for empire.

Mr. President, disguise the matter as we may, if we pass the Lecompton constitution, which shall force upon Kansas an organic law disfranchising a large majority of its inhabitants, it will be worse than mockery to prate of the inalienable guarantees of life, liberty, and the pursuit of happiness. Nor can we fail, as a people, to suffer for the wrong we may thus allow in utter disregard of all sense of justice, and in direct opposition to every principle of our Constitution. We shall assuredly realize, in the sequel, the truth so often proclaimed by eminent and patriotic statesmen of our own and other countries, that we cannot enslave a part of the community without enslaving the whole. And history, if it has made more clear any one fact than another, has taught

us that in popular governments, where power is constantly shifting, the majority may not safely wrong the minority, nor the accidentally powerful those who happen for the time to be powerless.

Not that the white people of Kansas are to be bought and sold as slaves, but they will be deprived of the right of self-government—a tyranny which our forefathers considered too odious to be endured. The majority will be subjected to the will and pleasure of the minority; and what that will and pleasure may be, if sustained by Federal bayonets, can be gathered from the letter and spirit of this whole Lecompton arrangement. Patrick Henry, in his famous revolutionary speech, laid it down as a safe rule that we may judge of future conduct by the past. If this be true, what are we to expect of the pro-slavery party in Kansas? To answer this question, sir, we have only to turn to the code they dared enact when in legislative authority—that code which honorable Senators, who now propose to invest them with this new engine of tyranny, confessed a disgrace to the country and to the age. Familiar as Senators are with these infamous provisions, suffer me to read an extract or two. Here, sir, we have the twentieth section:

"If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated, in this Territory, any book, paper, magazine, pamphlet, or circular, containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term of not less than two years."

Now, sir, let us see what is the punishment provided for those who should disregard this provision. I will read it:

"Persons found guilty of violating the above enactments shall be deemed convicts; and shall immediately, under the charge of the keeper of the jail or public prison, or under the charge of such person as the keeper of the jail or public prison may select, be put to hard labor, as in the first section of this act specified, [to wit, on the streets, roads, public buildings, or other public works of the Territory—Section 1, page 146;] and such keeper, or other person having charge of such convict, shall cause such convict, while engaged at such labor, to be securely confined by a chain, six feet in length, of not less than four sixteenths, nor more than three eighths, of an inch link, with a round ball of iron, of not less than four, nor more than six, inches in diameter, attached; which chain shall be securely fastened to the ankle of such convict with a strong lock and key; and such keeper, or other person having charge of said convict, may, if necessary, confine such convict, while so engaged at hard labor, by other chains, or other means, in his discretion, so as to keep such convict secure, and prevent his escape; and when there shall be two or more convicts under the charge of such keeper, or other person, such convicts shall be fastened together by strong chains, with locks and keys, during the time such convicts shall be engaged in hard labor without the walls of any jail or prison."—Sec 22d chapter, 2d section, 147th page, Kansas Code.

And yet, sir, Senators are willing to clothe, with new authority, the very men who dared pass such laws. Shame, eternal shame, be upon us for even the momentary entertainment of such a purpose. Should this law pass, then assuredly will the memorable words sent forth by the Richmond Enquirer, during the recent presidential campaign, be indorsed by this so-called Democratic Administration. I allude, sir, to the declaration by that print, "that slavery is right, natural, and necessary, and does not depend upon difference of complexion. The laws of the slave States justify the holding of white men in bondage."

We find in these "bogus" laws still further evidence that the people of Kansas would become the slaves of slavery, in the infamous provision making slave hounds of freemen! If this does not come inside the slavery question, I am at a loss to know what would. And might not even worse be expected of this strong partisan pro-slavery minority, should it be invested with State authority, and backed by the Army?

Mr. President, it is painful to believe that the Chief Magistrate of this great Republic would allow himself to become a party to these treasonable movements. Yet we cannot shut our eyes to the fact that he is lending all the influence of his position to carry out this project. Is it a part of the price that secured his nomination? Of him I will let speak a distinguished Democrat, the first Governor of Kansas, and one who had always enjoyed the friendship and confidence of Mr. Buchanan. It was addressed to the New

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York Evening Post. I ask for it the careful attention of Senators. He says:

"I might go on with this catalogue and enumerate other indications, if necessary, showing that the prevailing tone of the party is hostile to Kansas; but I consider it only necessary to add, that what I have said relates to the North. The South, where the great mass of the party is to be found, makes no pretension, as a whole, to the advocacy of anything but pure border ruffianism.

"What, then, have the free-State men of Kansas to expect from a Democratic Administration, even if presided over by Mr. Buchanan? If he could be left to act upon his own impulses, unaffected by external influences, and free from all pledges and obligations expressed and implied, the case would be very different. But, unfortunately, this is not so. His election would rightly be considered a decision against us, whatever may be his own private feelings. His offices at Washington, in Kansas and elsewhere, would necessarily, to a large extent, be filled with our enemies. His information would come through a distorted medium; and, lastly, he could not aid us without having made up his mind to be abandoned and warred upon by his own party. The South would charge him with violating his pledges, and turn upon him with the bitterest hostility; and at least a portion of the northern Democracy would follow their example. He would thus be left without a party to support his Administration, unless he should cast himself into the arms of the Republicans. We cannot, it seems to me, either ask or expect him to do this upon a question where party lines are so plainly drawn before this election. Like all other men in the same situation, he must obey the party sentiment on which he is elected. That there are Democrats in Pennsylvania who are full of indignation against the conduct of the South in regard to Kansas, I am well aware; and that they would use their influence to redress her wrongs, I am well satisfied; but they are too few, in proportion to the whole party of the Union, to sustain his Administration in a war with his party. They have as yet been unable to make their opinions appear and be felt in the party, and, of course, cannot do so hereafter. I honor their good intentions, but I cannot believe in their power.

"I repeat that I have been forced to these conclusions after no slight struggle with my feelings and inclinations. Should Mr. Buchanan be elected, and his Administration be different from what my judgment compels me to believe, I shall give it my cordial approbation, and my feeble, though willing support. As I believe now, I must regard the Democratic party as fully committed to southern sectionalism, toward which, for some time past, it has been rapidly tending; and I quit it, well assured that my duty to my country demands at my hands the sacrifice of personal feelings."

Sir, could anything be more truly prophetic than these words? And here I must express my surprise that Governors Geary and Walker, and Secretary Stanton, did not exercise the foresight of their predecessor in this "grave-yard of Governors." Had they foreseen the events so plainly "casting their shadows before," what disappointment they might have been spared! what mortification and chagrin! The President would have been left to find more pliant executors of his will than they (to their high praise and lasting honor be it spoken) proved themselves to be. It only remained for them to follow the example of Governor Reeder, and quit forever a party thus committed to outrage and wrong, or, at least, to refuse allegiance to its will and behests at the present juncture.

The public sentiment of the country and of the world will sustain them with the plaudits, "well done, good and faithful servants." In the name of God and humanity, in the name of the freedom-loving State which I, in part, represent on this floor, I thank them for what they have so far done.

As cruel and barbarous as are the measures of border-ruffian control in Kansas already cited, I have even heard some argue their propriety and correctness on the ground that slavery was established by brute force; that its continuance was guaranteed by the Constitution of the United States; and that that instrument necessarily perpetuated the right to use that force, to any extent necessary for its protection and maintenance, utterly regardless of all law to the contrary! This anomalous doctrine was new to me, and yet I can not discover why it is not logical from the premises; and it occurred to me that both the President and his predecessor must have entertained this same view; for how can their administration of affairs in Kansas be explained on any other principle?

The honorable Senator from Louisiana, the other day, said, that the slave trade was guaranteed by the Constitution for twenty years. The Supreme Court also advanced the same idea in arguing the Dred Scott case. Alluding, of course, to that clause which says, "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808," the court say, "the right of prop-

erty in a slave is distinctly and expressly affirmed in the Constitution. The right to traffic in it, like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every State that might desire it, for twenty years." Now, Mr. President, with all deference to the great names who have put forth this argument, I must be permitted to say that I am not able to discover the least shadow of guarantee to slavery, or the slave trade, in this clause of the Constitution. This prohibition was, in effect, a refusal on the part of the States to confer on the new Government they were about to construct, jurisdiction over the slave trade until the year 1808. In the examination of this subject it should be borne in mind, that the delegates of the constitutional convention represented the sovereignties of States, and were about establishing a new Government and delegating to it certain powers of jurisdiction. The Constitution, as then drafted, would, without this provision, have conferred immediate jurisdiction on Congress, as the tenth clause in the eighth section authorized Congress "to define and punish piracies and felonies on the high seas, and offenses against the law of nations." So that all we can make out of this clause, as I understand it, is merely the settlement of a question of jurisdiction. A guarantee presupposes a pledge to aid, if necessary, in the accomplishment of some purpose. The Constitution contains no pledge, either on the part of Congress or the States, to engage, or in any wise support, the slave trade.

To illustrate more fully my meaning, suppose there had been another provision added to the Constitution, like this: that piracies and felonies on the high seas shall not be prohibited by Congress prior to the year 1808: no one, in such case, would contend that the Constitution guaranteed piracy and felony for twenty years; and yet it seems to me there would be as much propriety in doing so, as in saying that it guaranteed the slave trade for twenty years. But it is not my purpose to enter into an extended argument of this subject: it belongs to another class of Senators more competent to the task. Mr. President, I have to congratulate myself and the friends of freedom, that the leading statesmen of the South have placed this question on higher ground than the Constitution—the ground that slavery is right in itself. You say, and say correctly, that slavery should be maintained in its integrity, or abandoned; that if wrong, it ought to be abolished. Now, since you consent to go into a court of equity, I trust you will not refuse to abide the verdict that may be rendered after a fair adjudication. You place great reliance on the opinion of the United States court in the Dred Scott case. In view of the admission that you are willing to abolish slavery if it be wrong, independent of the Constitution, allow me to call the attention of Senators to a careful reading of this Dred Scott decision. The court, in arguing this case, say:

"The language of the Declaration of Independence is equally conclusive.

"It begins by declaring that—

"When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth the separate and equal station to which the laws of nature and nature's God entitled them, a decent respect for the opinions of mankind requires that they should declare the causes which impel them to the separation.

"It then proceeds to say:

"We hold these truths to be self-evident: that all men are created equal: that they are endowed by their Creator with certain unalienable rights; that among them is life, liberty, and the pursuit of happiness; that to secure these rights Governments are instituted, deriving their just powers from the consent of the governed."

"The general words, above quoted, would seem to embrace the whole human family; and, if they were used in a similar instrument at this day, would be so understood."

As much as to say the morality of our day would give a literal construction to the Declaration of Independence, and secure freedom to all.

Sir, this admission is creditable to the court, and pays a just tribute to the humanity of the age. It is an acknowledgment, by the highest judicial tribunal of the country, that the principles by which slaveholders retain this unfortunate class of men in bondage are incompatible with the moral sense of the American people. Here, then, Senators, in a court of equity, the decision is against

you. It rejoices my heart, not only to hear the Supreme Court, but the great mass of the people, reiterating those undying principles embodied in the Declaration of Independence. Sir, the experiment of a free Government has not proved a failure. These principles are immortal; they can never die.

Mr. President, we have indeed arrived at a most exciting and critical period in the history of this slave-extension controversy. The whole subject is now rescued from the slimy atmosphere of compromises, and placed in the hands of men who are honest and determined in purpose. They will yield to no compromise that violates principle. We are now sure of a living issue, until a final, and, I trust, a happy termination of this question which has so long debated the people and distracted the national councils. The issue seems to be fairly made and clearly understood—freedom of the people on one side; despotic rule on the other. The constitution you seek to adopt disfranchises a large majority of the citizens of Kansas by its test oaths. This feature alone makes it an anti-republican instrument. It was submitted in legal form for adoption or rejection. It was repudiated by four fifths of the people. The facts are established by the President's own agents. With the permission of the Senate, I will here read an extract from a letter of Governor Walker. The Governor says:

"For the first time in our history, an effort is now made to force a constitution and government upon an incensed State against the well known will of a large majority of its people. Nothing can be more clear or conclusive than the evidence demonstrating the fact that an overwhelming majority of the people of Kansas are opposed to the Lecompton constitution. This is indicated by the disfranchisement of half the counties of Kansas in the election of delegates to the constitutional convention; by the skeleton vote given to those delegates, averaging not more than thirty for each; by the withholding of the constitution by the convention, against their well known pledges, from the people; by the result of the election of the Territorial Legislature, in October last, when both parties participated; by the miserable frauds and forgeries perpetrated by the minority, to supply the place of the real electors, and finally rendered certain by a majority of ten thousand against the constitution, in the election held on the 4th of January last.

"The most vital of all the rights of a State is the establishment of a constitution, and if this right can be disregarded by Congress, the whole doctrine of State and popular sovereignty is discarded and overthrown. In doing such an act, we are setting a most fatal precedent; we are undermining the very pillars upon which repose the whole fabric of popular liberty. We are permitting a small minority to supersede a majority in framing a State government, and Congress is becoming the ally and accomplice of that minority in overthrowing the rights of the people. These are solemn and momentous questions; the real issue is, shall the minority or the majority of the people of a State frame their government. That is a vital question; it involves the precise difference between democracy and oligarchy, monarchy or despotism. It is the first, and I fear, the last step towards the overthrow of our free institutions; and if this can be done now, and by an authority so high as Congress, what will be the demand next made by the minority? Why, that they, the minority, shall control not only Kansas, but the Federal Government, under threats of overthrowing the Constitution and the Union. If submission is now yielded to this doctrine, it is very plain to me that the Federal Government itself must pass into the hands of a minority, and that the great fundamental principle of the Constitution must be overthrown and subverted. I cannot, by a single vote, for a solitary moment, sanction a doctrine which must gradually undermine our system, and lead directly to anarchy or despotism.

"It is not the cause of Kansas alone on which we are now deliberating, but upon a great fundamental principle which is now to be sustained or subverted. That principle comes home to the heart and judgment of every elector in the Republic. Shall the elective franchise become an empty form? Shall the votes of the majority prevail, or shall they be superseded by technical quibbles, unworthy the consideration of statesmen, or by an organized system of frauds and forgeries? Shall the most clear and palpable evidence which would carry conviction to the breast of any honest judge or jury, be suppressed or superseded by crimes which should condemn their authors and accomplices to disgrace and punishment? There is a great moral, as well as a political question involved in this controversy. We are asked, not only to sanction the overthrow of a great fundamental principle of public liberty and the Constitution, but to approve, also, a series of frauds and forgeries, the most palpable and the most wicked which have ever disgraced any age or country, and thus forfeit our own self-respect, and that of the whole civilized world, which must be the spectators of this infamy. If there be any crime which is more atrocious than any other, it is the forgery of election returns, and especially in an election involving all the dearest rights of a free people, in the establishment of a State government. It is now proved incontestably, by legal evidence, taken on oath before legislative committees, that in four precincts only in Kansas, where more than three thousand votes were pretended to have been given, that four fifths of the whole were entirely fictitious, and that the returns were forged and fraudulent. No man can or dare deny this testimony. From an intimate and personal knowledge of each and every one of these precincts, I know that this testimony is true:

and yet we are asked to sanction a constitution based upon crimes like these." * * * * *

"But, force this constitution upon the people of Kansas now, against their will, and no mortal vision can penetrate the dark abyss in which lay hidden the deep disasters now menacing Kansas and our country. I cannot take this dark leap into such a vortex of crime and uncertainty. If the people of Kansas submit, nevertheless the damning truth will still remain that the State will have been forced into the Union against the will of her people. She would enter the Union, not as the peer and equal of her sovereignties, but she would be driven into the Union, disgraced by the chains of a usurping minority, and covered all over with shame and degradation. The very parchment on which her constitution was written would be stained by crimes and forgeries. The signet of the people would never have been affixed to the instrument, but in its place a vile counterfeit would have been substituted, there to remain forever upon our and her archives, as a perpetual record of her disgrace and of our injustice. The thirty-second star of our heretofore glorious constellation would not have arisen above the horizon in all the brightness of new-born liberty, but it would have come in shorn of its luster, and casting its darkening shadows over the receding glories of the Republic. The fatal example never could be erased. We could never recall the past; we could never retrace our steps; but onward, still onward and downward, our movements would be toward that destiny which must ever attend outrage, crimes, and injustice. And why should we encounter these dreadful hazards? What is unjust can never be expedient. Expediency has been the plea of tyrants in every age and country. It has placed and retained the crown upon the monarch's brow. It has governed the world by swords and bayonets. It has covered the world with violence, fraud, and injustice."

Permit me to read a short extract from a letter of Governor Wise, a southern slaveholder. He says:

"I have much to add to my Tammany and Philadelphia letters; but I have not the time and opportunity now to show that the fraud of the elections in Kansas was nothing in comparison to the Lecompton constitution itself. The question is, shall a pretended constitution which was not adopted by that convention—for, on the contrary, it was submitted for adoption by the people—and which was not adopted by the people, for they were not allowed to vote against it, be forced, by the intervention of Congress, on a majority of the people against their sovereign will? Shall this be done, too, on the Bourbon doctrine of legitimacy? And, if done, are the people to be driven to the extremity of the Dorr doctrine of the Rhode Island case? It is autocratic, aristocratic, oligarchy, and despotic, thus to constrain popular sovereignty by the onus of legitimacy."

In adopting this constitution, then, you abandon the ballot-box, the voice of the people, and proceed to act on a rule known only to tyrants—that might makes right. Can you succeed, Senators, in this measure—a measure that seeks the overthrow of the doctrine of State rights and the great principles of the Constitution? I leave that question for the future to answer.

But I will say this: that, if you pass the Lecompton constitution, and force it on the people by the Army of the United States, and the citizens of Kansas and the free States tamely submit, I shall be obliged to confess, with shame and humiliation, that the honorable Senator from South Carolina, in his recent speech, was correct in the assertion that a majority of the people of the free States are already slaves.

The President says, pass this bill; and the people of Kansas have the means in their own hands to redress their grievances. How? By swearing to a lie in swearing to support the Lecompton constitution, which guarantees the right of property in man? No citizen in Kansas who disbelieves this could take the oath without committing moral perjury. Let us look at the process. A free-State man, who believes the New Testament to inculcate the sentiment that all men are entitled to liberty, and that it is his duty, so far as he is able, to remove the heavy burdens from the oppressed, is required to take an oath that compels him to violate the very principles by which he swears. They must degrade themselves before they can be free! Sir, this is the argument of the libertine—submit, and then be free! This leads me, Mr. President, to say a word in regard to great public crimes which this Government has already committed, and which it now upholds. Look at the statute-book, and the decision of your courts, and you will see that we have drawn, by legislative enactment, a geographical line, and said to all who desire to engage in the slave trade on one side of this line: you may do so with impunity. On the other side of this line, all who dare to engage in this traffic shall suffer death as pirates! Has not the Supreme Court just decreed that all the Territories between this and the Pacific shall be open to kidnapping and robbery, provided the victims be of a certain race? Now, it should be observed

that, while we are so regardless of the rights of humanity in the Territories, we are remarkably nice in protecting the rights of property. To illustrate: a colored man emigrates from Massachusetts to Kansas, buys him a piece of land, settles on and improves it. Now, we have a law there saying: "All persons convicted of horse-stealing shall suffer confinement at hard labor not exceeding seven years." Here, then, if the white man steals the colored man's horse, he is to be punished as a felon; but, if he kidnaps the owner, or his family, it is right and lawful, being guaranteed by the Constitution! Could anything be more absurdly wicked? Sir, such laws, and such a system of reasoning, insult the understanding and shock the moral sense of the world!

Mr. President, I cannot believe Congress will pass this bill. And even should they pass it, it cannot be enforced. In my opinion, any attempt to do so would light up the flames of a civil war that would carry with it general devastation and ruin.

And, sir, war with all its attendant evils, would be far more endurable than loss of honor and self-respect. But there will be no war, or if there should, it would be of short duration. No, sir, there are too many magazines under our feet to permit that; I am yet hopeful of the future. And when I hear able and eloquent Senators advocating the extension of human bondage with such earnestness and sincerity of manner, I am inclined to look upon them as I look upon Saul of Tarsus. I hope yet to see them like Paul, the Apostle of the Gentiles, lifting from degradation the down-trodden of our land.

The path of duty is plain. Let the President withdraw the troops from Kansas. Let the people make their own constitution, as other States have done. Let the Government cease to wage war against an innocent and unoffending people, and return to its duty—the protection of the weak against the invasion of the strong. Then, and not till then, shall we maintain justice at home, respect abroad, and fulfill the hopes of our fathers in illustrating that great and sublime truth that man is capable of self-government.

Sir, truth is mighty, and will prevail. It will penetrate where bayonets cannot enter. Neither the fugitive slave law, Government patronage, nor the Dred Scott decision, can arrest its progress. In the language of an eminent statesman, "It will march on the horizon of the world, and it will conquer."

SATURDAY, March 20, 1858.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. FOOT. Mr. President, I oppose the introduction of Kansas into the Union under the Lecompton constitution. I oppose the enforcement of that constitution upon the people of Kansas. It is not the expression of their will. It is not their free act and deed. It is not the work of their hands. They are not only unwilling to accept it; they are not only unwilling to come into the Union under it; but they utter their most solemn protest against the bonds. As an institution of State government, the Lecompton constitution was not formed in obedience to the will of the people of Kansas, nor in pursuance of their authority, nor yet in pursuance of any legal authority whatever. It is only the product, the consummation of a long series of acts of usurpation, violence, and fraud; of artful devices, and unmitigated outrage, the like whereof this country had never before witnessed within its borders. It was literally "conceived in sin and brought forth in iniquity." And now Congress is invoked to legitimate this unnatural bantling, and to force its recognition upon a people who disown it; who spurn it, and turn their backs upon it with indignant scorn and disgust, as the offspring of violence and dishonor. They have expressed their abhorrence and repudiation of it in every possible, legal, and authoritative form. They have repudiated it by the popular vote, and by legislative protestation. It is now brought into our presence here in all its deformity, discredited and disowned, and with the stamp of the popular repudiation and rejection branded upon its forehead.

This is the Lecompton constitution. Shall it be imposed upon an unwilling and protesting people? In the name of justice and freedom and self-government; in the name of the persecuted and down-trodden and subjugated people of Kansas; in the name of the sovereign State and equal co-partner in this Union of ours, in whose behalf I am authorized to speak in this august presence, though it may be with feeble and unheeded voice, I enter my earnest and perpetual protest against the consummation of this great iniquity.

And now here, Mr. President, before proceeding further, let me say—and I rejoice in being able to say—that the question before us, the momentous question before us, is not altogether a party question; that it is by no means exclusively a sectional question. It is, more properly speaking, a question of popular rights; a question of the right of self-government; the right of the people to be heard in the framing, and to be consulted in the adoption or ratification, of the fundamental law under which they are to be initiated into the Union of States, and under which they are to be governed. This question rises higher and far above the mere partisan questions of the day. It expands and reaches out far beyond any of the mere local or sectional questions which so unhappily divide and alienate us from the ties of political and social brotherhood. In opposition to this measure of imposing a constitution upon a people who had no voice in its framing, and which they utterly repel and repudiate, I, sir, as a Republican, join hands with the main forces of the northern Democracy. I join hands in this opposition with the leading men—the strong, bold men; yea, sir, with the giants of that party at the North who have led your mighty hosts in many a field of contest; and who, more than once, when success or defeat hung doubtful and trembling in the scale, have grasped your standard with their own strong hand, and borne away the prize in triumph, and laid the crown of victory at your feet. As a northern man, I join hands, in opposing this great wrong, with conservative and strong men, with honored and trusted men; ay, sir, and with pro-slavery men, yet honorable and patriotic men, of the South. I join hands, in resisting this wrong against human rights, with your Walkers and your Stanions and your Wises of the South; and, I rejoice to add, with your Bells and your Crittendens too—men whose fidelity to the interests and the honor and to the institutions of the South, you will not be likely to impugn, and whom you will hardly venture to stigmatize as "miserable fanatics and Abolitionists," as you are sometimes wont to do with flippant tongue—and senseless and unheeded as flippant—all northern men who fail to yield a ready and willing obedience to the behests of the Belial of slavery.

I will further remark, in this connection, that it is a great error to assume that parties in Kansas are divided upon the basis of the political or sectional divisions which prevail in the country at large. The people of Kansas, so far as there is any political division among them, are divided upon the question whether it shall be a free State or a slaveholding State. Hence the only recognized parties there are distinguished and designated as the free-State and the pro-slavery parties. And the free-State party, which embraces at least three fourths of the population of the Territory, is, by no means, composed exclusively of those who sympathize and act with the Republican party of the country; but it embraces a considerable portion of those who sympathize and have always been identified with the Democratic party of the country. Nor is the free-State party by any means composed exclusively of those who came from the northern States; but it embraces a very considerable number of those who came from the southern States. On the other hand, the pro-slavery party in Kansas is not composed exclusively of those who came there from the slaveholding States; but it embraces many, quite too many, who went there from the free States; and among them some who have been prominent and leading actors in the scenes of fraud and outrage which have so long been perpetrated with impunity upon the free-State people of that Territory. Mr. Calhoun, late president of the Lecompton convention, and "vice regent" of the pro-slavery party in Kansas, who had the manipulation of

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the returns of the January State election, and who will probably let the world know the result just when he gets ready, is a northern man—originally, as I understand, from the State of Massachusetts. Governor Ransom, the late candidate of the pro-slavery party for Delegate to the House of Representatives in Congress, was originally from my own State, and more recently from Michigan, where he had filled the offices of judge of the supreme court and Governor of the State, and then terminated his political career in that State as a defeated Democratic Free-Soil candidate for the Senate of the United States, in opposition to General Cass. Henderson, Miller, McLean, and others, the chief plotters and engineers of the notorious Delaware Crossing frauds, I am informed, were all northern men. The very worst class of "border ruffians" in Kansas; "the chief priests and scribes of the Pharisees;" the active spirits and the file-leaders of the pro-slavery or Lecompton party, and the chief contrivers of the frauds and villainies which have marked the history of Kansas for the last three years, (I am obliged and yet ashamed to confess it,) were from the free States. I am sorry that it is so. I am sorry that truth and justice require this admission. But I am aware, at the same time, that it is no "new thing under the sun." Slavery has always been accustomed to do its most cowardly as well as its boldest works of aggression through the agency of northern men. Let the responsibility and the accountability rest where they belong.

The late Secretary and acting Governor of the Territory, himself, informed me that, upon going to Kansas and becoming acquainted with the people, and the condition of parties there, and with their opinions and sentiments, he was not a little surprised to find so many of the inhabitants who had gone to that Territory from the southern States—and some of them his old acquaintances from Tennessee—now acting earnestly and vigorously with the free-State party—men born and reared where slavery existed, who had always been pro-slavery men, and who went to Kansas the friends and the advocates of slavery. But their own observation had satisfied them that the highest interest and prosperity of the State would be promoted by the exclusion of slavery—that the country was vastly better adapted to free labor than to slave labor. It was not that these southern men had any prejudice against the institution of slavery; but they thought it not adapted to the soil and climate of Kansas. I have also been told by persons well acquainted with the state of feeling and of parties in Kansas, that, if the question whether it should be a free State or a slave State, were submitted to those alone who had gone there from the southern States, they would decide, without the aid of a single northern vote, in favor of making it a free State. I have no good reason to doubt the correctness of this statement as an index of the public sentiment there; and among that class of citizens in the Territory, upon this question. I will state another fact in this connection. I am informed, upon good authority, that among the free-State members of the present Territorial Legislature, three of them were originally from the State of Virginia alone, while there were but five of the free-State members of that Legislature from all the New England States. These facts alone, furnish an appropriate answer, and a fitting rebuke to the persistent and reiterated assertion that the free-State party in Kansas is made up, in great part, if not quite altogether, of "northern fanatics and Abolitionists," sent out under the patronage of the "Massachusetts Emigrant Aid Society." I repeat, then, that the question of bringing Kansas into the Union under the constitution recently devised at Lecompton, is not one which divides the people, either in Kansas or in the States, by old party lines, or by geographical lines.

It is not to be denied, however, that this is an Administration measure—most emphatically an Administration measure—and urged on with an infatuation as blind as it must prove to be fatal. Yea, more, sir, it is urged on with a recklessness and desperation of spirit as heedless and as defiant of the popular sentiment of the country, as it is recreant to the principles and pledges upon which it was brought into power; or, as it is false

to the promises and assurances by which it lulled, for a time, the storm in Kansas, and inspired hopes and expectations in the country, only to await, as it would seem, the rekindling of the flames of a still fiercer strife, and to meet the fate of a more sad disappointment. This issue is urged on by the Administration against the voice of remonstrance and of warning from the great body of the Democracy of the North, and from many of its earliest and most efficient supporters at the South; and has come to be made the touch-stone of political fidelity to it, and of political favor from it. In the vigor and pertinacity with which this obnoxious measure is urged on by the Administration, we are furnished with another and striking exemplification of the ancient adage—"whom the gods would destroy, they first make mad."

But, Mr. President, the material question presents itself to our consideration—is this Lecompton constitution the act and deed of the people of Kansas? Do they give it the sanction of their approval? Sir, I undertake to say, what the whole country knows full well to be true, that this constitution is not the act and deed of the people of Kansas, and does not receive the sanction of their approval. And by the people of Kansas, I mean the majority—the great mass of her *bona fide* inhabitants—or, to speak perhaps with more technical accuracy, the majority of her legal voters. I undertake to say that this constitution is but the result, the bitter fruit, the logical sequence, if you please, of a systematic scheme of violence and fraud by which the people of Kansas have been pursued, trodden down, and deprived of their common rights as citizens and freemen; and by which a small, unprincipled, and unscrupulous minority have been able to usurp and to wield all the powers of the territorial government. Sir, I will not weary this body by a recital of the oft-told tale of the wrongs and injuries, the subjugation, and the persecution of the people of Kansas. They are all familiar to the country, or, at least, to those who are willing to know the truth of what it answers a better purpose, for the moment, in others to deny. It is enough for this occasion to say, that this dynasty of usurpation and tyranny was installed in power by an armed invasion from the border counties of a neighboring State, at the first territorial election, on the 30th day of March, 1855, when the *bona fide* settlers of Kansas were overpowered and driven from the polls in every district save one, and the election was taken, by force and violence, entirely out of their hands. The truth of this fact has become historical. It stands upon the authority of the incontrovertible testimony of Governor Reeder, the investigations of a commission from the national House of Representatives, upon common notoriety, and upon the admissions of the invading parties themselves, when, upon their return to Missouri on the following day, according to the account given by their own organ, published at the time in Weston, they came in with music and banners and loud huzzas, making public and boastful proclamation that "they had made a clean sweep of the Kansas election." Well, sir, they did make a clean sweep of that election. I am quite tempted to ask here, what if the people of Pennsylvania should some time, by preconcert, and in organized and armed companies, rush into Delaware or Maryland or Virginia, on election day, and "make a clean sweep" of their legislative election? I put the question, and leave it, unanswered, for your contemplation. I leave the question to be answered by those who deny our right to inquire into these things, and who deny our power or authority to apply any correction or any means of prevention. I will only remark by the way, that the case of a Territory, being under the peculiar care and guardianship of the Federal Government, is much stronger than the case of a State.

With that spurious Territorial Legislature, was inaugurated a reign of usurpation and of tyranny over the people of that Territory which has no parallel in the history of the country, and which has been maintained by a corresponding system of fraud and violence, with the knowledge and acquiescence, if not with the countenance and connivance of the Federal Administration, and with the aid of Federal troops, from that day to the partitioning of the Lecompton convention; and this

usurpation, so maintained, is the natural parent of the Lecompton constitution. Knowing whereof I speak, and to whom and of whom I speak, I abate not one "jot or tittle" from the full measure and significance of these declarations.

A system of terrorism was thus established, under which the most flagrant outrages were practiced with impunity upon the proscribed free-State people of Kansas. All protests against the illegality of these elections were suppressed. A code of laws was enacted by this spurious assembly in keeping with its own origin and character, and in harmony with the purpose of its creation, with a view to maintain the ascendancy of the minority over the great majority of the people, and which aimed a deadly blow at the fundamental principles of free government—which imposed its penalties upon the freedom of speech; upon the freedom of the press; upon the freedom of jury trial; and upon the freedom of suffrage; and which denounced the penalties of felony against all who should call in question the legal existence of slavery, or the right to hold slaves in the Territory. This bloody code was enforced by fitting instruments of the Government, and with a spirit which seemed to exult in its own deeds of blood and barbarism. The free-State men did not see fit to acknowledge the authority of a Legislative Assembly foisted upon them by a foreign invasion. They did not see fit to recognize the validity or the binding force and obligation of its enactments; yet, nevertheless, refraining from all overt acts of resistance to them. They could do no less. They could not acknowledge the authority of that spurious Assembly, or its acts. Had they made any such humiliating submission to the demands of usurpation and tyranny, they would have shown themselves unworthy the title and unworthy the privileges of American freemen.

In this condition of affairs, by a voluntary movement of the people, and with a view of adopting some peaceful measure of relief from the despotism under which they were then suffering, a convention was held at Topeka, in September, 1855, at which a constitution of State government was framed; was submitted to the people at large; was ratified by the popular voice; and was presented to Congress, with an appeal for admission under it into the Union. That application was rejected; these proceedings were denounced as revolutionary and rebellious—rebellious, as against a spurious government in Kansas, set up by invaders from Missouri!—and the name of "Topekaites" has since been the slang phrase of vulgar reproach to the majority of the people of Kansas. It seems to have been quite forgotten that, in the case of the admission of Michigan, a fundamental condition of her admission had been rejected by a regular delegate convention; and that, subsequently, another convention was formed by a voluntary movement of the people, and by the exertion of their own power, which expressed the assent of the people to the prerequisite condition; and that, thereupon, she was admitted into the Union. Congress said then, as we say now, that mere forms and modes of proceeding in such cases are not to be regarded as absolutely essential. The material fact to be ascertained was, they said then, as we say now, is it the will of the people? It matters little, they said then, as we say now, how that will is expressed, or how it is ascertained, provided, always, it be satisfactory, reliable, and certain. The ascertained will of the sovereign people, by whatever mode or manner of proceeding it may have been manifested, they said then, as we say now, must be the rule and the controlling law of the case.

The application of Kansas for admission under that constitution was rejected, and no attempt has ever been made to put it into operation. It was a proper, peaceful, and not an unprecedented mode of appealing to Congress for admission into the Union, and for relief from the oppressions of an alien government within her Territory. For this act, and in not acknowledging the authority of the government which Missouri had set up over them, your President fulminates his anathemas against the free-State people of Kansas, and denounces them as rebels and traitors; as being "in rebellion against the legally established government of the Territory and its laws!" and the unfounded imputation is caught up and rung and reiterated

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through all the organs of detraction and calumny throughout the country—an imputation as unjust to the free-State people of Kansas as it is unworthy of the Chief Magistrate of the Republic. Sir, in the face of this charge, I will say here in my place, and in this presence, that these people who have been so misrepresented, so maligned, and so calumniated; who have been pursued for years with the most persistent and relentless ferocity by your pampered Government hyenas, are, and ever have been, as orderly and peaceful, as law-abiding, and as loyal, as the most exalted of their traducers—as loyal to the Constitution and laws of their country as any portion of the American people. Whatever excesses or violence they may have committed—and it is not in human nature, hunted and hounded as they have been, that excesses should not have been committed—they have been committed in the necessary defense of their lives, their property, and their households. Persecuted as they have been; indicted upon charges of constructive treason—a crime undefined, and unknown to the Constitution and laws of the country—treason, too, against a spurious government cast upon them by foreign arms; imprisoned upon charges preferred by perjured informers; hunted like wild beasts, and driven from their own homes; their settlements broken up; their villages sacked; their dwellings burned down; their families and friends massacred before their eyes; themselves trodden down, subjugated, and worried as they have been, what people on earth ever exhibited a more extraordinary and long-enduring forbearance? Had they taken speedy vengeance into their own hands, and driven these lawless marauders from the Territory, or “delivered them over to the tender mercies of fire and faggot,” they would have stood approved and justified before God and all mankind.

Rebels, are they? So, then, were the fathers and their compatriots of the American Revolution—yea, much more rebels than these; for they actually took up arms against the recognized Government of the mother country; whilst these people have as yet made no practical resistance to the spurious government to which they owe no allegiance, and which grinds them to the dust. They have thus far done no more than to protest against its usurped authority, and to appeal to Congress, though yet in vain, for relief. Rebels, are they? If they are rebels, and if this is rebellion, then commend me, henceforth and evermore, to such rebels and to such rebellion. To just such rebellion, in principle, are we indebted for our national independence. To just such rebellion are we indebted for the privilege of sitting here to-day in this council chamber of the nation. To just such rebellion is every American citizen indebted for the birthright of his freedom. To just such rebellion are we all, as American freemen, indebted for all that we have, and all that we are, and all that we can hope to be on earth, which is worth living for, or worth dying for. Sir, the active operative principle of just such rebellion has been the origin, and laid the foundation, of all free governments. The living principle of just such rebellion has been, in times past, as it shall be in times to come, the redemption of down-trodden humanity from the bondage of oppression and from the tread of a deaf and dumb and blind despotism. It is the spirit which animates just such a rebellion which is to wake up the nations of the Old World from the stupor, and to dispel the thick darkness, which have hung upon them through a long polar night of despotism. It is this spirit, though yet silent and unseen it may be, before whose resistless power the rotten and crumbling dynasties of the earth, now grim and hoary with the age and with the crimes of departed generations, are yet to fall and no more to plague the nations of men. It is this spirit which is to arouse the slumbering and oppressed millions of the earth to a new and a higher life—to the assertion and realization of God's own gift to man—his inalienable right to freedom, independence, and self-government. Sir, I commend this spirit in the people of Kansas. Call them rebels, if you please; persecute them; oppress them as you may; yea, annihilate them if you can; but you will never permanently subdue them. By the arbitrary exercise of your power, you may make them all martyrs to freedom; but, as God liveth, no power on earth

shall be able to make one man of them the slave of your despotism. If the voice of my counsels could reach them in their far-off western homes, where the sun goes down in lurid light upon their humble dwellings, it should be, “stand firm;” “make no dishonorable concessions to usurpation and tyranny;” “demand justice and nothing less than justice.” “If that be denied you,” “if submission or death must come at last,” then, “better die all freemen than live all slaves.”

So much, begging pardon, Mr. President, by way of episode, in response to the charge of rebellion as applied to the action of the free-State people of Kansas. But now, how is it with the other side? How is it with the minority of usurpers in the Territory—with the real authors of all the strifes and mischief which have so long afflicted Kansas, and filled her people with lamentation and woe? How is it with those who have let loose their sluit-hounds upon the heels of free-State men—with those who have plundered freemen and despoiled them of their goods, and have destroyed free presses, and who, with equal measures of meanness and of malice, have indicted, as common nuisances, bridges over which free-State men were accustomed to pass, and hotels in which free-State men were accustomed to lodge? How is it with those who have turned adrift women and children without home and without protection, and with those whose hands are red with the blood of assassination? How is it with those who have carried the elections by force and violence, or by schemes of wholesale fraud and forgery—with those who make false certificates, and copy into the returns whole pages of names from old Directories to swell the lists of pretended voters, and insist, with semi-serious and sanctimonious visage, upon their being counted; and who openly denounce the Governor of the Territory as derelict in official duty or as exceeding his powers, when they find him quite too honest a man to answer their purposes of knavery and crime? Who are they who have practiced these abominable frauds and villainies, wherewithal to rob freemen of their most sacred rights? Who and what are they who have done these things with unblushing effrontery in the face of high heaven, and who have violated all law, human and divine? Oh! They are the “law and order party,” says the President in his special message. They are the “law and order party,” says the report of your committee. The perpetrators of these outrages and crimes untold, instead of being brought to justice, instead of being visited with condign punishment, are suffered to go at large, unwhipped of justice. All these acts of violence and of villainy, and the authors of them, are passed over without notice and in silence. Not a word of reproof, not a word of censure, not a word of discountenance, not a suggestion that they have done anything wrong, is heard from the President, nor from any who speak or do his will. But what is more significant still, the foremen and leaders in these wrongs and outrages which make humanity weep and common decency blush, instead of receiving any mark of displeasure, seem to be in the full enjoyment of the executive favor, and in the possession of the choicest offices in the gift of the Federal Government within the Territory. Sir, is it any wonder they have grown so bold, so defiant, and so shameless in the practice of their iniquities? Think you they do not know full well where their security lies? Think you they do not know their master's will, and that in doing his pleasure there is abundant safety? See who most enjoy the smiles and benedictions of the national Executive, and then see who have most incurred his disfavor, and suffered removal from office in Kansas and outside of Kansas, and for what cause. Then we may cease to wonder that the most stupendous frauds, and the most flagrant outrages go unchallenged and unrebuked, and go with entire impunity, provided only and always, they are committed by the “law and order party!” The most high-handed and atrocious schemes of fraud and villainy for cheating freemen of their birthright, have been committed by this “law and order party” under the patronage of the Federal Government, and have now reached their culminating point in the production of the Lecompton constitution. No wonder, indeed, it is the adopted pet of the Administration. No wonder the Ad-

ministration come forward now and assume the relation and office of god-father to the limping and ill-shapen brat at the baptismal font. It is the offspring of the “law and order party.”

Mr. President, there is nothing in the history of the proceedings in which this Lecompton constitution had its origin and its completion to commend it to our favor. Indeed, the more we examine it, the more reason we find why we should reject it. We see its whole history, from beginning to end, marked with fraud and violence. The grand objection to it, already noticed, and which stands in the foreground of all the others—that it is the work of a small minority, which, by the aid of an armed invasion from an adjoining State, had usurped and held the control of all the powers of the Territory, to the exclusion of any participation in it, even to the exclusion of the free exercise of the right of voting, by the majority—is decisive, controlling, and unanswerable. The very clear and able argument of my honorable colleague, [Mr. COLLAMER,] as contained in his report and in his speech upon this subject, and especially in reference to this point, has not been met, and, in my judgment, cannot be successfully met. This likewise answers the assumption and the assertion, often made, that those who stood aloof from the elections, and took no part in them, even though they were in a majority, are concluded by the action of those who did take part in them, and who did vote. As a general proposition, this is true. It is a common political axiom which nobody disputes. But it has no application in this case; it has no application in a government of usurpation, which can impose no obligation upon the people, nor claim allegiance from them. Moreover, the majority were not allowed the exercise of the privilege of voting if they would. They were not allowed the privilege of wresting the power from the hands of the usurpers in this way. They did not vote, simply because they were not allowed to vote. At the first territorial election they did not vote, because they were driven from the polls by force of arms. At the second territorial election, in October, 1856, they did not vote, because they were denied the exercise of the right of suffrage by test-oaths and other unconstitutional and tyrannical restrictions, imposed upon them by the first spurious Missouri Assembly, for the very purpose of excluding the majority of the people from voting, and thus for the purpose of maintaining the political ascendancy of the minority, and so of keeping up the government of usurpation. At the delegate election in June, 1857, they did not vote, because, in addition to these restrictions, most of which were still in force, although a few of the most obnoxious of them had been repealed by the second Territorial Legislature at the instance of Governor Geary, a census and registration act for this particular election, which had been passed by the same Legislature, was so executed as to disfranchise a large portion of the free-State men, to say nothing of the unequal apportionment of the election districts under that act, and to say nothing of their just apprehensions of a repetition of the scenes of violence and fraud which they had before experienced, and to say nothing of their indisposition to do any act which could be tortured into a recognition of the authority of the usurpation.

But aside and independently of all these considerations, they had the assurance of Governor Walker and Mr. Secretary Stanton, speaking by authority of express and explicit instructions from the President of the United States and his Cabinet, that the constitution, when framed, should be submitted to a direct vote of all the *bona fide* inhabitants of Kansas for ratification or rejection. This pledge was given over and over again, in the most solemn and positive manner, by the President and his Cabinet; by the organs of the Administration through the country; by Governor Walker and Mr. Stanton through their official instructions and by public proclamation; by a portion, at least, of the candidates for the convention themselves, and by the press of all parties in Kansas. This was the universal understanding, not only in Kansas, but throughout the country.

Mr. GREEN. Will the Senator give way to allow me to make a request of him?

Mr. FOOT. Certainly.

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Mr. GREEN. My request is that the Senator will produce, as I may, perhaps, hereafter make some remarks on the subject, the evidence to show that Mr. Stanton ever gave that assurance while he was the acting Governor; that Governor Walker ever gave that assurance; that the President ever gave that assurance; that the law which clothed the convention with authority to form a constitution ever gave that assurance; or that the people themselves ever understood there was such an assurance. If the Senator will produce that evidence, I shall have something to answer when the time comes.

Mr. FOOT. The reason I have not already done it is because I thought it a work of supererogation. That evidence has been incorporated into more than a dozen speeches already made on this floor; and that is the reason why I have not taken up the time of the body by producing it and reading it to the Senate. But if it be desired by the Senator, before this debate shall close, I will procure that evidence and read it again. I have not the documents now before me.

Mr. COLLAMER. Here is the report of the Senator from Illinois, [Mr. DOUGLAS,] containing some extracts from the instructions of the President to Governor Walker on this point, and from Governor Walker's inaugural address.

Mr. FOOT. My colleague places in my hands the report of the honorable Senator from Illinois, chairman of the Committee on Territories, from which I will read the following extracts, which fully maintain my assertion, and I hope will be quite satisfactory to the Senator from Missouri on the point of his inquiry:

"The President, in his instructions to Governor Walker, through his Secretary of State, under date of March 30, said: 'When such constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.'

"Governor Walker, in an official dispatch to the Secretary of State, under date of June 2, said:

"On one point the sentiment of the people is almost unanimous—that the constitution must be submitted for ratification or rejection to a vote of the people who shall be bona fide residents of the Territory next fall."

"And in his inaugural address to the people of Kansas Governor Walker said:

"With these views, well known to the President and Cabinet, and approved by them, I accepted the appointment of Governor of Kansas. My instructions from the President, through the Secretary of State, under date of 30th of March last, sustain the 'regular Legislature of the Territory in assembling a convention to form a constitution,' and they express the opinion of the President that when such constitution shall be submitted to the people of the Territory they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."

"I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and quietly conducted, the constitution will be and ought to be rejected by Congress."

In addition to all this, the faith and principles and platforms of the Democratic party of the country, as enunciated in their Cincinnati resolutions, in Mr. Buchanan's letter of acceptance, and in his inaugural address, were accepted as a pledge and a guarantee to the people of Kansas, of the full and free exercise of this right. Relying upon these solemn and reiterated pledges, and this universal and unquestioned understanding, the free-State people might very well regard it as they did regard it—of comparatively little importance who composed the convention, what particular individuals had the framing of the constitution, or whether they were chosen by few or by many votes, so long as whatever constitution they might frame was to be submitted to the people, and to pass the ordeal of their scrutiny and of their vote. If they approved it they could say so; if they did not approve it they could say so, and reject it. The constitution, the whole constitution, and nothing but the constitution, was to be presented, for a direct vote, to the people themselves, for their approval or disapproval. Under these circumstances the free-State people refrained from taking any part in that election. In addition to all the other reasons for not taking part in this election, these pledges and assurances furnished a very strong inducement and justification for this course of action.

This Lecompton convention having been elected under these circumstances—under these positive

and repeated promises and pledges, and with the universal understanding that they were to submit the constitution to a direct and fair vote of the people for acceptance or rejection, it is quite too late now to say that the convention was invested with the sovereignty of the people; that they were the people in a representative capacity; that all the powers of the people, in that behalf, had been delegated to them; that they acted instead of the people, and without restriction; that they were at liberty to withhold from the people whatever constitution they might frame. They were invested with no such sovereignty; with no such authority; with no such power. They were invested with no power but to frame a form of constitution for the consideration of the people, to be ratified or rejected by them as they should see fit. So the people of Kansas understood it at the time. So the delegates themselves understood it. So everybody everywhere understood it. They were the mere agents of the people, with authority clearly limited, to perform a particular act, which, when done, was to be delivered over to their principal, the people, for their final action. They were a mere committee of the people—mere scribes or prothonotaries, selected for the purpose of drafting a form of government to be submitted to the people for their acceptance or refusal as they should judge to be for the best. This was the utmost extent of the authority with which that convention was invested.

Sir, the free-State people of Kansas knew very well, from past and bitter experience, that they would be cheated in one way or another if they went to the polls at that election. They knew enough of the members of that convention to believe them capable of any swindle which by any possibility they might be able to practice upon them. But they had not then learned how soon the President of the United States would forget his pledges; they had not then learned, and could not have been made to believe, after all his fair promises, that he would so soon bring the influence of his position, and the power of his patronage, to aid in the effort to carry out to its final and bitter end a flagrant deception practiced upon them—a bald and barefaced and impudent mockery of their hopes and expectations, and of their right, too, under the pretense of a submission, which was no submission at all, and by which they were tricked out of the privilege which had been most solemnly assured to them, and by which they were wheedled out of the exercise of the most sacred rights which belong to American freemen. It seems the convention knew their master much better than the people did. Will Congress ratify the cheat? That is the question, and the very question now before us.

Let us see, now, sir, how these pledges have been redeemed. The President and his Cabinet, and the whole Democratic party, and even the delegates themselves, were too strongly, and too publicly and notoriously committed, to a submission of the constitution to a direct vote of the people for approval or rejection, to be altogether overlooked or disregarded. Some plan, some device, must be contrived, by which, at least, to save appearances—to save some appearance of consistency, and of common honesty, and, at the same time, to save this bogus constitution. The recent territorial election had made it very apparent that if the constitution was submitted to the people, it would be rejected by an overwhelming vote, and yet, it would hardly do to withhold it altogether from them, after the whole party, from the President of the United States down to the president of the Lecompton convention, had pledged themselves before the world that it should be submitted to the popular vote. So a cunning device was hit upon by which to mock the people with an appearance of submitting the constitution to them, and, at the same time, making it impossible to cast a vote against it. No knave ever hit upon a more artful scheme by which to cover his own villainy and to delude the public. The device furnishes a mere pretext of having done what everybody had promised should be done; when, in fact, nothing of the kind has been done.

The plan contrived for the pretended submission of the constitution was this: Two kinds of ballots, and only two kinds, were to be used; one of which was indorsed "constitution with sla-

very;" the other "constitution with no slavery." These were the forms prescribed by the convention, and these were the only ballots that could be cast. A more artful piece of legerdemain was never contrived by the wit of man. Let us see its operation. The people could only vote for the "constitution with slavery," or for the "constitution with no slavery;" but for the constitution, at all events, if they voted at all. No man, who voted at all, could vote against the constitution. But it is said and insisted that the question of slavery or no slavery was fairly submitted to the people; and that being the great question in controversy, that the pledge to submit the constitution to the people was virtually answered. But, sir, the question of slavery—the question whether Kansas should be a free or a slave State—was not submitted to the people. Now, let us look a little further into this trick, by which it is pretended that the slavery question was submitted to the people, when, in fact, it did no such thing.

Now, it will be perceived, by reference to the schedule which describes the plan of submission, that if a majority of the ballots cast were for the "constitution with slavery," then the constitution was to stand as it was framed, without change or modification; and nobody denies but that is a pro-slavery constitution. But, if a majority of the ballots cast were for the "constitution with no slavery," then the constitution was still to stand as it was framed, except that the seventh section, which authorizes the future importation of slaves into the State, was to be stricken out. This was the only change that was to be made in the constitution, in case a majority of the people voted the ballot "constitution with no slavery." But now observe—and here is the trick—that, although the seventh section should be stricken out, the constitution still provides, in the schedule—which was not to be, and could not be, stricken out by any vote of the people, under the prescribed form of ballot—that "the right of property in slaves now in the Territory shall in no manner be interfered with;" and this provision was to be retained, although a majority of the ballots cast should be "constitution with no slavery!" And, besides, the seventh section contained some excellent and humane provisions, which it would be desirable to retain, if slavery was to be at all tolerated by the constitution. It provided, among other things, for the proper care and treatment of slaves, and for their future emancipation, with the consent of their owners; but no such provision is made in any other section. So that, in fact, the "constitution with no slavery," according to the form of the ballot, with the seventh section stricken out, is a much more obnoxious pro-slavery constitution than is the "constitution with slavery," according to the form of the ballot, with the seventh section retained.

The unavoidable effect of this trick was, in the first place, that nobody could vote against the constitution. And, in the second place, that whoever voted at all, must vote for the constitution at all events; and for a pro-slavery constitution, at all events. Indeed, if a free-State man were to vote at all, it would be more consistent with his feelings and his principles to vote the ballot, "constitution with slavery" than to vote the ballot, "constitution with no slavery;" for the reason that the constitution, with the seventh section retained—and this is the effect of the ballot indorsed "constitution with slavery"—is much less objectionable than the constitution with the seventh section stricken out, which is the effect of the ballot indorsed, "constitution with no slavery."

But, I desire to look a little further still, into the practical operation of this Lecompton convention swindle. I use this term intentionally and deliberately, as the most appropriate and significant which can be applied to this device for submitting the constitution to the people. The President, in his special message of the 2d of February, says, "Kansas, therefore, at this moment, is as much a slave State as Georgia or South Carolina." Now, then, according to this assumption and this mode of submission, if every voter in Kansas had cast the ballot, "constitution with no slavery," it would have still left slavery there just as it is now, under that clause which declares that "the right of property in slaves now in the Territory, shall in no manner be interfered with;" and which,

according to Mr. Buchanan's statement, would have still left it just as much a slave State as Georgia or South Carolina. So that, by no possibility, under this mode of submission, could any man vote for making Kansas any less a slave State than it now is; and, of necessity, he could by no possibility vote for making Kansas any less a slave State than Georgia or South Carolina. There is no escape from this conclusion. And this is just what was designed by this mode of submission. This was a fair submission of the slavery question, was it?

Sir, no question was submitted to the people of Kansas, whether it should be a slave State or not? And yet the President of the United States affronts the intelligence and the common sense of the American people, when he says in his special message, that this "presented a fair opportunity to the people of Kansas to decide this exciting question in their own way," but that "they refused to exercise this right." Sir, the President knows, every Senator here knows, every man of common intelligence in the country knows, not only that the constitution was in no manner or form submitted to the people for ratification or rejection, but that the question of slavery itself was not submitted to them. The mode of submission did not admit of any vote against the constitution, nor of any vote against slavery in the State, just as it exists there now; and where the President says it exists just as much as it does in Georgia or South Carolina. Whoever asserts that the slavery question was fairly submitted to the people of Kansas, or that the question, whether it should be a slave State or a free State, was submitted to them at all—to use the mildest form of expression—entirely mistakes the fact, and though he may be deceived himself, he makes quite too large a draft upon the credulity or the ignorance of the public.

There was no mode, therefore, in which the free-State people could testify their disapproval and their abhorrence of the whole thing, except by refusing to vote at all on the 21st of December. They were not allowed to vote against it; they could not, in conscience, vote for it; there was, therefore, no other course left for them but to decline voting altogether on that occasion. In this way they manifested their most emphatic condemnation of it, and of the insolent chicanery by which a bald, naked pretense that the slavery question was fairly submitted, is set up, when, in truth, even that partial submission was never made. And now this piece of jugglery is claimed and is especially plead as a fulfillment of the most sacred pledges ever given by men in high life, or in low life, that the Lecompton constitution should be submitted to a fair vote of the people. Sir, no wonder the people of Kansas feel indignant and outraged at so base a betrayal. No wonder the people all over the country are aroused to indignation, and are gathering together in vast assemblages to give utterance to their indignant protests, in thunder tones, against the consummation of this great wrong and treachery toward the people of Kansas. Sir, the earthquake voice of an indignant and insulted nation's stern rebuke is already beginning to break upon your ears, and is pealing at the very doors of the Capitol. A fearful account awaits those who shall disregard these popular appeals. They come forth from the deep-swelling heart of an incensed people.

But, Mr. President, notwithstanding all the duplicity and the treachery which have been practiced upon the people of Kansas; notwithstanding the convention refused to submit the constitution, or any part of it, to a direct vote of the people; notwithstanding all efforts to suppress any and all expression of the public voice upon it; we are not left in the dark upon this subject. We are not left to doubt or to conjecture in regard to the judgment and will of the people of Kansas upon this Lecompton constitution. That judgment and will have been recently expressed upon it in a most emphatic manner on two occasions—once, indirectly, at the last October territorial election; and once directly upon the constitution itself, on the 4th of January last. At the October election, the people of Kansas, for the first time, through the agency and influence of Governor Walker, were suffered to go to the polls and vote, without serious hindrance or molestation. That election

resulted in the signal success of the free-State party by about four to one, in a spirited canvass, in which the pro-slavery party turned out in full strength, and polled their entire vote; and when they attempted to return about three times the number of votes they had actually cast. You all remember the Oxford returns, containing some sixteen hundred names copied from the Cincinnati Directory! And you all know the sequel. The result of this election—the only one in which the relative strength of the two parties had been tested at the polls—was considered, both in Kansas and throughout the country, as decisive of the issue between them, whether Kansas should be a free or a slave State. The result of this election was everywhere considered as virtually settling that question. All men, of all parties, at the North, and many at the South, said that the question was now settled; that Kansas had spoken for herself; that a large majority of her people were in favor of a free State; that it would be in vain, and worse than in vain, to attempt to resist her will; that she would and must be a free State. This was the language of the people everywhere; and great credit was claimed as due to the policy of Mr. Buchanan's administration for this auspicious result, by the entire Democratic party, and the Democratic press throughout the free States.

So decisive was this expression of the popular sentiment in Kansas, that many of the delegates—all being pro-slavery men—refused to attend the adjourned meeting of the convention, so that but a quorum of the number were ever reassembled. The impression very generally prevailed that they would now abandon the attempt to frame a constitution. The convention was entirely pro-slavery, and would not frame a free-State constitution; while, to frame a pro-slavery constitution, was only to subject it to certain rejection by the people, if submitted to them agreeably to the general understanding and promise. It was generally supposed, for a while, at least, that under these circumstances, they would frame no constitution, and thus about half yield to so clear and decisive an expression of the popular judgment. But, despite this manifestation of the popular sentiment in Kansas, and of the prevalent opinion in the country, this bare quorum of the convention proceeded to business, and this Lecompton contrivance purports to be the fruit of their labors; it purports to be the work of their hands. Looking at the result of this election alone, can it leave a doubt in the mind of any unprejudiced man as to the popular sentiment in Kansas in respect to this constitution? Can any man say, in truth and sincerity, that he believes it expresses the will of that people, or even of one fourth part of that people? I answer for myself. Let others answer for themselves. The report of the majority of the committee hardly alludes to this election—a very significant omission.

Mr. GREEN. If the Senator will show when that subject was referred to the committee, I will then show why we passed it over. It was never before us; and if any person of the committee, as a committee man, has made use of it, he has done so on his own responsibility, and not because the Senate referred that subject to the committee.

Mr. FOOT. Why, then, did the Senator make any reference at all to that election in his report? Why did he say that election was held under circumstances peculiarly favorable to the free-State party?

Mr. GREEN. Because it had been used as an argument against the constitution, and to show that it had nothing to do with it. The object was not to explain it, but to show that it had no reference to the subject of the formation of the constitution.

Mr. FOOT. I pass over without remark or commentary the notorious Oxford, McGee, and Kickapoo frauds in this October election, wherein the attempt was made to count the Cincinnati Directory against the free-State party; the rejection of which cost Walker and Stanton their official heads, as the free-State men had told them it would, "the moment they attempted to do right." They did attempt to do right, and their removal from office is the forfeit. They learned, though a little too late, that they had been sent to Kansas on another and a very different errand than to see that the free-State men should have "fair play"

in the elections. Like their predecessors, Reeder and Geary—although all of them were appointed to those important trusts as the special friends of the Federal Administration; all of them the friends and supporters of the principles of the Kansas-Nebraska bill, and two of them southern men, friends and advocates of the institution of slavery, and would have been glad to have seen it established in Kansas, if it could have been done by fair means, and with the consent of the people—yet the moment they manifested any regard to the dictates of honor or conscience, or to their own self-respect, and refused to prostitute their official functions to aid in carrying out any of these schemes of fraud and villainy which had been the order of the day in that Territory—from that moment they incurred the bitter and open hostility of the pro-slavery party in Kansas, and fell into disfavor with the Administration at Washington. Thank God! they cannot dishonor them in the estimation of the American people. Comment, sir, is unnecessary. The simple facts themselves carry with them their own most pointed and significant commentary. I will only remark that if the Administration have had no complicity with the reign of terror, wrong, and oppression in Kansas, there is some reason to fear that history will hardly do them justice.

Again, Mr. President, we are not left here even in regard to the evidences of the will of the people upon this subject. That will has been expressed still later, and in a still more emphatic form, in a direct vote upon the constitution itself. Acting-Governor Stanton, seeing the excitement and indignation of the people at the manner in which they had been imposed upon, deceived and betrayed by the convention in withholding the constitution from them, in violation of all the pledges which had been so publicly given, and at the apparent determination to have it imposed upon them without a hearing, as an act of prudence and of justice, and with a view to allay the popular feeling, convened the newly-elected Territorial Legislature in extra session. Upon his recommendation, they passed an act by which the people were authorized to vote upon the constitution, either for it or against it, on the 4th of January, that being the day appointed by the convention for the election of Governor and Legislature under the provisional State government. This afforded the people not only a fair, but it gave them the only opportunity accorded to them in which they could vote upon the question of the ratification or rejection of that instrument. The people improved that only opportunity afforded to them for this purpose, and the result was a majority of more than ten thousand against the constitution. That vote stands unimpeached and unimpeachable. Do you desire to know the will of the people upon this subject? Do you desire to know whether it is their free act and deed? Do you desire to know whether they approve or disapprove it? Have you any desire to know whether you are about to do an act in flagrant disregard of the expressed will of the people of Kansas? There you have their answer. There you have the evidence, decisive, unmistakable, and authoritative. By more than ten thousand majority they repudiate this constitution. By more than ten thousand majority they protest against its enforcement upon them. By more than ten thousand majority they solemnly protest against being forced into the Union under it. I do not forget the vote for the constitution on the 21st of December. That vote, as certified by Calhoun, was slightly over six thousand, more than half of which, it has been shown, were clearly and indisputably fictitious and fraudulent—a mere repetition of the Oxford fraud at the October election. But counting them all, we have still an aggregate majority of near five thousand against the constitution. Is such an expression of the popular will in reference to the frame of government under which it is proposed they shall live to be utterly ignored and disregarded? Sir, what becomes of the great fundamental principle of all republican government, that "the majority must rule?" Is this your exposition of your boasted doctrine of "popular sovereignty?" Is this what you mean by "the right of the people to govern themselves?" Is this your illustration of the great principles of the Kansas-Nebraska bill, that "the

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people are left perfectly free to form and regulate their domestic institutions in their own way?"

Say, if you please, that the vote on the 4th of January was not legally authorized! If that were so, is it any the less a clear and emphatic manifestation of the popular judgment upon the constitution? Cannot you tell about as well what the people think of it, as if the vote had been given under an act which was confessedly valid? Say, if you please, that the Territorial Legislature had no authority to give the people an opportunity to vote upon the question of accepting or rejecting the constitution; if that were so—if such an absurdity be admitted—is that vote any the less to be regarded as an expression of the public voice upon the constitution? Is it any the less to be regarded as an emphatic expression of the public will? Sir, Congress have always, heretofore, said—and Mr. Buchanan himself said, in the debate upon the admission of Michigan—that mere forms and modes of proceeding to ascertain the will of the people in reference to their constitution framed preparatory to admission into the Union, were not to be regarded as essential, and might be dispensed with. They have always said, the main thing, the essential point of inquiry, the material question, after all, was, does it express the voice of the people? Is it the free act and deed of those who are to live under it, and to be governed by it? In the present case, the vote on the 4th of January places this question beyond all possibility of doubt or controversy. Never was the sentiment of a people upon a vital question in which they were so directly and so deeply interested, manifested in a manner more clear, more decided, or more unquestionable. Sir, the will of the people—I say the will of the people—when so clearly and audibly uttered, upon a question of this kind, must be respected. The voice of remonstrance and of protestation, when it breaks forth from the spontaneous and aroused action of the people; when it breaks forth directly from the very fountain of power—from the independent, sovereign people themselves, in reference to their proposed fundamental law, is as potential and as much commands our consideration, as when it is addressed to us through the forms of conventional proceedings. The spontaneous voice of the people must be heard over and above the voice of a usurping minority, though clothed in the form of "regular proceedings." The right of petition, of remonstrance, of protest, is a right guaranteed to every American citizen by the Federal Constitution, and awaits not the permission of legislative enactment. The people of Kansas had a perfect right, in the absence of any special law, to express their opinion, their remonstrance, or protest against this constitution, either in this way or in any other they might choose to adopt.

But, Mr. President, the vote on the 4th of January had the sanction and authority of law. It is worse than idle to say the Territorial Legislature had no authority to provide for, and give an opportunity to, the people to be heard upon this constitution; to express their will upon it; to accept or reject it. And this was all that the territorial act did, or attempted to do. It was not an attempt, nor did it authorize any attempt to modify, change, or destroy the constitution, as the President is pleased to intimate. It simply afforded an opportunity to the people, and fixed a day and a mode for them to say whether they would accept it or not; whether they were willing to come into the Union under it or not; whether it was in accordance with their will or not. This was all. Was this illegal? Was this transcending the authority of the Legislature? Was it illegal and wrong for the Legislature to give the people this privilege; and legal and all right for the convention to deny them that privilege? Was it illegal for the people to be heard anyhow, upon a question so vital to their welfare? Sir, the very absurdity of the proposition is its most complete refutation. It is only suggested, I am bound to believe, as a last and poor resort to evade or to parry the force of the solemn and emphatic remonstrance and protestation of the people of Kansas against the consummation of this great iniquity, by the overwhelming vote on that occasion. Our history as yet furnishes no example of an effort by the Congress of the United States to impose an institution of State government upon

a people in opposition to their clear and express will. This is the first effort of the kind; possibly it will be the last.

Mr. President, we shall do wisely to listen to the voice of the people of Kansas. We shall do wisely to listen to this her last appeal. They have struck a responsive chord in the American heart. There is a point of forbearance—there is a point of endurance—beyond which it is not safe for men or for nations to tread. We have already reached that fearful point. We should do wisely to pause, at least for a while. I assume not to speak of the future. I assume not the province of the seer. I have no dark forebodings to utter. I have only and finally to say, despise not the voice, spurn not the appeal of the people—there is portentous warning in that voice—there is terrible vengeance in that appeal.

Mr. SIMMONS. Mr. President, I always feel some embarrassment in attempting to address the Senate upon any question; but the importance of this, and the protracted discussion it has already undergone, make this one increasingly embarrassing. There is nothing connected with it which has not already been commented upon with so much ability that an endeavor to add more appears to be an act of temerity. I have no disposition to repeat what has been said upon the topics involved in this question of the admission of Kansas into the Union as a State, and shall therefore find the most difficulty, in what I have to say, in trying to avoid a repetition of what has been said by others; and I should not address the Senate at all, but for the fact that the question is one of deep interest in the State I, in part, represent here; and our Legislature having passed resolutions of instruction, may expect some remarks as an accompaniment to the vote I shall give in accordance with those instructions.

I may here say, that the difficulties surrounding this question, although seemingly so threatening, are all, in my judgment, capable of a peaceful and satisfactory solution. We have only to act—as I trust all of us are disposed to do—honestly and right, and the matters can easily be settled. I can add nothing to the powerful appeals made to the Senate to do this, by the distinguished Senator from Kentucky, [Mr. CARRITTENDEN,] and the distinguished Senator from Tennessee, [Mr. BELL.] This question involves the American doctrine of self-government; upon which I regret to witness a diversity of opinion in this Chamber. A number of Senators on the other side only admit that the people have a right to be well governed; and to secure this, they contend that the forms of law only are to be observed and regarded: while on this side, it is contended that the people have the right to govern themselves, and that they shall enjoy this right substantially, viewing the forms of law as the means of securing that end; and that if the end be not accomplished the forms are worthless. There is great diversity of opinion, and equal unanimity of votes, with the advocates of this measure as to the meaning of "popular sovereignty." The Senator from South Carolina [Mr. HAMMOND] denounces it as populous, or populace sovereignty, a kind of mob-rule, with which he will have nothing to do.

The true doctrine upon which our institutions rest, as laid down by the Father of his Country, is, "the will of the majority authentically expressed."

I ask Senators to examine all the proceedings in relation to the formation of the instrument before us, and the constitution itself, and then say if, in their judgment, there is, in the whole series of acts, a single expression of the will of the people of Kansas authentically made. There is nothing authentic about these proceedings, from the origin of the Territorial Legislature to the last act of this Kansas convention. The fountain was corrupted at the outset, and it has sent forth nothing but bitter waters; and the sooner we dismiss it, and remit it to the people of Kansas for settlement, under a Legislature now chosen, and admitted to be the first elected by the people of the Territory, the sooner peace will be restored to the country.

The Senator from Missouri [Mr. POLK] said that, by the first census taken in Kansas, there was a majority there from the southern States,

which showed there was no necessity for an invasion from Missouri to carry the first election, and furnished strong presumptive evidence that no such invasion was made. That Senator must recollect that Mr. (or General) Atchison, of Missouri, in a letter to the people of the southern States, complained that the emigrants they had induced to enter Kansas from the South, when there, nearly all turned against the project of making Kansas a slave State. These emigrants were not slaveholders; and if not, although from the South, it was their interest to have Kansas free. Exciting as political questions are, they will not entirely control men, and induce them to vote against their interests; and if it be true that a majority of the first settlers were from the South, the knowledge of the fact that these very southern emigrants were in favor of making Kansas a free Territory, may have been the occasion for the invasion; for the Missourians saw it would not answer their purpose to let even southern emigrants settle the question for themselves.

I have listened to this protracted debate, and still am unable to see what authority this first Territorial Legislature had to take the sense of the people as to whether they wanted a State constitution or not. The Senator from South Carolina has said that this body was elected merely to organize a territorial government; all have said that it was contemplated that when there should be sufficient inhabitants they should apply for admission as a State. Does any one pretend that by the act authorizing territorial governments in Kansas and Nebraska, which are said not then to have contained four hundred American citizens, the first Legislature of Kansas had any power, either by that statute, or by the common law of this country, to take steps for forming a constitution and State government at its very first session? If that Legislature had been legally chosen, it would have been an act of usurpation on their part thus to attempt to control the future population of that vast region, considering the few men then in it. It is insulting the common sense and understanding of the people to contend that the first band who should hop into the Territory could at once mold and determine the institutions for the future people of that Territory when there should come to be sufficient to make a State government and ask admission into the Union. I believe their proceedings began without authority; have been carried on in all stages without precedent, or authority of law; and, what is still worse, in my opinion, without the slightest intention to do right.

I know that this Lecompton constitution, establishing slavery in Kansas, is made the exciting question now in this country; but there is a question underlying this, which gives it its importance—that is, a question of power, always an angry one. It is a question whether power can be continued in the hands of the few at the expense of the many, in this country, and in defiance of the will of the many. Such a question must be an exciting one.

The question of slavery has been debated in Congress and the country from the origin of the Government—nay, from the origin of the Revolution; never angrily, except when political power was connected with the decision. I had occasion, eleven years ago, to participate in such a debate here, although I never allude to the subject unless it is introduced by others; for, from my experience, it has not proved a profitable one of discussion in Congress, and but for that experience I should not now address the Senate.

Mr. President, when I look over this body and am unable to recognize a single individual here who was a member of it the first year of my service here, I am taught a profitable lesson. I look again, and find but one whose service here dates prior to my own, and I turn naturally to him for counsel and for guidance.

What are the recommendations of that Senator [Mr. CARRITTENDEN] to us? Do they breathe any spirit of ill will? Do they regard this question as too difficult to be surmounted by the wisdom and patriotism of the Senate? No, sir. The course he points out is as obvious as the path at noon-day: do right, that is all that is wanted. We have had difficulties from the outset on this question of slavery; but they have always been sur-

mounted. It was brought into discussion when the Declaration of Independence was made, in 1776. It was presented to the convention of Virginia, which sent delegates to the Congress of 1774; and was never presented to a Congress of the Colonies or States of the Union, without eliciting some difference of opinion, if not dissatisfaction; and yet, for more than eighty years, those difficulties have been overcome by a fraternal and liberal regard to the interests of the whole country.

The Senator from Virginia [Mr. MASON] invited us, the other day, to go back to the course of the fathers of the Republic; to deal with this subject in their fraternal spirit, and according to their teaching. I am willing to meet him on that ground, and to meet Senators from the South on the precise ground, to deal with the question as it has been dealt with, in a spirit of candor and frankness, with no desire to excite unkind feeling in any one. It has become environed with difficulties, which did not originally exist. I desire the Senate to recollect the history of this controversy. It has been made to embrace some points which are contained in a recent decision of the Supreme Court of the United States, often referred to in this debate, as to who are citizens; and also the power of this Government over the Territories of the United States—questions which originated before the Constitution was formed, and which, in my judgment, were settled either before the Constitution was made, or when it was established.

If Senators will consult the record, they will be in no doubt as to who were made citizens, and none as to the powers of this Government in the Territories. I will read as to the first introduction of slavery into these colonies. I do not find the account to be, as stated by the Senator from Virginia, [Mr. MASON], in 1620. Mr. Jefferson, one of the fathers, says:

"The first establishment in Virginia which became permanent was made in 1607. I have found no mention made of negroes in the colony until about 1650. The first brought here as slaves were by a Dutch ship; after which the English commenced the trade, and continued it until the revolutionary war."

Mr. Jefferson is pretty good authority as to the early history of Virginia, and he says slavery was first introduced in 1650 by the Dutch. Efforts are now made to show that the trade was commenced by England, and that slavery existed by the common law. I do not know how that may be, or that it is material; but the court in the Dred Scott case say, that at

— "This day it is difficult to realize the state of public opinion in relation to that unfortunate race which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted."

They had for more than a century before been regarded as so far inferior as to have "no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit," &c.; that up to the time of the adoption of the Constitution this right had not been called in question, or words to that effect; and that all public acts and records are to be construed in reference to the opinions prevailing at the time they were written, and not as if written in our day, with our enlightened and humane opinions of that unfortunate race, &c. But to return to the history of African slavery in the colonies, which was introduced into Virginia in 1650. I find in the annals of Rhode Island that in 1652 the government there passed this order:

"Whereas there is a common course practiced amongst English men to buy negroes, to that end they may have them for service or slaves forever; for the preventing of such practices among us, let it be ordered, that no blacke mankind or white, being forced by covenant, bond, or otherwise, to serve any man or his assignees longer than ten years, or untill they come to bee twentie-four years of age, if they bee taken in under 14 from the time of their cominge within the liberties of this colonic. And at the end or terme of ten years to sett them free, as the manner is with the English servants."

That does not look much as if, by the common law of England, they were held longer.

— "And that man that will not let them goe free, or shall sell them away elsewhere, to that end that they may be enslaved to others for a long time, hee or they shall forfeit to the colonic forty pounds."

I suppose that is about as early a law for the

prevention of slavery as can be found upon record. The next law, I suppose, was made against the Dutch slave trade, and was in this form:

"Ordered, That all Dutchmen, except inhabitants amongst us, are prohibited to trade with the Indians in this colonic; and in case they bee found to transgresse herein, they shall forfeit to the colonic goods and vessell if proved; and this order to bee in force two months after the date hereof; and if this case come to bee tried, it shall be tried in the Generall Court of Tryalls."

"The President, Mr. John Smith, is chosen Moderator of the Assembly this 20th of May, 1652."

"Ordered, That the President shall give notice to the Dutch Governor of the Menadoes touching the lawe of prohibition of trade with the Indians."

I suppose Menadoes means Manhattan Island, on which the city of New York is now situated. I do not recollect of any other place on our coast where there was a Dutch Governor.

This legislation, (which is probably the earliest to be found on this continent to prevent slavery,) was before we had a charter from England; and I read it to show that in the earliest history of the people of this country, when uncontrolled by the power of England, or other commercial nations, they had the same just notions of the rights of men to hold others in slavery, that at this later day they have in England. I call attention to these old records on account of what is said here in debate by Senators, who seem to think these are new doctrines, and that to act upon them, or believe in them, is an aggression upon the South. They may be too old for present use, and I come to the history of the times, referred to by the court, and to the acts of the fathers of the Republic. I read from a paper written by Mr. Jefferson, and laid before the convention of Virginia in 1774, from which instructions were to be drawn for the members from that State to the Congress to be held in reference to our difficulties with Great Britain, and to petition the King:

"The abolition of domestic slavery is the great object of desire in those colonies where it was unhappily introduced in their infant state. But previous to the enfranchisement of the slaves we have, it is necessary to exclude all further importations from Africa. Yet our repeated attempts to effect this, by prohibitions, and by imposing duties which might amount to a prohibition, have been hitherto defeated by his Majesty's negative: thus preferring the immediate advantages of a few British corsairs, to the lasting interests of the American States, and to the rights of human nature, deeply wounded by this infamous practice."

In this paper it is declared that the abolition of slavery is "the great object of desire in the colonies." The next paper I will call the attention of the Senate to is the original draft of the Declaration of Independence, as reported by the committee to Congress. I refer to the clause in that instrument which, Mr. Jefferson says, "was stricken out in complaisance to South Carolina and Georgia; who had never attempted to restrain the importation of slaves, and who, on the contrary, still wished to continue it." That stricken out was in these words:

"He has incited treasonable insurrections of our fellow-citizens with the allurements of forfeiture and confiscation of our property."

"He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian King of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce. And that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another."

It is proper to say that although this was stricken out, for the reasons assigned, its substance was declared in another form, by saying, "he has refused his assent to laws the most wholesome and necessary for the public good," which may have included the one referred to by the Senator from Louisiana [Mr. BENJAMIN] as having been passed by South Carolina in 1760, for suppressing the slave trade, which he said the King refused his assent to. At this period of our history there seems to have been a stronger feeling against slavery than at any time since the adoption of the Constitution. Not only in Congress, but in the primary assemblies of the people were such feel-

ings expressed, as was natural, and often declared that whereas we were about to assert our rights to liberty, it was proper to recognize and assert the right of all men to it. During the war of the Revolution, Rhode Island passed a law giving to every slave his freedom who would enlist in the service and serve for a term of three years. Many did so; and thus secured their own freedom and that of their former owners. The court must have forgotten, or overlooked, all these facts, so prominent in our revolutionary history, or they would not have felt it necessary to put a construction upon instruments written at this period of intense love of liberty, and be compelled to restrict the application of liberal doctrines to a single class of men, when they declare if they had been written in our time, they should have considered them as embracing all classes.

I mean, however, to have no dispute with the Supreme Court; although their decision has involved this question in most of the difficulties that surround it.

I ask the attention of Senators to these facts, to show that this question of slavery, and the best means to prevent its further increase in this country, was a prominent one with the people, with their Representatives in Congress, and in the convention which framed the Constitution upon which our Government rests. In the convention there were but two States that threatened not to unite with the rest if power was given to Congress to prohibit the slave trade before 1808—the same two in complaisance to whom the clause about slaves was stricken from the Declaration of Independence; but the convention was more successful than Congress was, for after they had altered the Declaration, South Carolina voted against it; and Georgia was divided, and did not vote for it; whereas, the convention, by inserting a clause in the Constitution, that Congress should not prohibit the importation of such persons as any of the States then existing should think proper to admit prior to the year 1808, induced both these States to adopt the instrument. By inserting and adopting this clause in the Constitution, the importation of slaves was not sanctioned or authorized by the convention or people; for if the Constitution had either authorized or sanctioned it, being the supreme law, no State could have prohibited it until 1808, nor even then; for at that time, this power, which had been in abeyance so far as Congress was concerned, became theirs to exercise, and was exercised by them, and the States ceased to have anything to do in the matter, though most of them had prohibited the traffic before Congress acted. I think, therefore, the court have used a little unsound reasoning in trying to show that the people committed this Government to the support of slavery by adopting this clause of the Constitution, which simply postponed the time when Congress should prevent its further increase. This postponement was not readily agreed to, as I had occasion to show in a debate here eleven years ago, when this same question was before the Senate. I then read the remarks made in the convention by the distinguished ancestor of the Senator from Virginia, who urged us the other day to go back to the ways of "the fathers" upon this slavery question. Upon this demand of South Carolina and Georgia to withhold the power from Congress for twenty years, Virginia then said, by Colonel Mason:

"This infernal traffic originated in the avarice of British merchants. The British Government constantly checked the attempts of Virginia to put a stop to it. The present question concerns not the importing States alone, but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as they might have been by the enemy, they would have proved dangerous instruments in their hands. But their folly dealt by the slaves as it did by the Tories. He mentioned the dangerous insurrections of the slaves in Greece and Sicily; and the instructions given by Cromwell to the commissioners sent to Virginia, to arm the servants and slaves, in case other means of obtaining its submission should fail. Maryland and Virginia, he said, had already prohibited the importation of slaves expressly. North Carolina has done the same in substance. All this would be in vain if South Carolina and Georgia be at liberty to import. The western people are already calling out for slaves for their new lands, and will fill that country with slaves, if they can be got through South Carolina and Georgia. Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effects on manners. Every master of

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slaves is born a petty tyrant. They bring the judgment of Heaven upon a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities. He lamented that some of our eastern brethren had, as from a lust of gain, embarked in the nefarious traffic. As to the States being in possession of the right to import, this was the case with many other rights, now to be properly given up. He held it essential, in every point of view, that the General Government should have power to prevent the increase of slavery."

This argument, as well as all other extracts I have made from revolutionary documents, shows the determination of our ancestors that the "General Government should have power to prevent the increase of slavery." No arguments in this Senate, or reasoning in the court below us, can conceal these facts. The feeling against slavery, instead of being stronger now than when the Constitution was framed, as the court have argued, I think is just the reverse; for slavery has become much more profitable since the adoption of the Constitution than it was before; and interest has a powerful influence upon the minds of men, even in such questions. It is from interest that the emigrants from southern States who are not slaveholders desire Kansas to be a free State. The slaveholder, from the same calculation of interest, wants the uncultivated lands to be withheld from the free laborers, and reserved for the profitable employment of his slaves, when, by their growth or importation, he may have sufficient slaves to cultivate them. The difference between the two classes of men is, that the free laborer is here now, and wants the land for cultivation; the slave labor is subject to all the contingencies of a distant future. The moral aspects of the question should be considered elsewhere; the Senate is not the place to discuss or decide such questions. I will say a single word in answer to the repeated charges from the other side of the Chamber, that Senators on this side are all rabid Abolitionists. I do not believe there is one here who can truthfully be called a rabid Abolitionist. I know I am not one, never was, and never expect to be, in the sense in which that term is used by Senators of the Democratic side of the Chamber.

So far as my vote in this body may contribute to affect the measures of this Government, it shall be given in the spirit of the Constitution under which we live—interfering with no questions designed to be left with the States. I believe this will best promote the happiness of all classes and races of men among us; and, while I believe that slaves are held in some States where the people would be better off without them, it is their business, and not mine. I shall not interfere with such questions myself, or act with any party who may propose such interference, if any such should ever exist.

I can see no real cause of irritation between the two sections, if those living upon the borders between the slave and free States will observe the obligations of good neighborhood in their intercourse with each other. With such a disposition to observe the obligations imposed by the Constitution, I can see no reason why the South should be annoyed with the sentiments of the people of distant States. What could the people of Rhode Island do to annoy them? They could not molest them if they would, and would not if they could. Why this denunciation of the northern States—distant States—for any opinions they may entertain on the question of slavery? They are not responsible for the irritation which arises between the people in the immediate neighborhood of slaves. I see no disposition at home, and have seen none for thirty years, to produce irritation at the South. As to this controversy about Kansas, it is made by the South itself.

Is this a suitable place to try the experiment of forcing slavery into a Territory, a country without laws, and where the only power which has a right to govern has abdicated government? For I insist, whatever may be said about "popular sovereignty," that this Government has the constitutional power to govern the Territories. We may, as we have done, authorize a Territorial Legislature to participate, when a given number of inhabitants have settled there; but this Kansas-Nebraska act is the first instance in our history where power was delegated to a Legislature without reference to the population, and without control on the part of this Government over their

legislation. Under the Constitution we have no right to abdicate government anywhere, if that instrument imposes upon us the duty of government. Under the Articles of Confederation, nine States had a right to establish a new government, and abdicate government in the other four, if they should not adopt it and come into the Union; but when adopted, the Constitution has no provision for abdicating government anywhere within the territorial limits over which its jurisdiction extends. You cannot constitutionally withdraw your authority from the States or the Territories. So far as that instrument imposes upon you the duties and obligations to govern, if laws exist in Territories, this Government must see them faithfully executed. They cannot place themselves or be placed by this Government beyond its jurisdiction.

Mr. President, I regret that there is a design here to make this Kansas question, not the cause, for that lies deeper, but the occasion, for a separation of these States. There are those who affect to believe that the Union is a disadvantage to them—those who have "calculated its value." This was said by the Senator from Georgia, [Mr. TOOMBS,] but he did not say he had calculated its cost, for no figures can represent the cost of this Union; and, lightly as he may speak or think of it, I believe it to be worth more than its cost to the whole country, although the patriotic blood and treasure sacrificed to secure it were enough to enrich an empire. Let it be preserved: it has blessings in store for us and our posterity, if we but act according to its injunctions.

I do not propose to enlarge upon this topic; but I do say that, so far as I know the objects of those with whom I now act, they have no motive or purpose to disturb the institutions of the South, or to create any ill-feeling between the different sections of this country; and, having lived somewhat longer than most of the Senators here, I will tell them all that I will act with no party, at any time, that entertains or proposes any such measures. Sir, the warmest and closest party ties that have existed with me have been severed. I do not know where the party is to which I was proud to belong; I do not know how, or by whom, it was destroyed; but its principles will endure as long as this Government lasts. Most of the great men who upheld them have passed away; but they have left a history, and we shall leave its principles, which will yet be acted upon, to the prosperity and renown of our common country. Others may have the honors, but that will make no difference to you [Mr. SEWARD, who was in the chair] or to me.

Mr. President, I have made these references to our early records to show what were the doctrines of the fathers of the Republic. And these show conclusively that the same opinions were held by them that are now acted upon by Senators upon this side of the Chamber; and what may appear singular, they are met by the same kind of complaints and threats which have been used in this "infected district," embraced in the States of South Carolina and Georgia, from the Congress of 1776 down to the present time. These States were not suited with the Declaration of Independence as originally reported; they threatened the convention, in 1787, not to unite with the other States unless the Constitution was altered; and both instruments were altered to suit their views about slavery; and since this discussion commenced, every Senator who has spoken upon it from the four States now occupying the original territory of the two referred to, have threatened us with secession unless this question is settled to suit them; no other States seem so ready with estimates of the value of the Union, with plans for peaceable secession, and inquiries of how it is to be prevented, and extravagant estimates of the resources and power of a new Republic. Such things would be alarming, if now made for the first time; but they have been the peculiar characteristics of the same region for more than eighty years; and yet they have been got along with in some way or other, without much real danger to the Union. It is but justice to these States to say that they have furnished many patriots, many sound and able statesmen, and have been regarded as banner States for the high qualities of their distinguished men. To all these threats of secession and dis-

union, I have only to say that, in my judgment, we can get along better together than we can separately. It does not alter my mind about this to hear the Senator from South Carolina sound, in tones of triumph, that "cotton is king," and rules the commercial world; that the South have only to fold their arms, and all nations must come to their terms; that they need no connection with the rest of the United States, and very little intercourse with the world. Well, sir, it is well to feel pleasantly, and the South is a pleasant region: they have a good country and profitable productions, and I rejoice with them at that; but this idea that a State can isolate itself and live alone, is a mistake.

I recollect to have read somewhere that a man who thinks he can get along without the rest of the world is very much mistaken; but that he who thinks the world cannot get along without him is much more mistaken. It would be still more strikingly the case with States than with individuals. The Senator supposes, if they should refuse to plant cotton for three years, the thrones of Europe would topple and fall. This reminds me of the tone of the English press just before our war with that country in 1812. They demonstrated that we should come to a dead lock if we undertook to get along without them; and as to maintaining a war with them, that was only ridiculous. But we fought them about three years and were just beginning to learn the art of war, when peace was made. If we had fought them three years more, it would have been of little consequence to us whether we renewed our trade with her people or not; we should have made ourselves independent. I am, however, in favor of commerce, if reciprocal; but with no degrading inequality or dependence; and I have no notion of acknowledging any such relation between this country and England, or any other country, as was set up by them before 1812. I think the cotton planters are imbibing this English notion I have referred to, in supposing that their staple rules; instead of this, I think it likely that, if they stopped planting cotton for five years, instead of overturning all governments and all creation, as they fancy, mankind would learn to get along without cotton; and just before everybody bowed to them, they would forget that there ever had been such a thing as cotton used for their convenience. It is within my life-time that this material has been extensively cultivated in this country. It is a very valuable crop, and ministers greatly to the profit and comfort of man; and it is because of this that the connection of the growers and workers of it is most beneficial; two customers are better than one for them. If we at the North did not consume six or seven hundred thousand bales of their annual crop, it would be difficult to find as good a market for this, in addition to what they now send to Europe for sale. I do not wish to see the South dependent upon one market for the sale of their great staples, and that market a foreign one. I watch the prices of their products as closely as they do, and appreciate their influence in our intercourse with the rest of the world; and I never have and never shall support a policy that gives to other nations a control of the market and the prices of the leading productions of this country.

It is for these reasons, as well as others, that we can do better together than we could without the aid of each other. But if our pecuniary interests were not improved by our Union, there are others which cannot be forgotten. We shall always remember the past; we shall always have the history of our revolutionary struggle, the fame of our ancestors, the prosperity, the liberty, and glory of a common country, and these are the strongest and happiest ties that bind societies and States together. Sir, I could say more of the advantages of our Union, but I do not regard it as in any immediate danger; though I regret to have one of the cords weakened by any unkind expressions.

Mr. President, much has been said of the right of the people of a State to change their constitution without regard to the provisions it contains for making such change. The President has said that if we admit Kansas under this constitution, it may be modified whenever it may suit the people of the State to do it, notwithstanding the action of the people may conflict with its pro-

visions; and many Senators have expressed the same opinion. The Senator from Virginia [Mr. MASON] does not concur in this; nor does the Senator from South Carolina, [Mr. HAMMOND]; but the Senators from Missouri give the doctrine a qualified approval, and others unreservedly approve the views of the President, as the true version of their party's creed.

There are two modes by which the people can change their constitutional form of government, which are in accordance with the American idea of popular rights: one is a constitutional mode, and is to be exercised in conformity with the provisions of their own agreement, or constitution; the other, an inherent right, not controlled by compacts or laws—a revolutionary right, which may be a peaceful one, or may come to be a right to fight in order to reform abuses and wrongs. This last governments do not give, and cannot take away.

The Senator from Louisiana [Mr. BENJAMIN] showed us the other day, by an exhibit of his researches into history and law, that the British Government had imposed slavery upon their colonies, the Old Thirteen States, against the will of the people of the colonies; and made an application of the facts to sustain the positions of the court in their reasoning in the Dred Scott case. In reference to the iniquity of introducing slavery into this country, it may be admitted that the whole belonged to the mother country; and what did "the fathers" say of it? They enumerated this as among the acts of tyranny which justified revolution; and, by fair analogy, we must admit that if we impose slavery upon the people of Kansas against their will, by adopting for them this Lecompton constitution, we shall justify rebellion and revolution on their part, to rid themselves of a tyranny as odious to them as the similar crimes against liberty were, which caused the revolution of 1776. If the President refers to such a right in the people of Kansas to remedy the wrong he recommends us to inflict upon them, nobody will question the soundness of his position; but that will not excuse us for doing a deed so unreasonable and unnecessary.

Is any one to gain by producing such a state of things in Kansas? Are not the people there already excited, nay, exasperated, by attempts to impose slavery upon the Territory against the will of the majority? The question has ceased to be one about slavery, and has become the more serious one of the right of a majority to govern. Can you expect a people, educated as Americans are, peaceably to surrender such a right?

According to the doctrine of the Kansas-Nebraska act, as expounded by the party in the Cincinnati convention, this attempt to legalize slavery by a Territorial Legislature is clearly a usurpation. They say Congress cannot legislate upon slavery in the Territories, and the act itself says they do not intend thereby to carry slavery into the Territories, or exclude it therefrom. The power of Congress to legislate upon slavery is denied. It will not be pretended that Congress can delegate a power to a Territorial Legislature to do what it has no power to do itself. It has been said in this Chamber that slavery is not established in the States by positive enactment to that effect, but by laws protecting the owners of slaves in the right to the labor of slaves, and their control over them, &c., by just such laws as have been passed by the Territorial Legislature in Kansas. If it is by this species of legislation that slavery is established, and if without such laws it could not exist, as it appears it could not, it follows that Congress has delegated a power to the Territorial Legislature of Kansas, which, according to the doctrine of the party who did it, Congress itself could not exercise. These laws were made before they formed this constitution, which included the result of them within it, and required men to swear to support it, in order to vote upon it as to whether they would have a further importation of slaves or not. No freeman would take such an oath; none should be required to take any test oath to secure the right of franchise. You, sir, would not take it; I would not. I would not take one either to support this Lecompton constitution, or to do as I pleased about it.

The Senator from Missouri, who reported this bill, asked what harm there was in requiring a

man to swear to support the constitution or a certain code of laws, before he was allowed to vote? I answer, it is an insult to his understanding to require it. There is no such test oath anywhere else, and there was no right to establish it in Kansas. This test existed when the vote was taken to determine whether or not they wished to form a State constitution, and from this cause this constitution with slavery is here against the will of the majority of the people of Kansas.

Sir, I believe, as the Senator from Kentucky [Mr. CRITTENDEN] has said he did, that Congress had power to prohibit slavery north of 36° 30'; and I also think it can be made to appear by the very doctrines asserted by the court in the case of Dred Scott, in which it is attempted to be denied. In this case, the court would seem to have decided a great many questions; and it would be strange if some of them were not decided right. There are but two that were directly connected with the question of the freedom of the plaintiff, and in some way with the question before us, and they are all I shall notice now: one that the plaintiff was not a citizen; and the other, that Congress had no constitutional power to prohibit slavery in the territory where Kansas now is.

I have read the reasoning upon which the court base their decision that a negro is not a citizen; and I have heard the eloquent commendation of the court, for making the decision, pronounced here by the Senator from Louisiana, [Mr. BENJAMIN.] I understand it was decided that the plaintiff had no right in court, because no man, bond or free, whose ancestors were brought to this country from Africa and sold as slaves, could be a citizen of the United States. The court give reasons for this; the most prominent is, that the African race is a degraded race. To prove this statutes of different States, prohibiting and punishing intermarriages between them and whites, are cited, and various penal statutes against people of color are also cited; together with the laws of Congress for enrolling the militia, and those of New Hampshire for the same purpose.

Mr. President, I have an interest in this question of citizenship, and so have you. [Mr. SEWARD was in the chair.] We have not a title as citizens which can be produced at any time and anywhere, as the Senator from Louisiana [Mr. BENJAMIN] has. His title to citizenship is upon parchment, duly sealed; but how are we to establish ours, and our right to sue in a court of the United States? We have no parchment under seal to show it. If I were obliged to look for yours, sir, I should not look where the court seems to have looked for Dred Scott's, about jails and whipping-posts, penitentiaries and penal statutes. These are places where freemen lose their rights, and not the places to find how or where they became enfranchised. If I wanted to discover our right to the blessings of freemen, I should not look down into dungeons, but up to the source from which they come—just where the fathers of this Republic looked when they began the struggle to obtain them.

Sir, on the morning of the 4th of July, 1776, the people of this country were British subjects; on the evening of that day, by virtue of the acts of those they had authorized, they ceased to be subjects, and became simply inhabitants of the country. This definition included all within our limits, bond or free; but they were not left so long. The same authorized agents who had changed them from subjects to inhabitants proceeded to form articles for a union of the several States, and in these, the status of the inhabitants was determined, as follows:

"The free inhabitants of each of the States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States."

There is nothing here about color; all the distinction they made was between free and slave, and between the worthy and unworthy. None were excluded on account of color, of race, or country of birth; but all were made citizens who were then on the soil, except the slaves and the unworthy. This would seem to settle the question as to who were then made citizens, and recognized as such, until the adoption of the Constitution; and included therein as such, when that instrument was adopted. The court, however,

appear to think the militia laws negated this conclusion, and refer with great confidence to an early act of Congress, in 1792, organizing the militia, passed by those familiar with the meaning of the language of the Constitution, which says that every "free, able-bodied, white male citizen" shall be enrolled in the militia. They also refer to a similar provision in a late law of New Hampshire, which I suppose should be more convincing, as that is a Free-Soil State.

These extracts from the laws, and like expressions, the court seem to regard as conclusive that none but whites can be citizens, or were regarded as such by the framers of the Constitution; who were members of Congress in these early times. It is a little singular it did not occur to the court that the use of the term "white citizens," to designate those who should be enrolled, instead of proving that there were no other "citizens," shows clearly that those who used that word must have used it on purpose to discriminate between "white citizens" and "citizens" of some color not understood to be "white," for it is certain that, if there were no other than white citizens, as the court insist, the use of the word "white," as a term of discrimination, was an absurdity.

This term, as one of discrimination among citizens, was so common that it had become habitual; and, until after this decision, arrested no attention: it was used when this Lecompton constitution was drafted, and was stricken out at the suggestion of some member, that since this decision of the court there were no other citizens than white ones, and therefore no longer any necessity for the use of the term.

I suppose this form of expression has been used in constitutions or statutes from the time of the Revolution to the last year to determine whether the elective franchise in the different States should be enjoyed by white citizens only, or by all citizens; and has so determined the matter. If the word was in the law or constitution, none but white citizens voted; if not in, all voted, white and colored. That has been the case in Rhode Island, and I suppose in other States; and until this late discovery of the court, nobody ever thought of disputing its fitness and propriety.

I do not think there needs to be any reconstruction of the court, for, I believe, if a similar question were brought before the court, the late decision would be overruled. These decisions are not like the laws of the Medes and Persians. The decision of this court in the Dartmouth College case was thought to settle a principle, which induced our banks to refuse to pay the tax imposed upon them by the State, and the prevailing opinion at the bar in Rhode Island was that the banks would be sustained by the court. The State brought the question here, and the court decided in favor of the power of the State to tax corporations. It happened that I was appointed on the committee to employ counsel in that case, and for that reason remember the decision, and also remember that, from the outset, I thought the right of the State to tax would be sustained. No such decision of this court will stand unless it has sound reason and sound law to rest upon.

This question was decided when the public mind was in a feverish state, and the court may have unwittingly been affected by the excitement—political excitements have great influence upon men in caucuses and in Congress, and why not in courts if it gets there? and if it has got there, we must wait until it subsides, and trust that then the errors it has occasioned will be corrected. Mr. President, I think any man of candor who will read the reasoning of the court in this case, upon the power of Congress in the Territories, will find enough to warrant the opinion I have expressed. The court say, that the clause in the Constitution which says "Congress may make all necessary rules and regulations respecting the territory," &c., does not apply to territory acquired since the adoption of the Constitution. This is no doubt so; for it was not contemplated that we should have additional territory when the Constitution was adopted. But the court say that the power to govern new territory is "the inevitable consequence of the right to acquire territory." And they further say, that Congress in legislating for such acquired territory, "exercises

the combined powers of the General and a State Government." They say, further, that Congress can exercise no power in a Territory which it is prohibited from exercising by the Constitution—that is so: nor can it exercise any power, anywhere, which is so prohibited. A State government cannot exercise any power in a State which it is prohibited from exercising by the constitution of the State; but the Legislature or government of a State can, within its limits, exercise all powers of government which are not prohibited by the constitution of the State or of the United States; and if, in legislating for the Territories, Congress has the right to exercise the powers of the General and a State Government, it follows that Congress, like a State, can exercise all powers not constitutionally prohibited. This is the reasoning of the court, and they enumerate the prohibitions to show what Congress cannot do in the Territories, because of these constitutional injunctions, and after naming all they can find, they then say that as there are so many prohibitions, and this is known to be a Government of limited powers, therefore, Congress cannot legislate about slavery in the Territories. Sir, that is a dodge which is unworthy of men in their position; they must have known that, upon their own rule, if that subject of legislation was not enumerated in the prohibitions, Congress could legislate upon it as well as upon any other subject not prohibited; at any rate, if the court cannot see this, every one else can.

In the Florida case, which the court refer to, and from which the quotations are made, the present court sanction the exercise of the powers of Congress in legislating for the Territories to a more unlimited extent than I think is warranted; but no matter for that, as all the powers of legislation by Congress upon the subject of slavery in the Territories are clearly within the definition and rule given by the court. I shall not quarrel with them for going a great deal beyond, and claiming for Congress legislative powers in the Territories which I may think doubtful.

But if Congress have not the power to legislate upon the subject of slavery in the Territories of the United States, by what deduction of logic do Senators contend that we can grant it to any other body of men, or to a Territorial Legislature? Can we grant what we have not got ourselves? To contend for this would be ridiculous; yet we know that the Legislature of Kansas has enacted laws for the protection of slavery such as exist in Missouri and other States; if they had any right to pass these laws, they derived it from us; the people of the Territory had granted them none—the people never did grant any power to a Territorial Legislature, in any Territory that has ever existed within the jurisdiction of this Government. If such laws have validity in any Territory, it is derived from this Government. In the case of Kansas, the power was not only not expressly given to pass such laws, but it was expressly declared in the organic act, that it was not intended thereby to establish slavery in the Territory, or to exclude it therefrom; so that no such power of legislation could be constructively implied to be given in the act, and all the laws passed about slavery, and the oaths required to support them, were void from the outset. These test oaths corrupted the franchise from the commencement, and this Lecompton constitution being the result of such a franchise, has no validity; yet we are urged to admit Kansas under it, and to avoid the appearance of giving sanction to its provisions it is proposed to add a declaratory resolution investing the people of the new State with the right of revolution—a right we cannot give nor take away. Yet this is the right our Democratic President says the people of Kansas will have, to relieve themselves from a constitution which is odious to, and which he urges us to inflict upon, them.

Sir, I have no disposition to produce irritation or agitation upon this question; and I invoke Senators on the other side not to stake the welfare of this country, not even the quiet and good feeling of the people, upon an issue so contemptible as this. It is unworthy the attention already bestowed upon it—attention which it would not have received but for its being made an Administration measure, and a sectional one upon which to con-

ciliate and unite the South in support of the policy of the President.

Declarations have been made here from Georgia and South Carolina, from Alabama and Mississippi, that all must regret to hear. We are told this Union is to be shaken to its center upon the question whether this particular form of government shall be established for Kansas. Senators are crowding this measure as if some great event were depending upon its passage. There has appeared to be a design of raising an excitement for the purpose of seeing it subside when the deed is consummated. There are too many artificial circumstances in all these Kansas movements to commend them to my approval. We are not told that Kansas has a sufficient population to warrant this application to be admitted as a State. No enumeration or census has been taken to show this. Nothing has been done in this business as it is ordinarily done in like cases. There has been hot haste about everything concerning it; everything bears but one label; and that is, political capital by agitation in the southern States, where, upon such a question, it is supposed they may be made to act together; and every circumstance is now seized upon to induce the people of those States to believe that opposition to this fraud proceeds from a purpose hostile to them, when, if viewed simply as a party measure, the South will admit that the Republican party would gain more by their carrying Lecompton than it could by rejecting it. And I think it is doing injustice to the intelligence of southern men to suppose they can be made to believe that the institutions of the southern States can be disturbed by the decision of a question as unimportant as this, let it be decided as it may.

The people of the South know that all their institutions rest upon too good foundations to be overturned by a clause about slavery in Kansas, put into a constitution by fraud and violence.

If there is any real cause of difference between the sections, it is different from this; and this is only used as a pretext to enlist the passions of men in the service of disunion. There has been a zeal manifested on this question, unusual in this body. It has carried Senators further from what I regard the proprieties of their position. They have, by a caucus-drill, instituted a trial of physical endurance, to force the minority to terms, which the majority might impose for the termination of the debate here upon the question. In this contest, I was called from a sick bed to this Chamber, at three o'clock in the morning, as was said, to make a quorum; as if less than a quorum could not adjourn, which, as I was told, it had been decided could not be done. When I came into the Senate, a Senator was addressing it upon the dangers to the Union to result from the decision of this question. After the close of this speech, the Senator from Louisiana [MR. BENJAMIN] made a proposition to his friends, the majority here, to withdraw from the Senate. I hope this was done without reflection, for it was a proposition to break up this Government. Without a Senate, you can have no Government. I never heard such a proposition made here before, and hope never to hear another of the kind. Such a proposition will not, I trust, be made by any man born upon American soil. There have been conventions elsewhere that were supposed to be designed to "prepare the hearts of the people" for disunion; but never, I think, before this session, has there been a proposition made in this Chamber to break up this Government.

It has always been my purpose, since my first participation in the business of the Senate, to vote and act for measures which I thought would promote the interests of the country, North and South, East and West, endeavoring to have no sectional feeling or local partialities in legislation.

I can expect to exert but little influence; to attempt it might give offense, for I do not profess to have either ability or experience to justify such a course; but I may say to Senators who are talented and enjoy an elevated position, that it may be wise in them to cultivate fraternal feelings in this body of equal representatives of States. The idea that there are many spheres in the walks of life, is not the American doctrine.

The Senator from South Carolina [MR. HAMMOND] is already assured of my respect. That

Senator, the other day, undertook to prove that society in the North was not organized as well, or with as favorable elements, as that of the South. He insisted the laboring men of the North occupied the position of slaves, like those of the South; and having the right of franchise, our rights were held by a more precarious tenure than theirs. I think he is mistaken in this. He calls the laborers of both sections the "mud-sills" of society. As this is a technical term in the construction of a dam, I suppose he means to intimate by it that those who are regarded as the more fortunate in point of wealth or position, are the cap-logs of society.

We have an intelligent people at the North, whether wealthy or not; and in no country in the world is there less pretension made to wealth, or to position on account of it—none where there is a more general recognition of the fealty due by all men to their common Creator, who has said to man that by the sweat of his face shall he eat bread.

No man is exempt from this service. The Senator seems to suppose that, with their organization of society, there will be, and is, a class with the leisure and means of education which must elevate and secure to them a character for progress, civilization, and refinement.

I would ask the Senator if, in his experience in society, this has generally been the effect of the possession of such supposed early advantages? I regret to say it has not, in most cases that have come within my observation; and I have always been disposed to award greater merit for success in those thus circumstanced than to those who are not subject to the various temptations which beset the class he refers to. In our country, it is common to say that "it is better to be born lucky than rich." In the history of our country there is nothing to justify this overweening vanity of wealth or high position, or to discourage those who commence with every disadvantage that conceit can attach to the drudgery of labor. Will the Senator from South Carolina look at the picture which hangs over the western entrance to the rotunda of this Capitol, and examine the portrait of Benjamin Franklin, in his plain citizen's dress, at the most refined court of Europe? Look at his countenance as he is addressing the King, and then look at the King, in his royal robes, who has enjoyed every advantage of elevated birth and of solid and refined education, and say which of the two he would like to have for his compeer in this body? The attitude, features, and countenance, of the laboring man are a specimen of one of nature's noblemen. As to the other, I will say nothing. I am prevented, from the gratitude I feel for the aid he gave us in the cause of the Revolution. Let the Senator examine the portraits of the signers of the Declaration of Independence. He will find the same man associated with Roger Sherman; they are not among the mass of the members of that highly distinguished body of patriots, but are represented as two of the five members who report the Declaration to Congress—men who are prominent among the noblest of the land—both laborers. Does the Senator think we should be in a lower strata (as he calls it) by having these two men in our body to represent the States they represented in 1776?

Sir, every man in Christendom would accord to such men the post of honor, be they where they may. Franklin was known in Europe as a day worker at job printing; it never injured him anywhere. I doubt if he was ever in any body of men, or on any committee, where he did not appear a little taller than his associates for intelligence and common sense; and I would rather have the maxims in his "Poor Richard" almanac to make a man with, than all the writings of Lord Chesterfield upon refinement and court etiquette.

There are a few other remarks which the Senator from South Carolina made that I must notice—not in any spirit of complaint, for I like South Carolina; for I received the hospitalities of her people, and those of Georgia, when I was a boy, and remember it with gratitude; but I think he has made some unfair comparisons between the two sections, which I have briefly adverted to. What remains for me to say relates to the remark he made that, if we now settled this question fairly, the South had no guarantee that we should

not plunder them with tariffs, with internal improvements, with navigation laws and fishing bounties, and with a bank of the United States, to concentrate all the capital of the country in the commercial emporium. These were so many counts in his bill of indictment against the North.

As well as I recollect, most of the measures enumerated and denounced by the Senator, as plundering them, originated with South Carolinians. I think the tariff was reported by one of the most distinguished of the citizens of South Carolina, Mr. Lowndes: at least I have always given him credit for inaugurating that measure for the benefit of labor. The credit of internal improvements and the bank have been awarded by his grateful countrymen to another illustrious citizen of that State, Mr. Calhoun. I must leave the defense of these measures to their beneficial effect while we enjoyed them, and to the State which feels such just pride in their originators, or supporters. The fame of these statesmen had these very measures for its basis and sustenance. I concur with the Senator in his view of the value of the great staples of that section of the country, and am always glad to notice the improvements they have made in their production. Since my remembrance, the product of cotton to the hand has increased threefold, and the general price remains about the same; which indicates great prosperity, as is shown in the advanced value of their laborers.

The Senator will admit that we, at the North, have made equal improvement in our means of producing, but we do not receive its returns in the increase of the price of labor, as they do. When we improve processes we sell for less, and the consumer shares in the benefit, as well as the producer, and sometimes has it all; but this discouragement does not unnerve the arm of labor, or paralyze the brain of the inventor. They still strive; and, at all events, mean to deserve success. We do not envy their success, and try to convince ourselves that we are benefited by it. In this way we have got on well together for more than eighty years with this Union, and I doubt the wisdom of trying an experiment to get on without it.

The Senator is fearful the South may be plundered by the fishing bounties, and I understand the Senator from Alabama, as chairman of the Committee on Commerce, has reported a bill to repeal them. I regret this, and think the Senator has not fully considered the purpose of these bounties. It is easy to raise a cry against bounties; but if this matter was fairly understood by the South they would not feel hostile to the fishing vessels. They are the nurseries of our seamen, and are so called.

The South take great interest in our Navy, and furnish a very large proportion of its officers, and have evinced a commendable zeal here in guarding their interests this winter, in which I have aided. But, sir, we cannot expect to win naval victories with epaulets. It takes a different kind of men to gain the victories at sea. The officers get the honors; but we must have sailors to do most of the work and the fighting. I do not mean to disparage the officers, who get the glory, but insist that we must not forget the sailors whom they command. These fishermen embark in small vessels, and cruise in the boisterous regions of the north Atlantic, to catch codfish, and then embark in larger vessels after whales. When you have trained up a boy to catch codfish where the sea runs mountain high, and then learn him to go in an open boat and strike and kill a whale, you need not be afraid of his ever being caught or frightened by anything. Sir, there is no class of men that wind or storm ever blew or beat upon who are so utterly without fear as sailors who have been thus trained. One will sleep upon the cross-trees, high up on the "giddy mast," where you and I would tremble to see him sit awake. He is not made drowsy, as you are now, by the weariness of a single sense, by the sound of my voice incessantly tattooing the drum-head of your ear; but his whole brain is rocked by the "imperious surges" of the sea.

Mr. Jefferson has told a fine story of Logan, who said he "never felt fear, and would not turn on his heel to save his life." Logan had the idea that, when fighting, it would disgrace him to turn on his heel; and he would not do it to save his life. But this sailor wants no incentive to

courage: he would not lose his nap to save his life.

The Senator from South Carolina likes the renown of our naval victories; but he cannot achieve them with landmen or smooth-water sailors. If you want to take another Frolic in a gale of wind, you must have sailors who can walk the deck in rough weather; landmen cannot do it; they may be as brave, but they must have the right training. Victories are not expected to be won by what are called educated men. For your Navy you want that inbred courage and endurance which are only to be found in the occupations I have described.

If, therefore, you want to raise such sailors, take care of the nurseries—the fishing vessels. I ask the chairman of the committee who proposes to repeal the fishing bounties, the classic Senator from Alabama, to reflect that, if the infant had been strangled in the cradle, the labors would not have been performed that gave immortality to Hercules.

I hope these suggestions may save the bounties to the fishermen; they will not be a great burden on your Treasury.

As to our navigation laws, which the Senator classes among those which plunder the South, as we now let all participate in our foreign trade on equality with us, he must mean to let them do so with the coasting trade. The English have the most profitable of our foreign carrying trade. By the aid of their Government their mail steamers have supplanted ours. They take the passengers and the most valuable freight, and I do not know that there would be danger in letting them do our carrying upon all our rivers and in all our harbors—our inland as well as our foreign mails—it may be best to mix with everybody and have a common purse, and of course a common destiny. I am not afraid of England; but I never knew a treaty or trade made with her by the United States, in which we came off equal—scarcely second best. Close intercourse was what Philip preached when he wanted to control the other States of Greece; his gold was no doubt profitable, and those out of his city saw no danger in its free circulation among them; and I believe even Demosthenes was not able to stand against it.

I would rather have a few things which we could call our own, and a single pursuit that all mankind did not mingle in; so as to preserve our identity as a people, and not go back to colonial dependence in everything. We should recollect that we cannot hire others to love our country as our people love it—or to fight our battles as ours have fought, and will fight them; these are things you cannot hire or buy, and so are public spirit, friendship, and courage. We should leave some room, and some motive for our own people to cultivate these.

The Senator from South Carolina says that labor only needs to be docile, obedient, and faithful—a pack-horse kind of labor. Would such labor elevate a country, and give it fame in the world? No, sir; mere planting and farming never did elevate a country; and yet they are the basis of all other pursuits, and the most useful and honorable, and the main pillars of national strength. But to make a nation independent, prosperous, and happy, you must diversify your labor, and that will elevate it, and the country with it. We only need to cultivate a proper spirit, and settle this Kansas question fairly. Let us not undertake to throw this Lecompton fraud across the track of this people and make it the occasion of sectional strife and alienation. It is too small a matter to be allowed to do so great an injury.

MR. BRIGHT. Mr. President, the constitution of Kansas, with all the circumstances, it is believed, directly or remotely connected with its formation, being now before us, the question is, shall the Territory be admitted as a State under that instrument?

Undoubtedly it is the policy of the Government that her Territories should be converted into States as rapidly as a due regard to the welfare of their inhabitants will permit. That is alike the interest of both—the General Government on the one hand, to be relieved from the local maintenance of the Territories; and of the Territories on the other, to be relieved from that interference of Congress which must unavoidably continue to exist, to a

greater or less extent, so long as they remain in their condition of dependency. Whilst a Territory is in its infancy, unable through weakness—a paucity of inhabitants, sparsely settled, and of very limited means—to sustain itself, the propriety of extending over it the paternal care of the General Government must readily be admitted; but whenever it has acquired sufficiency of strength to bear the burden of its own support, it is due to the rest of the community to be relieved from it. Each State of the Union, under our system of government, has to maintain its own local organization; and why not the Territories, whenever they possess the ability? The only means by which this can be accomplished—the only way which has hitherto been devised of transferring the sustenance of the Territory from the common to the local treasury, where it more properly belongs, is by admitting it into the Union as a State. What the exact expense of maintaining our Territories is, it is not necessary to inquire. We know, however, that it must be very considerable; and that, whatever it is, it is defrayed out of the national Treasury of the States, whilst the States, in addition, have to sustain the charges of their own separate organizations. It is but right that every community should bear the burden of its own support; and whenever a Territory, by the strength of its numbers, has acquired that ability, its inhabitants should not only be permitted to form their own separate government, but if they refuse, should be coerced into the measure by all fair and just appliances known to the Constitution. The States have an interest in this, which it is their right and their duty to protect.

But there are higher and nobler considerations than mere pecuniary ones involved in the creation of new States. The addition of a State is an addition to the strength and stability of the Union, riveting more firmly the bonds that make us one people, and giving us increased consequence—which is power—in the eyes of other nations. Of the policy of admitting new States, or of adding them as rapidly as possible, there surely cannot exist two opinions. The general policy, therefore, being in favor of the admission of Kansas, the inquiry arises, what valid objection can be urged against it? The principal one presented is, that the constitution before us was not, after its formation, submitted as an entirety to a vote of the people, for their ratification or rejection.

I have always favored, Mr. President, the doctrine of non-intervention. From the time of its first enunciation by that eminent statesman now at the head of the State Department up to the present hour, it has always found me a supporter and advocate. Eight years ago, when this Chamber was illumined by the light of those great intellects of Kentucky, South Carolina, and Massachusetts, which have since gone out forever, we congratulated ourselves and the country that, by the application of this principle in the acts organizing the Territories of New Mexico and Utah, we had established a practical rule of action for all time to come, in reference to the domestic affairs of the States and Territories, which should command, by its own intrinsic justness, the approbation of the people of every portion of the Union, and should relieve Congress for the future from those angry sectional strifes which, for the previous thirty years, had endangered the peace and perpetuity of the Government. The principle is so just itself, so admirably adapted to the spirit and genius of our institutions, that my wonder is it was not earlier adopted, or, being adopted, that it should afterwards have encountered such violent hostility. Yet so it was; though it finally received the indorsement of both the great political parties of that day, it met for a time, nay still meets, with the fierce opposition of all that class of men who have been and yet are laboring to impose restrictions upon the free exercise of sovereignty in the Territories.

Of the power of Congress to legislate for the Territories I have never entertained a doubt. Within the limits of the Federal Constitution their authority is supreme. Within those limits they possess the same power over the Territories that is exercised by the several States within their respective borders. But power is one thing, and the expediency of its exercise another. Whilst Congress, in my judgment, possesses the power, past

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experience has demonstrated how dangerous it is to the peace and harmony of the Union for Congress to attempt its exercise in reference to the domestic affairs of the Territories. Its inexpediency was shown by the ill blood and bitterness which it generated within these walls and throughout the country. For relief and peace we turned to that rule of non-intervention by which Congress has been since governed, and which has received the decided approbation of a large majority of the American people.

With whatever zeal and energy I possessed, I sustained the principles of the Kansas-Nebraska act. By its provisions I am now ready to stand or fall. It meets no less the approval of my judgment now than when it was first urged upon the consideration of the Senate. I was then and am now ready to leave the people of the Territories free to decide their domestic institutions for themselves. I am as willing that they should select the mode, as that they should have the power of decision. If I had thought when I sanctioned the principle that the people of Kansas and Nebraska should not be free to decide their domestic institutions for themselves, that I had intervened to prescribe the mode in which that decision should be proclaimed, I should have done more than hesitate. I should have halted before I violated a principle in its very enunciation. Whilst declaring for non-intervention, I should never have been willing to intervene against it. It is just as much an offense against non-intervention that Congress should require one piece of legislation as another. It violates the theory upon which the act was based as much for Congress to prescribe the manner in which the Constitution should be framed, and the requisites of its efficacy, as that they should require a provision affecting the domestic interests of the Territory to be incorporated in it. The only value of such a principle as runs through the Kansas-Nebraska act is its entire consistency and coherency. If violated, even remotely, its virtue is gone forever. It makes no difference by what instrument the outrage is effected, it matters not whether it be the voice of Jacob or the hand of Esau, if the soul of it, the vital principle which sustained it and gave it both beauty and power, is violated. Who ever supposed, when the Kansas-Nebraska act was passed, that Congress would ever afterwards be troubled with the question as to the mode in which the constitution of Kansas was to be passed? Who believed that it would be cause of offense if it was adopted after the form of approved precedents? If the matter of that constitution accorded with the Constitution of the United States, did we not put ourselves solemnly on the record that we would not intervene against it? Were we then, too, perpetrating what has become so familiar a word of late in the vocabulary of certain Senators, "a swindle?" I sent forth the pledge to the country that I would not refuse the constitution of Kansas, unless its provisions were in conflict with the Federal Constitution. That pledge I intend to redeem at all hazards. No objection is made, so far as I can learn, against any provision of that instrument as being contrary to the Constitution of the United States. If there be none such, let those of us, at least, who said in effect that such should be the only ground of rejection, be silent.

The only complaint made is as to the method of the making. Is there anything in the Constitution of the United States which prescribes the mode in which Territories shall be initiated into the membership of States? If there be any such clause my reading has never shown it to me. If, then, the Federal Constitution does not prescribe the manner in which constitutions shall be made, and if there be nothing in the constitution now presented which is in conflict with the Constitution of the United States, in all sincerity and candor I ask, how can we, who agreed to make that the only test, refuse to admit Kansas into the Union? No law of Congress, no regulation made by the legislative authority of the Union, has been violated or evaded. The properly constituted and legally authorized civil power of Kansas, after full proclamation of its purposes, adopted this constitution in the way in which other constitutions have been adopted, and in the way approved by the philosophy and genius of our Govern-

ment. Nay, more: the Legislature of Kansas, in its procedure, took counsel from this body, and framed, both in principle and detail, the act calling the constitutional convention upon the model of the bill of the honorable Senator from Georgia, [Mr. Toombs,] which received the decided approval of the Senate. It secured the *bona fide* inhabitants of Kansas a fair election of delegates. It provided for a registry of the legal voters of the Territory. It did everything that a bill could do to effectuate the purposes that were stamped upon the face of it. Accidental or wrongful omissions by the sheriff could be remedied by the probate judges. There was no legal voter in the entire Territory who could not avail himself of the provisions of that fair and honest act under which the election was held and delegates chosen. No hostile bayonets drove freemen from the polls—no despotism sat there enthroned to dictate the vote. The act of the Territorial Legislature of Kansas calling the convention has extorted, even from unwilling lips, the commendations of praise. The honorable Senator from Illinois [Mr. Douglas] himself uses the following language:

"So far as the act of the Territorial Legislature of Kansas calling this convention was concerned, I have always been under the impression that it was fair and just in its provisions. I have always thought the people should have gone together *en masse* and voted for delegates, so that the voice expressed by the convention should have been the unquestioned and united voice of the people of Kansas. I have always thought that those who stayed away from that election stood in their own light, and should have gone and voted, and should have furnished their names to be put on the registered list, so as to become voters. I have always held that it was their own fault that they did not thus go and vote; but yet, if they chose, they had a right to stay away."

Under the provisions of the law calling the convention the people of Kansas were left entirely free to form their own domestic institutions. If perverseness and faction there and elsewhere dictated a policy which kept either a minority or majority from the polls, the fault was with the offenders only. Their mouths, at least, are sealed against a complaint. It does not become them to come before the country denouncing an act which, according to their own confession, was performed in their presence; and which, they say, they had the power to prevent. If any outrage was perpetrated, it was, according to their own statement, the outrage of a minority in the face of a majority, proceeding quietly to exercise rights which had been conferred by virtue of law. Which of these two classes is entitled to our respect or consideration? Those who, in obedience to law, expressed themselves at the ballot-box, like loyal citizens, or those who stayed away for the known purpose of fomenting a rebellion, whose standard had already been lifted in the Territory? This latter class viewed a legal constitution as a calamity worse than murder and rapine. Topeka was dear to them, because it was illegal. To inaugurate Topeka under the forms of law would be to ignore the very purposes for which Topeka was spoken into existence. To them Topeka was only a darling so long as he was a bastard—the bar sinister endeared him—the proposal to crown him with the honors of legitimacy was worse than a "swindle."

If the adoption under the forms of law of a constitution similar to that of Topeka had not, in the opinion of the non-voting population of Kansas, been the greatest calamity that could befall the authors of that instrument, and the cause for which it was gotten up, they would have quietly, under the protection of law, voted at the election for delegates to form a constitution. Their first purpose being a determination to keep up anti-slavery agitation, they determined to make every other thing bend to it. Accordingly, they refused to vote, and, in some cases, forcibly prevented the registration; and now, with a sublimity of impudence which is without a parallel, set up their own perverseness and faction as a reason for defeating the expressed will of the voting population of the Territory.

Nothing, Mr. President, can be clearer to my mind than the proposition that the act of delegates legally elected, and acting within the scope of the powers conferred upon them, is the act of the people themselves. According to the genius and theory of American constitutions, it is entirely immaterial by what majority such delegates are elected, or what number of voters appeared at the

polls. The act of the delegate, moving within the authority conferred upon him, is the act not only of those who expressly deputed him, but of those who had the opportunity to do so. It stands as the act of all such until legally set aside or modified by competent authority. This principle is a maxim both of law and political science. The representative idea is the especial boast and glory of our system. It is both its corner and keystone. More than anything else it distinguishes our system from those which have prevailed in other stages of the world's history. It stands midway between despotism and popular caprice. It protects against both. It gives stability and intelligence to government. To it, more than to any other cause, we are indebted for whatever of glory and power have gathered around the American name. Whilst it recognizes and adopts the great principle of democracy, that the people are the source and origin of all political power, it so modulates and controls that doctrine as to make it subservient to the purposes of justice and right. Our fathers did not stumble on it by accident. It was no sudden thought even. It was born of wisdom. It was introduced into our State and Federal constitutions, and made a practical power there, by men who had studied the past and found out its true teachings. If the domain for which they were framing a system of government had been as narrow in its limits as ancient Attica, they still would have adopted it.

Experience has fully vindicated their sagacity. That they regarded this great principle not only as just but as the only practicable one, is easily seen by even a careless observer. Under the system devised by them majorities were not only represented, but sections and even minorities. Both under Federal and State constitutions minorities may have the representative control. The majority never has that control unless it takes care to have itself represented. Sometimes even that control is expressly prevented. Delaware, on this floor, is made as potential as New York. In the more popular branch even, he who represents the convictions of a majority exceeding five thousand has no more power in the enactment of laws than a colleague who may have succeeded by a majority of one. No majority, ever so large, can impress itself upon legislation except by first controlling the representation. No matter how unanimous public sentiment may be, no matter how strongly a conviction may have fastened itself upon the people, they are utterly and entirely powerless for all the purposes of legislation except through the medium of representation. The representative opinion may be in conflict with the popular voice; an overwhelming majority may raise an indignant protest against the expressed legislative will; yet it stands as the controlling law until set aside in accordance with legal forms. He who supposes that the opinions of a majority, even when clearly expressed, necessarily make the laws, has mistaken the whole theory of our Government. That majority, before it can make itself effectual, must fix upon its representative and clothe him with the authority to speak in its behalf at the proper time and place.

Not only is this so, but all of our constitutions and charters, Federal and State and municipal, are based upon the theory that whenever the people, or any portion of them, have had an opportunity of voting and neglect or refuse to do so, the only fair and proper presumption is that either they have no convictions which they wish to express, or that they acquiesce with those who have voted. This presumption is so absolute that for wise and proper reasons it is not allowed to be contradicted, no matter what may be the facts. A member of the House of Representatives may be returned by a single vote. It would be no argument against his right to a seat that ten thousand men could be found in his district who would have voted against him. In like manner it would be no sort of objection to the validity or force of a law passed by his vote that every man in his district was opposed to its passage.

As far as the Federal Government is concerned, there is no contrivance known to the Constitution by which the power of making laws of any kind, fundamental or not, can be transferred from the representative to the people. No amount of public sentiment outside the legislative halls can en-

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act such a law. The function of legislation must be performed by the representative, and by him alone. The purpose of our fathers was, on the one hand, to remove legislation, as far as practicable, from clamor and sudden gusts of passion; and on the other, to preserve that accountability of the representative to the people, which is always sure to secure, sooner or later, the fullest and amplest recognition of popular sentiment. The good sense and sound judgment of the country, I believe, are prepared to sustain this principle, not only in the making of ordinary legislative acts, but in the framing of constitutions. The better opinion now seems to be, that State Legislatures cannot refer the propriety of a passage of a law to the vote of the people. My own State has taken decided ground on this question. She was unwilling to let the matter rest on argument or judicial decision. She has incorporated a provision in her constitution which expressly prohibits the submission of a proposed law to the vote of the people. She believed that representatives, elected by the people and accountable to them, constituted the only proper body for determining the propriety of legislative acts. She was unwilling even to allow that body to divest itself of that function. She took the effectual means of making sure and fixed the responsibility of the representative, by fastening upon him a duty from which no power above or below could relieve him.

If this principle of the submission of important provisions to a direct vote of the people who are to be affected by them grows out of the theories upon which our Government has been established, why, then, is it ignored in Federal and State constitutions, and by solemn judicial decision? If the principle be so essential, why has it not been authoritatively recognized somewhere? If, as has been claimed, this right of the people to decide directly by what provisions they shall be governed be a great principle which flows directly from our form of government, why, I ask, has the practice been almost invariably otherwise? The truth is, Mr. President, that this principle so confidently claimed, instead of being salutary, is vicious. It has been so pronounced by those wise men who gave form and vitality to the glorious Government under which we are now enjoying privileges and blessings unknown to any other people on earth. The true American idea is, that legislation, whether it be in the ordinary form enacted by Legislatures, or in the establishment of the fundamental law as enunciated by State constitutions, should be fully consummated by men selected by the people for that purpose. It makes no difference in principle whether the thing which is to be done be the enactment of an ordinary law or the establishment of a constitution. They are both of the same class; they both constitute the law; they both establish a rule of action. The philosophy of one is the philosophy of the other. If there be more solemnity in one procedure than the other, that does not affect the principle. Both regulate the conduct of the citizen, and are to be determined by one and the same reason. In point of fact, ordinary legislative acts are of more moment to the citizen in determining his actions and fixing his responsibilities than mere constitutional provisions. They reach his person and his hearth-stone; they define his rights, prescribe his duties, and point out his remedies. Their hand is upon him, asleep or awake; they are above him and around him, his panoply and shield. The nearest, as well as the most distant relations of human life, are made subject to their power. The rights of property, the sanctities of home, nay, of life and death, are all within their embracing fold. No subject is too high, none too tender, none too minute for their reach. Although such varied and vast interests are confided to legislative bodies, it has only been within a few years past, and then only at rare intervals, that the proposition of submitting a law to the direct vote of the people has been seriously considered. I hold it to be the clearest departure from the wisdom of our fathers which modern days, with their new ideas, have produced. I am proud that my own State has put its emphatic seal of condemnation upon a heresy so noxious.

While I am free, Mr. President, to admit the binding force of State constitutions, I am compelled to say that, for several reasons, their im-

portance in this country has been greatly exaggerated. Constitutions and charters, municipal, provincial, or national, in other countries and ages have been concessions wrung by force, or purchased by money, from what was there and then deemed the seat and origin of power. Their importance and value, under such circumstances, could not be too highly estimated. Like Magna Charta, they stood between the people and usurpation. They were pleaded against wrong and outrage. They were the horns of the altar to which the people clung when ruthless oppression laid the hand of violence upon them. The service which they rendered in behalf of the people fully vindicated their claim to profound reverence. In our country, however, where the people are recognized as the origin and seat of political power; where constitutions flow from them, instead of being concessions to them; where the remedy for an abuse is in their own hands, to be exercised at any time and in their own way, the case is far different. With us, State constitutions are mere organizations. They are merely pieces of political mechanism—simple contrivances for organizing legislative, judicial, and executive branches. One power is made to lodge in one place, and another resides elsewhere. In their declaration of general principles, they but repeat the common law which our fathers brought with them, and which would be law without such repetition. So far even as the limitations in them are concerned, they are but restrictions upon the agents of the people, which can be removed or modified at their pleasure. Even against a provision contained in the constitution itself, it can be amended. Where ever the doctrine prevails, that all power is lodged with the people, to be exercised by them for their own benefit, such must be the necessary consequence. Where the power to make exists, there also the power to modify exists, if the rights of none others intervene. If royal power could not rightfully abrogate constitutions and charters, it is because the rights of other parties do intervene. In our country, however, there is no other party but the people. They make for themselves, and can unmake. There is no power anywhere to prevent. When the people of a State determine to change their constitution, there is no political body in existence which can interpose. The distinction, in this respect, between our Federal and State constitutions is apparent. One is a compact between several parties. Any one can claim the observance of any provision. To a State constitution, however, there is but one party. It is merely a rule of action devised by themselves for themselves alone. There are no obligations in it of which other political bodies can claim the benefit. At the pleasure of the party which made it, it can be unmade. Any provision in it which pretends to take away that power or delay its exercise is impotent against the majesty of the people.

I hold it, therefore, Mr. President, as incontrovertible, that the constitution of Kansas now presented, so far as it conflicts with the interests, or even caprices, of the people of that Territory, can be altered at any time, and in any way, at their pleasure. Nay, more: I hold that if the proposed constitution be obnoxious to the people of Kansas, the surest and speediest way of securing to Kansas a constitution agreeable to her people, would be to admit her to the companionship of States, under the Lecompton constitution, and then leave her as a sovereign power, to adjust her own affairs, without interference from any quarter. Once admitted into the Union, the contest loses its national character, (an event which every true patriot should desire,) and the determination of her people will stand as the law and the fact for the youthful State.

So strong, Mr. President, is my conviction of the viciousness of the principle of submitting to a direct vote of the people the propriety of the enactment or rejection of laws, that for one I am prepared to extend the same objection to a submission of entire constitutions to the same tribunal. I know that others entertain different views, and particularly under the peculiar circumstances which existed in Kansas after the convention had concluded its labors. Our patriotic President, anxious for the quiet and peace of the country; desirous of allaying all excitement in relation to the affairs of Kansas; prompt to

take away even the shadow of an excuse from the rebellious bands then hatching treason in the Territory; was favorable to the expediency of the submission of the constitution to a direct vote of the people, though at all times clear in his own mind as to the right of the convention to determine that matter for itself. Believing, however, as I do, that constitutions are but laws, and that the enactment of one requires as complete an exercise of sovereign power as the framing of the other, there must be an extraordinary combination of circumstances, in any case, to make me relinquish the convictions which I have carefully formed on this subject.

Independently of other objections to the submission of entire constitutions directly to the people, how can an intelligent vote be given by those who attempt it? If a constitution consists of fifty articles, and thirty of them accord with a person's convictions, and twenty are more or less obnoxious, what is his vote at best, under such circumstances, but a compromise? How can you have intelligent voting, when fifty diverse and unconnected propositions are to be determined on by one ballot? Nay, more: it is very easy to conceive such a thing as a probable result, that, although each and every article, if submitted one by one, would receive a majority of votes, the whole, when presented together, would, by a combination, be defeated. It seems to me that even if there were no vital and cardinal objections to such a course, the uncertainty and unsatisfactoriness attending it would be formidable obstacles in the way of its adoption.

If, however, the dignity and importance of a constitution rise superior to mere legislative enactments, I ask if there is anything in the history of the country—anything in the practice of the founders of our constitutions, State and Federal, which teaches us that it is necessary that even so solemn an instrument should be submitted to a direct vote of the people? What question could be superior in dignity or importance to that of the adoption or rejection of the Federal Constitution? States were called on to surrender a portion of their sovereign powers, and to give, in some cases, to the General Government the power of life and death over their own citizens. There were peculiar reasons, too, in addition to all this, which might have been urged as an excuse for the submission of the Federal Constitution to the people. The paths pursued by its framers had been untroubled before. All other federations had been failures. In Kansas, on the other hand, the constitution is almost a stereotype of those of the new States of the Northwest, which have sprung into power and strength within the history of a few years. In nine tenths of its provisions it is similar to those which have been approved by actual and successful working. Notwithstanding this material difference in the two cases, in no instance was the question of the adoption or rejection of the Federal Constitution submitted to a direct vote of the people of any of the thirteen States. And yet it was adopted by the people. The instrument itself says so. Every word of that immortal document, from preamble to conclusion, was carefully scrutinized, and its force weighed by men who well understood the force of language. Nothing was put in by mistake or left there by inadvertence. They meant what they said. They said, not only in words in the preamble, but in substance in the body of that instrument, that in the system which they then inaugurated for the perpetuation of freedom and the securing of domestic tranquility in the New World, the acts of the representatives of the people should be deemed the acts of the people themselves; and that, at least, as far as national relations were concerned, the people should express their convictions only through representation. If there be one grand cardinal idea more than another stamped upon the Constitution, it is that. So decidedly is that the case, that the Constitution allows no amendment by popular vote, but specifically requires that all change shall be acted on by the Legislatures of the States. In those days, at least, the opinion prevailed without any contradiction, that when a constitution or other instrument was adopted by representatives specially selected to consider the subject, it was adopted not only by the people who voted for those representatives, but by every one who had an op-

portunity to vote for them. The opinion entertained at that day, so far as I can learn, has never been questioned by any respectable authority, until anti-slavery agitation, for its own purposes, brought about the state of affairs now existing in Kansas. Even during that period of anti-slavery agitation, when Missouri applied for admission into the Union as a State—when the restriction was imposed whose removal I favored in the Kansas-Nebraska act—it was not contended either that a constitution framed by representatives legally authorized to act was not the act of the people of Missouri; or that it was necessary or proper to submit the proposed constitution to a direct vote of the people. It was reserved for later days, for those of our own time, to start into being this new theory. If it be, as its friends and admirers claim for it, a vital principle, why has it slumbered so long without having been recognized even in debate?

Mr. President, it has always seemed to me that those who concede the legality of the Lecompton constitution and acknowledge the force of the Kansas-Nebraska act, surrender the whole argument. To reject an act framed by a convention which had the authority to pass it in that form, is unquestionable intervention. It is the setting up of our will against that of the people affected, as expressed by a lawful and competent body. It is saying to Kansas that our convictions shall prevail against hers, although the latter have been announced in due form of law.

It will not do at this late day, after a struggle which convulsed the country from center to circumference, to say that the Kansas and Nebraska act was not an enabling statute, but only amounted to an authority to petition for redress of grievances. The people of Kansas, or any portion of them, or any recognized body, legal or illegal, would have had such a right independent of the Kansas act. Whatever may be our view of present questions, let us at least hold on to what we have gained in the past in its full integrity. The Kansas and Nebraska act meant more than a mere authority to petition for redress of grievances. It had a far deeper significance and import. It gave form and life to the Territories; but left them, after their organization, perfectly free to regulate their own domestic affairs, through their own legally constituted governing authority, subject only to the Constitution of the United States. If that means a bare authority to be heard in the form of a petition, truly was the victory which we thought would bring peace to the country barren and fruitless. I adopt no such opinion. No such construction was given to it in discussion. That act contained two great ideas which at the time received my cordial approbation, and are no less dear to me now; they are, first, non-intervention, and, secondly, acquiescence in the action of the legally constituted territorial governing authority, subject to the provisions of the Federal Constitution. To them will I hold so long as they stand in plain, unmistakable language, unrepealed, upon the statute-book, let whosoever may desert them or impair their force by fanciful interpretations.

I have said, Mr. President, that there was no obligation resting upon the convention to submit any portion of the constitution to a direct vote of the people. The convention, however, moved by considerations of expediency, submitted what acting-Governor Stanton called "the great distracting question" to the people of the Territory. There was no dispute of any moment save on the question of slavery. That Kansas should be constituted into a State; that it should be republican in form, with the usual division of legislative, executive, and judicial departments, all were agreed. The Lecompton convention, acting upon this idea, submitted the only vexed question, and the friends of Topoka, true to their former course of faction, refused to vote. They had proclaimed, before the constitution was framed, that it was their purpose to reject it, no matter what provisions it contained. Although accounting themselves the especial champions of freedom, they suffered the slavery clause to be incorporated in the constitution, rather than vote for the remainder of a constitution which has been the subject of but little complaint. In plain words, they refused to vote because it was made by a set of delegates duly elected under authority of law, in-

stead of being made by another, elected in defiance of it. They ended in faction what they had begun in rebellion. By no act of mine will I give aid, comfort, or countenance to any such movements.

If it be alleged that the "free-State party," as it termed itself, received pledges that the entire constitution should be submitted to the people, I answer, in the first place, that they were unworthy recipients of any such, if made; and, secondly, that no one had any authority to make such save the convention itself; and if made, were extra-official and void.

Even if I had been inclined to look with favor upon the policy of the submission of constitutions to a direct vote of the people, and believed, further, that the wishes of a large majority of the people of Kansas had been disregarded in the formation of the Lecompton constitution, still I should not have been prepared to vote against accepting it. The present aspect of the slavery question demands that merely abstract opinions should be sacrificed to the welfare of the whole country. It seems to have been the constant and unceasing effort of a certain party in this country to foment strife, and array one section against another. Throughout the whole of my political life, I have been in firm and decided opposition to that party, and I expect to remain so until its close. I look upon this constant agitation of the question of slavery as dangerous to the continuance of the Union. It has already, within my own recollection, weakened the bonds of fraternal regard between North and South. I consider it to be the first duty I owe to my country to use every effort in removing from the arena of national politics this disturbing cause. To that end, nothing can be more acceptable to me than to transfer all the difficulties of Kansas from this floor to the proper forum of their adjustment, within the limits of that Territory. No matter what had been my personal convictions on the abstract matters which have been the subjects of debate during the latter part of the session, I should joyfully have welcomed any proposition whose object was to localize within comparatively narrow limits what has been a cause of irritation to the whole country. Such, I understand, is also the position of the great party with whom it has ever been my pride to act, and of the distinguished statesman now the Chief Executive of the Union. The present is not the first occasion in which the Democratic party has stood in opposition to agitation or faction. Heretofore it has always been successful. I trust the same fortune awaits it again. No matter how fierce may have been the contests which it has waged, it has always returned from the field of victory increased in power. What it has lost by defection, it has more than gained in permanent strength. The history of the country is the illustration of its triumphs. To the almost total exclusion of all other parties, it has impressed itself upon the legislation of the country. Its pen has written your statutes. No law which it has pressed but has been adopted; none that it opposed, but has been defeated or repealed. Apostates, inflamed by disappointments, have turned in new-born hate against it, and have rendered themselves. It has flung defiance to insult from abroad, and has stood the champion of the Constitution at home. It has added untrodden millions of acres to your domain, and has made the flag of the Union honored on every sea. To the fortunes and progress of that noble party I intend to adhere. If it be overtaken by defeat, I know that it will rise again with greater ability to fulfill the mission which I believe Providence has intrusted to its hands. That mission will never be one of alienation, discord, or faction. It will be one of peace, of union, of progress.

To me it is a subject of congratulation, that, in the present crisis, we have in the executive chair a patriot whose firmness and courage have often been tried. He belongs not to that class of men whom excitement unnerves. Clamor has no terrors for him. In the present case he has calmly surveyed the whole field. He has taken his position and intrenched himself there. He has viewed the question before us in all its bearings, present and future, and has decided in favor of no section. He has recommended a course which, if adopted, will prove a measure of peace to the whole country. His counsel is eminently wise

and proper. He has brought to the examination of this matter a practical and sagacious mind, thoroughly familiar with all the facts of the case. He has announced to us with great clearness what are his convictions. I trust they will receive the consideration to which they are entitled, both from their intrinsic value and the distinguished source from which they come. In that event, we may again congratulate ourselves and the country that another cause of agitation has been removed from the Halls of Congress.

Mr. WILSON obtained the floor, and the Senate took a recess until seven o'clock, p. m.

EVENING SESSION.

The Senate reassembled at seven o'clock.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union. There were very few Senators present when the Vice President took the chair.

Mr. TOOMBS. As we have met, according to the understanding of the Senate, and the benches seem to be full, [laughter,] I move that we take the vote on this interesting question. I think it is abandoned pretty much on this side of the House. Gentlemen have given up their opposition to it. They have had some notions to deliver merely for the country. They have no idea of arguing this question for the Senate. I suppose there is no idea of continuing it. They have had opportunities of speaking to their various constituencies in Massachusetts, Vermont, and the rest of the New England States. There are six of those States; they are small, it is true, but they have occupied a great deal of our time and attention. As many as ten of their representatives in this body have spoken for the universe on this question. We have given them all that time. I suppose that now having given them full time, we can take judgment *nil dicit*, without any objection. I move that we take the question upon this important measure. We have been discussing it for some days. I was well aware from the beginning, that these gentlemen had no other idea except to amuse the country; that there was no real opposition to this measure. The great pretext which these gentlemen have been making for their opposition to this measure, that it was against the popular will, everybody knows they laugh at behind the pillars, because the fundamental principle of the Black Republican creed is the right to make constitutions for all the new States. They have gone for a prohibition to exclude slave States, and holding the idea that there shall be no more slave States, they go not only for cramming constitutions down the throats of majorities, but against absolute unanimity.

This issue which they have been making is only for New England, for some of the tender-hearted women who are in favor of progress—spinsters who are left in that country. I apprehend that the whole purpose is accomplished. The newspapers are filled with their speeches; we have paid the Globe a large sum of money; and this whole story has answered all its purposes. There never was any serious objection to the passage of this measure. Everybody wanted Kansas to come in, but this is considered a part of the show to go to the country. As we have gone through the show, as some of these gentlemen have duplicated their speeches on us, two three, and four times, I suppose that they will be content to close this business now, as this is Saturday night, and go home for Sunday prayers, and trust to Providence.

Mr. WILSON. Is the Senator from Georgia ready for the vote?

Mr. TOOMBS. Yes, sir. The fact is, that according to the old New England idea, this is Sunday, and I have conscientious scruples about being here after the sun goes down on Saturday. [Laughter.] I hope I shall be backed by the gentlemen who represent the land of steady habits. We ought not to be here after the sun goes down. Even the great principle of human liberty, I think, will not warrant it. I hope, therefore, that we shall settle this business, go home, go to sleep, get up to-morrow, and go to church, and leave it to the Representatives of the people in the other House.

Mr. BROWN. I have a very small matter of account to settle with the Senator from Massachusetts, [Mr. WILSON,] and as it only concerns myself, it is not material that anybody but himself should be present. In a speech pronounced by him on the 4th of February—which I did not hear at the time—he made certain quotations from a speech of mine delivered some years ago, and he did me (unintentionally, I have no doubt) very marked injustice. I did not reply at the time, because I did not chance to be in my seat. He quoted two paragraphs from my speech, and quoted them correctly. He then quoted what purports to be a third paragraph from the same speech; but I never should have known that it was taken from the same speech if he had not so stated; because, having read the whole speech over since, I find no such paragraph as the third one in it. It is only by that landmark that I was enabled to trace out in what speech of mine it was intended to locate that third paragraph, to which I now call the attention of the Senator and of the Senate. He says—attributing the language which he quotes as being said by me in the speech alluded to:

"The Senator makes professions of devotion to the Union. In the very speech from which I have before quoted, the Senator says that—

"Our people have been calculating the value of the Union." * * * "I tell you candidly we have calculated the value of the Union. Love for the Union will not keep us in the Union."

"The whole tone, temper, and sentiment look not to the support of the Union as our fathers made it, but to the triumph of a sectional southern policy, to the expansion of slavery, or to the ultimate overthrow of the Government of this country."

Now, sir, no such paragraph as is here quoted appears in the speech in which the first two paragraphs, quoted by the Senator from Massachusetts, appear. It is a speech delivered by me on the 30th of January, 1850, in the House of Representatives, and reported at pages 250-258, and along there generally, of the Congressional Globe of that year. The three sentences embodied in that paragraph may possibly be found in the whole body of the speech. I believe they may be, by dividing sentences, and taking detached portions of paragraphs, and putting them together. What I assert is, that no such paragraph appears in the speech, and that the three sentences put together make up a paragraph which wholly distorts the meaning of the speech; and that I may set myself right before the Senate and the country, I shall send to the Secretary's desk, and ask to have three paragraphs, which I have marked, read from that speech, in which, if any three sentences bearing the meaning of the three I have read appear at all in the whole speech, they will be found. I ask the Clerk to read the three short paragraphs which I have marked, to show what was the general character of the speech, and to show that the Senator from Massachusetts, in attributing that language to it, and saying that it contained such a paragraph, wholly misconceived the general scope and design of that speech. It was not, as he assumed, a disunion speech; it was not a speech showing that I was seeking the disruption of the Union; but, on the contrary, in all its amplitude, so far as my feeble ability could make it, it was emphatically a Union speech. I do not come here now, nor did I stand in the House of Representatives in 1850, as the especial and particular defender or eulogist of the Union. I am content to feel and know, in my heart of hearts, that I am for the Union; but I never was one of those who believed that the Union was to be saved by singing peans to its fame or to its glory. It is to be saved by other means, if it is to be preserved at all. I do not care to detain the Senate. I want to set myself right; and I ask that those three paragraphs be read.

The Secretary read as follows:

"Throw an impartial eye over the history of the last twenty years, and answer me if there is anything there which challenges our devotion? Who does not know that time after time we have turned away in sorrow from our oppressions, and yet have come back clinging to the Union, and proclaiming that, 'with all her faults we loved her still.' And you expect us to do so now, again and again; you expect us to return, and, on bended knees, crave your forbearance. No, you do not; you cannot think so meanly of us. There is nothing in our past history which justifies the conclusion that we will thus abuse ourselves. You know how much a high-toned people ought to bear; and you know full well that we have borne to the last extremity. You

know that we ought not to submit any longer. There is not a man of lofty soul among you all who, in his secret heart, does not feel that we ought not to submit. If you fancy that our devotion to the Union will keep us in the Union, you are mistaken. Our love for the Union ceases with the justice of the Union. We cannot love oppression, nor hug tyranny to our bosoms."

"I tell you candidly, we have calculated the value of the Union. Your injustice has driven us to it. Your oppression justifies me to-day in discussing the value of the Union, and I do so freely and fearlessly. Your press, your people, and your pulpit may denounce this as treason—he it so. You may sing hosannas to the Union—it is well. British lords called it treason in our fathers, when they resisted British tyranny. British orators were eloquent in their eulogies on the British Crown. Our fathers felt the oppression, they saw the hand that aimed the blow, and they resolved to resist. The result is before the world. We will resist, and trust to God and our own stout hearts for the consequences." * * *

"I repeat, we deprecate disunion. Devoted to the Constitution—reverencing the Union—holding in sacred remembrance the names, the deeds, and the glories of our common and illustrious ancestry, there is no ordinary ill to which we would not bow sooner than dissolve the political associations of these new States. If there was any point short of absolute ruin to ourselves, and desolation to our country, at which these aggressive measures would certainly stop, we would say at once, go to that point and give us peace. But we know full well, that when all is obtained that you now ask, the cormorant appetite for power and plunder will not be satisfied. The tiger may be driven from his prey, but when once he dips his tongue in blood, he will not relinquish his victim without a struggle."—*Congressional Globe, Thirty-First Congress, first session, page 259.*

Mr. BROWN. In a single word, I want to say that that speech was pronounced in 1850, calmly, deliberately, upon full consideration. It has been extensively criticised since, in my own State and in the papers, North and South. I stand in the presence of the American Senate to-night to say that I indorse every word and syllable of it, and am prepared to vindicate it; but I do not stand prepared to be charged with having uttered alone and without connection the language quoted by the Senator from Massachusetts. All of us know how easy it is to snatch out a sentence here and a sentence there, from a speech, and put them together and make up precisely what the speaker never intended to enunciate. Take the speech in all its amplitude, and I see nothing in it of which I feel ashamed; nothing which I am not prepared to indorse in this or any other presence.

I stand here to-night prepared to say, in the connection in which I then used the language, that we have calculated the value of the Union. We calculated it, as I then said, to ascertain how much oppression we could bear before we threw it off. I do not belong to that school of politicians who believe that the Union is paramount to everything else. I put the rights of the States above the Union; I put the sovereignty of the States above the Union; I put the liberty of this people under the Constitution above the Union. All these were above it in the beginning; to all these the Union in the beginning was subordinate; and, so far as I have power, it shall remain subordinate. I can feel a proper degree of devotion to the Union without feeling that all power is concentrated in the Union, that it is paramount, that the States must succumb to it, that the sovereignty of the States must pale in its presence, that the liberty of the people must bow down in the august presence of this Union. I believe no such thing, and will act upon no such principle. The Union was made by the States; it is subordinate to the States; and, within its proper sphere, I will stand by it and make as many sacrifices as anybody else to maintain it. But I will sing no peans to the Union. I do not stand here as its especial and particular eulogist. The rights of my State, the rights of my oppressed section, are worth more to me than the Union. I have said so before, here and at home. I say so now; and, if that is to be disunion, let it be so.

Mr. BRODERICK. I hope the Senate will adjourn. I suppose that the Senator from Georgia considers this bill dead, and for that reason it makes very little difference to him whether the vote be taken to-night or at any other time. I suppose there is a majority in favor of it in this House, but I understand that in the other part of the building there is a large majority against it. I am unwilling to sit here with eight or ten Senators to listen to speeches; I would rather hear them in open day, with a full Senate. Therefore, as there is no hurry to take the vote, I hope the Senate will adjourn to Monday.

Mr. TOOMBS. Take the vote now.

Mr. BRODERICK. Well, sir, if other gentlemen who are interested in the question were present, I do not know that I should have much objection to taking it now; but there are several Senators absent who are very anxious to speak upon the question before the vote is taken. I believe that the Senator from Connecticut, [Mr. DIXON,] the Senator from Massachusetts, [Mr. WILSON,] the Senator from Delaware, [Mr. BAYARD,] the Senator from Illinois, [Mr. DOUGLAS,] the Senator from Michigan, [Mr. STUART,] and the Senator from Missouri, [Mr. GREEN,] are all desirous of speaking, and I may speak myself upon this question on Monday. I hope, therefore, since there is no desire on the part of the majority to obtain this question, since they are satisfied there is not a majority in the other House in favor of it, that the Senate will adjourn to-night, and take up the question on Monday, and proceed to consider it from day to day until all the Senators have spoken. Then, sir, I shall be ready to take the vote. I have not made any bargain with the Republicans or with the majority wing of the Democratic party in the Senate. I hope the Senate will adjourn until Monday at twelve o'clock.

The VICE PRESIDENT. Does the Senator make that motion?

Mr. BRODERICK. Yes, sir.

The motion was not agreed to.

Mr. WILSON. Before the Senator from Georgia has the vote taken, I will make an explanation to the Senator from Mississippi. I quoted from a speech made by that Senator in 1850. I had his speech before me at the time, and read several paragraphs from it. I believe the Senator does not find fault with them. I quoted, however, three sentences, which, on looking over it, I find are contained in the speech, but not in a paragraph. I found those three sentences which I have quoted going the rounds of publication as the opinions of the Senator from Mississippi, which called my attention to the speech itself; and having the speech before me, I made several quotations, some of which have been read to-night, and used those three sentences without examining particularly as to whether they made a whole paragraph. Indeed, they do not profess to be a whole paragraph, for they are marked as separate quotations, with asterisks between the sentences. I do not think, however, on examining the Senator's speech, that these quotations do him any injustice. The speech he then made was a bold, frank, and manly utterance. It was a complete statement of his views, feelings, and policy. I have before me to-night a speech made by Colonel Bissell, the present Governor of the State of Illinois, in which he quoted some eight or ten paragraphs of this speech of the Senator from Mississippi, to show that disunion sentiments were entertained by members of the House at that time; and he commenced his quotations by quoting largely from the speech of the Senator from Mississippi. I think Mr. Ashmun, of my State, quoted the Senator also, to the same effect. I believe it will be found in this same volume.

Now, sir, all that I quoted from the Senator is to be found in his speech. There are, it is true, qualifications running through his speech—limitations of his declarations; but the speech, I think, will sustain the assertion I made, that its tone and its temper were threatening; that a dissolution of the Union was a contingency to be looked at; and that in case certain events should take place, the dissolution of the Union might follow. I believe the Senator from Mississippi went home and ran as a candidate on the doctrines of this speech. At any rate, I know there was a great contest in the State of Mississippi between the Senator's friends and Governor Foote; that it was one of the most severe contests in the history of the country, between the friends of the compromise measures of 1850 and the secessionists, who, I take it, were a class of men generally understood in the country to be disunionists.

Mr. BROWN. Not at all, sir.

Mr. WILSON. I know there was a qualification there, but after all, practically, it amounts to the same thing. I will say, however, that the Senator to-night has stated his views, and repeated the doctrines of that speech. I do not wish to do that Senator injustice here, or in my own section

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of the country, and I never have. His opinions are always frankly and manfully uttered. We know where to find him. In all the intercourse I have had with him, and I learn the same from all my friends around me, we always know where to find him, and we have always received from him kindness and courtesy.

Mr. BRODERICK. I move that the Senate adjourn until Monday morning at twelve o'clock.

The VICE PRESIDENT. Does the Senator from Massachusetts yield the floor for that motion?

Mr. WILSON. I am ready to go on with my remarks to-night; but if the Senate wishes to adjourn, I will give way.

Several Senators. Go on now.

Mr. CHANDLER. Go on. We have agreed to take the question on Monday.

The motion to adjourn was not agreed to.

Mr. WILSON. Mr. President, this protracted debate, in which so many Senators have participated, is hastening to its close. Hundreds of thousands of the American people have watched its progress with the most intense and painful solicitude. When the President precipitated the question upon the country in his annual message, we were oppressed with the most profound apprehension for the result. Hardly a ray of hope illumined our pathway. We heard the imperious voice of that gigantic power which sways the national Government, demanding the consummation of this crime against the people of Kansas. We saw the Chief Magistrate of the Republic holding in one hand honors and patronage to seduce and corrupt, and in the other power to smite down him who would not yield to his glittering blandishments. During these hundred days of conflict, we have seen the honors, the patronage, and the power of this Government openly prostituted by the President to seduce the weak, and to strike down life-long Democrats who could not be won by corruption. Never has this nation witnessed such shameless and indecent prostitution of executive power. Never have we witnessed such reeking corruption or such abject and unblushing servility. In spite, however, of the potent influences of executive powers of corruption and vengeance, of servility and treachery, our fears have yielded to our hopes, and our hopes are fast ripening into convictions that this Lecompton constitution can never receive the sanction of the Congress of the United States. Our hope is now strong that this Lecompton constitution, the slave power, and this Administration, will be consigned to that grave which knows no resurrection. The Administration may, by the corrupt appliances of executive power, win a barren and fleeting triumph, but the signs all around us indicate that it is doomed to utter defeat; that the slave power will fall with it, to rise not again; and that the intelligent and patriotic men of the country, who love liberty and loathe fraud—men who are loyal to the Constitution and the Union, to law and order, will take the helm and guide the ship of State hereafter on her course.

Sir, that pure, patriotic, and illustrious statesman, John Quincy Adams, has left recorded in his diary these pregnant words: "It is among the evils of slavery that it taints the very sources of moral principle," "establishes false estimates of virtue, and vice," and "perverts human reason." Day by day, as I have watched the startling events which have transpired in the ill-starred Territory of Kansas—day by day, as I have listened to the studied perversions of those deeds of fraud and violence, trickery, and falsehood, I have been reminded of the significant words of the great statesman, whose rich learning, varied and vast acquisitions, ripe experience, and matured intellect, were devoted to the high service of the Republic, at home and abroad, for half a century. In this age, and in this land, where the lights of Christian civilization are flashing upon our pathway, that moral nature must be tainted, that heart must form false estimates of virtue and vice, and that reason must be perverted, before any citizen of America could be impelled to enact such crimes as have been enacted in Kansas, or uphold, defend, or apologize for them. Perverted reason and tainted moral principle may lure or impel to the commission of such acts as have stained the history of that Territory; but let Presidents and Senators remember, that from the hour the tempter

glided into Paradise and hissed into the too-willing ear of the mother of mankind disobedience to the "higher law," to the consummation of this work, no genius, no learning, no eloquence, could "Blazon evil deeds or consecrate a crime."

Great advocates have won fame before the judicial tribunals of the world in defense of great criminals, but that page of human history is yet to be written which shall record the enduring fame of statesmen won in the vindication of crimes against the rights of the people.

The right of the people to frame their own forms of government as to them shall seem most conducive to their happiness, is an achieved American right. It was won, not by your Kansas-Nebraska act—it was won eighty-two years ago in the fire and blood of the Revolution. In amending old constitutions, or in framing new ones, we should, either in the State or in Congress, rise above little technicalities and forms. We should remember the words of James Madison, "that forms ought to give way to substance; that a rigid adherence to forms would render nominal and nugatory the transcendent and precious rights of the people." The "Old Thirteen" received their charters from the Crown of England; and when independence was proclaimed, they changed their forms of Government in their own time and way. Eighteen new States have formed, some by spontaneous movements of the people, some by legislative authority, and some by enabling acts, constitutions, and joined this sisterhood of free Commonwealths. The statesmen of the country have generally risen above little technicalities and forms; they have generally sought to learn the will of the people of the new States, and of the country, and to see if the constitutions presented were republican. Never have we witnessed such an exhibition of specialities and technicalities as in this case of Kansas. Sir, the records of both Houses of Congress, and the archives of the executive department will bear to all future time evidences of what Mr. Madison called "the little ill-timed scruples, and the zeal for adhering to ordinary forms under the masks of which" the rights of the people have been sacrificed and their will baffled. The people of that Territory have been stigmatized in official papers, and in both Houses of Congress, as "rebels" and "revolutionists" and "traitors," for exercising the clearest rights of American citizens. The Congress of the United States is not the place for these exhibitions of the little technicalities and specialities of third-rate county courts.

Senators gravely insist upon the most rigid adherence to the forms of law, when they know that the transcendent and precious rights of the people have been, and will be, sacrificed by adherence to forms. They boldly deny established historical facts, because these facts are not officially proven; and they will not allow them to be officially established. Fraud taints everything—all legal proceedings and contracts, even the marriage contract; everything except this Lecompton constitution, and fraud seems to sanctify this deformed monstrosity. Sir, there is not a Senator here, there is not an intelligent man in America who does not know that this Lecompton constitution is not sustained by the people of Kansas. There is not an intelligent man in America who does not know that this constitution is tainted and vitiated by frauds and by violence. The evidence of this is as conclusive as is the evidence that the armies of England, France, and Russia met at Sebastopol; that the light brigade charged at Balaklava; that the Redan and Malakoff were stormed. The acts of violence and fraud in Kansas are matters of history, proved by congressional investigation; by the evidence of Governors Reeder, Geary, Walker, and Stanton; by legislative inquiry, and by the admission of the actors themselves; yet these Halls witness the boldest denials of the clearest established facts, and the most reckless disregard of the will, the ascertained wishes of the people. Sir, this course is unworthy of the Senate, and dishonorable to the country.

I have read, Mr. President, with care, the reports of members of the Committee on Territories. The reports of the venerable Senator from Vermont, [Mr. COLLAMER,] and the Senator from Illinois, [Mr. DOUGLAS,] present the issues involved in the clearest light. The report made by

the majority of the committee, by the Senator from Missouri, [Mr. GREEN,] is a specimen of skillful and adroit misrepresentation. I have read it with mingled emotions of astonishment, shame, and indignation. Sir, the rhetoricians tell us that nothing is beautiful which is not true. If the absence of truth is the absence of beauty, this must indeed be the most hideous production of our times, for there is hardly a sentence in it that presents a truthful idea of the points at issue. Sir, it was my purpose to have examined this report in the light of the truths of history; but I shall forego that labor, now rendered needless by the full and masterly presentation of facts by other Senators, especially by the distinguished Senators from Kentucky [Mr. CRITTENDEN] and Tennessee, [Mr. BELL,] whose lofty scorn of fraud and trickery will be applauded by hundreds of thousands of fair-minded men all over the Union.

Mr. President, the Senator from South Carolina [Mr. HAMMOND] came to this Chamber one of the acknowledged champions of the expansion, perpetuity, and dominion of slavery in America. His election to this body was heralded as the advent of a champion and leader into the national councils, by the perpetualists and propagandists. The Senator, thus heralded, hastened to mingle in the debate. He spoke, not to enlighten the Senate or instruct the country, for he confessed he had not read the details of the transactions in Kansas, the knowledge of which is essential to an intelligent understanding of the questions at issue. The Senator spoke to display before the country the beauties of that system of human bondage, to which his State has clung with relentless tenacity, a system he has ever defended, and to magnify the power of his section to rule the world, under her legitimate monarch, "King Cotton." Sir, the Senator from South Carolina frankly tells us that "if this were a minority constitution, that it would be no objection; that constitutions are made for minorities, and that, perhaps, minorities ought to have the right to make constitutions." When we remember that the Senator represents a State which bases her representation upon inequalities of population, requires a property qualification for her legislators and denies to her people the right to vote for Governor or President, and that the Senator has indorsed, without reserve, the sentiment of Governor McDuffie that "slavery is the corner-stone of the Republican edifice," and "repudiates as ridiculously absurd, that much lauded, but nowhere accredited motto of Mr. Jefferson, that all men are created equal," we shall not be surprised at this distrust of the people, this avowal of this aristocratic, autocratic, and oligarchic sentiment.

But the Senator from South Carolina, after confessing his ignorance of the events which have produced this Lecompton constitution, does not allow his admitted want of knowledge to restrain him from the expression of the opinion that "if there were frauds, they were equally great on all sides." We should be charitable to confessed ignorance, but we are not required to be charitable to the presumptuous expression of opinions based upon confessed ignorance. The Senator talks about "regiments of emigrants recruited in the purlieus of the great cities of the North, and sent out armed with Sharpe's rifles and bowie knives and revolvers, to conquer freedom for Kansas!" Sir, had the Senator deigned to study, or rather, had the Senator studied as a Senator should have done, the details of the history of Kansas, he would never have given utterance to such language. The Senator goes on to charge the people of Kansas with "refraining from going to the polls, and making it a free State, when they had the power, in order to defeat and destroy the Democratic party." This absurd declaration has no foundation in fact, and every intelligent man in America who understands the affairs of Kansas, and whose opinions are of any value, knows this to be so. Equally absurd is the declaration, that Senators on this side of the Chamber "do not wish to defeat this bill," that we have "brought this imbroglio for the very purpose" of crushing "out the Democratic party in the North." These charges and insinuations will have little weight among men who have any knowledge of the facts, perhaps they may serve further to mislead those who have already been misled.

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But the Senator tells us, Mr. President, that "the object of the discussion" on this side of the Chamber "is to agitate the question of slavery," and he authoritatively announces to us that the time has gone by to discuss this question of slavery in the abstract; and he declares that "it should be, and must be, discussed as a practical thing—as a thing that is, and is to be"—an "ineradicable thing." Assuming that slavery "is to be ineradicable," he is ready for a "final and conclusive settlement now;" and he "brings the North and the South face to face" to see what "resources each have in the contingency of separate organization!"

After referring, Mr. President, to the eight hundred and fifty thousand square miles of territory in the South; to its fine soil and delightful climate; to the control of the great valley of the Mississippi, the seat of future empire which she will maintain forever, the Senator boasts that "they have on their muster-rolls a million of men," "men brought up on horseback, with guns in their hands," and that "in an emergency every one of them would be available." Sir, this idle boast is simply ridiculous. It will excite a smile everywhere among people who have any adequate conception of what is necessary to embody and support, even for a few months, a large military force. This jubilant boast reminds me of the brilliant conception of "lengthening their bayonets one foot," ascribed to Governor McDuffie, at the time when South Carolina was big with nullification; when we New England Yankees were casting cannon, making swords, and even military buttons to gild the uniform of the chivalry who were strutting after the banners of disunion.

Having, Mr. President, vaunted their prowess and military resources, the Senator turns to the exports of the South, and he asserts that the wealth of a nation depends entirely upon its surplus export productions. If the theory that the foreign exports of a nation are the measure of the productive wealth of a nation be true, the South ought to be a very rich country—far more wealthy than the North. If it be true, the nation now in possession of \$9,700,000,000 ought to be poor indeed, for, since the adoption of the Constitution, we have imported more than we have exported by \$800,000,000. If we credit the Senator's proud vauntings of the surplus exports of the South, we must believe she is the seat of commercial power, of accumulated capital, of railroads, of ships; the section to which you can look for surplus capital, to which the Government now looks for the purchase of its twenty millions of Treasury notes. Sir, the South may export her millions of dollars of cotton, rice, and tobacco, year after year, and she may do so at a loss of millions annually. She may import from the East and from the West, as she often has done, millions more than she receives for her exports. Every merchant and business man in America knows this to be so.

Sir, the Senator from South Carolina assures us that "the South is perfectly competent to go on one, two, or three years, without planting a seed of cotton!" The South, with millions invested in lands and in slaves, able to stop planting cotton for three years! Sir, they can only stop by ceasing to fulfill their obligations, and by sacrificing in one year, in the value of lands and slaves, more than the value of three cotton crops. How many of the cotton-growers could cease even for one year, and keep the sheriff from their doors? The slave States owe to the free States this day more than the value of the cotton crop now being planted. They owe millions upon millions to the free States for merchandise, to say nothing of the sums owed for lands, railroads, and other investments. Sir, the South has seen few days, for a quarter of a century, when she was not indebted to the free States to the value of at least one cotton crop; yet the Senator vauntingly tells us that they have "poured in upon us one million six hundred thousand bales of cotton just at this crisis, to save us from destruction;" that they have, owing to the bursting of our bubbles at the North, sacrificed thirty-five millions, which they "have put into the charity box of our financiers!" Do our financiers owe you for your crop? Did not your crop come at the "crisis" to pay, in part, your own debts?

Sir, instead of putting millions into the charity box of our merchants and manufacturers, I tell the Senator that thousands of merchants, manufacturers, and mechanics of the North are this day, and have been for months, pressed with the burden of bearing the unpaid debts owed them by the slave States. Your cotton has been paid for at the market value in cash; the balance of your crop, not yet delivered, has been paid for; send it promptly forward, and thus keep that faith of which you boast so much. Does not the Senator know that millions of merchandise purchased one year ago on long credits—for you sell for cash and buy on long credits—have been renewed, and remain yet unpaid? while the bills for tens of millions of last fall's purchases have not yet matured? while your merchants are now in the market purchasing on credit, thus, in many cases, making three bills for unpaid goods? I remember that during the terrible pressure of last year, while our business men were staggering under the pressure, thirteen out of fourteen wholesale merchants in one department of business in one southern city imposed upon their eastern creditors the burden of renewing their matured notes. Sir, I tell the vaunting Senator from South Carolina that we of the North buy the cotton, sugar, rice, and tobacco of the South, for gold, and sell you goods on six, eight, twelve, and fifteen months' credit; and that these long credits are often renewed, and frequently never paid at all. The merchants and manufacturers of the North have lost hundreds of millions of dollars during the last thirty years in the slave States. I have personally lost, in the Senator's own State, in Louisiana, Virginia, and Kentucky, thousands of dollars more than I am now able to command.

But the Senator, filled with magnificent visions of southern power, crowns cotton, "king," and tells us that if they should stop supplying cotton for three years, "England would topple headlong, and carry the whole civilized world with her save the South!" What presumption! The South—which owns lands and slaves, the price fluctuating with the production, use, and price of cotton, having no other resource or means of support—would go harmless; while the great commercial centers of the world, with the vast accumulations of capital, the products of ages of accumulation, with varied pursuits and skilled industry, would "topple" to their fall! Sir, I suppose the coffee planters of Brazil, the tea growers of the Celestial Empire, and the wheat growers on the shores of the Black sea, and on the banks of the Don and the Volga, indulge in the same magnificent illusions. I would remind the Senator that the commercial world is not governed by the cotton planters of the South, the coffee planters of Brazil, the tea growers of China, nor the wheat producers of eastern Europe. I tell the Senator that England, France, Germany, western Europe, and the northern States of the Union, are the commercial, manufacturing, business, and monetary centers of the world; that their merchants, manufacturers, and capitalists grasp the globe; that cotton and sugar and tea and coffee and wheat and the spices of the isles of the Oriental seas are grown for them. Sir, the cotton planters of the South are simply their agents, and they perform their tasks under a necessity quite as great as their own slaves perform theirs under the taskmaster's eye. I would remind the Senator that the free States, in 1850, produced \$850,000,000 of manufactures, and that \$52,000,000 of that vast production, only about one seventeenth part of it, was made up of cotton. Our manufactures and mechanic arts now must exceed twelve hundred million dollars, and cotton does not make up more than seventy million dollars. Does the Senator think the free States would "topple" down if they should lose one seventeenth part of their productive industry?

The productive industry of Massachusetts, a State that manufactures more than one third of all the cotton manufactured in the country, was, in 1855, \$350,000,000; only \$26,000,000, one thirtieth part of it, was cotton. Does the Senator believe that a State which has a productive industry of \$350,000,000, about \$280 per head for each person, would perish if she should lose \$26,000,000 of that vast production?

It is no matter of surprise that gentlemen who live away off on cross-roads, where the cotton

blooms, should come to believe that cotton rules the world; but a few month's association with the great world would cure that delusion. "You are our factors!" exclaims the Senator. "You bring and carry for us. Suppose we were to discharge you? Suppose we were to take our business out of your hands, we should consign you to anarchy and poverty!" Sir, suppose, when the Senator returns from this Chamber to his cotton-fields, his slaves should, in their simplicity, say to him: "Massa, you only sells de cotton; we plants; we hoos; we picks de cotton!" "Spose we discharge you, Massa!" The unsophisticated "mud-sills" would be quite as reasonable as is the Senator. The Senator seems to think that the cotton planters hold us in the hollow of their hands; if they shake them, we tremble; if they close them, we perish.

But the Senator from South Carolina, after crowning cotton as king, with power to bring England and all the civilized world "toppling" down into the yawning gulphs of bankruptcy and ruin, complacently tells the Senate and the trembling subjects of his cotton king that "the greatest strength of the South arises from the harmony of her political and social institutions;" that "her forms of society are the best in the world;" that "she has an extent of political freedom, combined with entire security, seen nowhere on earth." The South, he tells us, "is satisfied, harmonious, and prosperous," and he asks us if we "have heard that the ghosts of Mendoza and Torquemada are stalking in the streets of our great cities; that the inquisition is at hand, and that there are fearful rumors of consultations for vigilance committees?" Sir, this self-complacency is sublime! No son of the Celestial Empire can approach the Senator in self-complacency. That "society the best in the world" where more than three millions of beings, created in the image of God, are held as chattels—sunk from the lofty level of humanity; down to the abject condition of unreasoning beasts of burden! That "society the best in the world" where are manacles, chains, and whips, auction-blocks, prisons, bloodhounds, scourgings, lynchings, and burnings, laws to torture the body, shivel the mind, and debase the soul; where labor is dishonored and laborers despised! "Political freedom" in a land where woman is imprisoned for teaching little children to read God's Holy Word; where professors are deposed and banished for opposing the extension of slavery; where public men are exiled for quoting in a national convention the words of Jefferson; where voters are mobbed for appearing to vote for free territory; and where booksellers are driven from the country for selling a copy of that masterly work of genius, "Uncle Tom's Cabin!" A land of "certain security," where patrols, costing, as in old Virginia, more than is expended to educate her poor children, stalk the country to catch the faintest murmur of discontent; where the bay of the bloodhound never ceases; where but little more than one year ago rose the startling cries of insurrection; and where men, some of them owned by a member of this body, were scourged and murdered for suspected insurrection! "Political freedom" and "certain security" in a land which demands that seventeen millions of freemen shall stand guard to seize and carry back fleeing bondmen!

Mr. President, the Senator from South Carolina, with a charming simplicity, which reminds us of a distant plantation, away from the haunts of the busy world, where "unaspiring" bondmen delve, where the cotton blooms, with a frankness worthy of commendation, proceeds to unfold to the world the social ideas and political problems of that school of which he is an accepted teacher. He lays down axioms and maxims as the true social and political creed of slaveholding Lecompton Democracy. I invoke the men of the North, ay, the men of the South, the toiling millions of the Republic, to read and ponder well these doctrines proclaimed here in the Senate of this democratic Republic with such audacity, by one of the champions of the Lecompton constitution—one of the apostles of the Africanized Democracy. Listen to the oracular words of the Senator:

"In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect and but little skill. Its

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requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud-sill of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on this mud-sill. Fortunately for the South, she found a race adapted to that purpose to her hand. A race inferior to her own, but eminently qualified in temper, in vigor, in docility, in capacity to stand the climate, to answer all her purposes. We use them for our purpose, and call them slaves."

"We are old-fashioned at the South yet; it is a word discarded now by 'ears polite'; I will not characterize that class at the North with that term; but you have it; it is there; it is everywhere; it is eternal."

"The Senator from New York said yesterday that the whole world had abolished slavery. Ay, the name, but not the thing; all the powers of the earth cannot abolish that. God only can do it, when he repeals the fiat, 'the poor ye always have with you;' for the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market, and take the best he can get for it: in short, your whole class of manual hiring laborers and 'operatives,' as you call them, are essentially slaves. The difference between us is, that our slaves are hired for life, and well compensated; there is no starvation, no begging, no want of employment among our people, and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated."

"Our slaves are black, of another and inferior race. The status in which we have picked them is an elevation."

"They are happy, content, unassuming, and utterly incapable, from intellectual weakness, ever to give any trouble by their aspiration. Yours are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot-box is stronger than 'an army with banners,' and could combine, where would you be? Your society would be reconstructed, your Government overthrown, your property divided?"

"By the quiet process of the ballot-box. You have been making war upon us to our very heart's content. How would you like for us to send lecturers and agitators North, to teach these people this, to aid in combining and to lead them?"

These sentiments, Mr. President, are not original with the Senator from South Carolina. At home and within these walls the statesmen from South Carolina have avowed with sublime audacity these sentiments of the slave perpetualists. Mr. Calhoun pronounced "slavery the most safe and stable basis for free institutions in the world." Mr. McDuffee declared slavery to be "the cornerstone of the republican edifice!" Sir, when these avowals were made by these champions of the South Carolina school, they were disavowed by the leading men of the South, and by men of all parties in the North. Their reproduction now by the Senator from South Carolina derives importance from the fact that South Carolina has impressed her ideas and imposed her policy upon the South, upon the Administration, and upon the Lecompton Democracy. South Carolina bears the flag and leads the column of slave perpetualists and slave propagandists. The Senator utters her sentiments—the sentiments she has imposed upon the Democracy she now leads. I hold this Administration—I hold the Lecompton Democracy responsible for these oracular utterances.

South Carolina has ever led the van in support of the system of human slavery in America. The illustrious statesmen of the first Congress, in 1774, declared that "God never intended a part of the human race to hold property in, and have unbounded power over others;" and they agreed they "would not import slaves, or buy slaves imported by others." They formed a federative Union, and by the second article of that bond of Union the slave trade was prohibited. South Carolina accepted those articles of Confederation, and she was the first to break her pledged faith and to reopen that accursed traffic in the bodies of men. "In complacency to South Carolina and Georgia"—to use the words of Jefferson, the illustrious signers of the Declaration of Independence erased from the draft these words of arraignment of the British King:

"He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty, in the persons of a distant people, who have never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel Powers, is the warfare of the Christian King of Great Britain. Determined to keep a market where men should be bought and sold, he has at length prostituted his negative for suppressing any legislative attempt to prohibit and restrain this execrable commerce."

Actuated by that policy, which reopened the slave trade, and erased the noble words of Jefferson from the Declaration of Independence, South

Carolina went into the convention to form the Constitution of the United States, her Rutledges, her Butlers, and her Pinckneys ready to peril the unity of the States unless they could wring from Washington, Franklin, Hamilton, Madison, Ellsworth, King, and their illustrious compeers, the right to continue the inhuman and polluted traffic in the muscles of men.

Mr. MASON. Will the Senator allow me to interrupt him a moment?

Mr. WILSON. Most cheerfully.

Mr. MASON. Is not the Senator aware that the proposition to allow the States to continue the slave trade for twenty years was carried by the union of the men of the extreme North and the extreme South, and that Virginia resisted it?

Mr. WILSON. I am aware that northern men yielded to the demands of South Carolina.

Mr. PUGH. A Massachusetts man shaped the form of the proposition!

Mr. WILSON. Northern men then, as now, too often yielded to the demands of slavery. We do not applaud the errors of the fathers. I hope we never will cease to censure the greater errors of the men of our time, who sin against the lights of experience.

In the first Congress under the Constitution, the humanity of the country attempted to restrain the slave trade in foreign vessels; but the voice of South Carolina, in fiery and vehement language, threatened to dissolve the Union, and the timid men of the North shrank from such a contest. From the opening of the first Congress under the Constitution to the utterance of this speech to which I am now replying, she has led the van in assaults on freedom—in defense of slavery. She led, under Mr. Pinckney, in 1836, in adopting a rule suppressing the sacred right to petition for the abolition of slavery and the slave trade in this District. She led, under Mr. Calhoun, in 1836, in carrying through the Senate an incendiary publication bill, to destroy the constitutional liberty of the press. She announced, through the pen of Mr. Calhoun, in 1844, to the Throne of France, and to Christian Europe, that we intended to annex the Republic of Texas, to uphold slavery in America. She announced in this Chamber, by the voice of Mr. Calhoun, that the constitution would carry slavery into the coming free territory of Mexico. Inflexibly firm in adherence to her ideas, and bold and vehement in the avowal and support of her cherished policy of slavery expansion, perpetuity, and dominion, she has won her sister slaveholding States to her ideas and her policy. The moderate, conservative, and national statesmen of the South, of the schools of Jackson and Clay, have been driven into retirement—they are ostracised, exiled, placed under the ban of the empire. The venerable and distinguished Senators from Kentucky [Mr. CRITTENDEN] and Tennessee [Mr. BELL] yet linger here to remind us of other days; and a few liberal national men remain in the other House; but these seats are now filled by men who have accepted her creed, or who silently bow to the imperious sway of her disciples. The social and political ideas of the fathers are proscribed, and the social and political ideas reproduced by the Senator from South Carolina have attained a complete ascendancy.

We all remember—for who could forget?—the assaults in 1856 of the southern Democratic orators upon everything free in America. "Slavery" was pronounced "the natural and normal condition of the laboring man, white or black!" "The experience of universal liberty" was pronounced by the Richmond Enquirer "a failure," and "free society insufferable!" "Free society" was denounced by a Democratic organ in Alabama, "a conglomeration of greasy mechanics, filthy operatives, and small-fisted farmers!" And the South-Side Democrat, edited by a gentleman now one of the Public Printers for the House, denounced as hateful "free farms, free labor, free society, free will, free thinking, free children, free schools"—they all belonged "to the same brood of damnable isms!"

Sir, these social and political ideas, now reproduced by the Senator from South Carolina, go unrebutted in these Halls by the supporters of this Administration. No Democratic Senator, no supporter of the policy of the Administration, has yet questioned the assumptions, or dissented from

the views of the Senator. The supporters of the Lecompton constitution from Rhode Island, New Jersey, Pennsylvania, Ohio, Indiana, Iowa, and California, have not ventured to even dissent from the doctrines avowed by the Senator from South Carolina—doctrines which would not pass unrebutted on the banks of the Danube or the Vistula. I mean to examine these assumptions in the light of facts. I mean to take issue with these unsupported declarations, and I mean to brand these wanton insults to the free laboring men of the country.

To listen, Mr. President, to the words of the Senator from South Carolina, we should suppose that the white men of the South were all men of wealth and culture and refinement—that they were all lords and masters—that labor was all performed by bondmen—the "mud-sills" of society. We should imagine that these white men "were leading progress, civilization, and refinement." We should imagine that the sunny South was the seat of power, the chosen abode of commerce, manufactures, and the mechanic arts; of literature and the finer arts; of schools and libraries! We should also imagine that the free North was the home of ignorance, poverty, and vice, and organized anarchy.

Sir, the Senator has placed the North and the South, the free and the slave States, freedom and slavery, "face to face." I meet him on that issue: I make no assault; I make no war upon the South. This contest, which now stirs the nation to its profoundest depths, is no contest between the North and the South. It is a contest between the rights of man and the privileges of an aristocratic, oligarchic class.

Mr. President, the Senator points triumphantly to eight hundred and fifty thousand square miles of slave soil; to the finest natural soil and the most genial climate. We of the North confess to your extent of territory, your naturally fine soil, and your genial climate. We make no claim to equality of extent, of climate, or of soil. When the foot of civilized man first pressed the sods of the New World, your section abounded in soil so rich it seemed exhaustless; ours was hard, cold, and rugged. Freedom took the rugged soil and still more rugged clime of the North, and now that rugged soil yields abundance to the willing hands of free labor. Slavery took the sunny lands and sunny clime of the South, and now it has left the traces of its ruinous power deeply furrowed on the face of your sunny land. In 1612, before the foot of the bondman had pressed the soil of Virginia, Sir Thomas Dale, in speaking of that Commonwealth, said:

"Take four of the best kingdoms of Christendom, and put them altogether, they may no way compare with this country either for commodities or goodness of soil."

At an earlier period, Lane, Governor of Raleigh colony, says of Virginia and Carolina:

"It is the goodliest soil under the cope of heaven—the most pleasing territory in the world."

Says "A Perfect Description of Virginia," published in London in 1649:

"New England is to Virginia as Scotland is to England. There is much cold, frost, and snow; their land is barren; except a herring be put into the hole you set the corn in, it will not come up."

Two hundred years have passed since those words were penned, and we do not now "put a herring in the hole we set the corn in," on our barren soil, yet it comes up. Millions of the acres of "the goodliest soil under the cope of heaven" in old Virginia are now so poor, that "a herring put in the hole they set the corn in" would not bring it up.

Washington, in a letter to Arthur Young, in 1787, says:

"Our lands, as I mentioned to you, were originally very good; but use and abuse have made them quite otherwise."

James Madison tells us, in 1819, that much of the rich soil of Virginia had been exhausted. Governor Wise said of the agriculture of Virginia, in 1855:

"You all own plenty of land; but it is poverty added to poverty, poor land added to poor land; and nothing added to nothing makes nothing." "You have the owners skinning the negroes, and the negroes skinning the land, and all grow poor together. You have relied alone on the power of agriculture; and such agriculture! Your sedge-patches outshine the sun; your inattention to your only source of wealth has scared the bosom of mother earth. In-

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SENATE.

stead of having to feed cattle on a thousand hills, you have to chase the stump-tailed steer through the sedge-patches to procure a tough beef-steak."

Mr. G. S. Sullivan, of Lincoln county, North Carolina, says, in the Patent Office report for 1851:

"We raise no stock of any kind, except for home consumption, and not half enough for that; for we have now worn out our lands so much that we do not grow food enough to maintain them."

Mr. N. B. Powell, of Alabama, in the Patent Office report for the same year, says:

"We are the most dependent people in the Union, relying mainly, as we do, upon our neighbors of the West for nearly all of our supplies."

The Senator from Alabama [Mr. CLAY] has described, in sad accents, the desolation of portions of his own native State. In traversing his own native county of Madison, the Senator says:

"One will discover numerous farm-houses, once the abodes of industrious and intelligent freemen, now occupied by slaves, or tenantless, deserted, and dilapidated; he will observe fields once fertile, now unenclosed, abandoned, and covered with those evil harbingers, fox-tail and broom-sedge; he will see the moss growing on the moldering walls of once thrifty villages; and will find 'one only master grasps the whole domain' that once furnished happy homes for a dozen white families. Indeed, a county in its infancy, where, fifty years ago, scarce a forest tree had been felled by the ax of the pioneer, is already exhibiting the painful signs of senility and decay apparent in Virginia and the Carolinas: the freshness of its agricultural glory is gone; the vigor of its youth is extinct, and the spirit of desolation seems brooding over it."

The Senator from Alabama is devoted to his native State, of whose condition he thus sorrowfully speaks. Yesterday, he went even to the verge of disunion, in favor of the expansion of slavery to "virgin lands," which it will "despoil" and impoverish, as it has despoiled and impoverished the State he represents.

"The lands of South Carolina," (we are told by 'A Carolinian' in De Bow's Review,) 'have remained stationary in price for the last thirty years, and in many instances they have actually declined.' 'Our old fields,' (says the South Carolina Agricultural Society in 1855,) 'are enlarging; our homesteads are decreasing fearfully.'"

Judge Longstreet, a native of Georgia, refers to a classic dwelling which occupied a lovely spot in one of the most fertile regions of his native State. It was overshadowed by majestic hickories, towering poplars, and strong-armed oaks. Forty-two years afterwards, he visited this spot once so lovely:

"The sun poured his whole strength upon the bold hill which once supported the sequestered school-house; a dying willow rose from the soil which had nourished the venerable beech; flocks wandered among dwarf pines, and cropped a scanty meal from the vale where the rich cane had bowed and rustled to every breeze; and all around was barren, dreary, and cheerless."

De Bow's "Resources of the South," from Fenno's Southern Medical Reports, speaks of "decaying old tenements;" in Georgia, "red old hills, stripped of their native growth and virgin soil, and washed into deep gullies, with here and there patches of Bermuda grass and stunted pine shrubs struggling for subsistence on what was once the richest soil of America." Millions of acres of the richest soil of the western world have been converted into barrenness and desolation by the untutored, unpaid, and thriftless labor of slaves. This exhaustion of southern soil, tilted by bondmen—this deterioration, decay, and desolation, now visible in what was once the fairest portion of the continent—stands confessed by the most eminent writers of the South. These descriptions of the decay and desolation of some of the fairest portions of the sunny South, remind us of the desolating effects of slavery upon the rich fields of classic Italy, in the days of Tiberius Gracchus, as described by the brilliant and philosophic pen of our Bancroft, in his masterly article on Roman slavery.

Turning, Mr. President, from this contemplation of the desolations of slavery to the rugged soil and still more rugged clime of the free North, we shall see that the farms tilled by free, educated men, are annually blooming with a fresher and richer verdure; that they annually wave with larger harvests of the varied products which find markets in the cities and the villages, which commerce, manufactures, and the mechanic arts, create, beautify, and adorn. While the plantations of the South echo the sound of the lash by which unpaid toil is impelled on in the blighting process of exhausting the richest soils, the farms of the

free States are increasing in value, fertility, and beauty; they are nursing a race of noble and independent men, where

—"the lowliest farm-house hearth is graced
With manly hearts, in piety sincere;
Faithful in love; in honor stern and chaste;
In friendship warm and true; in danger brave;
Beloved in life, and sainted in the grave."

There were, Mr. President, in 1850, in the free States, 877,000 farms, containing 108,000,000 acres, valued at \$2,143,000,000; being about \$20 per acre. The products of these farms amounted to more than \$860,000,000. There were, in the slave States, 564,000 farms, containing 180,000,000 acres, valued at \$1,117,000,000, being about \$6 per acre; and the products of these plantations amounted to about \$630,000,000. The farms of the free States averaged 120 acres; the slave-State plantations averaged more than 300 acres. The 34,000 farms of cold, sterile Massachusetts, averaging 99 acres each, embrace 3,500,000 acres, valued at \$32 50 per acre, amounting to \$112,000,000; the 30,000 plantations of South Carolina, averaging 540 acres each, embrace 16,000,000 of acres, valued at \$5 08 per acre, amounting to \$82,000,000. The farms of the free States are cultivated by 2,500,000 persons, and yield a production of nearly \$8 per acre, and more than \$300 per head to each person; the plantations of the slave States are tilled by more than 3,250,000 persons, and they yield a production of less than \$4 per acre, and less than \$200 per head to each person.

Turning, Mr. President, from the agriculture of the two sections, let us glance at the manufactures. Here the superiority of the North stands confessed. In 1850, the North had 94,000 establishments; \$430,000,000 of capital invested; \$465,000,000 of raw material were used; 780,000 persons were employed; \$196,000,000 were paid for labor; and \$842,000,000 were produced. The South had only 27,000 establishments; \$95,000,000 of capital; used \$86,000,000 of raw material; employed 161,000 persons; paid \$33,000,000 for labor; and produced \$165,000,000. Massachusetts had 8,300 establishments; \$83,000,000 of capital; used \$86,000,000 of raw material; employed 165,000 persons; paid \$40,000,000 for labor; and produced \$151,000,000. South Carolina had only 1,400 establishments; \$7,000,000 capital; used \$4,900,000 of raw material; employed 12,000 persons; paid \$2,300,000 for labor; and produced \$9,700,000. The wages of women are higher in the cotton-mills of Massachusetts than the wages of men in the iron works of South Carolina. The productive industry of Massachusetts, in manufactures and the mechanic arts, have increased immensely since 1850. It now averages \$280 per head; the productive industry of South Carolina, according to De Bow, is \$62 per head.

De Bow estimates, Mr. President, that one half of the agricultural products, and all of the manufactures, are subjects of commerce. If this be so, the value of the products which enter into the commerce of the North is about fourteen hundred million of dollars; value of products of the South, \$480,000,000. The value of the domestic commerce of the country is estimated to be six times larger than the value of the foreign commerce. The imports and exports of the North amounted in 1855 to \$400,000,000; the exports and imports of the South to \$132,000,000. The imports and exports of the city of New York amounted to \$278,000,000—more than twice the value of the imports and exports of the South. Massachusetts exported and imported in 1855, \$73,000,000; South Carolina, \$14,000,000. The North had in 1850 188,000 persons engaged in commerce; the South, 70,000.

Glancing at the means of transportation, we find that the North had, in 1855, 4,250,000 tons of shipping, valued at \$212,000,000; the South, 855,000 tons of shipping, valued at \$42,000,000. The North built 528,000 tons in 1855; the South built 52,000. Massachusetts had, in that year, 970,000 tons of shipping, valued at \$48,000,000; South Carolina had 60,000 tons, valued at \$3,000,000. Massachusetts built 80,000 tons, valued at \$4,000,000; South Carolina built 60 tons, valued at \$3,000. The North has 18,000 miles of railroads, costing \$560,000,000; the South 7,000, costing \$125,000,000. Poor Massachusetts, that produces no rice, makes up no part of "king" cotton, has \$55,000,000

invested in railroads within her own borders, to say nothing of the many millions she has invested in other States. She has \$60,000,000 of bank capital, and her poor "white slaves," her "mud-sills," have \$35,000,000 deposited in her savings banks. Rich South Carolina, with her rice and her cotton, has invested \$12,000,000 in railroads; she has \$17,000,000 of bank capital; but, unhappily, we have no statements of how many millions her "well-compensated," "unaspiring" laborers have on deposit. Perhaps the Senator from South Carolina can furnish us with those statistics.

From this contrast of the productive industry and material resources of the two sections, which the Senator from South Carolina put "face to face," I pass to a brief consideration of their institutions and means of intellectual culture. In the slave States, laws forbid the education of nearly four millions of her people; in the free States, laws encourage the education of the people, and public opinion upholds and enforces those laws. In 1850, there were 62,000 schools, 72,000 teachers, 2,800,000 scholars in the public schools of the free States; in the slave States, there were 18,000 schools, 19,000 teachers, and 580,000 scholars. Massachusetts has nearly 200,000 scholars in her public schools, at a cost of \$1,300,000; South Carolina has 17,000 scholars in her public schools; \$75,000 is paid by the State, and the Governor in 1853, said that "under the present mode of applying it, it was the profusion of the prodigal rather than the judicious generosity which confers real benefits." New York has more scholars in her public schools than all the slave States together. Ohio has 502,000 scholars in her public schools, supported at an expense of \$2,250,000. Kentucky has 76,000 scholars, supported at an expense of \$146,000.

The free States had, in 1850, more than 15,000 libraries, containing 4,000,000 volumes; the slave States had 700 libraries, containing 650,000 volumes. Massachusetts, the land of "hiring operatives," has 1,800 libraries, which contain not less than 750,000 volumes—more libraries and volumes than all the slave States combined. The little State of Rhode Island, a mere patch of 1,300 square miles on the surface of New England, has more volumes in her libraries than have the five great States of Georgia, Florida, Alabama, Mississippi, and Louisiana. De Bow, good southern authority, says, that in every country the press must be regarded as a great educational agency. The free States had, in 1850, 1,800 newspapers, with a circulation of 335,000,000; the slave States had, at that time, 700 newspapers, with a circulation of 81,000,000. The free States have seven times as many religious papers, and twelve times as many scientific papers as the South. Massachusetts has more religious papers than all the slaveholding States of the Union. She has a circulation of 2,000,000 for her scientific papers; the South has but 372,000. The "hiring operatives, mechanics, and laborers;" the very "mud-sills" of society, read five times as many copies of scientific papers as the entire South, including that class which the Senator tells us leads "progress, civilization, and refinement." Nine tenths of the book publishers of the United States are in the free States. The Charleston Standard, good authority with the Senator, tells us, "that their pictures are painted at the North, their books published at the North, their periodicals printed at the North; that should a man rise with the genius of Shakespeare, or Dickens, or Fielding, or of all three combined, and speak from the South, he would not receive enough to pay the cost of publication." That class, that favored class, which leads, as the Senator tells us, "progress, civilization, and refinement," force the literary talent to the North, the home of "hiring operatives," to find not only publishers, but readers also.

Of the authors mentioned in Duyckinck's "Cyclopedia of American Literature," eighty-seven were natives of slave States, and four hundred and three were natives of the free North—the land of the "hiring laborers." Of the poets mentioned in Griswold's "Poets and Poetry of America," seventeen were natives of the land where they have that other class which leads "progress, civilization, and refinement;" and one hundred and twenty-three were natives of the land of hire-

ling operatives, the "mud-sills" of society. Of the poets, whose nativity is given by Mr. Reed, in his "Female Poets of America," eleven are from the South, seventy-three from the North. Nine tenths of all the books written in America, fit to be read—nine tenths of all the books published in America, fit to be published—are written and published, not in the land of that privileged class of which the Senator boasts, but in the free States, unblest by that privileged class; nearly all the authors, whose names grace and adorn the rising literature of America, whose names are known in the literary and scientific world, find their homes in the free States of the North. Irving, Ticknor, Sparks, Bancroft, Prescott, Hil-dreth, and Motley, whose contributions to the historical literature of America are recognized by the literary world; Dana, Bryant, Halleck, Long-fellow, Sprague, Whittier, Lowell, and Willis, the recognized poets of our country; Hawthorne, Emerson, Curtis, Melville, and Mitchell, whose names grace the light literature of our times; and Silliman, Agassiz, and Pierce, names associated with American science, find their homes, not in the land of the privileged class that the Senator from South Carolina tells us leads "progress, civilization, and refinement," but they dwell in the land of "small-fisted farmers, greasy mechanics, and filthy operatives"—the "mud-sills" of society. The sculptors, and the painters, and the artists—they, too, find their homes, not in the sunny South, but in the free land of the North. In literature, in science, in the arts, the superiority of the North is beyond all question. Men who have been, or who now are, "hiring laborers" in some forms in the North, have contributed more to the arts, the science, the literature of America, than the whole class of slaveholders now living in the South.

I would not, Mr. President, underate the influence of the slave States in the councils of the Republic. Bound together by the cohesive attraction of a vast interest from which the civilization of the age averts its face, the privileged class have won the control, and direct the policy of the Government. In the council and in the field, the representatives of this privileged class have assumed to direct and to guide. But in accumulated capital, in commerce, in manufactures, in the mechanic arts, in educational institutions, in literature, in science, in the arts, in the charities of religion and humanity, in all the means by which the nation is known among men, the free States maintain a position of unquestioned preeminence. In all these, the South is a mere dependency of the North. India and Australia are not more the dependencies of England than are the slaveholding States the dependencies of the free States. Sir, your fifteen slave States are but fifteen suburban wards of our great commercial city of New York. Beyond the political field, this dependency of the South is every where visible, even to the most blind devotees of "King Cotton." Mr. Perry, in an address before the South Carolina Institute in 1856, says of the State represented by the Senator:

"The dependence of South Carolina upon the northern States, for all the necessities, comforts, and luxuries which the mechanic arts afford, has drained her of her wealth and made her positively poor."

Mr. Helper, of North Carolina, in a work entitled "The Impending Crisis of the South," describes, in this graphic language, this humiliating dependency of the South upon the North:

"In infancy we are swaddled in northern muslin; in childhood we are humored by northern gewgaws; in youth we are instructed out of northern books; in old age we are drugged with northern physic; and when we die, our inanimate bodies, shrouded in northern cambric, are stretched upon the bier, borne to the grave in a northern carriage, interred with a northern spade, and memorialized with a northern slab!"

"Reader! would you understand how abjectly slaveholders themselves are enslaved to the products of northern industry? If you would, fix your mind on a southern gentleman, a slave breeder, and human flesh monger, who professes to be a Christian! Observe the routine of his daily life. See him rise in the morning from a northern bed, and clothe himself in northern apparel; see him walk across the floor on a northern carpet, and perform his ablutions out of a northern basin and ewer. See him uncover a box of northern powder, and cleanse his teeth with a northern brush; see him reflect his physiognomy in a northern mirror, and arrange his hair with a northern comb. See him dosing himself with the medicaments of northern quacks, and perfuming his handkerchief with northern cologne. See him referring to the time in a northern watch, and glancing

at the news in a northern gazette. See him and his family sitting in northern chairs, and singing and praying out of northern books. See him at the breakfast table saying grace over a northern plate, eating with northern cutlery, and drinking from northern utensils. See him charmed with the melody of a northern piano, or musing over the pages of a northern novel. See him riding to his neighbor's in a northern carriage, or furrowing his lands with a northern plow. See him lighting his cigar with a northern match, and flogging his negroes with a northern lash. See him with northern pen and ink, writing letters on northern paper, and sending them away in northern envelopes, sealed with northern wax, and impressed with a northern seal."

Passing, Mr. President, from the consideration of these startling contrasts between the effects of intelligent free labor on the North, and unskilled slave labor on the South, I proceed to the contemplation of the blighting and crushing effects of slavery, not upon the poor bondmen, but upon the non-slaveholding poor whites of the South. Putting out of view altogether the sad lot of nearly four millions of hapless bondsmen, doomed to a destiny so rayless, so cheerless, so hopeless, that the Senator from South Carolina vauntingly tells us that they are "uninspiring," and will never give any "trouble to us by their aspirations," I here and now declare that the five millions of non-slaveholding whites of the South live in meaner houses, consume poorer food, wear poorer clothes, have less means of mental and moral instruction, less culture, and less hope for the future for themselves and their posterity, than the five millions of the poorest people of the seventeen millions of the North. I include, sir, in this declaration the millions of emigrants from western Europe, from the banks of the Thames, the Shannon, and the Rhine—men characterized by the Senator from South Carolina as "semi-barbarians." I will demonstrate the truth of this declaration by abundant quotations from southern authorities.

The first witness I put upon the stand is the honorable Senator from South Carolina himself. In an address before the South Carolina Institute, the Senator said that

"Of the three hundred thousand white inhabitants of South Carolina, there are fifty thousand whose industry, such as it is, and compensated as it is, is not adequate to procure them honestly such a support as every white person is entitled to. Some of them maintain a feeble and injurious competition with slave labor; some can scarcely be said to work at all; they obtain a precarious subsistence by occasional jobs, by hunting, by fishing, sometimes by plundering fields or folds, and too often by what is, in its effects, far worse—trading with slaves, and seducing them to plunder for their benefit."

Comment, Mr. President, is needless.

William Gregg, in an address delivered before this same South Carolina Institute, in 1851, said:

"I put down the white people who ought to work, and who do not, or are so employed as to be wholly unproductive, at one hundred and twenty-five thousand." "A large portion of our poor white people are wholly neglected, and are suffered to while away an existence in a state but one step in advance of the Indian of the forest."

"Many a one is reared in proud South Carolina, from birth to manhood, who has never passed a month in which he has not been stunted for meat." "These may be startling statements, but they are nevertheless true."

When the Baron DeKalb met General Francis Marion, during the Revolution, he expressed amazement that so many "South Carolinians were running to take British protections." Marion replied:

"The people of Carolina form two classes, the rich and the poor. The poor are very poor: the rich, who have slaves to do all their work, give them no employment. Unsupported by the rich, they continue poor and low-spirited."

"The little they get is laid out in brandy, not in books and newspapers; hence they know nothing of the comparative blessings of our country, or of the dangers which threaten it; therefore, they care nothing about it. The rich are generally very rich; afraid to stir lest the British should burn their houses, and carry off their negroes."

After the war, he estimated that "poor Carolina lost through her ignorance \$15,000,000," for "ignorance begat toriyism, and toriyism begat losses." Referring to the blessings of education for the people, he said:

"Look at the people of New England. Religion had taught them that God had created men to be happy; to be happy, they must have virtue; that virtue is not to be attained without knowledge; nor knowledge without instruction; nor public instruction without free schools; nor free schools without legislative order."

South Carolina has sent many of her sons into the councils of the nation who have won distinguished positions and high honors; but there is more philosophy, more wisdom, and more statesmanship, in these words of Francis Marion, than

can be garnered up from all the eloquent utterances of the statesmen and orators she has sent into the councils of the Republic.

Mr. Olmstead, in his work on the "Sea-board Slave States," speaking of the educated Carolinians—that other class which, according to the honorable Senator from South Carolina, leads "progress, civilization, and refinement"—says that "they habitually make great claims" to culture.

"But I must observe, also, that I have been astonished at the profound ignorance and unmitigated stupidity I have found in some planters owning large numbers of slaves."

A southern-born gentleman, who had resided in South Carolina, and who had traveled in Spanish America, said to Mr. Olmstead, speaking of the Spanish and Hispano-Indian races, that he had

"seen, among the worst of them, none so entirely debased, so wanting in all energy, industry, purpose of life, and in everything to be respected, as among extensive communities on the banks of the Congaree, in South Carolina."

"They are more ignorant, their superstitions are more degrading, they are much less industrious, far less cheerful and animated, and very much more incapable of being improved and elevated, than the most degraded peons of Mexico. Their chief sustenance is a porridge of cow-peas, and the greatest luxury with which they are acquainted is a stew of bacon and peas, with red pepper, which they call 'hopping John.'"

Speaking of the sand-hillers, Mr. Olmstead says that a rich rice planter described them in these words:

"They seldom have any meat, except they steal hogs, which belong to the planters or their negroes; and their chief diet is rice and milk. They are small, gaunt, and cadaverous, and their skin is just the color of the sand hills they live on. They are quite incapable of applying themselves to any labor, and their habits are very much like those of the old Indians."

A northern gentleman, who had spent a year in South Carolina, said to Mr. Olmstead, after speaking respectfully of the wealthier class:

"The poor whites, out in the country, are the meanest people I ever saw; half of them would be considered objects of charity in New York."

Speaking in favor of manufactures, the Hon. J. H. Lumpkin, of Georgia, in 1852, said:

"I am by no means ready to concede, that our poor, degraded, half-fed, half-clothed, and ignorant population, without Sabbath schools, or any other kind of instruction, mental or moral, or without any just appreciation of character, will be injured by giving them employment in manufacturing establishments."

Mr. Olmstead says:

"It is evident that a large part of the people of Georgia still have the vagrant and hopeless habits of Oglethorpe's first colonists, somewhat favorably modified, it is true, by the physical circumstances which have made them superior to absolute charity or legal crime, and also, perhaps, by the influence of a freely preached, though exceedingly degraded form of Christianity. They are still coarse and irrestrainable in appetite and temper; with perverted, eccentric, and intemperate spiritual impulses, faithless in the value of their own labor, and almost imbecile for personal elevation."

Mr. Tarver, of Missouri, in a work on "Domestic Manufactures in the South and West," says:

"I have observed of late years, that an evident deterioration is taking place in this part of the population, the younger portion of it being less educated, less industrious, and in every point of view less respectable than their ancestors."

Mr. Helper, of North Carolina, says:

"Poverty, ignorance, and superstition are the three leading characteristics of the non-slaveholding whites of the South."

The reports of ecclesiastical bodies in the South, of missionary, Bible, tract, educational, and other societies, and the statements of colporteurs, and other persons interested in the intellectual and moral culture of the people, furnish the fullest and amplest evidence to sustain the declarations I have made concerning the poor whites of the slaveholding States. Upon them the evils of slavery press with merciless force. I trust the day is not far distant when they will inaugurate a policy that shall at least emancipate themselves and their posterity from a thralldom hardly less endurable than the bondage of the black man. The noble city of St. Louis has sent into the House of Representatives FRANCIS P. BLAIR, junior, a champion of the rights of the non-slaveholders of the South. Let the oppressed poor whites heed the voice and follow the councils of such a leader, and the day of their deliverance from their galling degradation will soon dawn. There are signs that cannot be mistaken, in the North and in the South,

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that there are portions of the American continent, provinces in Mexico or Central America, where, ultimately, that slave population which presses hard upon the poor whites of the South may find free homes under the protection of the Government of the United States:

Mr. President, the Senator from South Carolina tells us that "all the powers of the world cannot abolish" "the thing" he calls slavery. "God only can do it when he repeals the fiat 'the poor ye have always with you,'" "for the man who lives by daily labor," and "your whole class of hiring manual laborers and operatives, are essentially slaves!" "Our slaves are black; happy, content, unaspiring;" "yours are white, and they feel galled by their degradation." "Our slaves do not vote; yours do vote, and, being the majority, they are the depositaries of all your political power; and if they knew the tremendous secret, that the ballot-box is stronger than an army with banners, and could combine, your society would be reconstructed, your government overthrown, and your property divided."

"The poor ye have always with you!" This fiat of Almighty God, which Christian men of all ages and lands have accepted as the imperative injunction of the common Father of all, to care for the children of misfortune and sorrow, the Senator from South Carolina accepts as the foundation-stone, the eternal law, of slavery, which "all the powers of the earth cannot abolish." These precious words of our Heavenly Father, "the poor ye have always with you," are perpetually sounding in the ears of mankind, ever reminding them of their dependence and their duties. These words appeal alike to the conscience and the heart of mankind. To men blessed in their basket and their store, they say, "property has its duties well as its rights!" To men clothed with authority to shape the policy or to administer the laws of the State, they say, "lighten, by wise, humane, and equal laws, the burdens of the toiling and dependent children of men!" To men of every age and every clime they appeal, by the Divine promise that "he that giveth to the poor lendeth to the Lord!" Sir, I thank God that I live in a Commonwealth which sees no warrant in these words of inspiration to oppress the sons and daughters of toil and poverty. Over the poor and lowly she casts the broad shield of equal, just, and humane legislation. The poorest man that treads her soil, no matter what blood may run in his veins, is protected in his rights and incited to labor by no other force than the assurance that the fruits of his toil belong to himself, to the wife of his bosom, and the children of his love.

The Senator from South Carolina exclaims, "The man who lives by daily labor, your whole class of manual laborers, are essentially slaves"—"they feel galled by their degradation!" What a sentiment is this to hear uttered in the councils of this democratic Republic! The Senator's political associates who listen to these words which brand hundreds of thousands of the men they represent in the free States, and hundreds of their neighbors and personal friends as "slaves," have found no words to repel or rebuke this language. This language of scorn and contempt is addressed to Senators who were not nursed by a slave; whose lot it was to toil with their own hands—to eat bread earned, not by the sweat of another's brow, but by their own. Sir, I am the son of a "hiring manual laborer" who, with the frosts of seventy winters on his brow, "lives by daily labor." I, too, have "lived by daily labor." I, too, have been a "hiring manual laborer." Poverty cast its dark and chilling shadow over the home of my childhood, and want was there sometimes—an unbidden guest. At the age of ten years—to aid him who gave me being in keeping the gaunt specter from the hearth of the mother who bore me—I left the home of my boyhood, and went to earn my bread by "daily labor." Many a weary mile have I traveled

"To beg a brother of the earth
To give me leave to toil."

Sir, I have toiled as a "hiring manual laborer" in the field and in the work-shop; and I tell the Senator from South Carolina that I never "felt galled by my degradation." No, sir—never! Perhaps the Senator who represents that "other class which leads progress, civilization, and re-

finement," will ascribe this to obtuseness of intellect and blunted sensibilities of the heart. Sir, I was conscious of my manhood; I was the peer of my employer; I knew that the laws and institutions of my native and adopted States threw over him and over me alike the panoply of equality; I knew, too, that the world was before me, that its wealth, its garnered treasures of knowledge, its honors, the coveted prizes of life, were within the grasp of a brave heart and a tireless hand, and I accepted the responsibilities of my position all unconscious that I was a "slave." I have employed others, hundreds of "hiring manual laborers." Some of them then possessed, and now possess, more property than I ever owned; some of them were better educated than myself—yes, sir, better educated, and better read, too, than some Senators on this floor; and many of them, in moral excellence and purity of character, I could not but feel, were my superiors. I have occupied, Mr. President, for more than thirty years, the relation of employer and employed; and while I never felt "galled by my degradation" in the one case, in the other I was never conscious that my "hiring laborers" were my inferiors. That man is a "snob" who boasts of being a "hiring laborer," or who is ashamed of being a "hiring laborer;" that man is a "snob" who feels any inferiority to any man because he is a "hiring laborer," or who assumes any superiority over others because he is an employer. Honest labor is honorable; and the man who is ashamed that he is or was a "hiring laborer" has not manhood enough to "feel galled by his degradation."

Having occupied, Mr. President, the relation of either employed or employer for the third of a century; having lived in a Commonwealth where the "hiring class of manual laborers" are "the depositaries of political power;" having associated with this class in all the relations of life; I tell the Senator from South Carolina, and the class he represents, that he libels, grossly libels them, when he declares that they are "essentially slaves!" There can be found nowhere in America a class of men more proudly conscious or tenacious of their rights. Friends and foes have ever found them

"A stubborn race, fearing and flattering none."

But the Senator from South Carolina tells us that if the hiring laborers knew the "tremendous secret" of the ballot-box, our "society would be reconstructed, our Government overthrown, and our property divided." Does not the Senator know that an immense majority of the "hiring class of manual laborers" of New England possess property? Does he not know that the man who has accumulated a few hundreds of dollars by his own toil, by the savings of years, who has a family growing up around him upon which his hopes are centered, is a conservative? Does not the Senator know that he watches the appropriation bills in the meetings of those little democracies—the towns—as narrowly as the Representative from Tennessee, in the other House, [GEORGE W. JONES,] watches the money bills on the Private Calendar? I live, Mr. President, in a small town of five thousand inhabitants. Nearly half of the population are employed as operatives and mechanics for the manufacture of shoes for the western and southern markets. In 1840 we had thirteen hundred inhabitants, and the property valuation was about three hundred thousand dollars. Last May we had fourteen hundred names on our poll-list, two thirds of them "hiring mechanics," and a property valuation of over two millions of dollars. Those "hiring laborers," on town-meeting days, make the appropriations for schools, for roads, and for all other purposes. Do they not know "the tremendous secret of the ballot-box?" Have they proposed to divide the property they themselves created? No, sir; no! but I will tell the Senator what they have done. Since 1850, they have built seven new school-houses, with all the modern improvements, and at an expense of about forty thousand dollars, one house costing more than fourteen thousand; they have established a high school, where the most advanced scholars of the common schools are fitted for admission to the colleges, or for the professions, the business, and the duties of life; they have established a town library, freely accessible to all the inhabitants, containing the choicest

works of authors of the Old World and the New, of ancient and modern times. The poorest "hiring manual laborer," without cost, can take from that library to his home the works of the master minds, and hold communion with

"The dead but sceptered sovereigns who rule
Our spirits from their urns."

The Senator tells us, Mr. President, that their slaves are "well compensated!" South Carolina slaves "well compensated!" Why, sir, the Senator himself, in a speech made at home, for home consumption, entered into an estimate to show that a field hand could be supported for from "eighteen to nineteen dollars per annum" on the rice and cotton plantations. He states the quantity of corn and bacon and salt necessary to support the "well compensated" slave. And this man, supported by eighteen dollars per annum, with the privilege of being flogged at discretion, and having his wife and children sold from him at the necessity or will of his master, the Senator from South Carolina informs the Senate of the United States, is "well compensated!" Sir, there is not a poor-house in the free States where there would not be a rebellion in three days if the inmates were compelled to subsist on the quantity and quality of the food the Senator estimates as ample "compensation" for the labor of a slave in South Carolina.

Turning from his "well compensated" slaves, the Senator tells us that our "hiring laborers," our "mud-sills," are scantily "compensated." Mr. CLINGMAN, of North Carolina, in urging the establishment of cotton manufactories in the South, says the wages of labor at the North are one hundred per cent. higher than wages in the same pursuits in the South. The wages of labor in iron mills in South Carolina were thirteen dollars per month, in 1850; in Massachusetts they were thirty. Sir, these hands of mine have earned, month after month, two dollars per day, in manual labor; and I have paid that sum to "hiring manual laborers," month after month and year after year. Financial and commercial revulsions sometimes come upon us, and press heavily upon all branches of the mechanic arts and manufactures; but labor is generally well employed and well paid. At any rate, the laboring men of the free States have open to their industry all the avenues of agriculture, commerce, manufactures, and the multifarious mechanic arts, where skilled labor is demanded, and where they do not have to maintain, as the Senator in his address before the Institute of his own State tells us the white men of South Carolina have to maintain, "a feeble and ruinous competition with the labor of slaves."

Borrowing, Mr. President, an idea, found in a speech made in the other House by Mr. Pickens, of his own State, more than twenty years ago, in which he threatened to preach insurrection to northern laborers, the Senator asks, "how we would like for them to send lecturers and agitators to teach our hiring laborers" the "tremendous secret of the power of the ballot-box," and "to aid in combining and to lead them?" Sir, I tell the Senator we would welcome him, his lecturers and agitators; we would bid them welcome to our hearth-stones and our altars. Ours are the institutions of freedom; and they flourish best in the storms and agitations of inquiry and free discussion. We are conscious that our social and political institutions have not attained perfection, and we invoke the examination and the criticism of the genius and learning of all Christendom. Should the Senator and his agitators and lecturers come to Massachusetts on a mission to teach our "hiring class of manual laborers," our "mud-sills," our "slaves," the "tremendous secret of the ballot-box," and to help "combine and lead them," these stigmatized "hiringlings" would reply to the Senator and his associates, "We are freemen; we are the peers of the gifted and the wealthy; we know the 'tremendous secret of the ballot-box,' and we mold and fashion these institutions that bless and adorn our proud and free Commonwealth! These public schools are ours, for the education of our children; these libraries, with their accumulated treasures, are ours; these multitudinous and varied pursuits of life, where intelligence and skill find their reward, are ours. Labor is here honored and respected, and great examples incite us to action. All around us in the profes-

sions, in the marts of commerce, on the exchange, where merchant-princes and capitalists do congregate; in these manufactories and workshops, where the products of every clime are fashioned into a thousand forms of utility and beauty; on these smiling farms, fertilized by the sweat of free labor; in every position of private and of public life, are our associates, who were but yesterday 'hiring laborers,' 'mud-sills,' 'slaves.' In every department of human effort are noble men who sprang from our ranks—men whose good deeds will be felt and will live in the grateful memories of men when the stones reared by the hands of affection to their honored names shall crumble into dust. Our eyes glisten and our hearts throb over the bright, glowing, and radiant pages of our history that records the deeds of patriotism of the sons of New England who sprang from our ranks and wore the badges of toil. While the names of Benjamin Franklin, Roger Sherman, Nathaniel Greene, and Paul Revere live on the brightest pages of our history, the mechanics of Massachusetts and New England will never want illustrious examples to incite us to noble aspirations and noble deeds. Go home, say to your privileged class, which you vauntingly say 'leads progress, civilization, and refinement,' that it is the opinion of the 'hiring laborers' of Massachusetts, if you have no sympathy for your African bondmen, in whose veins flows so much of your own blood, you should at least sympathize with the millions of your own race, whose labor you have dishonored and degraded by slavery! You should teach your millions of poor and ignorant white men, so long oppressed by your policy, the 'tremendous secret that the ballot-box is stronger than an army with banners!' You should combine and lead them to the adoption of a policy which shall secure their own emancipation from a degrading thralldom!"

Mr. President, for four years the distant Territory of Kansas has been the battle-field between freedom and slavery—between free labor which elevates, and that servile labor which degrades. In this contest, slavery has startled the nation by a series of acts of violence, and by frauds you will scarcely find paralleled in the history of the world. These acts of violence, these frauds, perpetrated by the necessities of the slave power, upheld by the ready servility of the Democratic party, are now made the tests of fealty by the Administration. Fealty to the Administration, to the Democratic party, is now fealty to human slavery, to violence, to trickery, and to fraud. Sir, by perversions of the Constitution and the laws, by the red hand of violence, by unvailed trickeries and transparent frauds, by the indecent proscription of men of inflexible integrity, by the shameless prostitution of the honors of the Government, and by the "rank corruption, mining all within," which "infects unseen," the Administration is converting the American Democracy into a mere organization for the perpetuity, expansion, and domination of human slavery on the North American continent. There is not, to-day, in all Christendom a political organization so hostile to the rights of human nature, to the development of republican ideas, to the general progress of the human race, as the Democratic party of the United States. There is not a political organization even in Spain, Russia, or Austria, that dare, in the face of the civilized world, blazon its banners with doctrines so hostile to the rights of mankind, so abhorrent to humanity, as are avowed in these Halls, and upheld by the American Democracy, under the lead of this Administration. The great Powers of Europe, England, France, and Russia, have fixed their hungry eyes upon the coveted prizes of the Eastern World; and we are invoked to forget the lessons of Washington, to close our ears to the appeals of the people of Kansas, whose rights have been outraged, and turn our lustful eyes to the glittering prizes of dominion in Mexico, Central America, Cuba, and the valleys of the distant Amazon. No party in those three European monarchies dare avow, in the face of Christendom, the sentiment we have heard proclaimed in these Halls, that territorial expansion and territorial dominion must be made, not for the advancement of the sacred and sublime principle of equal and impartial liberty to all men, but for the

subjugation and personal servitude of other and inferior races.

Duty to the Government now prostituted and polluted, to the country now dishonored in the face of the civilized world, summons the liberty-loving and patriotic men of the Republic, of every name and creed, to "forget, forgive, and unite," and to rally to the overthrow of this venal, cringing, and inglorious Administration, and to the utter annihilation of the oligarchic Democracy. To the men of the North, ay, and the men of the South, who loathe fraud, paltry trickery, venality, and servility; who believe that "righteousness exalteth a nation," this summons alike appeals. But to no men does this summons appeal with such irresistible and imperative force as to the "whole hiring class of manual laborers and operatives," now disdainfully stigmatized as the "slaves," the "very mud-sills" of that society upon which that privileged class assumes to rest, which now claims to control this Government, and "to lead progress, civilization, and refinement" in America. It appeals to them to repel the libelous aspersions cast upon the toiling millions of America, by taking, through the ballot-box, the reins of power from the grasp of the slaveholding aristocracy of the South and their servile allies of the North; rebuking the arrogance of the one by banishment from usurped power, and the servility of the other by putting upon their breast the "Scarlet Letter" of dishonor. It appeals to them to place in every department of the Federal Government, statesmen who cherish a profound reverence and an inextinguishable love for humanity; who are animated by lofty motives, aims, and purposes; guided by wise, comprehensive, and patriotic councils; and who will put the Republic in harmony with the sacred and inalienable rights of mankind.

Mr. STUART. Mr. President, I design to submit some views on this question, and have been, for some time ready to do so. I doubt very much whether I can submit them now, before the approach of another day. I was disposed to suggest to the Senate, (and I have consulted with the Senator from Missouri upon the subject,) the propriety of adjourning until ten o'clock on Monday morning, at which time I shall be ready to proceed. I will submit that motion to the Senate.

Mr. GREEN. I will suggest, with the leave of the Senator, that we first make a motion that when the Senate adjourns it be to meet at ten o'clock on Monday next.

Mr. STUART. Yes, sir.

Mr. GREEN. And then, if the Senator cannot proceed to-night, and no other Senator desires to proceed—

Mr. STUART. The Senator from Delaware desires to speak.

Mr. GREEN. If the Senator from Delaware could proceed to-night, I suppose the Senator from Michigan will have no objection to his doing so.

Mr. STUART. I am willing. I suggest to the Senator from Missouri to make his motion now.

Mr. GREEN. Then I move that when the Senate adjourns it be to meet at ten o'clock on Monday next. Before we adjourn we can make this subject the special order for ten o'clock on Monday.

The PRESIDING OFFICER, (Mr. TRUMBULL in the chair.) It is moved that when the Senate adjourns it be to ten o'clock on Monday.

The motion was agreed to.

Mr. GREEN. We cannot make this bill the special order until Senators decline speaking to-night. If neither of the Senators is willing to proceed to night, I will make that motion.

Mr. STUART. I say very frankly that I should be perfectly willing to proceed, but for the fact that I should not be able to conclude to-night. If the Senator from Delaware desires to proceed, of course I shall have no objection.

Mr. GREEN. Neither of the Senators is willing to proceed to-night. I therefore move that the subject be postponed to, and made the special order for, Monday next at ten o'clock.

The motion was agreed to.

Mr. STUART. I move that the Senate adjourn. The motion was agreed to; and thereupon, at five minutes past ten o'clock, p. m., the Senate adjourned to Monday.

KANSAS—LECOMPTON CONSTITUTION.

DEBATE IN THE SENATE.

MONDAY, March 22, 1858.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. STUART. Mr. President, when, in December last, I submitted some views to the Senate upon this subject, I did it because I thought I saw distinctly and clearly that there was a movement on foot in the Territory of Kansas, which, if carried out, must necessarily endanger the existence of this Confederacy, and would do so by striking a fatal blow at the basis of our institutions. It has been supposed by some gentlemen—and I regret to say that it has seemingly been supposed by the honorable Senator from Mississippi, [Mr. BROWN,] and the Senator from Ohio, [Mr. PUGH]—that in taking the position I then did, it was upon this distracting question of slavery. As I have just stated, my object was one much more important, one involving much higher principles, and one involving the principle upon which our Confederacy stands.

Pardon me, sir, while I refer to two extracts from the speech that I then made—a reference which I should not make now but for the purpose of setting the Senators whom I have named right upon this question. I then said:

"Sir, it may be necessary for me to say—if it is, I beg the attention of the Senate while I say it—that I am not discussing this question with reference to my own opinions upon slavery; I am not discussing it with regard to my own opinions on any provision contained in the constitution; but I am discussing it for the purpose of proving that the action of the convention is, and was intended to be, a trick and a fraud upon the people of Kansas."

Again:

"I have said that the power of admitting States into this Union necessarily forces upon Congress the paramount duty of seeing that the State asks its admittance in accordance with the will of a majority of the people. Show me that, and I will never inquire one instant as to what their domestic institutions are, or what other provision is contained in their constitution, so that it secures a republican government, which is no more nor less than a representative government, based upon the will of the people. As I said, I am pledged to that by every speech I have ever made in my State. I am pledged to that upon the principles of the strictest honor and justice among men. Higher, higher yet, I am pledged to it by my oath to support the Constitution of the United States, which empowers me by my vote to admit States into the Union—never to coerce them in."

I regretted that, having made that statement, thus clearly, the Senator from Mississippi, in delivering a speech here, which he announced to us was for his constituents, should seek to induce the belief on the part of those constituents that I was an intermeddler with the institutions of the South. Sir, that Senator and myself took seats in this Chamber at the same time, and from that time until to-day I have never discussed the question of slavery; and so long as I entertain my present opinions, unless some bill shall be brought here which involves the question within itself, I never will. I regretted that the Senator should make that allusion, although he sought to sustain it by something of a stale anecdote, not very well told.

Since the delivery of that speech, Mr. President, which, as I have shown, was based singly and solely upon the objection that the people of Kansas did not adopt this constitution and ask to be admitted under it, a variety of arguments have been used to meet it. A vast amount of special pleading has been resorted to to evade its effect, until we stand here to-day in a position where, if we were about to make up a dictionary of significations, we could not tell what is the meaning of "the majority of the people;" we could not tell what is the meaning of "self-government," of "non-intervention," of "intervention," of "enabling acts," or "submissions of constitutions to the people." A confusion of ideas and arguments utterly confounded would be the phase presented here to-day, if the friends of this measure could see their reasoning brought into juxtaposition. One gentleman makes an argument, and shows that States have been admitted into the Union without an enabling act, and considers that he has answered the objections. Another one rises and enumerates the number of States that have been admitted into the Union

without their constitutions ever having been submitted to the people, and sits down complacently, as if he had met the objections.

Why, sir, the only importance of enabling acts is to prescribe boundaries to an infant State, and to see that the programme is properly started for a fair exposition of the will of the people. The only object of submitting a constitution to the vote of a people is for the purpose of ascertaining their will—not that it is necessary in either case, but that it is a means to approach an end; a mode of ascertaining whether the paper presented, and called a constitution, embodies the will of the people of the proposed State. I showed in that speech, or sought to show, that the power of Congress to admit States, as given by the Constitution, was limited only by the discretion of Congress, and necessarily, therefore, carried with it the right to reject a State for reasons of its own. But, driven as the friends of this measure have been, from point to point in the argument, it finally has resolved itself into this position: true it is, they say, that the people of every Territory have the right, by a fair expression of the will of a majority, to frame a constitution, to submit it to Congress, and ask admission under it; true it is, they say, this right would exist in Kansas but for the fact that the majority of the people are in open rebellion against the territorial government.

That is the question which I intend to meet to-day. I intend to meet it, Mr. President, with all that respect which is due, and which I feel for the President of the United States and his position; but I intend to meet it, also, with all that frankness and candor and fearlessness which belong to my own position. Sir, when the President's special message was read here, I confess to you I listened to it with astonishment; I thought it was astonishing that the President of the United States should send in a special message to Congress stating that the people of Kansas were in rebellion, without telling us what means he had taken to put that rebellion down. I was none the less astonished when I saw, in this same document, the remedy prescribed for the difficulty, which was to admit this rebellious people into the Confederacy of the United States. It was worse than the reasoning of the woman who married the inebriate—she said she did it to get rid of him: worse, because he had a measured life, and some day might die. But to admit into this Confederacy a rebellious people is to introduce a poison into the body-politic, which, ramifying through the whole, would inevitably, in the end, destroy the whole.

But, sir, I shall now undertake to show you that such was not, and is not the fact. I am not going through the history of Kansas. It has been done frequently, and well. I am only going to say, in a few words, what has been my position from the first. It is simply this: that that Territory was organized by an invasion, is indisputable; that that invasion having seized upon the forms of government, exercised it to effect a pernicious purpose, is equally clear; that having been thus organized, the President of the United States, the Governor of the Territory, or the courts of justice, had any power to question the organization, I also denied, and do to-day. Executive authority and judicial authority are bound to take the laws and execute them as they find them, and have no power to inquire as to whether they have been legally, fairly, or fraudulently passed. I said, however, and always said, that the Congress of the United States had power over that question, and ought to exercise it. We ought to have amended the organic law, and provided for a re-organization of the Territory. That I said then. When the late Senator from Missouri, Mr. Geyer, introduced a bill for that purpose, I did everything in my power to induce the Senate to adopt it. Then we should have met this evil at the outset, and met it fairly, upon constitutional principles. We did not do it; and, Mr. President, if that great truth ever needed an exemplification, it has it in this instance—that adopting an error, whether in government, or upon any other subject, the longer you travel in the path of error the more difficulties will accumulate around you.

The condition of things in that Territory is simply the condition of things that exists in these

States, and not unfrequently has existed within the Halls of Congress. There is a small faction in that Territory who are called Abolitionists, agitators, and those are the men alluded to by the President as the supporters of the Topeka constitution, and whom, he has come to the conclusion, constitute the majority of the people of the Territory. There is another faction in that Territory, as in the States, composed of extreme southern men, agitators alike upon this question of slavery; the men who are in favor of reopening the slave trade, who are in favor of carrying their institution anywhere and everywhere at any and at all hazards, and those are the men that concocted this Lecompton constitution. But, sir, the great body of the people of Kansas are equally opposed to both. I repeat it, and I say I defy any man to show to the contrary, that the people of Kansas this day are alike opposed to Topeka and to Lecompton; that either one of those instruments submitted to a fair vote of the people this day, would be voted down by an immense majority. That is the condition of things in Kansas. In support of this position, I present an article from the Kansas National Democrat of February 25, 1858, a paper which publishes the laws of the United States "by authority."

"THE PRESIDENT'S MESSAGE.—Last week we laid before our readers the President's message. We shall take occasion to publish some facts relative to the past history of this Territory, as soon as circumstances will permit, that must convince the President that he has been much imposed on relative to the supposed loyalty of the men who have represented to him the entire free-State party as rebels.

"When Governor Geary and patriotic men in Kansas succeeded in driving the pro-slavery and other armed parties from the field in September, 1856, the ultra pro-slavery men were open mouthed in their denunciation of the Governor; they alleging that they were to be sacrificed to elect Buchanan; denouncing all northern men as unworthy of confidence; thus disgusting and driving scores of men, from a sense of self-respect, into the most deadly hate and opposition to the course of these ultra men, who were and are more intent on their selfish schemes than desirous of promoting the interests of the slave States.

"Great wrongs have undoubtedly been perpetrated by both wings of the sectional parties in Kansas. There is no difference between them. They both deserve the execration of all patriotic men. That the President and Congress may be convinced of the fact that a majority of the free-State men of Kansas are not only loyal, but opposed to the disunion parties of this Territory, we would ask them to analyze the vote cast on the 4th of January last, against the Lecompton constitution, and the vote for State and legislative officers, under it.

"There were over twelve thousand votes cast against the constitution. For free-State officers under it, near seven thousand votes were cast, and about two thousand five hundred legal votes for the ultra pro-slavery officers or ticket. Now, from this vote it is apparent that the conservative or national men of Kansas, as pro-slavery and free-State, can beat both wings of the disunionists united, as we have no doubt that they will act together, both being intent on accomplishing one common object."

Now, Mr. President, at the expense of being somewhat tedious upon this subject, as this is the main point that I make in my speech, because it is the sole reason that the President offers in his special message for asking Congress to adopt this constitution, I ask the attention of the Senate while I show, from the proceedings of the people of that Territory, the truth of what I have stated, and then I will undertake to show by argument that there is no such thing as rebellion there. I will present, first, the proceedings of a Democratic meeting in Douglas county, held at Lawrence on the 13th of December. I call the especial attention of the Senate to the date of these proceedings.

At a meeting of the Democracy of Douglas county, held at Lawrence on the 13th December last, the following preamble and resolutions, among others, were adopted:

"Whereas, the Territory of Kansas, for the past three years, has been the theater of intestine commotion, and fierce and bitter animosities have been engendered on account of the distracting question of slavery, and as the result of said commotions and strife, we present to the world the extraordinary spectacle of two factions attempting to force upon the people constitutions that the great mass of them do not recognize or approve of—each the production of misane fanaticism, and not founded on the public approbation: Therefore,

"Resolved, That, as American citizens and members of the great Democratic party, we believe in the principles of self-government, that all political power is derived from, and is inherent in, the people, and that their voice, constitutionally expressed through their representatives, should be obeyed in all things.

"Resolved, That no constitution or laws can be of any binding force or validity unless approved by the popular will and endorsed by a majority of the people.

"Resolved, That the instruments called the Lecompton

and Topeka constitutions do not reflect the popular will, and are not approved by the great mass of the people of Kansas. "Resolved, That we have abiding confidence in the integrity, patriotism, and democracy of the Democratic members of Congress; and that we most respectfully protest against the admission of Kansas into the Union under either of the constitutions framed at Topeka or Lecompton."

I said that I asked the especial attention of the Senate to the date of these proceedings—the 13th day of December. When it was known what had been done by the Lecompton convention, when the Lecompton convention had provided for a vote to be taken on that instrument on the 21st of December—the same month—when they had provided for an election of officers to take place on the 4th of January following, that meeting was called for the purpose of sending delegates to a territorial convention to be held at Leavenworth. That convention also assembled. I beg the attention of the Senate while I present some of the proceedings of that convention, and having read them I will read an article which I have from one of the papers published in that Territory.

At a territorial convention held at Leavenworth on the 24th December last, the following among other resolutions were adopted:

"We, the Democracy of the Territory of Kansas, in convention assembled, do hereby resolve:

"1. That we utterly repudiate the action of the convention as anti-democratic, as contrary to the true exposition of the Kansas-Nebraska act, as violative of the letter and spirit of the Cincinnati platform, as opposed to the inaugural address of President Buchanan, as in direct conflict with his instructions to Governor Walker, as an infraction of the Constitution of the United States, as at variance with the true theory of republican government, as destructive to the right and in derogation of the capacity of the people for self-government, as against the doctrine of non-intervention, as an entire abandonment of the doctrine of State rights, and as calculated to sever the bonds of the Union.

"2. That this convention, representing, as I believe it does, a very large majority of the Democracy of Kansas, takes this occasion to announce and reiterate its united and determined opposition to sectionalism and fanaticism springing from any or all quarters, whether East, West, North, or South; that such sectionalism and fanaticism are not in accordance with the principles of a confederated union of the States, but, if indulged and sanctioned by the people, are certain to produce a rupture of the bonds which hold them together. Nor does this convention the less deprecate and denounce every invasion of this Territory by persons living outside its limits, with a view of controlling its elections, and out of which invasions have sprung a great many of the disturbances and troubles in the Territory, and which have led to innumerable and gross frauds, both disreputable to those committing them, and at war with the rights and interests of the people of Kansas.

"3. That the ballot-box was not protected from fraud on Monday, the 21st of this month; but the returns, so far as they are known, indicate very clearly that a very large number of the votes returned were not cast by citizens of this Territory, but by persons who came into it on that day, and by invitation, for the purpose of voting, and for that purpose alone.

"4. That this convention solemnly and earnestly protests against the admission of Kansas into the Union as a State under the so-called Lecompton constitution, the so-called Topeka constitution, or any other instrument which may be in any manner framed, unless such instrument shall be first legally prepared and submitted to the vote of the people of Kansas, and to the people of Kansas only, in such manner as to ascertain clearly their will for or against such instrument."

Before presenting the commentary which I shall read from the Leavenworth Journal, I want to call the attention of the Senate to the fact that that paper is not one of those Abolition papers. It is in favor of a fair exposition of the will of the people; but I call the attention of the Senate to the fact that the editor says distinctly that he is in favor of making Kansas a slave State. Now, sir, I ask you to hear what he says on the subject of this convention:

"THE POSITION OF THE KANSAS DEMOCRACY.—We omitted last week to invite especial attention to the preamble and resolutions adopted by the Democratic convention, held in this city, on the 24th of December last. We never witnessed a larger or more enthusiastic gathering of the true Democracy of the Territory; old, gray-headed men, who had begun to despond for the triumph of the great principles of the party, came out and showed by their zeal that the old camp-fires, which were almost extinguished in Kansas, were relighted; and there was one universal outburst of patriotic feeling. Such men as Amos Rees, Aully McCaulley, Judge Johnston, John P. Slough, James Christian, Joseph C. Hemingway, Robert L. Ream, and a host of others who never participated in Kansas politics, because of the tendency to anarchy which marked the course of the various political parties in the Territory, contributed their most earnest efforts to make the occasion one of deep interest, as it was one of great solemnity and solicitude.

"Every speaker who addressed the convention, did so with a fervor and pathos which showed that even the most distinguished men of the country, whatever their position or patronage, could not swerve from the cardinal principles upon which our Government was founded. Amongst those speakers were Judge Halderman, Judge Johnson,

Judge Hemingway, Messrs. Rees, McCauley, Goss, and Slough, who spoke with ability, power, and eloquence.

"The resolutions explain themselves; they are drawn with care, consideration, and firmness, and enunciate too clearly to be misunderstood the doctrines of the Democratic party as understood and promulgated by the party to the country, until the ingenious effort made at Lecompton, and seconded elsewhere, to change the whole creed, and relapse under the disguise of Democracy into a species of Federalism far worse than that of the old Federal party which existed in the days of Mr. Jefferson and the elder Adams. That ancient and respectable party never desired or claimed any power in the Federal Government to force a government upon an unwilling and protesting people; they never claimed that because the people were opposed to a particular form of institutions they should be made to receive them; but the modern doctrine is, that the more the people are opposed to a particular form or mold of government, with the more certainty and purpose that government shall be put in force, and the more the people must be called upon to obey. If this be old-fashioned republicanism, we confess we never so learned it. If it be Democracy, we were never so taught.

"It is totally useless for a party on the one hand to say that slavery is the great issue and the only issue, and appeal to us to desert our banners and go against that institution. They can neither frighten us to do so nor drive us from our advocacy of slavery; and it is equally futile for a party on the other hand to pretend that the harmony of the party requires every one to think and act with the Chief Magistrate of the Union upon the question now agitating Congress and the whole people. Their efforts may blindly mislead some few; they may try and be partially successful; to seduce the South into the conviction that the admission of Kansas into the Union under a constitution obnoxious to four fifths of her people is the only way to make Kansas a slave State, and to save the South from humiliation and degradation. We tell these gentlemen that Kansas can never be made a slave State by trickery; and, if it could, the temporary benefit would carry in its wake, not only an eternal stigma upon southern obliquity, but produce more and more lasting injury to southern institutions than any act in the whole drama of southern history. The South has the opportunity now to create four new States out of Texas. This Administration has it in its power to acquire Cuba, and make it an addition to the strength of the South. Arizona must inevitably be slave territory; Central America will ultimately be attached; Sonora and Chihuahua are a part of our 'manifest destiny,' and would be slave. But trample under foot the great principle of self-government, incorporate it in the creed of the Democratic party that the will of the majority shall be set aside, and the will of the minority substituted as omnipotent, for the purpose of a temporary victory on one issue in Kansas, and you break down the Democracy in the North, you put very soon in power a sectional party from the northern States, whose distinguishing motto is, 'No more slave States!' Democrats who love every part of our common country, and who are of that party because they believed that its creed acknowledged that the will of the majority, legally expressed, should rule, will be at a loss to reconcile the government of the many by the few as a part of their former catechism, and, as a consequence, will desert the ranks. The Democracy assembled at Leavenworth on the 24th, was of that kind which never swayed from the fundamental principle upon which all free governments rest; that government was instituted to produce the greatest good to the greatest number; and that, to be a free government, it must have the consent of the governed.

"Slavery alone has nothing to do with this question. Every domestic institution, including that of slavery, is involved; indeed, the birthright of every free citizen, his elective franchise is at stake. We shall be sorely disappointed and grieved if Congress disregards the will of the sovereign people of this Territory."

I have said he is an editor in Kansas, in favor of making Kansas a slave State; he is a member of the Democratic party there, and he tells you that the question of slavery is not the reason why the people of that Territory protest against having this constitution forced upon them. He tells you that it involves the question of the birthright of freemen, the right of suffrage, and that the attempt is to bury that right beyond the possibility of resurrection.

Let me turn the attention of the Senate now for a moment to the actual condition of that Territory when the President made that remarkable statement in his message. At a full, fair election, held in October, in which the people had participated in a body—not this small handful of Topeka men, but the great conservative majority of the people who protested against this constitution—they had elected a Legislature. That Legislature was in session at the moment when the President sent his special message here. Governor Denver, one of his own appointees, was then presiding as Governor of the Territory. Every mail and every telegraphic dispatch from the Territory, but heralded to our ears the declaration that all was peace; and yet, sir, the President tells that at that moment a majority of the people were in rebellion, assigning no other reason for this assertion than that they sought to keep alive the Topeka constitution. Now let me ask if ever a people, since the election in October, since even the promulgation of this great outrage by the convention that concocted it, proceeded with more careful consideration of their rights, or with more circumspect

regard to the Constitution and laws of the country in their efforts to relieve themselves from that gigantic fraud?

Mr. President, look at the election on the 21st of December. What do these resolutions tell you? What does the editor of that paper tell you? That the same system of frauds had been perpetrated. Did they undertake by force of arms to resist it? Not at all; but calmly and peacefully they assembled in their primary meetings and remonstrated against it, founding their remonstrances upon the right of the people to govern. The Legislature, although one third of it was elected in opposition to the free-State party, have unanimously sent us the following remonstrance against it:

Preamble and joint resolutions in relation to the constitution framed at Lecompton, Kansas Territory, on the 7th day of November, 1857:

Whereas, a small minority of the people living in nineteen of the thirty-eight counties of this Territory, availed themselves of a law which enabled them to obstruct and defeat a fair expression of the popular will, did, by the odious and oppressive application of the provisions and partisan machinery of said law, procure the return of the whole number of the delegates to the constitutional convention recently assembled at Lecompton; and whereas, by reason of the defective provisions of said law, in connection with the neglect and misconduct of the authorities charged with the execution of the same, the people living within the remaining nineteen counties of the Territory were not permitted to return delegates to said convention, were not recognized in its organization, or in any other sense heard or felt in its deliberations; and whereas, it is an axiom in political ethics that the people cannot be deprived of their rights by the negligence or misconduct of public officers; and whereas, a minority, to wit: twenty-eight only of the sixty members of said convention, have attempted, by an unworthy contrivance, to impose upon the whole people of this Territory a constitution without consulting their wishes, and against their will; and whereas, the members of said convention have refused to submit their action for the approval or disapproval of the voters of the Territory, and in thus acting have defied the known will of nine tenths of the voters thereof; and whereas, the action of a fragment of said convention, representing as they did a small minority of the voters of the Territory, repudiates and crushes out the distinctive principle of the 'Nebraska-Kansas act,' and violates and tramples under foot the rights and the sovereignty of the people; and whereas, from the foregoing statement of facts, it clearly appears that the people have not been left 'free to form and regulate their domestic institutions in their own way,' but, on the contrary, at every stage in the anomalous proceedings recited, they have been prevented from so doing:

Be it therefore resolved by the Governor and Legislative Assembly of Kansas Territory, That the people of Kansas being opposed to said constitution, Congress has no rightful power under it to admit said Territory into the Union as a State, and the representatives of said people do hereby, in their name, and on their behalf, solemnly protest against such admission.

Resolved, That such action on the part of Congress would, in the judgment of the members of this Legislative Assembly, be an entire abandonment of the doctrine of non-intervention in the affairs of the Territory, and a substitution in its stead of congressional intervention in behalf of a minority engaged in a disreputable attempt to defeat the will and violate the rights of the majority.

Resolved, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves.

Resolved, That the Governor of this Territory be requested to forward a copy of the foregoing preamble and resolutions to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from the Territory.

The men who were elected as State officers have also sent up their remonstrance. Individuals residing in the Territory are in this city, who are pro-slavery men, and who also protest against it. What does Judge Elmore, one of the members of that convention, and a slaveholding man, tell you? That the majority of the people of the Territory were resolutely against it. What does Dr. Stringfellow tell you? That he has been there for three years, and spent \$5,000 to make it a slave State, but that the people are irreconcilably against it; and yet, as the editor of the Leavenworth Journal, says the more certainly it is ascertained that a majority of the people are against it, the more determined seem some gentlemen to force it upon them. When a majority of the people of that Territory, under the organic act, have elected a Legislature, and that Legislature has peacefully assembled, peacefully remonstrated against this constitution, I ask, is it not an absurdity to say that that is a rebellion? Why, sir, what would have been thought of a man in the British Parliament, who, after the Declaration of Independence, the success of its principles, and the organization of this Government, should still have said that the American people were in rebellion? Yet, that was a revolution indeed. I

mention it only to show the absurdity of pretending that a people who have the government in their hands, by regular process of law, and are peacefully exercising it under the direction of a Governor appointed by the President and Senate, through a Legislature regularly elected, are in rebellion.

Again, sir, that Legislature passed an act for taking a vote on the constitution on the 4th of January. Did that look like resistance to the territorial government? Did that look like resistance to the constituted authorities of the United States? Was it not the last act in the power of the people legally to secure their rights? The constitutional convention had sought to place those rights under their feet. They had violated every principle of self-government. They had pretended to make a submission of the constitution to the people, and at the same time so submitted it that it could not be rejected; and the people peacefully passed a law by their Legislature, in virtue of which they, at the polls, proclaimed their objection to the instrument; and they did it by ten thousand majority. Does that look like rebellion? I said, Mr. President, that I might perhaps subject myself to the charge of being somewhat tedious on that point, not only in argument but in fact, but I do it because the President, taking the lead in these specious arguments, has brought the whole issue to turn upon the fact as to whether this is a peaceful and loyal or rebellious people. I think an inspection of the facts and reasons that I have thus adduced completely overthrow any such position.

The President says (and I only allude to it in passing) "that the Kansas act was an enabling act is too clear for argument." I think that statement would be well met by the insertion of one single word—"that the Kansas act was not an enabling act is too clear for argument." I might appeal to the majority of the Committee on Territories on this point, for they take that position in their report. If any man, when the Kansas-Nebraska act was under consideration in the Senate, had said that we were then passing an act for the purpose of enabling that Territory to form a constitution and State government, he would have been laughed at. Why, sir, the great dispute, and the only dispute, was what was the power of Congress to legislate for the Territories while they remained Territories? That was the only question. As I said upon a former occasion, strike the Kansas act from the statute-book, strike all other territorial acts from the statute-book, and let any man answer me if an organized people have not a right to form a constitution and State government, and ask to be admitted into the Union under it? Can Congress enable a people, when forming a constitution and State government, to say what sort of institutions and State government they will have? And yet, sir, strange to say, this comes from men who claim to be opposed to intervention!

Again: the President says, in connection with this subject, that to say to a people that, when framing a constitution, they shall have the right to organize their State government and adopt such institutions as they may deem proper, and at the same time to say that their institutions must correspond with the opinions of Congress, would seem to be a contradiction in terms. So it would; but Congress has never said so. The President interpolates the words "when framing a constitution." They are not in the act; and, as I said, it was not intended to prescribe any limits or confer any power in regard to framing a constitution and State government. It was singly and solely to settle a dispute, that existed in Congress and throughout the Democratic party, in regard to the limitation of the power of Congress over a Territory while it remained so.

Something has been said (and the President dwells upon that point in his message) about the regularity of the proceedings which called this convention and which made the constitution. I have said, upon a former occasion, that that very regularity was adopted for the purpose of a deception. For the first time in that Territory this idea of a census and registration was got up. Was there any new necessity for it? Who originated it? From whom did it come? It came from the very men who had introduced voters into that

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Territory, against right and against justice. It came from the men who had control of the officers who were to execute that law; and by prescribing these additional forms, they but added to the means of deception and fraud. They copied it after the Toombs bill, for the purpose of prosecuting an imposition upon Congress; but look at the difference between the bill of Congress, as it was to be executed, and the bill of the Territorial Legislature, as that was to be executed. My venerable colleague of that day, Mr. Cass, occupying the seat now occupied by the honorable Senator from Delaware, [Mr. BAYARD,] rose in his place and stated that he was authorized by the President of the United States to say, that if that bill became a law, the President would appoint the ablest and best men of the United States to act as commissioners; and in those appointments would do justice to every political party. That was the character of the commissioners who were to execute that act; but the bill of this Legislature was to be executed by sheriffs and judges of probate, who had been appointed at the hands of that Legislature—men whom they knew they could rely upon to assist them in practicing upon the people of Kansas this contemplated outrage; and the end fully justified their expectations. What was the result? That a part only of the Territory was represented in that convention at all.

Now, sir, I must say to my honorable friend from Missouri, [Mr. GREEN,] and the majority of the Committee on Territories, that I regretted, deeply regretted, two things in their report. I regretted to see that they saw fit to call the majority, the free-State people of that Territory, Abolitionists. I think it better, upon all occasions, to call political organizations by the name they take to themselves; but in this instance it is not the fact, as I have shown by documents already read at your table.

I regret, also, to see that they noticed in that report a statement, upon the topic I am now considering, from H. Clay Pate. Sir, we have all sorts of pates hold of this thing from the beginning; but I had hoped we might have escaped this Clay Pate. We are told that the potter hath power over the clay, to make one vessel to honor and another to dishonor; but the Senator from Pennsylvania [Mr. BIGLER] told us the other day that this Clay Pate was already made to dishonor. What does he say? What is the amount of his statement when you have done? Why, it is the statement of Mr. Wilson that two other men made a statement to him—mere gossip got up for the occasion. It is a mere statement of another person; but if it were all true, if you were to admit every word of it, still it leaves the fact that the people occupying one half of the counties of the Territory, be they more or less, had no right to vote at that election, and did not vote, because they could not get their names registered.

The President says that he is in favor of admitting Kansas under this Lecompton constitution, to carry out the great principle of non-intervention. I said that, when this controversy began, we knew the meaning of non-intervention and intervention. What are the facts? Here is a people remonstrating through their conventions, through their Territorial Legislature and Delegate, through their State officers—remonstrating by ten thousand votes, at the polls, against having this constitution forced upon them; and yet you say that to force it upon them is non-intervention! To take off your hands; to let this thing fall, a dead carcass; to leave these people, in the language of the Kansas act, perfectly free to regulate their own concerns in their own way—that they say is intervention! In the language of that editorial, to force this thing, and force it the harder the more you are satisfied the people are opposed to it, that, say the friends of this measure, is the quintessence of non-intervention! Was there ever anything more absurd?

The President says it will localize excitement; it will banish the question from the Halls of Congress, and produce peace within the Territory, and throughout the United States; the thing called excitement in this topic will be dead, he thinks. Sir, if this project could succeed; if that great birthright of American freemen could thus be violated, and this constitution placed upon the

necks of that people; when the President should come to look into the Territory, and when he should see the people in angry and sullen columns against it; when he should see there those portentous clouds of darkness which he thinks are hovering over the country; he might say:

" 'Tis Lethæ's gloom, but not its quiet;
The pain, without the peace of death."

He next tells us that this election on the 4th of January was a nullity. Is it true, sir, that the President of the United States instructed Governor Denver to see that that election was fairly carried out; that the people should have a right, peaceably and fairly, to vote on that day, against the constitution, when he intended to regard it as a nullity? What is the argument based upon this? We are told that the people of a Territory, in their legislative capacity, have a right, under the Kansas-Nebraska act, to proceed to form a constitution and State government. What did they do in this instance? They authorized an election of delegates to frame a constitution. Did they authorize them to do anything more? I am now speaking of the mere technical question involved. They authorized the delegates to frame a constitution to be submitted to Congress; but they never authorized the delegates to submit it to Congress; that is not found in the law.

But we are told, that if a people having done this should find that the delegates whom they have intrusted to effect this object have made a constitution obnoxious to them, that the power to reclaim any action over it is gone; that it is an exhausted authority; that although they had that power under the Kansas-Nebraska act complete, unlimited, yet, like the kite of the lad, the string is broken; it has passed from their control, and being whirled about by every gust of passion, lies torn and destroyed at their feet among the crags of technicality. What, sir! The delegate got an authority above and beyond all reclamation of the people, and this doctrine, at this stage of the world, a Democratic principle! The people authorize delegates to frame an instrument, to be called a constitution, just as you would authorize your attorney to make out a power of attorney for you to execute, subject to their inspection, control, and revision! But what becomes of that language of the Kansas act upon which so much emphasis is placed, that the people, in framing their constitution and forming and regulating their domestic institutions, have a right to do it in their own way? That declaration has been emphasized and italicized in messages, in speeches, and in political newspaper articles. It was "their way" peaceably to pass a law for an election on the 4th of January, and under that law to reject that constitution. Was not that "their own way"? Have they not done it? And yet we are told, that to regard that act as intervention in the affairs of the Territory. Admit, sir, if you please, that, upon legal principles, this election is a nullity, (and I make the admission only for the sake of the argument,) what then? It is an expression of ten thousand majority of the people of the Territory of Kansas against this constitution. It comes back to the position that I took in December, that a majority of the people being against the constitution, you have no power, under the authority conveyed to you by the Federal Constitution, to admit it into this Union, because "to admit," implies "consent to a request;" and unless the people request it, you have no authority to say yes.

But the President says this election involved a strange inconsistency. Mr. President, I ask your special attention to that argument. Just for one moment recall to mind the then condition of the people of Kansas. The President in his annual message had told them that if they did not vote at the elections that Congress would and ought to take it for granted that they consented to be bound by those who did vote. That annual message, we are told, was telegraphed to the Territory, and read by the direction of Governor Stanton to the Legislature, and published to the people. Therefore, before this election of the 4th of January they knew that the Chief Magistrate of this nation, with that power which belongs to a great man and is incident to his high position, intended to hold them by the voice of the people, as that voice might appear through the votes on the 4th

of January. There was a long and heated contest among the people calling themselves free-State people, whether they would vote at all or not at that election. Finally, it was resolved to do so, and about two thirds of them did vote. Now, what are they told by the President of the United States? That although under this declaration of his they voted by ten thousand majority against the constitution as a whole, yet because at the same time they voted for, and secured the election of State officers and members of the Legislature under it, the President tells them they have recognized its validity in the most solemn manner.

Why, sir, this reasoning not only carries us back to the days of Federalism, but it carries us still further back to the days of witchcraft. This is the law of witches. This is the law of their trial. The method, we are told, was to plunge the supposed witch into the stream. If she swam out she was a witch to be shot with a silver ball. If she died in the stream, she was no witch. Here is the same doctrine: if you do not vote at this election, I shall hold that those who do vote bind you; but if you vote, although you may vote by ten thousand against the constitution, yet I shall hold that you have admitted that it is a fair and valid constitution, and that you ought to live under it. That, I repeat, is the law of witches.

The President, as he thinks, having established the validity of this constitution upon the principles of right, proceeds, in his own language, to talk about principles of expediency, and in the outset he says that Kansas is as much a slave State now as South Carolina or Georgia. If that declaration had come from any other source upon earth it would not have been entitled to respectful consideration; but coming as it does from this distinguished man, occupying, as he does, this distinguished and responsible position, let us see what it has for its foundation. "Kansas is now as much a slave State as South Carolina or Georgia." And yet since that constitution was sent here and presented to Congress, or perhaps before it was presented to Congress, the President had appointed a Governor for Kansas. At the very moment when the President made that declaration, the Territorial Legislature of Kansas was in session, passing laws as a Territorial Legislature, not an officer was commissioned in that Territory who was not there commissioned either by the President or elected by the people under territorial law. There was not a State law in existence, not a State officer in existence, not the slightest semblance of a State; and yet the President tells us that it is as much a slave State as South Carolina or Georgia. Why, sir, it was not a State at all, much less one equal to South Carolina and Georgia. Was there a Legislature there? Who were they? Was there a set of State officers there? Who were they? The constitution itself expressly declares that neither the State officers nor the Legislature shall assemble, be qualified, or do any act until Congress has admitted Kansas under this constitution. In the face of all this, the President, in his message to the Senate, makes the solemn declaration, that it was then as much a State, and a slave State, as any State in this Union.

The true theory, in my judgment, applicable to constitutions formed in Territories, is this: whether in virtue of enabling acts, or in virtue of that right that lies with the people always, they are formed, but for a particular purpose. They are formed as the act of the Legislature authorized the delegates at Lecompton to form this one—a constitution to be submitted to Congress. It is an incipient movement for the organization of a State; but if Congress refuse it, it is a constitution no longer. Now, sir, take the case in hand. This Lecompton constitution itself, as I have said, declares that no State or legislative organization is to be had under it until after Congress has admitted the State into the Union. If Congress rejects the application, where is the authority to organize a State government? Sir, we ought to be amazed; the President himself ought to be amazed at such an unqualified declaration as that contained in his message.

But, sir, there is a more lamentable declaration than that connected with it. The President says that if Congress now rejects this constitution because slavery remains in it, it will be offensive to a

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portion of the States of this Union, will renew agitation, and produce incalculable difficulties. Sir, the people of Kansas do not object to this constitution upon that ground. The people of Kansas object to it, and I object to it, because it seeks to overthrow the great principle which lies at the foundation of this Government—the right of the people to govern themselves. That is the cause of the opposition to it. We go against it because it is not the voice of the people of Kansas; we go against it because it does not reflect the will of the people of Kansas. Sir, this is as offensive language to me, it is as offensive language to the majority of the people in Kansas, as it would be offensive to the President if I were to say to him that he seeks to fasten this constitution upon the people of Kansas because slavery remains in it.

I take the ground that from the commencement of these proceedings down to to-day, the object, intent, and meaning of the spirits who controlled the Lecompton convention, were deception and fraud. Why, sir, what says that constitution in regard to the return of votes? That constitution says that at both of these elections—that of the 21st of December, and that on the 4th of January—the returns shall be made within eight days to the president of the convention; and yet we have the testimony of Governor Denver, taken under oath, that on the next day after Calhoun counted these votes, he asked him how long he was going to continue to receive returns, and he told him he should continue to receive returns—mark it, Mr. President, mark it Senators, mark it the country—"until Congress has acted upon the constitution," although the constitution itself says that they shall be made within eight days. Well, sir, he has been receiving them. Mr. President, suppose you were a canvassing officer in your good old reliable State of Kentucky; that the returns were to be within eight days; and that at the expiration of that time you should take a boat and go down to New Orleans to canvass them, and then write back to the people in your State to know how the thing went, to see whether there had been false returns made: why, sir, you would be held in utter disgrace by every man in Kentucky. Yet this John Calhoun, surveyor general of Kansas, president of the Lecompton convention, resident of the State of Illinois, with a wife and family in Illinois, comes to Washington to canvass the votes of the election in Kansas! When inquired of what is the result of the election, he does not know. Eight days have gone by—thirty, sixty days have gone by—and yet he does not know what the returns are. He has written to Kansas to Governor Denver to find out. The people of Kansas know. They have appointed a committee; they have investigated the fraud at the Delaware Agency; they have ascertained that the whole thing is a gross and contemptible fraud. President Calhoun is in Washington, and does not know anything about it. I tell you, sir, if this course of proceedings was connected with any subject other than the base attempt to force upon a protesting people a constitution that they reject and despise, it would not be tolerated by any respectable man within the boundaries of this Union.

I showed, upon a former occasion, facts patent upon the face of the constitution of intended violence and fraud. The Senator from Pennsylvania [Mr. BIGLER] and the Senator from Indiana [Mr. PITCHER] wished me to wait. They said that large and dangerous powers had been conferred upon Mr. Calhoun, and they were solicitous to see how he would exercise them. I applied the old maxim, that you may know an Ethiopian by his skin, and a leopard by his spots, and he has not the power to change them. The man who had practiced the conduct that he did in the course of making that constitution, I said, would do anything and everything to effect his purpose; and I repeat, that he stands here to-day, in this city, I believe, (for I have never seen him in my life, to know him,) with the declaration, in violation of a plain section of that constitution itself, which required the returns to be made within eight days, that he is going to continue to receive them as long as Congress continues to act upon the Lecompton constitution.

The President says, that to the people of Kansas the only practical difference between admis-

sion and rejection depends on the fact of whether they can more speedily change their constitution or form another. In regard to this right to change constitutions, I shall speak by-and-by, when I come to allude to the argument of the Senator from Ohio; but for the present I propose to consider this declaration, that the only practical difference is, whether you have a constitution thrust upon you by force and fraud, or whether you may make one for yourselves fairly. Is there no practical difference so far as regards the people of Kansas? Is there no practical difference so far as it regards the safety of the States prospectively in this country? Is Congress prepared to say to-day that it is as fair, as wise, as discreet, regarding it as a practical question alone, to force a fraudulent constitution upon a people, as it is to let that people make one for themselves? With great respect for the opinions of the President, I utterly deny it.

I am happy to agree with the President of the United States in one declaration contained in that message. He says that if the Kansas act is fairly executed, it will allay all excitement. There is the principle upon which we can all stand. It is true, sir, eminently true; and I commend it to the President, and all who are seeking to enforce this constitution. Carry out fairly, justly, wisely, the principles of this Kansas act, and it will allay all excitement. Why? Not because it is the Kansas act; not because it is a law of Congress; but because it involves, in the language of the President, a principle as ancient as free government itself; it is no more nor less than the right of a people speaking for themselves fairly, honestly, and without interruption, or violent invasion, to say what sort of a constitution they will live under. There is the great panacea. There is the path to peace and harmony, not only in Kansas but throughout this Confederacy.

I listened the other day with great pleasure to a most eloquent speech made by the Senator from Virginia, [Mr. HUNTER.] He painted in glowing colors the destiny of this Government if we remained a Confederacy. He alluded to the fact that the great Powers of Europe were now assembled by their navies in the Eastern seas for the extension of empire; and by the way, as he seemed to think, of disreputable contrast, he said that the Senate of the United States were engaged in looking into frauds committed at the Delaware Agency in Kansas; and therein unwittingly that eminent Senator pictured to the Senate the great distinction between the nations of Europe and this American Republic. They, by the strong arm of power, govern their subjects, and extend their dominion. We, by silent, peaceful, but much more potential means, govern ourselves, and consequently extend our dominion, through the medium of the ballot-box. If there be any one thing among the institutions of this country which more than all others should be guarded by the utmost and eternal vigilance, it is the purity of the ballot-box, lest the great principle upon which this Confederacy rests be poisoned at the fountain, and that poison, passing through the arteries and veins of the Republic, shall ultimately reduce the whole to a shapeless, rotten mass. The Senator should have remembered how small agencies produce great results. He had seen the whole working classes of Ireland reduced to the very doors of starvation by a potato disease, the cause of which defies detection. He ought to have recollected there are small agencies that produce islands and continents. He ought to have turned to his own fields, and seen, after his skill and labor had grown up a hundred acres of beautiful grain, how a little insect, not the sixteenth of an inch in length, could destroy all the efforts of man. Sir, that statesman who undertakes to overlook small causes productive of such mighty and disastrous results as frauds at the ballot-box, will find but too late that he has no confederacy to maintain.

Much has been said, in the course of this debate, (as much is always said in the course of a debate involving even remotely this question of slavery,) and in a threatening manner, in regard to the continuance of this Confederacy. Extremes meet here, as they do in Kansas, as they do in these States. A long array of grievances is made out in one section of the Union, and thrown into the face of the other, as if peace and

harmony and good will among men could be secured and maintained by constantly taunting each other with their real or supposed defects. Sir, I know no difference between a family of States and a family of men, women, and children. Is there a man who can live a day harmoniously in his own family, unless he acts and talks kindly, and uses conciliation and love? Can brother and sister, husband and wife, go even to the altar of God in peace, if they constantly taunt each other with the defects incident to their nature? Can great States of the American Republic exist, the pride and admiration of the world, the security of the greatest liberty to men, if the time of their Senators, their Congressmen, their statesmen, and their orators, is consumed in thorning the sides of each other? Sir, but a few days ago numbers of the most distinguished of the American people assembled in a neighboring city to see an equestrian statue of the great Father of his Country unveiled; and upon that occasion, I take pleasure in saying, the Senator from Virginia [Mr. HUNTER] pronounced an oration, of which any orator of any country might well be proud. I could but think, sir, when some of these exasperating statements were being made in the Halls of Congress, that if it could be permitted to that great patriot to rise and unveil himself here, every one of these men, like Saul when journeying to Damascus, would by the great light of his countenance be bowed down in silence.

I claim not any excellence of conduct on this subject. God forbid! My theory upon that subject, my creed, which I imbibed in my youth and shall carry with me to my grave, is found in the Farewell Address of that great man to his countrymen. I shall cling to this Confederacy, regarding it as the sheet-anchor of hope for all the people of all the States; supporting it with whatever ability I possess; never uttering a word against it, nor thinking or believing that it can, in any contingency, be destroyed; and, so far as my action and my vote go, frowning indignantly upon the first dawning of an attempt to array one section of this Union against another.

Sir, the Senator from Georgia [Mr. TOOMBS] brought forcibly to our recollection, the other day, some of the great controversies through which we have passed. He spoke of those men living in the non-slaveholding States of this Union, who, to use his language, had fought gallantly for the rights of the South clear up to the columns of the Constitution, although many of them, he regretted to say, had fallen by the way, and he said that he honored them. Mr. President, it was a just and beautiful eulogium, ably pronounced. It is true. That great light of patriotism, which sprang into existence at Bunker Hill and culminated at Yorktown, passes this day, with electrical force, not only among the northern, but the southern people. Alike do they love and embrace the great principles of the American Constitution. Shoulder to shoulder, it is true, we have fought the battles incident to discussions of that instrument clear up to its columns. True, sir, too lamentably true, some of the ablest of our soldiers have fallen by the way. But now that the battles for those great principles have been fought, that the victory is won—when we come now amid the giant columns of that Constitution, to overlook the ground and reap the fruit of the victory, what do we see? Where are some of our southern companions in arms? Stuck in the first hedge, sir, dragging a miserable, unsightly corpse along, labeled "John Calhoun's Lecompton contrivance," based upon a miserable technicality, and steeped in fraud and corruption. Let us be met as we meet our friends. In the language of the President, let the Kansas act be fairly executed; let the people of Kansas make a constitution in their own way; let that be presented, and all will be peace.

Sir, there have been grave misapprehensions, (and doubtless some of them exist yet in the country) about this subject. There have, also, been painful apprehensions as to the result of this controversy. As to the latter, I am free to say I never entertained them. Believing that truth is mighty and will prevail—believing that under the guidance of that great principle, fairly and honestly sustained, which sprang into form when our ancestors achieved their independence, and which

has since had an existence, and maintained this Government till to-day—these States will go on to cover a continent and a Cuba. I have had an abiding confidence that this monstrous fraud would be by Congress rejected, and I believe it to-day. It has received the condemnation of some of the oldest and ablest men upon this floor. The great Senator from Kentucky, [Mr. CRITTENDEN,]

"Whose head is silvered o'er with age,
And long experience makes him sage,"

has raised his gigantic arm, and struck it a most fatal blow. Sir, was there ever a time in the history of this country, when a great emergency existed, that Kentucky had not men to meet it? The distinguished Senator from Tennessee [Mr. BELL] has also wielded his battle-ax, and given it a finishing stroke. That gallant State, whether at New Orleans, or elsewhere, has always had a representative to crush the enemies of the people.

Sir, the time is not far distant when there will be peace in Kansas and in the country. The time is not far distant when the people of the whole Union will understand that such contrivances as these, when presented to an American Congress, cannot fail to receive most ignominious destruction. I congratulate Congress and the country that that event is near at hand. If asked what is to be done when you reject this deformity, I answer, in the language of the Kansas act, leave the people perfectly free to form and regulate their institutions in their own way. Sir, they are doing it now. This Legislature which has been called so rebellious has pursued the peaceful and only means of presenting such a constitution here as embodies the will of the people.

Mr. President, I have detained the Senate long enough. I said to you in the outset, as I said in December last, that I rose simply to use whatever of ability and power I possessed to secure to the people of Kansas that privilege which they, alike with all others within our borders, possessed of framing a constitution embodying their will. I said that the controversy was in defense of that great principle, and I was willing to stake my reputation upon its success. Gratified am I, then, when I can congratulate the country on so near an approach to its complete success. In a few days, we can herald to the people of this Union that, although feeble, few in numbers, but steady in purpose, the men in Kansas, whether for free State or for slave State, have had their rights secured to them in the legislative halls of the nation; that Lecompton is dead, and the people of Kansas are free. Sir, to have been a participant, however humble, in this great work, is a sufficient consolation to me.

If the Senate will pardon me for a few moments, I will look into a question that has been brought distinctly to the notice of the Senate by the Senator from Ohio [Mr. PUGH] and the Senator from Indiana, [Mr. BRIGHT.] I read from my speech to show that the Senator from Ohio was entirely mistaken when he supposed that in December I considered at all the effect of that provision of the constitution of Kansas which limits or seeks to limit the right of the people to change it. I will trouble the Senate but for a few minutes to submit my views upon that question.

I agree, Mr. President, that there is fair ground for debate as to the effect of the limitation—that is to say, whether it is a limitation until 1864, the language being, that after 1864 the constitution may be changed in a manner therein provided; but I state, as the inclination of my own mind, that when a constitution provides a mode of amendment as to time, place, and circumstance, its fair construction is to exclude all others. But the argument of the Senator from Ohio does not stop at that. He says that no matter what may be the limitations in a constitution, the people have at any and all times the right by legal proceedings to overturn it. To my mind, with great respect for the opinion of the Senator, that position involves a very great absurdity. If he will take the ground that the people, without resort to legal means, have the inherent right to do it, and confine it to a revolutionary right, there will be some consistency in his argument. But by what authority does a Legislature pass a law which is prohibited by the constitution which brought them into existence, and from which alone they possess

the power to legislate at all? Can that question be answered? I think not.

The Senator read from the Declaration of Independence, which everybody knows was a grouping together of revolutionary rights, to prove the existence of a legal and constitutional right. Mr. Jefferson and his compeers there embodied those great revolutionary principles which, in their judgment, authorized them to rise, and, by the power of arms, to resist and throw off the power of the British Government; and yet, a Senator, a man learned in the law, reads from the Declaration of those principles to prove an existing constitutional right to be exercised under the forms of law. Why, sir, we have always understood that a law which violated the constitution of a State was a nullity—was no law; and yet, it is said that if the law seeks to overthrow the constitution itself, then it is valid. Well, sir, that would be an easy way of settling a controversy. If, at any time, under any causes of excitement in a State, there should be a controversy among the people as to whether a great bank or anything else should be established, and the minority of the people should point to the fact that the constitution inhibited it, the majority could say, "Very well; we will wipe it out." And yet it is said by the honorable Senator from South Carolina [Mr. HAMMOND] that constitutions are made to protect minorities, which is true; although I cannot agree with his other conclusion that, therefore, minorities ought to make them.

The Senator from Ohio read (and I confess I was amazed at it) from the great argument of Daniel Webster, made in the Rhode Island case, to prove this position. Without looking into the case, a man would know that that could not be true of him. Daniel Webster was arguing that side of the case in Rhode Island which denied the right to change the government; and to suppose that in that argument he proved the contrary would be to suppose what no man would ever imagine who knew Daniel Webster. But on the very page from which the Senator read in that argument, Mr. Webster states his opinions distinctly:

"One principle is, that the people often limit their government; another, that they often limit themselves. They secure themselves against sudden changes by mere majorities. The 5th article of the Constitution of the United States is a clear proof of this."

And yet the Senator declares that the people have a right at all times, without regard to its limitations, to change their constitution, and he calls into his use the great authority of Daniel Webster to sustain that position. Sir, if any man in the presence of Daniel Webster had uttered such an idea as that, and he had turned that immense brain towards him, and given him one look of that immense eye, he would have annihilated the argument, if he did not annihilate the man who uttered it. He never entertained any such notions or opinions as those.

But, says the Senator, (and I mean to be short on this point,) we are the veriest usurpers upon earth ourselves if there is any necessity for submitting a constitution to a vote of the people, because the Constitution of the United States was never so submitted. Now, sir, let us see how a plain tale shall set the honorable Senator right. The 7th article of the Constitution says:

"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

The Constitution itself provided that it should be ratified by the conventions of the States, and a vote by the mass of the people would not have been a compliance with its provisions.

But the Senator says it is not necessary to have any constitution at all in order to admit a State. Well, sir, I read that as a part of the proceedings of a meeting in Tammany Hall, and when I took into consideration the place where it was uttered and the man who uttered it, I confess that it did not surprise me; but that here in the Senate of the United States an honorable member, of the intelligence and ability of the Senator from Ohio, should say that it is not necessary in introducing a State into this Confederacy to have a written constitution, did surprise me. The Senator says that you are under an obligation by the Constitution itself to guaranty to each State in the Confederacy a republican form of government; and therefore

he says it is your duty, and your only duty, to see that the constitution presented by the State asking for admission is republican in its form. Well, sir, if it is not written, how are you going to find it out? That is the question. If it is not a written constitution, and you are called upon to say whether it is republican in its character or not, are you going to send to John Calhoun and Jack Henderson to take affidavits? Are you going to send out a congressional roving commission to ascertain what it is? If you do, how long do you think you would have to remain here to hear the evidence; and how do you think that evidence would correspond when you come to get it here? Why, sir, with this Lecompton constitution written, there is a very serious dispute as to its effect. I have contended, and it has been contended by men as distinguished as any in this country—the present Governor of Virginia contends—that patent upon its face it is anti-republican, because it says that the constitution shall be submitted to the people for ratification or rejection, and that it shall take effect only after that submission; and yet it submits it in such a manner that it is impossible it can be rejected. Well, sir, I agree with Governor Wise that that is wholly and totally anti-republican. By a mere trick, a mere contrivance, to say to the people, "we submit to you a question for adoption or rejection, and yet fix it so that you cannot reject it," is anti-republican; worse than that, it is the trick of a knave.

I confess I was somewhat amazed at the argument of the honorable Senator on this branch of the case. He took up the constitution of Minnesota, and he read there that when the people of Minnesota voted upon the adoption or rejection of their constitution, every man was bound to put his vote upon the same ballot on which he voted for State officers. There, he said, was a perfect answer to the argument that there was any objection to the Kansas constitution. In other words, if you are defending a man for murder, it is a perfectly good defense to show that another man has also murdered, that you might have got two culprits instead of one; and that is a sound argument, and would be a perfect defense! When you come to look into the Minnesota constitution, you find that it was perfectly in the power of the people of Minnesota to reject that constitution. All there was about it was this: there were two parties in Minnesota, as there are everywhere else; they were voting for State officers, at the same time they were voting upon the constitution; and the members of the convention said, and said wisely, (if my opinion might be permitted there,) that they would not have a separate ballot, with constitution or no constitution, but they would have it on the same ballot with that for officers. If a majority of the people of that Territory wanted to reject the constitution, there was nothing in their way. In this Kansas election, however, it was out of the power of the people to reject the constitution. If only three men voted for it, it must be adopted; and yet the Senator, somewhat with a look of triumph, brought this argument to our consideration.

Now, sir, as to this idea of amending constitutions, he amused and edified us for a long time with ancient authorities to prove that the power that makes the law, can unmake it. He read us a great deal of ancient Latin and mongrel French to prove what he could have proven upon the avenue any day by the first man, woman, or child he met, that the legislative power that makes a law can unmake it. There is no doubt about that. We do it every day. Therefore, he says, there is no difficulty in amending a constitution any day, although the constitution itself says you shall not do it. Now, let me test the Senator's principle with reference to the Constitution of the United States. The Constitution of the United States points out a mode of amendment. Does any man pretend that it can be amended in any other way? Is there a man in the United States who dares stand up and say that the Constitution of the United States can be amended by a vote of the people?

But, further, the Constitution of the United States says that it shall never be amended so as to affect the right of representation in this body of each and every State. I commend to the consideration of Senators here the question, are you

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prepared to admit a doctrine which, carried out, will give to a majority of the people, or a majority of the States of this Union, the right to take from the small States the equality of representation in this body? I have heard some men say that could not be done, because this Constitution is a compact, it is an agreement. Well, sir, did it ever occur to you that a constitution is above an agreement? A constitution is that form of organized society which ranks all others. If a constitution prescribes that a certain amendment shall never be made—like this provision of the Constitution of the United States, that an amendment shall never be made to it to deprive the small States of the equality of representation in this body—I ask, is there any other power on earth to change it? I think not. It would require the consent of every State to be thus affected, or it cannot be done. Why? Not because it is a compact; not because it is an agreement; but because it is an inhibition in the Constitution itself, and because that instrument itself declares its own intent and effect; which is, that it is supreme within its sphere above all other constitutions and laws. As I said upon a former occasion, I do not refer to this provision in the constitution of Kansas for the purpose of discussing its validity, at all. I mean that provision of the constitution which prohibits any change of it to affect slave property. I declared at the time that I did it for the purpose of showing the intended fraud upon the people; the attempt to do what it was unjust to do; that is, to take from them forever all control over that or any other question of State policy.

But the Senator thought he had found another very specious argument in the language of that constitution. I should not have referred to it, but for the fact that the Senator really undertook to ridicule the view I or anybody else took. He seemed to think it a most ridiculous thing that anybody should suppose for an instant that that provision of the constitution of Kansas had any validity or force; and he said this is the principle: the constitution of Kansas simply intends to say that the slaves who are now in Kansas shall continue to remain in that condition as long as they live, but that there shall be no effect upon their issue. Now, Mr. President, let us see whose argument ought to be ridiculed, the Senator's or mine. Here is the constitution of Kansas, establishing slavery, as we all agree; it is in that form before us; it provides a means and a time for its own amendment, but it declares that no amendment shall ever be made which shall interfere with the right of property in slaves. Now, I ask the Senator from Ohio, what is the right of property in slaves? Does he tell me that it is only to them while they live? Is that the only right to property in slaves? Does not the right of property in slaves give to the owner the right of property in their progeny? Does any man deny that?

Mr. BAYARD. I do.

Mr. STUART. The Senator from Delaware says he does. Well, sir, I shall hear him, when he explains that question, with interest. I know his ability; no man respects or admires it more than I do, as I trust my honorable friend knows; but with this constitution adopted, if the right of property in slaves in Kansas is limited to their lifetime, then it will be a doctrine new to me, and will only add another reason why there never should have been any wish on the part of southern gentlemen to have it adopted. Most completely and fully do I agree that there is a distinction between the right of a State to emancipate a slave, and to declare that his progeny born thereafter shall be free. That is a distinction well defined, clearly understood; but you must declare that intention in unmistakable terms. You must limit the right. You must say that the right to property in slaves shall be limited to their own existence, and shall not extend to their progeny; but when you say the reverse of that, when you say that the right to property in slaves shall in no manner be affected, then you declare its permanency as long as issue shall be born.

The Senator from Vermont [Mr. COLLAMER] has placed in my hands, and I recollect it very well, the first section in this article upon slavery, in which it is declared:

"The right of property is before and higher than any con-

stitutional sanction; and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

Adopt that constitution; let that be the organic law of Kansas, and couple with it the other declaration that it shall never be amended so as in any wise to affect the right of property in slaves; and I should like to know if it does not cover their increase?

There is one other topic to which I ask the attention of the Senate for a moment, and that is the amendment of the Senator from Ohio. It is in these words:

"Sec. —. And be it further enacted, That the admission of the States of Minnesota and Kansas into the Union, by this act, shall never be so construed as to deny, limit, or otherwise impair, the right of the people of the said States, with the assent of their Legislatures, severally, at all times, to alter, reform, or abolish their form of government, in such manner as they may think proper, so that the same be still republican, and in accordance with the Constitution of the United States."

I call the attention of the Senate to that amendment for two reasons. In the first place, if that amendment is to have any operation at all upon the constitution of Kansas or Minnesota, then I want to ask the President and the friends of this measure if it is not intervention? I want to know of them if it is not intervention in its most obnoxious form that Congress by any power of its own can undertake to say what shall be the limitations contained in a State constitution? I commend that to the consideration of those States who think they are in a minority in this Confederacy. I commend to the Senators and Representatives from those States, are you prepared to say to-day that Congress possesses the power to pass a law to clothe your people with a right of action different from your State constitution? I say if it is anything it is intervention in its most obnoxious form.

But, sir, we are gravely told by the honorable Senator who presented it, that it is not anything. He tells you that he has been groping away back, beginning at the very dawn of Christianity, to prove that the amendment which he has introduced does not amount to anything at all. I think he has been completely successful. I think he has proven, beyond the power of contradiction, that nothing in an act admitting a State into the Union should be, or can be, construed to impair the right of the people to change their constitution. He might just as well have said, nor shall it impair their right to plow before or after the 1st day of April. There is nothing in the law of Congress which proposes to impair or limit that right. It simply admits them into the Union. It does not profess to say a word—it could not say an effective word if it did—as to the right of that people to change their constitution. The extent of the power of Congress under the United States' Constitution is to admit the State. The Senator says, "if I am asked why I presented this nothing here, I will tell you, sir: 'it is to put down clamor;'" in other words, "I have looked around among my compeers in this body; I have come to the conclusion that they do not know what the meaning of this law which we are about to pass is. I have concluded that they are a mere set of infants. They have some vague notion that the people of that Territory, when they come to be admitted under this constitution, may be hampered in their legitimate rights to amend it; but it is such a confused notion that they do not comprehend its meaning; and I have a little sugar pill here—it does not amount to anything, it is not anything—but to stop their clamorous mouths, I am going to drop that pill on their tongues and let them swallow it." So far as I am concerned, I am profoundly obliged to the Senator for the very great labor he has been at to produce nothing. It amounts to nothing, and for that reason I shall vote against his amendment. If it is anything, I am against it. If it is not anything, it shall not receive my attention and vote.

Now, Mr. President, the Senator from Indiana, [Mr. BRIGGS] with I confess some words and some manner which I thought not exactly proper, has advocated the doctrine, not only of the Senator from Ohio, but he has proclaimed here to the Senate of the United States, and to the country, that he is opposed to the submission of constitutions to the people at all. I will consider first his reasons; and, in the next place, his doctrine. I had heard it said by others, that there was no dis-

tinction between submitting a State law and submitting a State constitution to the vote of the people. Why, sir, the constitution of a State, which brings into existence the legislative body, points out expressly, and defines accurately, how the legislative authority of a State shall be exercised. When a bill is introduced into one House, passed by a majority, goes through the same proceedings in the other, and receives the sanction of the Governor, the people, in their constitution, have declared that it shall then be the law. They declared, in that same constitution, that the legislative authority of the State shall consist of a House of Representatives and a Senate, to be elected by the people. The legislative authority of the State, therefore, rests in that Legislature, and nowhere else. Hence, I have contended, when these questions have arisen in the course of legal investigation, that for the Legislature to submit a law to a vote of the people at large, and make its existence or non-existence depend upon that vote, is unconstitutional. That is my belief to-day; and I agree with the Senator from Indiana, when he says that that is the better legal authority this day of the country; and those are the reasons. The people have taken away the legislative power from themselves *en masse*, and have deposited it in a legislative body created by the constitution, and that is the only body that can exercise legislative power.

But, sir, a constitution (that instrument which the people, being unable to make *en masse*, appoint delegates to draw up and to be submitted to their inspection and adoption) rests upon an entirely different principle. It rests upon the principle by which you employ an agent or attorney to make out your deed. You do not empower him to execute it. He has only to make it out, to put it in form, and submit it to your inspection. And, upon this point, sir, let me show what was the policy and reasoning of the Administration, as stated in their organ, the Washington Union, in June and July last. June 26th, the following article appeared in that paper:

"When the delegates thus chosen shall have completed the business for which they shall have assembled, to wit: the formation of a constitution, there will remain but one question for further division and distraction, and that question will be: Is the constitution thus formed and approved by the people of Kansas, and does it reflect their will on the question, not only of slavery, but upon all others? If it does, every one will say that with that constitution, whether slave, free, or silent on that point, she should be admitted as a State. If it does not, then no one will pretend for a moment that a constitution condemned by a majority of the people should be forced upon them, no matter under what forms and by what authority adopted. Granting the correctness of the proposition just stated, we ask how can that fact, so important to be known, be ascertained? We will not say that there is no other mode of ascertaining it, but we will say that the most satisfactory and conclusive evidence that the constitution is approved by the people, will be the ratification of it by them at the polls. To those who object to the submission of the constitution to the people for ratification, we propound the inquiry: Are you willing to abide the decision of the *bona fide* citizens of Kansas? We put the inquiry, because, upon looking into the complaints of those who oppose this course, we discover what appears to be an unwillingness to submit to the decision that a majority of the citizens of Kansas may pronounce. To that class of fault-finders we have no argument to offer. Our reasoning is addressed alone to the advocates and defenders of the great principle of the Kansas bill—to those who intend, in good faith, to stand by their principles, whether it works out a favorable or unfavorable result to their personal views and wishes."

And on the 15th of July the following:

"But there is another and stronger reason for the submission. The delegates are mere agents for framing a written instrument. To make their act conclusive would be constituting them the masters instead of the servants of their principals."

"No prudent business man confers an irrevocable power of attorney where he retains an interest. In the business of life no intelligent man consents to be bound by a written instrument, prepared even by his trusted legal adviser, without reading and subsequent approval. The principal best knows what he wishes, and, when completed, he alone can tell whether his intentions have been fully complied with. Under the Kansas law, the delegates, as agents of the people, are simply clothed with power to prepare a draft of a constitution, but they are not authorized to say that their principals shall be bound by what they do. The agent can exercise no personal views of his own, but is bound to conform to the wishes of his principal. No conscientious agent will hesitate or refuse, when he can do so, to submit his doings to his principal before attempting to bind him by his acts. Such an agent would naturally desire the previous approval of what he had done, if right; and if wrong, to allow the principal an opportunity of correction before becoming finally bound. If the pressure of circumstances has, in rare instances, occasioned a different precedent, it is certain that none exist in Kansas which authorize, and much less demand, that such precedents be followed. The

refusal by the convention to submit the result of their labors to the people might well raise a suspicion, if not a strong presumption, that they doubted whether they had so performed their duty as to meet the will of their constituents.

"If they desire to be certain that their labors conform to the wishes of the people, after they shall have read the arguments for and against the parts and the aggregate of their work, and formed their opinions thereon, they will not fail to afford them the most ample opportunity to do so. During the last seventy-five years, numerous State constitutions have been framed; and, with few exceptions, they have all been submitted to the people for adoption or rejection. Our national Constitution, when framed, was, through the several States, submitted to the people. So obvious was the propriety of such submission in the present case, that the President instructed the territorial Governor to protect the people when voting for or against its adoption. Under his instructions, both Secretary Stanton and Governor Walker have pledged such protection; and, until recently, and in a few quarters, no one has questioned the propriety of such submission, while its wisdom is too apparent to be doubted, where the will of the people is the acknowledged source of all power."

Mr. President, I commend to the consideration of gentlemen who take this view of the case, that the people have a right to change their mind even after the constitution is made out; just as you would have a right to change your mind after the power of attorney is framed by your agent, and conclude that they will not execute it. They may conclude thus for any reasons of their own; and so far from agreeing with the honorable Senator from South Carolina that there is a distinction on this question against a Territory as compared with a State, I insist that the distinction is in favor of the Territory, and for the very reason that the Senator alleged. Those who are the people of a Territory to-day may not be the people of the Territory six months hence by one hundred thousand; and yet, if six months hence a constitution is to be put into operation, that additional hundred thousand is as much to be governed by it as the twenty thousand who have framed it. Hence, from that very fact, from the very character of the population of the Territory, I say that it ought to be laid down as a general rule by Congress (and in this I agree with the President of the United States in his annual message) that in a Territory the constitution should in all cases be submitted to the people.

This brings to my mind a fact, which but for this line of argument, I regret to say I should have omitted. The President says that this convention, in virtue of the organic act, was bound to submit to the people the question of slavery. They were bound by the organic act he says to submit the question of slavery. What are the words that bound them? What are the words in that act that bound the convention to submit the question of slavery to the people of the Territory. Were they those words which left the people perfectly free to form and regulate their own domestic institutions in their own way? If so, it uses the language "institutions;" and that certainly means more than one. If that clause bound them to submit the question of slavery, it equally bound them to submit all others. But, Mr. President, this is only another instance of the strange inconsistencies which from time to time have been presented to the American people to induce them to sanction this unhallowed movement.

Sir, the Senator from Indiana has made this declaration: that constitutions, as a general rule, should not be submitted to the people, in the face of the expression of two conventions in his own State, held within the last four months. That convention, which he and his colleague say represented them and their friends, passed a resolution declaring that all constitutions thereafter or "hereafter" made in a Territory should be submitted to the people for adoption. The convention which subsequently assembled did the same thing in unqualified terms. There was no question in regard to the doctrine laid down by the first convention, except as to its relation to this now pending subject. But the Senator will find, that not only the people of Indiana, but the people of every State in this Union, will repudiate that ancient doctrine of Federalism. Whenever he goes before the people, and undertakes to tell them that the delegates they have appointed to be a convention are placed above and beyond them, that the opinions of those delegates are wiser and better and purer than the power that made them, he will be very apt to hear from that people the language, "Depart from me; I know you not." Sir, the

people of this Union (I care not by what denomination you call them) would never agree to a doctrine which takes from them the power to govern themselves—never. They do not believe in immaculate agencies. They do not believe that anybody is made by the grace of God, booted and spurred, to ride over and govern them. They believe that the independent private citizen, in the majesty of his own constitutional power, is one of the recipients of all authority—placed in his hands not by the power of a convention, but by the great Creator who made him. That is the reason why the people, in this Government, are the source of all power. It is because they are in the image of God, and possess an intellect graciously vouchsafed by Him to them. Knowing their rights, they have the ability to execute them. Clothed with those rights, and knowing them, they will execute them despite the efforts of all other sources of power, come from where they may.

Mr. BAYARD. Mr. President, the questions involved in the debate upon the admission of Kansas into the Union as a coequal State have been so thoroughly and ably discussed upon both sides, that I have hesitated whether I should take part in it, and at one time had abandoned all idea of so doing. Subsequent reflection, however, has satisfied me that it is a duty which I owe as well to my immediate constituents as to the country, to assign the reasons which will control my vote; for though no one can suppose that any vote in this body will be affected by the debate, yet if the views I have to present may perchance change the adverse opinions or remove the lingering doubts of a single citizen as to the propriety of the admission of Kansas under the Lecompton constitution, I shall feel that I have not spoken in vain.

Besides, sir, I am a believer in the capacity of the American people for self-government, and hold that it is by discussion—full, frank, and ardent discussion, if you will—addressed to the intelligence, and not to the passions of the people, that a Republic must be sustained.

In this stage of the debate, I shall endeavor to confine my remarks to those matters which I deem material to the decision of the immediate question before the Senate: whether Kansas shall be admitted as a State under the Lecompton constitution, or whether that constitution shall be rejected, and the people of Kansas be suffered to remain under the territorial government? There are two classes of opponents to the admission of Kansas. One consists of the Republican party, with whom the real and vital objection is that her constitution tolerates slavery; and therefore, irrespective of any other objection, as it is a cardinal rule of their political faith that in the future no slaveholding State shall be admitted into the Union, they object to the admission of Kansas. The second class consists of Senators who have hitherto acted with the Democratic party—fortunately but few—who, disclaiming any objection to the admission of Kansas on the ground that her constitution tolerates slavery, hold that it was adopted in violation of the principles of the Kansas-Nebraska bill, and that, in its mode of adoption, the great principle of popular sovereignty was violated.

Now, sir, there are three rational grounds, if sustained, (and a fourth question may be added,) which would form valid objections to the admission of Kansas or any other Territory as a State. The first objection is, the want of sufficient population; the second, that the constitution is not republican; the third, that it is not the result of the legally expressed will of the people. To these I would add a fourth question: whether the admission or rejection of Kansas will be most conducive to the interests, the peace, and the prosperity of the Federal Union? On the first two grounds no objection is made. The sufficiency of the population of Kansas has been either admitted or waived throughout the debate. As to the second, it will scarcely be denied that the inchoate State has presented a constitution republican in form. The third ground, whether this constitution is the result of the legally expressed will of the people, presents most of the points of contest except those which arise from the determination on the part of the Republican party in future to admit no slaveholding State into the Union.

In considering this third ground, we must look first to the power of Congress over a Territory acquired for the common benefit of the people of all the States. I do not doubt as to the extent of their authority, nor do I mean to enter into any discussion as to its origin. I am satisfied to accept it as it has been hitherto exercised. Since the origin of the Government, Congress has always exercised the right to dispose of the soil, to permit or restrict its settlement by the citizens of the country, and to organize territorial governments where the settlement was permitted, with a view to the formation of future States; and in the exercise of this authority, Congress, in the early stages of the Republic, delegated to the people of the Territory the power of self-government more sparingly than has been the usage in later days.

Formerly, many of the Territories were governed by the judges and Governor; in others, there was an Assembly who were allowed to nominate members of a Council, to be appointed by the President of the United States, and the two together, with the Governor, governed the Territory. In some cases, the Governor had an absolute veto on the acts of the Legislative Assembly. In others, the laws were required to be submitted to Congress for approval. This was the earlier course of action in the delegation of power by Congress; and I admit that, whilst the people occupy a Territory of the United States, their right of government within the Territory is a delegated right.

Gradually, in accordance with the spirit of the institutions of this country, Congress has enlarged the popular control over the government of the Territories, in their territorial form, until finally, in the Kansas-Nebraska bill, nearly full powers of government were delegated.

In the true construction of that bill, and drawing the intent of Congress, not from the views which might have been entertained by individual legislators at the time of its passage, but from the language used by the Legislature as expressive of their intent, the conclusion seems irresistible that its provisions delegated to the people and Territorial Legislature of Kansas all the powers that we could constitutionally exercise in the Territory; except those which are expressly excepted in the act itself. Subject to the Constitution of the United States, and the express exceptions of the act, all powers of legislation are vested in the people of Kansas, through their Territorial Legislature.

I am aware that the objection is made—I believe in the paper presented by the Senator from Illinois [Mr. Douglas] as the views of one of the minority of the Committee on Territories—that, without an express authority from Congress, the Territorial Legislature, with the assent of the people, have no right or power to prepare the Territory for admission into the Union as a sovereign State; and secondly, that they cannot at their own will and pleasure resolve themselves into a sovereign power, abrogate and annul the organic act and territorial government ordained by Congress, and establish a constitution and State government upon their ruins, without the consent of Congress. I differ with him as to the law on the first ground. I admit fully the doctrine stated in the second, but deny its application to Kansas, or that there has been any attempt to subvert the territorial government without the consent of Congress. That I may do no injustice, I will read from the views of the Senator from Illinois at page 62 of the document containing the report of the committee and his minority views. After citing the authority of the Attorney General of the United States under the administration of Andrew Jackson in reference to the territorial organization of Arkansas, he says:

"Thus it appears that under the administration of General Jackson, the doctrine obtained, and I have never heard its correctness questioned until the present session of Congress, that a convention assembled under the authority of a Territorial Legislature, 'without an express authority from Congress,' had no right or power to prepare the Territory for admission into the Union as a sovereign State, and thereby abrogate or impair the authority of the Territorial Legislature over all rightful subjects of legislation consistent with the organic act."

In support of this doctrine, he makes quotations from the opinion of Mr. Butler, then Attorney General of the United States. I shall read two

clauses of that opinion, to show both the terms of the act upon which the opinion was given, and the conclusion at which the Attorney General arrived; and shall then endeavor to show there is a broad distinction in the delegation of power between the authority delegated by the United States to the people of the Territory of Arkansas, and that which is delegated to the Territory and people of Kansas by the Kansas-Nebraska act. In the "Opinions of the Attorney General," volume 2, page 728, on "The right of Territories to become States," this is the language of Mr. Butler:

"The act providing for the government of the Territory of Missouri, approved June 4, 1812, and which is adopted in the laws relating to Arkansas as defining the powers of the legislative department, declares 'that the General Assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of said Territory, not repugnant to, or inconsistent with, the Constitution and laws of the United States.'"

This gives the language of the act establishing a territorial government for Arkansas. The conclusion at which the Attorney General arrived upon the authority delegated in such terms, is to be found at page 732, and it is:

"No law has yet been passed by Congress which either expressly or impliedly gives to the people of Arkansas the authority to form a State government. For the reasons above stated, I am, therefore, of opinion that the inhabitants of that Territory have not, at present, and that they cannot acquire, otherwise than by an act of Congress, the right to form such a government."

Now, Mr. President, what are the provisions of the Kansas-Nebraska act? The delegation of power to the Territorial Legislature of Arkansas was that they might make all laws, both civil and criminal, for the good government of the people of the Territory, not repugnant to, or inconsistent with, the Constitution of the United States. When the Kansas-Nebraska bill was passed, every one knows that the great object of extending the powers of the Territorial Legislature was that the agitating question of slavery might be withdrawn from the Halls of Congress. It may have failed in effecting that object, but the failure does not alter or affect the intent and construction of the law. The Kansas-Nebraska bill, in the nineteenth section, after describing the boundaries of the Territory of Kansas, provides that the Territory within those boundaries is "hereby created into a temporary government, by the name of the Territory of Kansas; and when admitted as a State or States, said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission." Section twenty-two, in conferring legislative power, gives it in the broadest language that is possible to be employed. It provides that "the legislative power and authority of said Territory," not for any particular purpose; not confined as in the case of Arkansas, but "the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assembly." Then in section twenty-four comes the limitation, "that the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act." The act then specifies three exceptions; that there shall be no law passed by the Territorial Legislature, interfering with the primary disposal of the soil; that no tax shall be imposed upon the property of the United States; and that no greater tax shall be imposed upon the property of non-residents than on the property of residents. These are the only exceptions, other than those imposed by the Federal Constitution.

On all legal reasoning, with a general grant of legislative power over all rightful subjects of legislation, inasmuch as this Territory was formed for the purpose of becoming a future State, is there not an implied power to take the preparatory steps for a State organization? The authority to make a State is twofold: first the people of a State forming a State constitution, which we have no right to prescribe or form for them; and next, the consent of Congress to the admission of that State into the Union. Is there not under this law full authority given to the people of Kansas, under territorial legislation, to prepare and form a State constitution with a view to admission into the Union with the consent of Congress? Congress did not delegate the power to come into the Union,

because that would be an infraction of the Federal Constitution, and the grant of legislative power is subject to the Constitution. The admission into the Union must be an act *in presenti*—an act of Congress, no matter what its form. The admission, or the recognition, or consent of Congress, if you so please, must be an act *in presenti* after the State constitution has been formed. Is there any restriction, then, in the general grant of legislative power, which prohibits what the people of Kansas have done? Is there the remotest resemblance or analogy to be drawn from the Arkansas case as to the intent of Congress to authorize the Legislature of the Territory of Kansas to provide for holding an election at which the will of one of these authorities necessary to form a State was to determine whether it would form a State constitution? The authority of the Territorial Legislature to ascertain by election the will of the people of Kansas, comes within the general grant of legislative power; and most certainly it cannot be contended that a general grant of power may not, by necessary implication, convey authority as fully as an express grant of the particular power in question; and in reference to the Kansas bill, the expression of the exceptions out of the general grant renders the implication irresistible that all other acts of legislation consistent with the Federal Constitution legitimately belonged to the territorial government.

But, sir, the qualification of the opinion of the honorable Senator from Illinois is, that they have no authority to form a State constitution for the purpose of subverting the territorial government, without the consent of Congress. Who contends that they have? Here is his language as employed at page 53 of the document containing his views:

"By the Kansas-Nebraska act the people of the Territory were vested with all the rights and privileges of self-government on all rightful subjects of legislation, consistent with, and in obedience to, the organic act; but they were not authorized, at their own will and pleasure, to resolve themselves into a sovereign power, and to abrogate and annul the organic act and territorial government established by Congress, and to ordain a constitution and State government upon their ruins without the consent of Congress."

I concede, Mr. President that no such power exists; but the answer is, that no such power was attempted to be exercised by the Territorial Legislature and people of Kansas. The subversion of the territorial government without the consent of Congress, is an act widely different from the authority exercised by the Territorial Legislature in authorizing, by law, the taking of the sense of the people of Kansas, who, and who alone, could form a State constitution; and when their wishes were ascertained, framing a State constitution to go into effect by actual organization under it, when, and not until, Congress should agree to admit Kansas as a State. The two things are essentially different. It seems susceptible of demonstration, that no act done by the people of Kansas under the authority of the territorial government, was intended to subvert that government without the consent of Congress; and, therefore, the objection falls to the ground, because it is not supported by the facts of the case.

The honorable Senator from Illinois recites a clause of the constitution of Kansas, as adopted and sent to us, which declares that—

"This constitution shall take effect and be in force from and after its ratification by the people, as hereinbefore provided."

That is a very proper provision, but the declaration must be taken in connection with the other clauses of the instrument; and, referring to them, you find that there is to be no organization of government, and that none was contemplated or intended, until Congress should assent to the State constitution, and admit Kansas into the Union. The object of the clause in question is very obvious. The State constitution was to take effect from the time of ratification, provided Congress should sanction the proceeding by admitting Kansas as a State. If Congress did assent to the action of the people under the authority of the Territorial Legislature, then the retrospective operation would be to give a legal effect to the elections held under the State constitution, and nothing more. The validity of the elections was made dependent upon the will of Congress; and

the principle involved, and the object to be attained, was in accordance with the principle on which Congress has frequently acted in admitting Senators from States, elected before the States were admitted as members of the Union. Acting on the principle, *omnis ratihabitio retrotrahitur et mandato equiparatur*, this declaration was made for the purpose of giving a retrospective effect and validity to the constitution, after the action of Congress should have called the organization of the Government into existence. This does not rest on mere argument. Now for the facts. Provision is made that—

"This constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission of the State of Kansas as one of the sovereign States of the United States, the President of this convention shall issue his proclamation to convene the State Legislature at the seat of Government within thirty-one days after publication."

It is very evident that no government could have been contemplated in subversion of the territorial government except with the consent of Congress, because the legislative power was not to come into existence by organization until after Congress had approved the law; but the provisions do not stop there; not only is there no time prescribed for the assembling of the Legislature until after Congress have admitted the State, but in the same constitution it is provided:

"The first general election in this State shall be held on the day and year provided by this constitution, and all general elections thereafter on the day and year provided by subsequent legislative enactment."

Without assembling the Legislature, there can be no State organization, and no subsequent elections of any kind; and it is provided that the State Legislature shall not assemble until thirty days after proclamation that Congress has admitted Kansas as a State into the Union. The evidence, however, becomes conclusive. The twelfth section of the schedule declares:

"The Governor, and all other officers, shall enter upon the discharge of their respective duties as soon after the admission of the State of Kansas as one of the independent and sovereign States of the Union as may be convenient."

Sir, with these provisions standing in this constitution, can it be seriously urged that it was the intention of the Territorial Legislature, or the people of Kansas to subvert the territorial government *without the consent of Congress*? They provide for an election of State officers, but it passes for nothing, and those officers are never to enter upon the discharge of their functions, unless Congress shall ratify the act of the Territorial Legislature, and the people of Kansas, by admitting her as a State into the Union. There is no room for controversy that the State organization was made dependent upon the will of Congress. Then the objection, in fact, does not apply. The authority we delegated was a right to legislate for the purpose of ascertaining the will of the people of Kansas, and the right to form a State constitution subject to our consent, and Kansas has been strictly legal in her course. The Legislature prescribed an election for that purpose, and the will of the people was expressed at that election. Subsequently they provided for the election of delegates to frame a constitution. The people of Kansas elected those delegates, and they provided in their own way for the submission of the constitution as formed for the ratification of the people; and it was ratified by the people of Kansas.

Can I be told, then, that the legally expressed will of the people of Kansas is not embodied in this constitution, or that there was anything revolutionary in their action? That action does not contemplate the organization of a State government, as the Topeka constitution did, (which I shall show hereafter,) without the consent of Congress. If you choose to reject the Lecompton constitution, you leave Kansas in her territorial condition, and everything contained in it is a perfect nullity. It is to go into effect, for all practical purposes, as an organized government, only after Congress has admitted Kansas into the Union. Is there revolution in that? Is there anything illegal in such an exercise of power? Was it not competent for Congress to grant, under the Nebraska bill, power to the Territorial Legislature to ascertain the will of the people of the Territory, upon a subject-matter on which Congress

could not act without the expression of their will; and had not these people the right to form a constitution, without claiming or attempting to derogate from the authority of Congress, by the organization of a State government without its consent.

Believing, therefore, that it was perfectly competent, under the grant of powers to the territorial government and people of Kansas, contained in the organic law called the Kansas-Nebraska act, for the Legislature to ascertain the sense of the people, and to provide for forming a State constitution, which was to be organized after our consent was given, and considering all this to be strictly and perfectly legal, the question arises: what were their acts, and has the will of the people been expressed in a manner that authorizes us to admit Kansas as a State? whether, in other words, under the lawful authority vested by us in the Territorial Legislature and people of Kansas, the Legislature have authorized the people to express first their sense that a State ought to be formed; whether they afterwards authorized delegates to be elected to form that constitution; and whether that constitution, as it is presented to us, is the will of the people of Kansas legally expressed. Ay, sir, and fairly expressed, for if it is, there can be no objection to her admission as a State, unless on the ground that her constitution tolerates slavery.

The first election in the Territory of Kansas took place on the 30th of March, 1855. The organic act vested in the Governor the right to canvass the returns, and to give the seats to such members as, on that canvass, he ascertained were entitled to them under that law. There could be no other mode in which the canvass could be made. The Governor (Reeder) certainly cannot be accused of any proclivities against Free-Soilism. He has disconnected himself, throughout his career in Kansas, with the intentions and wishes of the Democratic party; he seems to have had no desire for a peaceful settlement of the Kansas question, but a disposition, for some purpose—I shall not pause to investigate his motives—to create difficulties, and throw that Territory into hostile relations to the Government of the United States. This Governor, to whom the authority was delegated, gave seats to more than a quorum of the members of the Territorial Legislature of Kansas, in 1855. Some seats were vacated by him, and he ordered new elections. When the Legislature assembled, the right of investigation and decision being vested in them, under the organic law, they filled up their own body.

I am perfectly aware that, on the other side, it is said, not that there was fraud in the first election—that is not the allegation—but, by an afterthought, after the Legislature had assembled, it was charged that the election was carried by an armed invasion from the State of Missouri. I shall not enter into that question. It has been decided by the Congress of the United States to be a valid election. It was conducted under all the forms of law; as I believe, rightfully conducted. It was ratified by the verdict of the American people, in the election of 1856, by which the present President became Chief Magistrate of the Union. I hold, therefore, that there can be no shadow of doubt—and I presume Senators on this side of the Chamber who are opposed to the admission of Kansas will not now question it—as to the validity of the Territorial Legislature elected in March, 1855. If they do not question that, it would seem difficult for them to escape from the conclusion that the will of the people of Kansas has been legally expressed to us in their subsequent elections, and that we are bound to take the constitution presented as the result of that legally-expressed will.

After the Legislature was organized, there was a portion of the people of the Territory of Kansas (whether a majority or a minority outside of the legal expression of their will is perfectly immaterial) who questioned the validity of the organization of the Territorial Legislature, as, indeed, it was questioned by the party with whom they acted in concert in this body and in the House of Representatives of the United States. This minority, as I believe they were then, whatever they may be now, assumed a revolutionary attitude—which I shall comment upon hereafter—and re-

fused to vote at any election between the month of March, 1855, and the month of October, 1857. I presume it will not be denied that a portion (on the other side it is alleged that a large majority) of the people of Kansas refused to vote at the elections held in October, 1856, and June, 1857. Then what is the rational rule applicable to such action? The only principle on which a republican government can stand is that a majority of the votes cast shall be held to be a majority of those entitled to vote, and therefore obligatory; subject, of course, to inquiry into the legality of the proceeding by the body to whom the inquiry rightfully and legally belongs. In elections in the States, under that rule of order, we constantly admit elections by plurality alone, and sometimes pluralities constituting not one third of the whole number of actual votes cast. A plurality elects members of Congress, Governors, and other functionaries throughout the Union in most of the States. What induces it? Because it is a necessary rule of order to prevent convulsion and revolution. Whether a majority of the people do not vote, from indifference or from any other cause, resting on their own volition, is immaterial. Those who do not vote must be understood, under the necessary rule upon which republican governments are founded, as consenting that the majority of those who do vote shall decide for them. On no other implication can a government of numbers be preserved. The implication is not that those who do not vote are satisfied with the action of, or would vote in the same way with the majority of those who do vote; but it is a *presumptio juris et de jure* necessary to the very existence of a republican government that those who do not vote, having the opportunity to vote, must be considered as assenting that the question to be decided shall be decided by the majority of those who do vote.

But, Mr. President, it is said that frauds have been perpetrated. This may be so. I think it not improbable. When you look to the agitation that took place immediately after the passage of the Kansas-Nebraska bill, the organization throughout different parts of the country—I make no allusions to particular States—for the purpose of sending into the Territory of Kansas, not emigrants in the natural course of settlement, but emigrants for the purpose of establishing there an abolition State, it is not improbable that the people of the neighboring State of Missouri, bordering on Kansas, naturally became excited by the danger of such a population to their own institutions; and that as there were lands there suitable for their purpose, they should flock there for the purpose of making a settlement, so as to prevent the establishment of a government by persons so hostile to the vital interests of Missouri. Under these circumstances, in a border country, it would be idle to suppose that no irregularities, (or frauds, as they are called,) that no illegal voting should occur or no violence should be used. I have little doubt that irregularities, illegal voting, and frauds, may be charged upon both sides; but as regards statements taken from newspapers, or testimony even upon oath, as to specific acts of fraud derived from partisan sources, I have seen too much in a forensic life of the liability to bias and misstatement in human testimony, under less exciting causes, to place the slightest reliance upon such testimony, unless under the most rigid cross-examination and subjected to the severest scrutiny. But, sir, the question is not whether there were frauds or irregularities committed in any election in the Territory of Kansas, but whether we are the appropriate body to inquire into allegations of that kind. Under the principles of the Nebraska bill, which meant to vest sovereignty in the people and Territorial Legislature of Kansas, Congress intended they should determine all these questions for themselves. The very object of the bill was to withdraw from Congress struggles connected with the exciting passions of the character which have led to the disorganization in Kansas.

But, sir, I believe it is a maxim of all philosophy, that, when you find one sufficient cause for a result, you ought never to look further. I hold that there is an all-sufficient cause, without reference to any allegations of fraud, to account for the vote of the people of Kansas, as expressed in their different elections, in the fact that those who were

called the Topeka party by their opponents, (whether a majority or a minority,) refused to vote; refused to exercise their elective franchise, no matter under what pretense. Whether that refusal resulted from indifference, or whether it resulted from the assumption that their votes would not effect their purposes, they cannot complain that, whenever they refused or neglected to exercise their right, others should decide for them. Does any Senator doubt that, at the election in the fall of 1856, in which the people of Kansas determined their will was that a State constitution should be formed; that the election in June, 1857, when they elected delegates to form a constitution; or that, at the vote taken for the purpose of ratifying it under two aspects in which it was presented, there was a *bonafide* majority of those who voted, who were in favor of forming a State constitution, of electing the delegates, and of ratifying the constitution, in the manner in which it is presented? I presume not. There was, in those elections, no necessity and no object to induce frauds. The truth is, that one party voted, and one party alone; the other declined to vote. This cause, then, is all-sufficient to account for the mode of forming and the adoption of the constitution without reference to these profuse allegations of fraud. We come, then, to the practical principle, that those who, having the right to vote, by their own default in refusing to vote, or attempting to vote, are, in reason and justice, not by any narrow technical rule of estoppel, but on every principle of order in human government, estopped to question the decision of those who, abiding by the law, exercised their rights as voters. What other principle has been adopted in any State to ascertain the will of the people? and on what other principle could any election be sanctioned or sustained? In the great State of Pennsylvania, when amendments to her constitution were submitted to the people of the State, not one half of those who voted for Governor at the same time voted on those amendments; yet no one ever questioned the validity of that vote, and that a majority of those who did vote settled the question. There were, say twenty thousand votes against one hundred thousand on those amendments, while the actual vote of the State for State officers was over three hundred thousand; yet a majority of those who did vote on the constitutional amendments must be, and were, considered as carrying the assent of all; not that all agreed with them in opinion, but that all who did not vote agreed that those who did should decide the questions submitted. This is an essential rule from the form of our republican governments, and without it no organized government of numbers, founded on the principle of self-government, could be maintained.

I hold, then, sir, that, no matter what the cause, if the fact be (and I presume it will scarcely be denied) that a large portion of the people of Kansas, whether a majority or minority is immaterial, willfully and deliberately refused, on any pretense whatever, to vote at the election which authorized the constitution to be made, and at those which elected the delegates and ratified the constitution, those who did vote must be considered as embodying the legally and fairly expressed will of the people of Kansas, not on technical grounds, but on the only grounds upon which the government of any State in this Union does or can stand.

I conclude, therefore, both that there was plenary power in the Territorial Legislature to authorize these elections, as the legitimate evidence of the will of the people of Kansas, and that they were not merely lawful, but strictly and perfectly legal; and that the constitution formed under them does not contemplate a subversion of the territorial government without the consent of Congress. That when the Legislature had thus authorized these elections, and the people of the Territory had voted, the decision of those who did vote must be held to be the legal expression of the will of the whole people, which the indifferent, the negligent, or the factious, are estopped to deny or question.

But, sir, all these allegations of fraud have, in fact, no application whatever to these elections. I have heard no pretense or specification that, at the election to decide whether Kansas should form a State constitution, there were any frauds

committed in the votes taken. Nor has any fraud been alleged in reference to the election of delegates to the convention which framed the constitution, nor at the election in December last, when it was ratified. The allegation of frauds relates to the election subsequently held for members of the Legislature, under the constitution, in January last. Over that election we have no pretense of authority. We might as well interfere with the election of Representatives of a State Legislature; because, if this constitution was legally formed, and legally expressed the will of the people, we are under an implied obligation, under the treaty with France, and the principles of the Kansas-Nebraska bill, to admit the State; and if we admit the State, our admission gives effect to the constitution from the time of its ratification. Of course the authority of the Legislature, when it meets, to inquire into the rights of persons to seats in that body will be the same in the State of Kansas as in any other State of the Union. The returns were, in the first instance, to be made to the president of the convention. The honorable Senator from Ohio [Mr. WADE] objects to that as an unauthorized action, on the ground that the convention could give no such authority to its president; yet in this famous Topeka constitution, for which he voted two years ago, the provision is not only that the chairman of the executive committee should be the judge of the returns; but that—

"Until otherwise provided by law, the chairman of the executive committee of Kansas Territory shall announce by proclamation the results of the elections and the names of the persons elected to office.

"No person shall be entitled to a seat in the first General Assembly at its organization except the members whose names are contained in the proclamation of the chairman of the executive committee; but after the General Assembly is organized, seats may be contested in the usual way."

This far exceeds the authority conferred on the president of the constitutional convention assembled at Lecompton, because he was simply to investigate the returns, and duplicates were to be left in the hands of the judges, and he was to certify the result of the election. The other is a broad power to the chief of an executive committee of a revolutionary party, organizing themselves as they did, that his proclamation should be conclusive evidence of the rights of all members to seats in the first Legislature, and then that the matter should be referred to them. It was not a power of investigation; it was simply a right of proclamation—in other words, the chairman of the executive committee had the right to seat whom he pleased, according to the Topeka constitution. If such a power could be vested then, and supported by the Republican party in this body and the House of Representatives, I ask with what semblance of consistency can that party now question the authority of Mr. Calhoun? I notice this only in passing, not that I suppose any weight can be attached to such an objection.

I have said there is no allegation of fraud as to any elections which we should supervise for the purpose of determining whether Kansas should be admitted as a State. There are no alleged frauds, no specifications, no scintilla of proof as to frauds in the election by which the people of Kansas authorized a convention to be called. There was no opposition to the delegates elected to the convention, because a portion of the people refused obstinately to vote, standing in a rebellious and revolutionary attitude. There were no frauds in the ratification election, even if ratification was essential. The constitution, therefore, comes to us as the legally-expressed will of that portion of the voters of Kansas who chose to vote under a perfectly legal enactment; and if others did not choose to vote, of course their assent must be implied, or the structure of your Government must fall. Whoever heard or contended that frauds, if they existed, would vitiate an election, unless the result would have been different if the frauds had not have taken place? There is no pretense, in any of these elections, that the result would have been different, fraud or no fraud.

In order to vitiate the election, it must be shown that the fraudulent or illegal voting has been sufficiently extensive to alter the result; or, at least, to render it uncertain. But, where frauds have not existed to such an extent as to prejudice the

rights of *bona fide* voters and overrule their decision, however worthy of condemnation, they cannot vitiate the election. If they did, the fraudulent might always defeat any election, and so disorganize government.

The next question, Mr. President, is whether it is essential to the validity of this constitution that it should have been ratified by a vote of the people of Kansas, and if that be necessary, whether it has been so ratified? I cannot doubt that when the people elect delegates with authority to form a constitution, they vest in their delegates, if there is no limitation of power in the law under which they are elected, the absolute and entire sovereignty of the State; and those delegates may form a constitution which will become valid and obligatory without any subsequent action of the people; or they may—and, in my judgment, it is safer and wiser in a republican Government—submit that constitution to the people for ratification.

I held this doctrine in a convention assembled in my own State a few years ago, and have been charged in some papers there, mingled with something of personal bitterness, and also in papers here and in Pennsylvania, with action inconsistent with the opinions I then expressed in advocating the admission of Kansas under the Lecompton constitution. Sir, I have changed no opinion I then entertained. I claim no exemption from error incident to humanity, and shall never hesitate, when I do change a previous opinion, to avow the change, and give the reasons which produce it.

In this case I have no admission to make; for I thought then, and think still, that it is better—that it is the duty of a convention, for a reason which I shall state—to submit the constitution which they frame to the people. It is in their discretion. They have the power to make a constitution which is as valid without as with submission. Of that there can be no doubt. To admit the doctrine—for which the Senator from Michigan [Mr. STUART] did seem to half contend—that a constitution would not be valid unless it was submitted to and approved by the people, would invalidate the constitutions of all the earlier States of the Union. Sir, I was born, and have lived, and live now, under a constitution which never was submitted to the people; yet never for a moment have I doubted its validity and obligation. Perhaps I might question the wisdom, the propriety of action and adherence to duty of a delegate to a convention who refused to submit a constitution framed by him to his constituents for ratification. Such would not be my own course, with my present and former convictions; and for this reason, in forming a constitution founded upon the social compact, the people at large being the basis of power, I think it wiser, with a view to its permanence and stability, and in order to prevent mutability, that it should be ratified by the vote of the people over whom it is to exist as the organic law. That is the only reason. But what right has Congress to control the mode of forming the constitution of Kansas? Just what it would have had if the convention in Delaware, in 1853, had determined not to submit the constitution they formed to the people. Your interference would be unwarrantable in either case. Of what concern is it to the Congress of the United States whether a convention of delegates who form a constitution in Delaware, or any other State, determine to act finally themselves, or choose to submit it to their constituents? The responsibility is there, not here. Of its validity there can be no doubt; and when Kansas is forming a State constitution, you have as little right to inquire into the mode in which she pleases to form it as you have to inquire into the mode in which any other State has formed her constitution. It is sufficient for Congress that it is republican in form, and that it represents the will of the people. Even if Senators or members of the Kansas convention would have considered the submission of the constitution to the people as the rightful and proper action on the part of that body, we have no right here to interfere with that question without an invasion of the rights and duties of others.

But, Mr. President, there is another point connected with this doctrine of submission, and that is the mode of submission. Submission does not merely mean submitting the whole constitution for the purpose of public approval or public dis-

sent. That course may be adopted, and in some instances, may be preferable; but, in my judgment, the true mode of submitting constitutions for the ratification of the people is to select the great principles, the leading provisions on which the people are known to be divided in opinion, and thus allow them to ratify those which they approve, and reject those which they do not. In this way, you will have in the result the true will of the State; but in the submission of a constitution as a whole, even though a majority may ratify it, it may embody many provisions which the same majority, if they had been submitted separately, would have rejected. The submission, therefore, should not include mere formal provisions, about which there is no difference of opinion; but the good faith required on the part of the representative who forms the constitution is that, having formed an organic law, he should fairly submit, for the decision of the people, those questions on which he knows or believes there is division of sentiment among his constituents. This seems the true and proper mode of submitting constitutions for ratification, and the only mode in which submission can correctly ascertain the will of the people. In my own State we have had an illustration of the necessity of this rule. When the last convention met, there were three great questions to be decided: first, representation in proportion to population; second, the prepayment of taxes as a qualification for voting. The amendments on both these subjects, I was decidedly in favor of; but there was a division of opinion in the State on another question, whether we should alter the existing judicial tenure of good behavior. To such an alteration I was as decidedly opposed. Can it be supposed that every man who differed on these questions would not have preferred that they should be submitted separately to the people? And would not the will of the people of Delaware have been more truly ascertained by submitting them distinctively, than by the submission of the amendments as a whole? Had I remained a member of that convention to its close, I should have advocated that mode of submission, because I desired to defeat one proposed amendment, and was equally desirous to adopt the others.

In reference to this mode of adoption, let me now consider the present case. According to the Kansas-Nebraska bill we agree that the people of Kansas are to form their domestic institutions in their own way. The organic law by which those domestic institutions are ultimately to be established must certainly be formed in their own way, or they have not the control of their own institutions. The material question is, whether the mode of ratification adopted by the convention did not submit to the people of Kansas, if they had chosen to vote, the only question about which there was difference of opinion among the people, and submit it fairly? According to all that I have read or heard in reference to the dissentient opinions that exist in Kansas, there is but one ground on which the people have differed, and which has formed them into hostile parties; and that is, whether the institution of slavery should or should not be established. There is a provision of the Kansas constitution that free negroes shall not emigrate into the State. The same provision was inserted in the Topeka constitution, or in an ordinance annexed to it; and whether called an organic ordinance, or a part of the constitution, is immaterial. On this question the two parties did not differ. I know, then, of no dissentient opinions whatever among the people of Kansas as to the provisions which should exist in their State constitution, except as to the establishment of the institution of slavery. There is high and conclusive evidence of this. First, what was the question submitted? The Kansas constitution provided for holding an election on the 21st of December, the ballot-boxes of which were to be kept by clerks appointed by the judges; and then that the ballots cast at said election should be indorsed "constitution with slavery," and "constitution with no slavery." That is clearly, in the natural import of the words, a direct submission to the people of Kansas of the question whether the institution of slavery shall be prohibited by the organic law of Kansas, or whether it shall be tolerated by that organic law. What follows? If the majority is

for the constitution with slavery, the president of the convention is to submit to Congress the constitution unaltered; but, if "a majority of the legal votes cast at said election be in favor of the constitution with no slavery," then the article providing for slavery shall be stricken from the constitution by the president of the convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with."

The general proposition is, that, if the people vote for the constitution with no slavery, the article allowing slavery shall be stricken out, and that slavery shall not exist in Kansas, except as regards the right of property in existing slaves. Such was the question submitted; and I have said that the only question on which the people of Kansas were divided was, whether the institution of slavery should be established in Kansas. I hold the evidence of it in my hand; not a newspaper report, not a telegraph dispatch, but "the proceedings of the people of Kansas in mass meeting at Topeka on the 4th of July, 1856," when we were deliberating here in reference to their admission under the Topeka constitution. I take it for granted that the facts asserted in their resolutions will not be denied by their supporters here. These resolutions were sent to me at the time in a letter from Chicago, and I presume other Senators received similar letters during the session of 1856, inclosing the proceedings of the Topeka mass meeting, after they had elected their Legislature and organized their revolutionary government. I shall refer to another of their resolutions hereafter, for a different purpose:

"We, the people of Kansas, in mass convention assembled at Topeka, July 4, 1856, in favor of preserving forever the freedom of this Territory and State, and the total exclusion of slavery, do herein distinctly state our position and our cause, that our fellow-citizens in the North and the South, at the East and the West, as well as at the Government of the United States, may rightly appreciate our motives and conduct.

"1. We do most solemnly declare before God and our fellow men, that we have asked no more than a fair and impartial vote; a free vote on the part of the citizens of this Territory as to whether the institution of slavery should or should not be established in this Territory."

These resolutions were adopted on the 4th of July, 1856. In October, 1856, under a law passed in July, 1855, by the Territorial Legislature, an election was held to determine whether a convention to frame a State constitution should be called, and the people of Kansas decided that it should be called. At this election none of these people voted. They adhered to the Topeka constitution, and continued in a revolutionary attitude. The Territorial Legislature, in obedience to the decision of the people, in February, 1857, passed an act prescribing the time, place, and manner of electing delegates to a convention to form a constitution; and the act was framed on the model of the bill rejected here by the House of Representatives in the summer of 1856. Was this law not fair? Did it contain any of those test oaths or restrictions on the right of voting which were the grounds of objection to voting in 1856? None whatever.

The election of delegates, under this act, was held in June, 1857, and the Topeka party still refused to exercise the right of suffrage, though it was fully secured by the provisions of the law. If they had the majority, which is alleged, and had performed their duties as citizens, they might have elected a majority of the delegates, and formed such a constitution as they desired. The delegates elected by the law-abiding citizens of Kansas at this election, formed a State constitution with a view to admission into the Union as a State. They had the authority, as there was no restriction in the law under which they were elected, to form a valid constitution without submitting it for ratification; but they did submit this, the only question upon which the Topeka party solemnly declared they asked for a fair and impartial vote—"whether the institution of slavery should or should not be established" in Kansas.

The election was held December 21, 1857, and still this alleged majority, notwithstanding their declaration, refused to vote.

The objection that they were compelled to vote for the constitution whichever way their vote was cast, is the mere pretense of disorganizers. On

their own declaration, all they wanted was a fair vote on the question of slavery. It was given to them; but when it was given, the same spirit of disorganization which originally led to the Topeka constitution existed to a sufficient extent to prevent them, in disregard of their own declaration, from voting at an election at which, if they had a majority, they might have determined that the institution of slavery should not exist in Kansas. It is by their own default and wrong that the constitution of Kansas presented to us tolerates the institution of slavery; and unless every rule of law and order is to be abandoned, that constitution has been ratified by the people of Kansas.

But, Mr. President, the honorable Senator from Michigan, [Mr. STUART,] with the aid of the honorable Senator from Vermont, [Mr. COLLAMER,] attempts to establish that this is all a trick; that the constitution as submitted, even if the people had voted for striking out the slavery clause, would have left slavery as a permanent institution of the State, not only as to the right of property in existing slaves, but as to the issue of all existing slaves, and would have prevented manumission. The minority of the committee, in the views which they present, at page 86, say:

"They framed a constitution establishing slavery in two forms—first, for perpetuating in slavery all slaves then in the Territory and their progeny, and prohibiting abolition; second, allowing their unlimited introduction with their owners for settlement. They then provided for submitting this constitution to the people, professedly for their approval or rejection, on the 21st day of December, 1857, but in this form only, that they might vote 'the constitution with slavery,' or 'the constitution with no slavery.' If the former had a majority, the whole constitution was adopted; if the latter had a majority, it rejected only that clause allowing the further importation of slaves. They were not allowed to vote against the constitution; so it was to be adopted, however objectionable, and to be a slaveholding State, in any event. In this manner the first object was to be effected."

The honorable Senator from New York, [Mr. SEWARD,] in his remarks, is more explicit; and so is the honorable Senator from Ohio, [Mr. WADE.] I will read what the honorable Senator from New York said, because the view taken by both is precisely the same; and I mean to controvert it. In the pamphlet speech of the honorable Senator from New York, at page 9, he uses this language:

"Each voter was permitted to cast a ballot 'for the constitution with slavery,' or 'for the constitution with no slavery;' and it was further provided, that the constitution should stand entire, if a majority of votes should be cast for 'the constitution with slavery;' while, on the other hand, if the majority of votes cast should be 'for the constitution with no slavery,' then the existing slavery should not be disturbed, but should remain, with its continuance, by the succession of its unhappy victims by descent forever. But even this miserable shadow of a choice between forms of a slave-State constitution was made to depend on the taking of a test oath."

The allegation is, that slavery was to remain forever the condition of the issue as well as of the parents. That is the point in question between us. I hold that, by the practice of every State in this Union which has ever emancipated slaves, unborn issue has never been treated as property. It is an expectancy; it may or it may not be born. It might as well be contended that, if the law of primogeniture existed in a State, and there was an heir apparent, the Legislature could not alter the law of descent, because, if it were not altered, the heir apparent would inherit the whole to the exclusion of his brothers and sisters. The law of entail affords a more striking illustration; and yet most States of the Union have abolished it without considering that they violated any right of property. The right of the heir is an expectancy alone; it is not capable of sale; it is not property. So, too, in the case of slaves, the right to the issue is a mere expectancy; it is not capable of sale; it is not property until the issue is born, because there is nothing upon which the right of property can attach; and that I suppose to be settled law. There is no State of the Union which has not acted upon this principle in abolishing slavery. In my own State, in several instances, laws have been passed setting free the issue born after a certain day, where the Legislature would not have ventured to affect the right of property in the individual who was actually existing as property.

It is true that, through the ingenuity and ability of the honorable and learned Senator from Vermont, we are referred by the Senator from Michigan to the first clause of the constitution of Kan-

sas in relation to slavery, as showing what its framers thought of the right of property in slaves. By the provisions, however, of the clause authorizing the vote upon slavery, that article was to be stricken out, and therefore could have no obligatory effect if the people voted for the constitution "with no slavery." But the article remains in the constitution as adopted, but in reality is nothing more than a general declaration, and, like many other general declarations in constitutions, has no legal effect whatever. The language of the first section of the seventh article is:

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

But be the construction of this article what it may, it was, in the event of the vote being in favor of the constitution "with no slavery," to be stricken out, and if stricken out, its provisions could have no legal effect or bearing, even for the purpose of interpretation, on the construction of that which remained as part of the constitution. The construction would rest upon the legal principles properly applicable to the interpretation of any constitution.

If the people of Kansas had voted for the constitution "with no slavery," the first section of the seventh article being stricken out, the provision in relation to slavery reads thus:

"And slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with."

If slavery is no longer to exist in the State of Kansas, and the exception merely being that no interference shall be had with slaves now in the State of Kansas, can there be a rational doubt that persons born afterwards are not now in the State of Kansas, within the plain import of the language? I do not say that this language would not cover an infant *en ventre sa mere*, but it would go no further. The right of property in issue does not exist until the issue is born, and by the provision slavery is positively prohibited, with the exception, that the vested right of property in slaves then in the Territory, is guarded against confiscation.

The Legislature of every State in the Union which has abolished slavery, has always guarded and protected the sacred right of property in existing slaves precisely as Kansas provided in her constitution, in the event that the decision of the people was against the continuance of the institution of slavery. In an ordinary act of legislation abolishing slavery after a given day, and excepting the right of property in existing slaves, on no rule of legal interpretation could the issue of a slave born after that day be held as a slave; for such a construction would make the exception overrule the general object and intent of the law, as well as the natural import of the words, which is entirely inadmissible. The same rules of interpretation would be applicable to the constitution of Kansas, if it had been adopted "with no slavery;" and in that event the issue of a slave born after its adoption would have been free, for a contrary construction would be in conflict, not only with the language, but the general intent of the clause which declares that "slavery shall no longer exist in Kansas."

So strong has the conviction of the necessity of guarding property against legislative confiscation always been in the minds of the people of this country that, although the clause which prohibits the taking of private property for public use without compensation did not exist at its original adoption in the Constitution of the United States, it was ratified by some of the States with the express proviso that such a clause should be inserted, and it was among the first of the amendments adopted. I presume there is not a State of the Union whose constitution does not contain a provision which guards the right of property against seizure by the public, except upon compensation given. What more in any legal intentment, or any rational construction, does this exception in the constitution of Kansas do than secure the right of property in existing slaves in Kansas, at the time of the adoption of the constitution. The general provision is that slavery shall no longer exist in Kansas if the people so will. If it had stopped there, can any one doubt

that the effect would have been, as the Constitution of the United States does not interfere, to set free every slave in Kansas? But then comes the exception looking to and guarding the right of property, which is done in all civilized communities, and certainly it would be a reproach to any State in this Union if she confiscated or destroyed that which was held and treated previously as property, founded upon any freak of fanaticism, or even any real public good, moral or material in its character, without compensation to the owners of that property. That is all that the constitution of Kansas provides in the event that the people of Kansas determined that the State should not tolerate slavery.

If, then, Mr. President, the revolutionary portion of the people of Kansas had chosen to vote for the ratification of that constitution without slavery, at this day no slave could exist in Kansas who was not there in existence at the time when that constitution was ratified, unless we reject the constitution, and then slavery will remain the law of the Territory, under the decision of the Supreme Court of the United States, until the people of Kansas form a State constitution prohibiting it. The convention properly and fairly, by no trick, but in accordance with this very Topeka resolution, which, in July, 1856, announced, before God and their country, that the only question which they desired to see fairly decided by an election was whether the institution of slavery should be established in Kansas, submitted to a fair vote of the people the only question which they said they desired to have so submitted for their decision. After the declarations at the Topeka mass meeting of their own *proteges*, the other side are precluded from saying there was any other question of dispute between the people of Kansas than that of slavery. All they asked was granted, and I think I give the legal interpretation of this constitution, as it would be decided in any court of justice in this country.

The honorable Senator from Michigan seems to admit, apart from the seventh article of this constitution, that the Legislature would have a right to abolish slavery without making compensation for unborn issue of slaves. If they have the right to do that—and it has been done unquestioned in every State of the Union which has become a non-slaveholding State—yet I believe in every State which has hitherto abolished slavery, they have sacredly guarded existing rights of property. They have suffered the existing slave to remain the property of his master, or provided for compensation. If I mistake not, in the State of my honorable friend from New Jersey [Mr. Thomson] there are slaves still in existence; and also one or two in the State of Pennsylvania; although slavery has been abolished there for years. The men of that day, whatever may be the spirit of reckless fanaticism in ours, regarded property, no matter what it was founded upon—recognized property as a thing which no civilized community could touch without compensation.

Mr. President, there is another question connected with this Kansas constitution which shows how unjustly there have been attributed to the men who formed it designs of fraud, violence, and trickery, and other terms of opprobrium, which have been so lavished upon them by the honorable Senator from Michigan. I am aware that fraud is a very resonant word, and that repetition of the charge—mere repetition—too often creates a belief in its existence; but it should not be forgotten that assertion is not proof, nor violence of invective, evidence of rational conclusions. This very constitution of Kansas, which, it is said, as adopted, is meant to establish slavery, does not, in fact, establish it beyond legislative control. It only tolerates and authorizes slavery, but it leaves the Legislature of the State, on the principle of compensation for property, without any change of the constitution, at liberty to abolish slavery in Kansas, and to prevent the migration of slaves into Kansas whenever they see fit. Such is the provision. I will read it, and we shall then see how causeless is this outcry about the attempt to restrict the rights of the people. The right is given to a Legislature elected biennially by the will of the majority, on simply respecting existing rights of property, if they consider it necessary for the public benefit, whether material or

moral, in their discretion to abolish slavery in Kansas by the payment of a sum not exceeding \$150,000. Here is the provision. Article seven, section two, provides:

"The Legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners, previous to their emancipation, a full equivalent in money for the slaves so emancipated."

The article does not establish slavery; it leaves it in the power of the Legislature, if the owner of the property consents, or if he does not consent, on the payment of the value of his property, to emancipate the slave for the general purposes of the public. Is that an establishment of slavery? The further provision is:

"They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State."

These provisions are the only restrictions upon the legislative control of slavery in the constitution of Kansas. The Legislature which has been elected, when it organizes, upon payment of not more than one hundred and fifty thousand dollars, can set every slave free in Kansas, and prohibit the future introduction of slaves from other States. There can be no doubt of the correctness of this construction by any intelligent lawyer who will read the section. It does not provide that slavery shall not be prohibited by the Legislature of Kansas, but that it shall not be prohibited except with the consent of the owners, or on payment of an equivalent in money for the value of the slave emancipated. It does not provide that the Legislature shall not prohibit the immigration of slaves from other States recognizing slavery into Kansas, but that it shall not prohibit them as long as Kansas has similar property recognized and existing within her limits. Now, we have the authority of Governor Walker, which at this moment, I suppose, whatever might be the case formerly, gentlemen on the other side, or those who differ with us on this side, will hardly dispute—it is a matter with which he must have been acquainted—that there are not three hundred slaves in Kansas. Suppose we average them at \$500 apiece—I think, myself, the soil and climate of Kansas are only adapted to slavery in a small portion of the Territory, and the probabilities therefore are, if you take into consideration the state of sentiment there and the insecurities of that kind of property, that the average would be overestimated, if you value a slave at \$500; you have, then, as the outside limit the people of Kansas would have to pay for obtaining this great good, and for getting rid of this enormous outrage which has been fruitful of so much declamation, \$150,000. We have been told that slavery is established there by this constitution, so that it cannot be interfered with until 1864, and yet I have shown you that, for \$150,000 paid to the owners of slaves, or probably for a much smaller sum, the Legislature, without any change of the constitution, can abolish slavery in Kansas and prohibit the introduction of any more slaves into the State by a mere law, whenever the people who elect them as the exponents of their will, see fit to require such action. It is clear, therefore, that the present constitution of Kansas tolerates but does not establish slavery, and that it is in the power of the Legislature, on the simple condition that they shall not violate the right of property in existing slaves without compensation, to make Kansas a free State to-morrow if they were in session.

I am aware, sir, that I have consumed much time, and I may have to consume much more if my strength does not fail; for there are many and varied objections made to the admission of Kansas under the Lecompton constitution which should not be passed unnoticed. I have discussed such of them as I deem most material; but there are two more which I cannot pass without comment.

The honorable Senator from Ohio, [Mr. WADE], who, I have no doubt, entertains his opinions quite as conscientiously as I do mine, and always enunciates them with great frankness and boldness, though sometimes, perhaps, when under the excitement of debate, with a harshness of expression as regards the opinions or conduct of others, which his own calmer judgment would not subsequently ratify—the honorable Senator from

Ohio, in the speech which he made in this debate, alluding to the action of those who organized the Topeka constitution, (whom I intend to show were revolutionists and rebels,) said:

"There was no rebellion in the action of these people; nothing unlawful in it. Whatever they may have said—and I do not know what they said, for I do not watch men's words much; their actions are what I take cognizance of; their actions are what the law takes cognizance of—the people of Kansas, in framing that constitution, have done nothing more than they had a perfect right, as American citizens, to do; and I challenge all the legal acumen of this body to contradict what I now declare."

Again, he said of their action:

"But did they promise to organize under it in defiance of the laws of the United States? Not at all. From the time they called the convention, they always accompanied their action with a notice that it was to be submitted to the Congress of the United States for their approval or disapproval. It took barely the form of a petition; nothing more nor less."

Much as I may respect the honorable Senator from Ohio, I stand at issue with him here. I have before me the House document which contains the Topeka constitution, and I intend to refer to it. I agree with him that actions are more to be relied upon than words. We are not to judge by what they said alone, but by the acts which accompanied what they said. The Senator from Ohio declares that the friends of the Topeka constitution did not assume a revolutionary or rebellious attitude; that their government was intended to be provisional only, and not to go into effect but with the consent of Congress. That is what I have contended for as to the constitution framed by the people of Kansas under the authority of the law. I shall endeavor to show that such is not the character of the Topeka constitution.

The Senate will recollect that under the Lecompton constitution no organization is to take place until Congress have admitted the State, because the Legislature is never to assemble if the State be not admitted. No officer is to be sworn in or enter upon the performance of his duties until after Congress have admitted the State into the Union. There can be no doubt that the intention was to create a government only with the consent of Congress.

Now, let us examine the Topeka constitution. In the month of August, 1855, after the meeting of the first Territorial Legislature, a determination was made on the part of a portion of the inhabitants of Kansas, incited, as I suppose, by exterior influences, to set the territorial government at defiance. They held a mass meeting; they determined to have an election in disregard and in defiance of the law of the Territory, and they appointed judges for the purpose of holding this election. They did hold it; they elected delegates to a convention, and they adopted a constitution which was submitted for ratification to the people in 1855, and was reported to have been ratified by a vote of between seventeen hundred and two thousand persons—the number is immaterial. Their action was without color of legal authority, and revolutionary and lawless throughout. In the schedule which accompanies the Topeka constitution, the provision is:

"The General Assembly shall meet on the 4th day of March, A. D. 1856, at the city of Topeka at twelve, m.: at which time and place the Governor, Lieutenant Governor, Secretary of State, judge of the supreme court, treasurer, auditor, State printer, reporter, and clerk of the supreme court, and attorney general, shall appear, take the oath of office, and enter upon the discharge of the duties of their respective offices under this constitution; and shall continue in office in the same manner and during the same period they would have done had they been elected on the first Monday of August, A. D. 1855."

Nothing is said as to the consent of Congress; no provision is made in regard to admission into the Union as a State; but a time fixed when the officers are to be sworn in and enter upon the performance of their duties. Every officer elected by these people under their revolutionary action was to be sworn into office, and a government to be organized without application to Congress. Is not that revolution? What is the meaning of revolution and rebellion? I am aware that, in the primitive or original sense in which the word revolution or revolutionary was used, it meant simply a change of government; but the words have long since lost their primitive meaning. The English revolution of 1688 was a revolution. Why? Because it was in defiance of the existing government of the country. The Lords and Commons

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deposed the Crown, which constituted the third estate of the realm; and the act, therefore, was a revolution, because it was not in accordance with law, but in defiance of the existing legal authorities. As to the character of the revolution in France, no one doubts. Our own Revolution in this country was a revolution, because the Colonies owed allegiance to Great Britain; and they determined to break that allegiance, though they legally owed it, by revolution, on causes which justified revolutionary action. Revolution, in the sense in which the word is now used, designates precisely what rebellion meant formerly. It means acts done in defiance and resistance to the laws, with the intent to subvert or change the form of government without the consent, or against the consent, of the existing authorities.

I do not deny the right of revolution—that there are moral causes which will justify revolutionary action. Our fathers were rebels; but they were justifiable. Revolution almost invariably leads to war. The revolution of 1688 in England, though peaceable at its occurrence, owing to the want of power on the part of the Crown did lead ultimately to war, resulting in the invasions of 1715 and 1745 in England, and was the cause of infinite bloodshed. Such must generally, if not invariably, be the consequence of revolutions. Though peaceful at the time, if war does not immediately ensue it will be an almost inevitable consequence. But that is no reason against the existence of the right of revolution or the propriety of its exercise, if the moral causes will justify that exercise. The oppression must be intolerable, the grievance must be great, and, further, all other modes of redress must be exhausted, before revolution becomes justifiable by any people. Now, what was the position of these people in Kansas? I have shown you that they did form a government, called into existence and organized without the consent of the Territorial Legislature, in defiance of it, and in defiance of the authority of the United States. Is not that a revolutionary act? In point of fact, they engaged in revolution and rebellion, and only stopped short at the line which separates treason from rebellion, because they feared the penalties of treason.

Mr. WADE. I wish to inquire of the Senator in what consisted the treason of these persons? What were their overt acts?

Mr. BAYARD. I am speaking of the organization of a government under the Topeka constitution; not the formation of the constitution, but the organization of a government under it. I say that was an act of rebellion.

Mr. WADE. I do not know that I understand the Senator. Treason consists, in this country, I believe, in levying war against the United States or adhering to the public enemies. I want to know which of these acts these people were guilty of, or what overt acts they committed amounting to treason?

Mr. BAYARD. I will endeavor to make the honorable Senator understand me. I did not say that they had been guilty of treason. I said they had stopped short at the line of treason, whatever they might have contemplated. Though they committed a revolutionary act, an act of rebellion, in forming a State constitution, and organizing a government under it without the consent of the United States, and in defiance of their authority, and in defiance of the territorial government, they did not commit treason unless they had attempted to sustain it by force of arms.

Mr. WADE. Will the gentleman inform me whether rebellion is a crime in this country? He speaks of a difference between treason and rebellion. I do not understand any such difference; but if there be rebellion, it is not criminal to my knowledge.

Mr. BAYARD. Treason is a legal offense; there must be an overt act accompanying it. You may speak of an act sustained by force of arms as rebellious or revolutionary, which is not treason—I use the words in the same sense precisely—where an act is done contrary to law, and subversive of legal authority. An organization may be effected for the purpose of revolution; and yet, if an overt act is not committed, and sustained by force of arms, it would not be treason. The distinction is very apparent. I mean to say that any Government is revolutionary in its character

which is set up in defiance of the existing Government. Look back to the revolution of 1688, in England, and you have an illustration. The Crown was one of the estates of the realm. The Constitution could not be changed without the concurrent authority of the three estates, the House of Lords, the House of Commons, and the Crown; but the Lords and the Commons deposed the King, altered the line of succession, and drove him from his throne without his consent. That was a revolution because it was in defiance of the existing law and the existing authority.

What is the case here? The United States authorized the formation of a territorial government in Kansas. It was organized. No matter whether there were irregularities or not, the lawful authority to determine and certify the election of sufficient members for the organization of the Legislature, having inspected the returns, did authorize the organization, and it was recognized by Congress, and has been recognized since. A portion of the people of Kansas chose to denounce this Legislature as a fraud, as the result of an armed invasion from Missouri; and on this pretense, in defiance of the existing government, and against the authority of the United States, called a convention for the purpose of forming a State constitution. That they had a right to form a constitution and present it to us for recognition, if they had not attempted to organize a government under it, I do not deny—that would be a mere petition for redress of alleged grievances; but they went further, and organized a government under it. Every officer whom they elected was sworn into office, and sworn to perform his duty, and continue in the discharge of his functions without reference to any authority or consent of Congress, or any admission into the Union. That was an act of revolution and rebellion. Where is the difference between the Utah case and the conduct of those who supported the Topeka movement, except in two respects? One is, that the people of Utah stand in defiance of the laws of the United States, in defense of the doctrine of polygamy; and the Topeka people took their position in defiance of the laws of the United States on account of their determination that under no circumstances should slavery become an institution in the Territory of Kansas, whether legally established or not. The people of Utah, being more numerous and more remote, have chosen to resist, by force of arms and military organization, the Federal Government, and have become traitors as well as rebels. The Topeka people stopped short, as I have stated, at the line which separates rebellion, or revolution, from treason. Though they had organized a government, and sworn their officers to support it and perform their duties without reference to any action of Congress, they shrank from placing themselves in a treasonable position by attempting to sustain it by armed force. I am glad they paused, and should have regretted deeply such a result. Yet it is an undoubted fact that, such was their attitude in support of the government which they had organized under the Topeka constitution, that it required the forces of the United States to be kept there for the purpose of preserving the peace and enforcing the laws; and that is one of the great evils which will be remedied by the immediate admission of Kansas as a State.

I have admitted a revolution would be justifiable if the evil was intolerable, and there were no other means of redress. Had not these people other means of redress? They aver they have a majority of the inhabitants of the Territory, and have had it for a long time. The election was held for delegates to the constitutional convention in June, 1857. Would they vote? No. Had they not a right to vote? Look at the bill, and you will see that it secured a fair and full right of voting to every citizen. When the delegates were elected, they would not vote; nor would they vote when the constitution was submitted for ratification, although the opportunity to do so was fully and freely accorded. They were unwisely dissuaded, or perversely abstained, from the exercise of their rights, at both these elections. If they be a majority, they had the remedy in their own hands; and if they be not a majority, they have no right to deny that this constitution is the will of the people of Kansas, but are bound to

obey it. If they had the majority they could have elected the members of the convention in June, 1857, and adopted their Topeka constitution, if they had seen fit, and ratified it by a vote of the people in such manner as the convention deemed advisable; and we could not, and would not, have denied the State admission into the Union under it. Instead of taking this orderly course, they stood aloof from all the legal elections down to October, 1857. It does not lie in their mouths now to object to the legality of the Territorial Legislature, after voting and carrying an election under its laws. The truth is, that they adhered to the Topeka constitution, and maintained their lawless and rebellious attitude down to October, 1857; and then, being better advised, or finding it perilous to assist in this course, they abandoned it, and voted at the legislative election in October, 1857; but still, the spirit of revolution or rebellion predominating, they would not vote on the ratification of the constitution on the 21st of December, 1857, though they did vote at a subsequent election, the effect of which I shall consider hereafter.

They had then a peaceful remedy, and therefore a revolutionary course was not justifiable. I have endeavored to show that they stood in an attitude of rebellion to the territorial government—or a revolutionary attitude, if that phrase be more agreeable to Senators—an attitude of resistance to the laws of the United States, for no one can deny that the Territorial Legislature was recognized by the Executive Government of the United States from the time of its origin, and that it constituted the lawful government of the Territory, and resistance to it was revolution.

But, sir, there is something more. The people at Topeka, those who there resisted the legal organization, and had nearly produced civil strife by an attempt to inaugurate a government without color of law, did not stop in their revolutionary movements with Kansas, but carried their designs still further, and sought to involve this whole Union and disorganize the Federal Government. I will read the eighth resolution passed at the mass meeting held at Topeka on the 4th of July, 1856. The Senate will recollect that we had very arduous struggles here, during the last Congress, about passing the different appropriation bills, unless with riders placed upon them, by a majority of Republicans in the House of Representatives recognizing the action of these Topeka revolutionists as legitimate and proper—no riders of ours, but theirs. I find, in this eighth resolution, where those extraordinary movements originated. That resolution is in these words:

“8. Resolved, That having hitherto invariably acted in accordance with the spirit and letter of the American Constitution, and having framed by our delegates, regularly elected, a State constitution; and believing that the only measure by which peace can be secured to this section of the Republic, and justice done to ourselves and posterity, is the immediate admission of Kansas into the Union under our present constitution, we earnestly call upon our friends in the National House of Representatives to stop all supplies until the Senate and Executive are compelled to admit us.”

Is not that a revolutionary attitude? Is that the sentiment of law-abiding citizens? Because they choose to form a government against the will of the legal government of Kansas, without color of law, and an accidental majority of their friends is obtained in one branch of the Federal Legislature, they advise those friends in the House of Representatives to disorganize the Federal Government, unless it will submit to their acts of revolution and rebellion. Such was the advice. Ah! Mr. President, was it not acted upon? Do we not all know that the appropriation bills were put in hazard? Do we not all know that the Army appropriation bill was lost under the advice contained in that resolution, and that an extra session of Congress had to be assembled, for the purpose of keeping the Army from actual disorganization, and preventing the country from being left a prey to disorder? There were provisos in other appropriation bills, which were ultimately given up; but in regard to the bill for the support of the Army of the United States, involving some fourteen million dollars, the House of Representatives tacked to it a proviso—

“That no part of the military force of the United States, for the support of which appropriations are made by this act, shall be employed in aid of the enforcement of any en-

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actment heretofore passed by the bodies claiming to be the Territorial Legislature of Kansas."

That is the last form in which it appeared. In its first form, it was still more objectionable. On that issue, the House of Representatives adjourned, and the Army appropriation bill was lost. Is not that in accordance with the advice given in this resolution, that unless we should sanction revolution and rebellion against the authority of the United States, and admit Kansas into the Union as a State, under a constitution formed without color of law, and in defiance of existing authority, the Government of the United States should be disorganized? Do we not know, if that course had been persevered in, and the passage of the Army bill had been finally defeated, an entire disorganization of the Army throughout the country would have resulted, which would have cost the country millions of dollars for reorganization, independent of the difficulties and evils which must have been consequent upon such indefensible action? Congress adjourned on the 18th of August, the Army bill having been lost by the adherence of the House of Representatives to this proviso, and on no other ground. Congress was reassembled, and new bills were introduced, and the proviso was still adhered to. The last bill finally came to us from the House of Representatives, with the proviso I have read, on the 29th of August. In the Senate, the proviso was struck out by a strict party vote. All the Senators on the other side, who were present, with the single exception of the honorable Senator from New York, who did not vote, because he stated he had paired off, voted against the passage of the bill, with the clause struck out. The vote stood 7 to 25—every one of the seven being members of the Republican party. The bill, with our amendment, went back to the House of Representatives, and there, upon concurring in the amendment, the vote stood 101 to 98—the 98 nays being composed entirely of members of the Republican party, and the 101 yeas, of the American party and the Democratic members of the House of Representatives. The bill thus was finally passed, which prevented the disorganization of the Army, and the stoppage of supplies so as to affect the Government generally, as well as keep up the disorganization in Kansas, in accordance with the wishes of these peaceable, orderly citizens, who stood in no revolutionary attitude to the Government of the United States!

Mr. President, there is another question which I propose to notice briefly—the vote under legislative authority on January 4, 1858, which is claimed as evidence that this constitution is not the legally-expressed will of the people of Kansas. Now, I have already stated what I consider the only legitimate evidence which we can accept of the will of a people—their vote, when a question is rightfully and legally submitted to them. I have endeavored to show that at previous elections this matter was legally submitted. There were ten thousand two hundred votes polled at this election on the 4th of January. The answer is, that after the Territorial Legislature once appealed to the people of Kansas to decide whether they would form a State government, and the people had responded to them by authorizing the call for a convention, and a convention had been elected and formed a constitution, no subsequent Territorial Legislature had authority to control the action of that convention; because, whenever the people have authorized the assembling of a convention to form a constitution, its power is paramount over the existing territorial authority. Take the case of the Legislature of any of our States: the legislative power is superseded, because, when the Legislature pass a law to ascertain by a vote of the people whether a convention shall be held, and the people authorize it, the power springs from them; and then comes the act of the Legislature regulating the time, mode, and place of electing delegates, in obedience to the public will; but when the constitution assembles, is it not paramount to the legislative authority? and has any subsequent Legislature authority to qualify, or in any way interfere with, the acts of that convention? It represents the entire sovereignty of the State, and may adopt a constitution with or without submission for ratification by the people. It may submit for ratification the consti-

tution it has formed, in such mode as is deemed advisable, either as a whole, or in different parts; but no subsequent Legislature can stand for the purpose of amending the constitution in any other position than as subordinate to the paramount power which the people have vested in the constitutional convention. Such would be the case in a State. The Territorial Legislature of Kansas, which called the convention, stood in precisely the same relation to subsequent Legislatures after the members of the convention had been elected, that a State Legislature would stand to its successors; and a subsequent State Legislature has no authority to interfere with the action of a State convention. It is for the people, and for the people alone, to remedy their action when the constitution has been adopted, or is submitted for ratification by the convention.

The law authorizing the vote in January was utterly irregular—not revolutionary; because it was the act of one existing authority in the State; but it was an excess of power, and therefore nugatory and void. The Legislature had no right to interfere with the action of the convention. Its interference was irregular and unlawful, but not revolutionary. I cannot regard the vote taken under the action of the Territorial Legislature as the will of the people of Kansas legally expressed. I cannot go behind the election of delegates to form the constitution when all might have voted if they had seen fit. I cannot admit that the Legislature may interfere with and abrogate the action of the constitutional convention which was legally authorized. I therefore should disregard this vote, without reference to its amount, as evidence of the legally expressed will of the people. There is, however, a further answer. On the same day, and under a power which the convention undoubtedly possessed, an election was held for the purpose of choosing the officers of this inchoate State which was to become a State whenever Congress should recognize and admit it into the Union. At that election on the same day, under legitimate authority, there were between twelve and thirteen thousand votes polled for State officers. It is true the result of that election, as now announced, has given the State into the hands of those who are opposed to me in political sentiments. I care not for that; but beyond all controversy, those who voted at that election recognized and ratified the constitution under which they voted for the election of officers. At that election, the aggregate of the votes polled exceeds by two thousand any vote ever before polled in Kansas, and it must be looked upon as operating as a confirmation of the constitution, because a large majority of the people, larger than any number that ever voted against, voted under it. I may be told that a portion of those who voted for officers under this constitution were the same persons who voted against the constitution on the same day under an irregular election. My answer is that the acts would be inconsistent, and the regular act must prevail. I cannot assume it. I do not know it. It may be that they were totally distinct men. It may be that the ten thousand who voted against the constitution, or a part of them, belonged to that portion of the people who, seeing the destruction of their own interests arising from continual feuds and continued disorganization in Kansas, had come to a determination to abide by the laws; and that that portion of the free-State party and the opposite party combined outnumbered those who still wished to maintain Kansas in a state of disorganization and revolution. I think that not improbable; though the opinion is merely conjectural, and the fact immaterial. I find a legal vote, taken under legal authority, in the one case, and an irregular vote in the other. The legal vote so taken shows two thousand majority over this irregular vote, with all its boasted effect; and I hold, therefore, that it operates of necessity as evidence that the will of the people of Kansas is that this constitution shall stand until they see fit to amend or abrogate it. It shows, further, that the less partisan portion of the free-State party have determined to return to a government of law and order.

Mr. President, there is another question which I shall endeavor to treat succinctly, but it is too important to be passed without notice, and has been made the subject of extended comment by

the Senator from Michigan; and my opinions are so entirely at variance with his, that I cannot hesitate to declare them, and give the authorities by which they are supported. It is contended by him, and also by the honorable Senator from Illinois, that where a provision exists in the constitution of a State, prescribing a mode in which that constitution may be amended, it follows that though the right may exist in the people at large to alter their constitution at all times, yet the exercise of the right would be revolutionary, and that no amendment can be constitutionally made, except according to the terms prescribed in the constitution. I hold not only that there is no obligation to follow the mode prescribed in the constitution, though it may be the more convenient course, but that if a constitution expressly prohibited, as the Topeka constitution did, any convention from being held prior to the year 1865, the provision would be merely void and of no validity, as against the right of the people to change it; and that the right can be exercised, notwithstanding the provision to the contrary, by perfectly peaceful means, without revolution. On this question it is requisite to state my view of the principle on which our State governments rest, and I shall then proceed to point out the distinction applicable to the Federal Government.

What is the basis of all our State governments? That from the nature of man it necessarily results that in the formation of mankind into distinct communities, the only admissible axiom is, that the power of self-government is inherent in the people at large, and of necessity to be exercised by a majority.

Two propositions are essential parts of the axiom. First, that the right of government vests in the people at large; and secondly, that a majority of those who choose to act may organize a government; and the right to change is included in the principle which gives the authority to organize.

The constitution of a State cannot restrain or impair this right; because it exists in the people outside of the constitution. It is the political axiom upon which the constitution itself is founded.

In governments founded on the social compact, no express or actual contract exists between the different members of society; but the theory is that the consent of all is implied, and an indefinite authority exists in the majority to bind the whole.

This assumed right of the majority under the axiom must exist at all times, and cannot be controverted, except by those who place the right of government on some other foundation.

Whence does the right of the majority spring to form governments, if not from the assumed principle, the doctrine of implied compact as the true basis of government?

If the people of one generation have an inherent right to form governments, the same inherent right must exist unfettered in those of a subsequent generation.

The right of the majority to organize a government under the law of the social compact, precludes any power in that majority to render the government they form unalterable, either for twenty or ten years, or for one year; because such a restriction is inconsistent with their own authority to form a government, and at war with the very axiom from which their own power to act is derived.

The Senator from Illinois admits the right; but considers that, where the constitution prohibits change, or specifies a mode of change, alteration in any other mode would be an act of revolution. In this I differ with him. The change of organic law in modes other than those specified in the constitution, may be made without revolution in the present received sense of the word. Wherever the ultimate power of government rests, there the power to change its form must rest.

I have stated the principle without enlarging upon it, on which, I suppose, all national governments rest, and all the governments of these States are national. They have no other basis, if it be not the doctrine of the social compact. They are national because they were all independent sovereignties, constituting separate nations, when they entered into a Confederacy, and subsequently formed the Federal Government which now exists. They parted with certain powers of sovereignty, but their distinct nationality none the

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less exists. They are national governments, as contradistinguished from the Government of the United States, which is Federal; and the social compact is the only basis supported by reason or authority for forming a government by the will of the majority. The law of that social compact which renders obligatory the action of a majority, can rest only on the political axiom I have stated, and the axiom as necessarily continues the right in posterity to alter as it assumes the original right to form governments. As to the mode of exercise being revolutionary, the answer is obvious. Wherever the ultimate power and the legislative power are in one and the same body, the change of government may be made without revolution at any time, by mere legislation. Take England: if the Crown, Lords, and Commons, which constitute not only the legislative but the ultimate power, see fit to change the British Constitution, either by a reform bill, altering the structure of the House of Commons, or by making peers of the realm elective, as tenants for life instead of hereditary, or by abolishing hereditary descent of the Crown, or altering the line of succession and providing for the ascent of some other family to the throne; if the three estates of the realm constituting the ultimate power of sovereignty—the Crown, the Lords, and the Commons—assent to such change, they possessing, also, the legislative power, of course there could be no revolution. Revolution must include resistance to existing governmental authority. The change must always be peaceful and strictly legal when made by the authority of the ultimate power and legislative power combined in the same persons. The difference in our Republics is, that the ultimate power reposes in the people. The honorable Senator from Michigan, and the honorable Senator from Illinois, do not deny the right of the people to change a Government whenever they see fit. Such denial would be very inconsistent with their doctrines of popular sovereignty; but they contend that the people cannot exercise the right except by revolution, unless in the mode prescribed in the Constitution. If a majority of the people have the right to change their form of government, as they have the means always of bringing the legislative power into accord with the ultimate power, all that is necessary is to elect a Legislature which will provide for holding a convention, and as the right exists, of course the exercise of the right cannot be revolutionary if it is in accordance with the will of the existing government. I am right in my principle as to the basis of all governments founded on the social compact, the very authority to form a constitution of necessity includes the right of change in the people, and that right of the people need not be exercised in a revolutionary manner because having at all times the control over the Legislature, and revolution consisting in resistance to the existing authority, the people can always bring their Legislature into accordance with the ultimate power in themselves, and so exercise their right peacefully and without revolution.

But, sir, it may and has been said that this doctrine is dangerous; that it is revolutionary; that it would lead to constant changes of government, if not to anarchy. Mr. President, the man who believes in the capacity of the people for self-government, cannot assume that because the right to change exists, it will be exercised without cause. There exists, on the contrary, indelibly implanted in the human heart a spirit of resistance, which prompts to the assertion of a real or supposed right from its mere denial; when the right is conceded, the individual would care little for its exercise. The same spirit of resistance exists with greater force in communities of men, and therefore restrictions upon the acknowledged right inherent in the people at all times, in national governments, to form or change their governments, inserted in a constitution, but tend to stimulate the assertion of the right, when otherwise no change would be desired or thought necessary. The right will be asserted because the attempted restriction involves its existence; and the importance of that principle quickens the spirit of resistance, without regard to the extent of change which may be desired. In a community capable of self-government, the right to change their form of government without restriction, at all times, will not conduce to mutability

by its too frequent exercise. It will be sufficient for them that the right is acknowledged to exist.

The doctrine for which I have contended does not stand upon theoretic reasoning alone. It is supported both by practice and authority. In many of the States of this Union, certainly in New York, in Maryland, and in my own State, it has been acted upon, and constitutions changed in modes other than those prescribed in them, without revolution. It was sustained in practice in my own State to its fullest extent, and sustained by men who understood the principles of republican government quite as well as their posterity at this day. The first convention to form a constitution in the State of Delaware was held in the year 1776. It provided for no convention whatever to change the constitution, but contained this provision:

"No article of the declaration of rights and fundamental rule of this State, agreed to by this convention, nor the first, second, fifth, (except that part thereof that relates to the right of suffrage,) twenty-sixth, and twenty-ninth articles of this constitution, ought ever to be violated on any pretense whatever. No other part of this constitution shall be altered, changed, or diminished, without the consent of five parts in seven of the Assembly, and seven members of the Legislative Council."

The Legislative Council consisted of nine members, and therefore it required seven ninths of one body, and five sevenths of the other, to make any alteration of that constitution; and it was to be altered in no other mode according to its terms. The people of Delaware, in the year 1791, becoming satisfied that the constitution required alteration, the Legislature without hesitation passed an act in which they recited the principles which I have mentioned as the foundation of government. The recital reads thus:

"By the thirtieth article of the constitution of this State, the power of revising the same, and of altering and amending certain parts thereof, is vested in the General Assembly; and it appears to this House that the exercise of the power of altering and amending the constitution by the Legislature would not be productive of all the valuable purposes intended by a revision, nor be so satisfactory and agreeable to our constituents; and that it would be more proper and expedient to recommend to the good people of this State to choose deputies for this special purpose to meet in convention."

Then follows the enacting clause authorizing the election of delegates to a convention to change the constitution. Delegates were elected and the constitution was changed, and no man in the State of Delaware questioned the legality of the act or pretended that it was revolutionary, and yet here was an express inhibition against any other mode of change than the mode specified. The next constitution, adopted in 1792 by a convention of which John Dickerson was a member, contained a provision which it would be well, in my judgment, to insert in every State constitution. It provided, in accordance with the principle of the right of the people to self-government, that at every annual election the people might vote for holding a constitutional convention, and if they did so vote, it was mandatory on the Legislature to call a convention. It is strong evidence that mutability of government is not a consequence of yielding to the people unrestricted right to change, in a legitimate and legal mode, their form of government, that the people of Delaware remained under that constitution from 1792 to 1831 without calling a convention, though it might have been done by a majority vote in any one year. The constitution as amended in 1831 continues to the present day. I cite this to show that the recognition of the right in the people to change their constitution every year by the expression of their will at any general election, does not lead to a frequent exercise of the right. Sir, no man is more opposed to mutability of government than I; no man would sooner lose his confidence in the capacity of any people for self-government if constant change was their incessant cry; but the existence of the power and its frequent exercise are very different things. In my belief, the attempt to restrict the power leads to more frequent changes than the acknowledged existence of a right which underlies the constitution of every republican State, with proper provisions for its exercise in a legal and orderly mode at all times.

But, Mr. President, I have said there is a distinction between the State governments and the Federal Government. A State government is national in its character; this Government is Federal.

The illustration of Mr. Webster applies only to the Federal Government. The Government of the United States is formed by the people of the several States of this Union. It is Federal in the extent of its powers; Federal in its foundation, but national in the operation of those powers. It is a mixed Republic; a Government founded not on the law of the social compact, but on the express contract of separate, independent sovereignties, and it cannot be altered except according to the terms prescribed in the contract, unless by the unanimous consent of the parties. It is as regards amendments analogous to a treaty which is the contract of sovereigns incapable of alteration without the consent of both parties. Unless the alteration were made in accordance with the provisions of the Constitution, like an infraction by one sovereign of a treaty made with another, the act would justify its entire abrogation. Though a Government, it is a Government formed by express compact of separate sovereignties, and the infraction of the instrument which forms and is the only evidence of the compact, by attempting to amend or alter it in any other mode than that prescribed, unless with the unanimous consent of all the separate sovereignties, which are parties to it, would destroy the Government itself, by destroying the very basis on which it rests. The distinction is, that the Government of the United States is not founded, though the State governments are, on any political axiom, but on the express contract of separate sovereignties.

On this question I do not rely upon my own opinions or my own argument. Though to me the principle is clear, I may not have presented that principle with sufficient force; but I cannot be mistaken either in the weight of the authority, or in the fact that that authority supports the position I have taken as to the basis both of the Federal and State Governments. The authority is Mr. Madison, and among all the statesmen who have flourished in this country, no more philosophical mind has existed than that of James Madison. He had what is rarely united in man: great comprehensiveness and power of generalization, with thorough power of analysis. In speaking of the old Confederacy, in reply to Mr. Patterson, of New Jersey, Mr. Madison, in the course of his argument, holds this language: (volume 5, page 206, of the Debates of the Federal Convention:)

"It has been alleged (by Mr. Patterson) that the Confederation, having been formed by unanimous consent, could be dissolved by unanimous consent only. Does this doctrine result from the nature of compacts? Does it arise from any particular stipulation in the articles of Confederation? If we consider the Federal Union as analogous to the fundamental compact by which individuals compose one society, and which must, in its theoretic origin at least, have been the unanimous act of the component members, it cannot be said that no dissolution of the compact can be effected without unanimous consent. A breach of the fundamental principles of the compact, by a part of the society would certainly dissolve the other part from their obligations to it. If the breach of any article, by any of the parties, does not set the others at liberty, it is because the contrary is implied in the compact itself, and particularly by that law of it which gives an indefinite authority to the majority to bind the whole, in all cases. This latter circumstance shows that we are not to consider the Federal Union as analogous to the social compact of individuals; for, if it were so, a majority would have a right to bind the rest, and even to form a new constitution for the whole; which the gentleman from New Jersey would be among the last to admit. If we consider the Federal Union as analogous, not to the social compacts among individual men, but to the conventions among independent States, what is the doctrine resulting from these conventions? Clearly, according to the expositors of the law of nations, that a breach of any one article, by any one party, leaves all the other parties at liberty to consider the whole convention as dissolved, unless they choose rather to compel the delinquent party to repair the breach."

I will next quote from the thirty-ninth number of the Federalist, at page 241, Mr. Madison's language in exposition of the Constitution. I might multiply extracts, but those which I shall present are strong enough for my purpose:

"If we try the Constitution by its last relation, to the authority by which amendments are to be made, we find it neither wholly national nor wholly federal. Were it wholly national, the supreme and ultimate authority would reside in the majority of the people of the Union; and this authority would be competent at all times, like that of a majority of every national society, to alter or abolish its established Government."

Not by revolution, because I have shown you that if the ultimate power exists with the people it can always be peaceably exercised, as the people can bring the Legislature into accordance with

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their will at all times, and therefore any attempt to destroy this right, which exists at all times, would be beyond the power of any constitution.

"Were it wholly federal, on the other hand, the concurrence of each State in the Union would be essential to every alteration that would be binding on all. The mode provided by the plan of the convention is not founded on either of these principles. In requiring more than a majority, and particularly in computing the proportion by States, not by citizens, it departs from the national and advances towards the federal character. In rendering the concurrence of less than the whole number of States sufficient, it loses, again the federal and partakes of the national character."

Further quotation is unnecessary. The authority is quite high enough—certainly for me, and, I think, for the people of this country, and is supported by reason and by principle.

I waive all discussion of the question whether the Lecompton constitution intends to restrict all amendments until 1864. I do not so read it; but believing any such restriction upon the right of the people to alter their organic law would be merely void, the inquiry is needless as to what was the intent of the framers of the Constitution in this respect.

Mr. President, I have closed my argument on the objections to the admission of Kansas, which I admitted to be sufficient if sustained, but there remains what I called the question which addresses itself to the Senate. Do the best interests of the Union—its peace, quiet, and repose—demand the present admission of Kansas as a State, or do they require the rejection of the Lecompton constitution? To me it seems perfectly clear that by disconnecting the Territory of Kansas as a Territory from the Federal Government, you prevent agitation on a question perilous to the Union. Admit Kansas, and you can withdraw the Army which has been kept there for years to preserve peace and enforce the laws, and you will leave the people of Kansas as you have the people of every other State, to fight out their own battles, pass their own laws, and settle their own institutions. When you force on them, as it is contended you do, this constitution, you but yield to them the entire control of their own affairs. You also localize an agitation in reference to the question of slavery, and the settlement of the institutions of Kansas, which ought to be localized, and which properly belongs to the people of Kansas, and to them alone. But if you refuse to admit Kansas as a State into the Union under the constitution presented to us, it will be considered by the great body of the people in the slaveholding States of this country as a determination by Congress that in future no State even tolerating slavery shall be admitted into the Federal Union; and, in truth, such is the determination, and such the real objection of the major part of the opponents of the Lecompton constitution—the Republican party. Sir, whenever that becomes the settled conviction of the slaveholding States, rely upon it that the bonds which bind this Union will soon be severed. I say this, not because I desire or would promote such a result; not that I consider, whether Kansas be admitted under the Lecompton constitution or rejected, either event would justify a dissolution of the Union, but because I cannot shut my eyes to a danger which I believe to be imminent, but not realized by the public sentiment of the people of the middle States.

Sir, no effort of mine which could preserve this Union, or tend to its permanence, will ever be spared. I claim no better intentions than other men; but from the fact that the political existence of my own State depends upon its permanence, naturally her citizens look with more reverence and more regard to the preservation of the Union than the citizens of larger States, which may be supposed able to maintain their political existence outside of the Federal organization.

For the reasons which I have stated, I believe that the passage of this bill will—not stop the agitation of the slavery question in some form, but will remove one practical disturbing cause, connected with that question, from the Halls of Congress and from the minds of the people of the country. It will do that good, at least; and if, in the progress of time, the public sentiment of the country can be brought to view this system of agitation rightly, we may hope that no other question will arise that can put the Union in peril.

Mr. President, I heard, with extreme regret,

the declarations made by the honorable Senator from New York. That honorable Senator, if I understood the purport of his remarks—and I shall read those passages on which I intend to comment—has declared to us what I have always feared, whatever might be their present intentions, would become the ultimate object of the Republican party; and that is, the placing of the negro race on an equality with the white race throughout the United States, as to all civil and political rights. That is their ultimate doctrine whatever may be the professed doctrine now, and for that purpose, by all the powers they can legitimately exercise after obtaining the control of the Federal Government, they mean to induce, if not force, the emancipation of all slaves throughout the United States. No thanks to them for the admission that the power is not claimed to abolish slavery in a State through the agency of the Federal Government—every one knows that that would be impracticable folly; but if, holding the doctrine that it is their duty to abolish slavery throughout the United States, and to place the negro on an equality with the white man, as to his civil and political rights, they obtain the control of the Federal Government, and wield it even to the extent of controverted constitutional powers, for the destruction of the institution of slavery, of course, when they obtain that power, this Union must necessarily perish, because not merely the wealth but the existence of the planting States—their social relations and civilization, are inseparably connected with that institution. Yet such I understand to be the doctrine of the honorable Senator from New York. Allow me to read from his speech:

"Free labor has at last apprehended its rights, its interests, its power, and its destiny, and is organizing itself to assume the government of the Republic. It will henceforth meet you boldly and resolutely here; it will meet you everywhere, in the Territories or out of them, wherever you may go to extend slavery. It has driven you back in California and in Kansas; it will invade you soon in Delaware, Maryland, Virginia, Missouri, and Texas. It will meet you in Arizona, in Central America, and even in Cuba. The invasion will be not merely harmless, but beneficent, if you yield seasonably to its just and moderated demands. It proved so in New York, New Jersey, Pennsylvania, and the other slave States, which have already yielded in that way to its advances. You may, indeed, get a start under or near the tropics, and seem safe for a time, but it will be only a short time. Even there you will find States only for free labor to maintain and occupy. The interest of the white race demands the ultimate emancipation of all men. Whether that consummation shall be allowed to take effect, with needful and wise precautions against sudden change and disaster, or be hurried on by violence, is all that remains for you to decide. For the failure of your system of slave labor throughout the Republic, the responsibility will rest not on the agitators you condemn, or on the political parties you arraign, or even altogether on yourselves, but it will be due to the inherent error of the system itself, and to the error which thrusts it forward to oppose and resist the destiny, not more of the African than that of the white races."

I can draw from these declarations, and they are well considered and deliberately made, but one conclusion, that whatever may be the measure of the hour, the ultimate views of the party of which the honorable Senator stands, if not the sole leader, at least one of its chief exponents, are the emancipation of the black race, on the ground that it is demanded by the interest of the white races. The avowed intent is not merely a restriction on the admission of new States into this Union with constitutions tolerating slavery, which admission he calls the extension of slavery; but he tells you that he will attack the institution in every State in which it now exists, in some of which it forms the very basis of their social organization. He tells you that the object of his party is to proceed until they have placed all men on an equality by emancipation.

Mr. President, dearly as I love my country, whenever the hour comes when, with large relative numbers of an inferior race residing in the same community with a superior race, incapable of an amalgamation, which is alike revolting to the instincts of humanity and destructive of the better characteristics of both races, there is to be equality of races, civil and political, I desire no longer to be a citizen of the United States. It can never come without bloodshed and civil war. The honorable Senator tells us if we submit to their beneficent demands it will be well for us. The demands are, that the whole social structure throughout every southern State of the Union shall be subverted, almost the entire property of every

southern State abandoned, and all the flourishing planting States of the South reduced to the condition which Jamaica and Hayti now occupy, or to that which Mexico presents to the civilized world. If we will not consent to this by submitting to their counsels, he intimates that violence will ultimately achieve that result, because he thinks "the interest of the white races demands the ultimate emancipation of all men."

I do not know whether the honorable Senator, in predicting the results to be reached when his party shall have achieved power, has considered the effect of this universal emancipation and the mode in which it is to take place. I do not know whether he looks to amalgamation, or to the extinction of the black race; or, it may be, to the extinction of the white race in the southern country. Which of them he contemplates, he has not told us; but I hold it to be a truth as eternal as the records of history, that no instance can be found where two races of men have inhabited in large relative numbers the same country, unless they were capable of amalgamation and fusion; they have existed together without one or the other becoming the subject race, or one or the other being exterminated. Nor will the future contradict the past. How has it been with your Indians? When the whites came here they found this country with a dense population of Indians; but the Indian, too proud for subjection, has perished before the onward march of civilization. The negro, whose condition throughout all history, in contact with the white race, has been one of subjection, has yielded to it because it is suitable to his more animal nature, and essential to his civilization, to the extent of his capacity. Subjection must be the condition of his race, where it exists in large relative numbers, for his own benefit as well as ours; unless you come to the conclusion that amalgamation is possible and desirable. You have the effect of that in Mexico, and I suppose no Senator wishes to reduce the white people of this country to the condition exhibited by the mixed races of Mexico.

Such a mixture of races is forbidden by the laws of nature, and at war with progressive civilization. I leave to the physiologists the decision of the question of the original unity or diversity of races; but it is an undeniable truth, though the offspring of the white and the negro is not strictly hybrid, that in the mixed race produced by their union, the capacity of reproduction is lessened, and the duration of life shortened. I want no better evidence of the impossibility, under the laws of nature and the instincts of humanity, that the union of these races can be productive of benefit to either.

The honorable Senator from New York, on another occasion, during the present session, declared on the floor of the Senate, that under no circumstances could he vote to recognize the right of property in man. I know how easy it is to raise a specious argument, founded on what is called the law of nature, as to rights of property of any kind. The honorable Senator from New York may tell us that man should not hold property in man. It is a good subject for declamation, and naturally appeals to human sympathies and human feelings. With the exception of where it is forced upon you by the existence of an inferior race in the same country, in large numbers, I hold to the same doctrine myself. But if you press that doctrine on the theoretical ground that man should not hold property in man, by the law of nature, let me ask, where does your authority to hold any property spring from? I have been lately looking at a treatise—and an English treatise, too—published within a few years past, on the law of nations; and the law of nations is a law of perfect obligation as to property, which binds all nations, and I hold, does bind the Federal States of this community, as regards rights of property. I there find the doctrine thus laid down.

Mr. SEWARD. What book is it?

Mr. BAYARD. Wildman on International Law. At page 10, speaking of slavery, he says:

"It is found existing, and, as far as appears, without amendment, in the earliest and most authentic records of the human race. It is recognized by the codes of the most polished races of antiquity. Under the light of Christianity itself, the possession of persons so acquired has been, in every civilized country, invested with the character of prop-

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erty, and secured as such by all the protections of the law. Solemn treaties have been framed, and national monopolies eagerly sought, to facilitate the commerce in this asserted property; and all this, with all the sanction of law, public and municipal."

Mr. President, if a right of property, recognized in all ages, sanctioned under Christian and heathen dispensations, can be questioned now, when the preservation of that right involves not merely the prosperity, but the entire wealth, the civilization and the very existence of the Southern States, has the honorable Senator from New York no fears that at some future day some speculative mind may start the idea that if you are to rest the right of property on the law of nature, (of which I shall speak presently,) you may extend the investigation still further, and reach the conclusion that, by the law of nature, man has no right to property of any kind, except while in his immediate occupation. It would be a most attractive theory for the socialist. It would be just as defensible and just as specious as the view of the honorable Senator from New York as to the right of the white race to hold negroes as slaves. The difference in effect would be, that while his doctrine would simply devastate one section of this country, its extension to the right of property generally beyond its actual occupation, would destroy civilization throughout the continent. Such doctrine is no novelty. *La propriété c'est le vol*, is the language of the French socialist, Proudhon, and his followers have not been few; nor would it be difficult to find specious arguments in support of that delusion.

In either case, the answer is obvious. That property is the result of the organization of mankind into civilized communities. It is a civil right, arising out of the complex relations induced by civilization; and, unless it is considered desirable to retrograde to a savage state, it must be protected without regard to visionary efforts to trace its origin to some supposed law of nature. The passion for acquisition is indelibly implanted in the heart of man; and, if you deprive him of the right of acquisition and transmission to his children, you paralyze his energies, and remove the basis of progressive civilization. Tell the world that man shall hold property which he has acquired only whilst it is in his actual possession and use, and human progress terminates at once and forever. So, too, if carrying into practice the doctrines of the honorable Senator from New York, you can and do force upon the southern people the emancipation of their slaves: the prosperity and civilization of the South will pass away, her social fabric be subverted, and her very name be obliterated in the future annals of the country.

Sir, what is this law of nature? Do honorable Senators who deny rights of property recognized by public and municipal law and by the law of nations on the ground that it is contrary to the law of nature, mean the primary or secondary law of nature, according to the theories of the Roman lawyers? They tell us that the primary law of nature "consists of those instincts which are common to all animals, such as mutual affection and the like." Of course that can afford no rule of property applicable to civilized communities. The secondary law of nature is defined as consisting of those institutions "which natural reason has established among mankind." In its modern acceptance the law of nature means nothing more than natural justice and equity—the law of ethics. If that be the law of nature referred to, the answer is, that the natural law of ethics founded on man's infirm reason, which even in the brightest intellect is too often perverted and clouded by disease, by the passions, and other causes, has been superseded by the revealed law, for the purpose of human obligation, in all Christian communities. Blackstone writes thus:

"Yet, undoubtedly, the revealed law is of infinitely more authenticity than that moral system which is framed by ethical writers, and denominated natural law. Because one is the law of nature, expressly declared so to be by God himself; the other is only what, by the assistance of human reason, we imagine to be that law."

Looking to the revealed law of God, if you take the Jewish dispensation—and it is, beyond controversies, that under it slavery was authorized not only of Jews to a limited extent, but permanent slavery, chattel slavery of the heathen—even though you regard that dispensation as applicable only to a peculiar people under peculiar

circumstances, it requires great confidence in human intellect to pronounce institutions formed under the immediate mandate of the Creator a violation of any law of morals or of ethics. Passing from that to the advent of our Savior; search through the New Testament, and though slavery was then the law of the civilized world, though slavery was all around Him, and His mission was to reform the morals as well as the religion of the world, where do you find His condemnation of this institution, or inhibition of the right of property in man, as violative of the law of morals? Sir, it is a political institution, founded on the progress of civilization and the natural relations of races in this world.

When gentlemen indulge in denunciation of negro slavery as a violation of the law of God, and of the laws of nature, whatever respect I may have for them individually, I attach little weight to that opinion which attempts to establish a refinement of the law of morals as a rule of human conduct and human legislation, which is not recognized in the revealed will of the Almighty.

Mr. President, there are other views and facts in relation to the relative condition of the two races which exist in this country, which I had contemplated presenting, but I forbear, as I have already trespassed longer upon your patience than I intended. I trust that Kansas will be admitted into the Union, I trust that even on the other side of this chamber they will weigh the fact that their great object can be effected, and Kansas made a non-slaveholding State by the Legislature elected under the present constitution. I am confident the cost in money would never weigh with them, and the right of compensation for property taken for what is deemed a public good should be freely acknowledged, as it was recognized property when the constitution was formed. They can achieve their object by the Legislature which has been elected in Kansas providing a sufficient fund to pay the owners for the value of the less than three hundred slaves now there, and then have full authority to abolish slavery in Kansas by mere legislative enactment. If that be as I believe, the real basis of the contest with them, and they desire the permanence of this Union, why should they seek to keep up an agitation which cannot subside whilst Kansas remains in a Territorial condition?

Sir, this Union has hitherto withstood many trials in the contests of sections and parties, and I would fain hope, almost against belief, that it may endure through many more. But Senators may rely that we cannot remain a united people, if the non-slaveholding States, acting up to the declarations of the honorable Senator from New York, persistently continue agitation with a view to the emancipation of the negro slaves of the South. I have confidence, however, in the intelligence of the northern masses, and believe that when they truly appreciate that the real and ultimate object of these incessant attacks upon the institution of slavery, is to place the negro on an equality with the white man, their decision will rebuke agitation, and preserve the Union. My confidence is increased by the fact that whenever this question of equality of races has been hitherto presented to the people of any northern State, except Massachusetts, they have uniformly sustained the ascendancy of their own race.

Mr. BRODERICK. Mr. President, in December last, when the President's message was under discussion, I promised that if ever the Lecompton constitution was presented to the Senate, I should have some opinions to express in regard to it. Since then the whole subject has been so thoroughly debated, that little remains to be said, and I would not now detain the Senate if it were not for views expressed by Republican Senators in favor of a restoration of the Missouri compromise, and, particularly, the opinions expressed by the Senator from New York, [Mr. SEWARD], in which he regrets its repeal.

Sir, if it had not been for the repeal of the Missouri compromise, there would now be no Republican party in existence. Instead of uttering regrets at its repeal, the Republican party in the North should rejoice that it made the Territories a common battle-field in which the conflicting rights of free and slave labor might struggle for supremacy.

The history of the Missouri compromise can be briefly told. It was passed by southern votes. The few northern men who supported it, were consigned to oblivion immediately on their return to their constituents.

At the time it passed, it was considered a triumph for the South. The South rejoiced at the victory. The North, after a murmur of discontent, gave in its adhesion. At the time, the constitutionality of the act was not questioned. It received the indorsement of Mr. Monroe and his Cabinet, the majority of whom were southern men. For twenty-five years tranquillity reigned throughout the country.

Early in the session of 1845, a joint resolution was introduced in the House of Representatives, for the admission of the Republic of Texas as a State into the Union. This resolution reaffirmed the Missouri compromise. It passed the House of Representatives, obtaining almost the unanimous votes of southern members; it passed this body by southern votes. Thus, it will be seen, this reenactment of the Missouri compromise was conceived by southern men, and brought into existence by southern men. The South exultingly claimed it as another victory over the North.

Among the Senators who addressed this body on the question, was the present President of the United States. I quote from his speech. Mr. Buchanan said:

"He was pained with it (the renewed compromise) again, because it settled the question of slavery. These resolutions went to reestablish the Missouri compromise, by fixing a line within which slavery was to be in future confined. That controversy had nearly shaken the Union to its center in an earlier and better period of our history; but this compromise, should it be now re-established, would prevent the recurrence of similar dangers hereafter. Should this question be now left open for one or two years, the country would be involved in nothing but one perpetual struggle. We should witness a feverish excitement in the public mind; parties would divide on the dangerous and exciting question of abolitionism; and the irritation might reach such an extreme as to endanger the existence of the Union itself; but close it now, and it will be closed forever."

Mr. B. said he anticipated no time when the country would ever desire to stretch its limits beyond the Rio del Norte; and such being the case, ought any friend of the Union to desire to see this question left open any longer? Was it desirable again to have the Missouri question brought home to the people, to goad them to fury? That question between the two great interests of our country had been well discussed and well decided; and from that moment Mr. B. had set down his foot on the solid ground then established, and there he would let the question stand forever. Who could complain of the terms of that compromise? It was then settled that north of 36° 30', slavery should be forever prohibited. The same line was fixed upon in the resolutions recently received from the House of Representatives, now before us. The bill from the House for the establishment of a territorial government in Oregon, excluded slavery altogether from that vast country. How vain were the fears entertained in some quarters of the country that the slaveholding States would ever be able to control the Union! While, on the other hand, the fears entertained in the South and West, as to the ultimate success of the Abolitionists, were not less unfounded and vain. South of the compromising line of 36° 30', the States within the limits of Texas applying to come into the Union, were left to decide for themselves whether they would permit slavery within their limits or not. And under this free permission, he believed with Mr. Clay, (in his letter on the subject of annexation,) that if Texas should be divided into five States, two only of them would be slaveholding, and three free States."

Can it be possible, that the man who uttered these sentiments could be chosen as the mouth-piece to foreshadow the opinion of the Supreme Court, in which the constitutionality of the act is denied; or, that the attorney who argued the case against the slave Dred Scott, and, in accordance with the opinion of the court, could, when a Senator on this floor, have used the following language. Yet it is recorded, that Mr. Reverdy Johnson, of Maryland, said:

"He believed in the existence of the power in Congress to pass a law to prohibit slavery, and if such a law were presented to the Supreme Court for a decision on its constitutionality, it would be in favor of the law. As a judicial question, the decision would be against protection to the South. On a bill providing territorial governments for Oregon, California, and New Mexico, he had said that he should himself have submitted an amendment adopting the line of the Missouri compromise, had he not been anticipated in his motion by a Senator from Indiana." [Mr. BRIDGES.]

The marked feature of this opinion is, that the Constitution is extended over the Territories. The "great expounder of the Constitution" (Mr. Webster) differed from the Supreme Court. I will read his remarks on the subject, which were called forth by an amendment offered by Mr. Walker, of Wisconsin, providing a territorial

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government for the territory acquired by the treaty of peace with Mexico. Mr. Webster said:

"It is of importance that we should seek to have clear ideas and correct notions of the question which this amendment of the member from Wisconsin has presented to us—and especially that we should seek to get some conception of what is meant by the proposition, in a law to 'extend the Constitution of the United States to the Territories.' Why, sir, the thing is utterly impossible. All the legislation in the world, in this general form, could not accomplish it. There is no cause for the operation of the legislative power in such a manner as that. The Constitution—what is it? We extend the Constitution of the United States by law to Territory! What is the Constitution of the United States? Is not its very first principle, that all within its influence and comprehension shall be represented in the Legislature which it establishes, with not only a right of debate and a right to vote in both Houses of Congress, but a right to partake in the choice of the President and Vice President? And can we by law extend these rights, or any of them, to a Territory of the United States? Everybody will see that it is altogether impracticable. It comes to this, then, that the Constitution is to be extended as far as practicable; but how far that is, is to be decided by the President of the United States, and therefore he is to have absolute and despotic power. He is the judge of what is suitable and what is unsuitable; and what he thinks suitable is suitable, and what he thinks unsuitable is unsuitable. He is '*omnis in hoc*,' and what is this but to say, in general terms, that the President of the United States shall govern this Territory as he sees fit till Congress makes further provision?"

"Now, if the gentleman will be kind enough to tell me what principle of the Constitution he supposes suitable, what discrimination he can draw between suitable and unsuitable, which he proposes to follow, I shall be instructed. Let me say, that in this general sense there is no such thing as extending the Constitution. The Constitution is extended over the United States, and over nothing else. It cannot be extended over anything except over the old States and the new States that shall come in hereafter, when they do come in. There is a want of accuracy of ideas in this respect that is quite remarkable among eminent gentlemen, and especially professional and judicial gentlemen. It seems to be taken for granted that the right of trial by jury, the *habeas corpus*, and every principle designed to protect personal liberty, is extended by force of the Constitution itself over every new Territory. That proposition cannot be maintained at all. How do you arrive at it by any reasoning or deduction? It can be only arrived at by the loosest of all possible constructions. It is said that this must be so, else the right of the *habeas corpus* would be lost. Undoubtedly these rights must be conferred by law, before they can be enjoyed in a Territory."

In reply to Mr. Calhoun on the same subject, he argued:

"The Constitution, as the gentleman contends, extends over the Territories. How does it get there? I am surprised to hear a gentleman so distinguished as a strict constructionist, affirming that the Constitution of the United States extends to the Territories, without showing us any clause in the Constitution in any way leading to that result; and to hear the gentleman maintaining that position, without showing us in any way in which such a result could be inferred, increases my surprise."

"One idea further upon this branch of the subject. The Constitution of the United States extending over the Territories, and no other law existing there! Why, I beg to know how any government could proceed, without any other authority existing there than such as is created by the Constitution of the United States? Does the Constitution of the United States settle titles to land? Does it regulate the rights of property? Does it fix the relations of parent and child, guardian and ward? The Constitution of the United States establishes what the gentleman calls a confederation for certain great purposes, leaving all the great mass of laws which is to govern society to derive their existence from State enactments. That is the just view of the state of things under the Constitution. And a State or Territory that has no law but such as it derives from the Constitution of the United States, must be entirely without any State or territorial government. The honorable Senator from South Carolina, conversant with the subject as he must be from his long experience in different branches of the Government, must know that the Congress of the United States have established principles in regard to the Territories that are utterly repugnant to the Constitution. The Constitution of the United States has provided for them an independent judiciary; for the judge of every court of the United States holds his office upon the tenure of good behavior. Will the gentleman say that, in any court established in the Territories, the judge holds his office in that way? He holds it for a term of years, and is removable at executive discretion. How did we govern Louisiana before it was a State? Did the writ of *habeas corpus* exist in Louisiana during its territorial existence? or the right of trial by jury? Who ever heard of trial by jury there before the law creating the territorial government gave the right to trial by jury? No one. And I do not believe that there is any new light now to be thrown upon the history of the proceedings of this Government in relation to that matter. When new territory has been acquired, it has always been subject to the laws of Congress—to such laws as Congress thought proper to pass for its immediate government; for its government during its territorial existence, during the preparatory state in which it was to remain until it was ready to come into the Union as one of the family of States."

At a later period in the debate he said:

"The honorable Senator from South Carolina argues, that the Constitution declares itself to be the law of the land, and that therefore it must extend over the Territories. 'The land,' I take it, means the land over which the Constitution is established; or, in other words, it means the States united under the Constitution. But does not the gentleman

see at once that the argument would prove a great deal too much? The Constitution no more says, that the Constitution itself shall be the supreme law of the land, than it says that the laws of Congress shall be the supreme law of the land. It declares that the Constitution, and the laws of Congress passed under it, shall be the supreme law of the land."

Mr. President, the Missouri compromise was again reaffirmed in 1848, on the passage of the act creating a territorial government for Oregon.

The discovery of gold during the same year in California rapidly gave that Territory a population, three fourths of which was from the free States. The necessity for some form of government compelled the people of California to frame a constitution, which, in obedience to the doctrine of popular sovereignty, was submitted to the people, and adopted with a clause prohibiting slavery. There were about five hundred votes against the adoption of this constitution. This small opposition did not arise because of the anti-slavery clause, but because many of the people believed that the time had not arrived for the formation of a State government.

When California applied for admission with this constitution, the South refused her admission. Mr. Davis, of Mississippi, demanded the extension of the Missouri line to the Pacific ocean, and the recognition of slavery on the south thereof. In the debate on this subject he used the following language:

"I here assert, that never will I take less than the Missouri compromise line extended to the Pacific ocean, with the specific recognition of the right to hold slaves in the Territory below that line; and that, before such Territories are admitted into the Union as States, slaves may be taken there from any of the United States, at the option of their owners."

This brought Mr. Clay to his feet, who said:

"I am extremely sorry to hear the Senator from Mississippi say that he requires, first, the extension of the Missouri compromise line to the Pacific, and also that he is not satisfied with that, but requires, if I understood him correctly, a positive provision for the admission of slavery south of that line. And now, sir, coming from a slave State as I do, I owe it to myself, I owe it to truth, I owe it to the subject, to say that no earthly power could induce me to vote for a specific measure for the introduction of slavery where it had not before existed, either south or north of that line. Coming as I do from a slave State, it is my solemn, deliberate, and well-matured determination, that no power—no earthly power—shall compel me to vote for the positive introduction of slavery either south or north of that line. Sir, while you reproach, and justly too, our British ancestors for the introduction of this institution upon the continent of North America, I am, for one, unwilling that the posterity of the present inhabitants of California and of New Mexico shall reproach us for doing just what we reproach Great Britain for doing to us. If the citizens of these Territories choose to establish slavery, and if they come here with constitutions establishing slavery, I am for admitting them with such provisions in their constitutions; but then it will be their own work, and not ours; and their posterity will have to reproach them, and not us, for forming constitutions allowing the institution of slavery to exist among them. These are my views, sir, and I choose to express them; and I care not how extensively or universally they are known."

This was among the last debates in which Mr. Clay took a part. It was among the last great acts of his long and honorable life. It was the utterance of such sentiments as these that endeared him to the people. They are the views of a statesman who could forget sectional prejudices in a love for his whole country. Could he come back from his honored grave, and resume his former seat here, and utter the same sentiments, he would be denounced as an Abolitionist. Strange that the Supreme Court could not permit one decade to pass after the deaths of Webster and Clay—those great defenders and expounders of the Constitution—before it destroyed the measure that gave peace and prosperity to the country.

Mr. Clay's compromise measures passed, and California became a State of the Union, despite the protest of ten southern Senators, four of whom [Messrs. HUNTER and MASON, of Virginia, DAVIS, of Mississippi, and YULEE, of Florida,] occupy seats on this floor to-day.

In their protest they state that the passage of the bill admitting California is injurious to the slave States, "fatal to the peace and equality of the States they represented, and leading, if persisted in, to the dissolution of that Confederacy in which the slaveholding States had never sought more than an equality, and in which they will not be content to remain with less."

After the passage of the compromise measures of 1850, with the admission of California as a State into the Union, peace was again restored on

the question of slavery, as every patriot supposed, forever.

In 1852, the two great parties, Whig and Democratic, met in their conventions and indorsed, in their several platforms, the compromises of 1850. The questions that formerly had divided these parties had now been settled by the adoption of the Democratic policy, and the Democratic party was in a large majority in both branches of the national Legislature.

In 1854, Mr. DOUGLAS introduced the Nebraska bill, to which Mr. DIXON, of Kentucky, offered an amendment, the effect of which was to repeal the Missouri compromise. This amendment was accepted by the Committee on Territories, and adopted by southern Senators, who objected to the bill and report of Mr. DOUGLAS, as I have been informed, for not being sufficiently ultra in their provisions.

I do not know, sir, why the Senator from Illinois accepted this amendment; but I was inclined to believe at the time, that he, representing a free State, saw the beneficial results that were to flow from it to the people of the North; and it was not for him to object, when he found almost a united South indorsing a repeal of the Missouri compromise, the effect of which repeal was to devote the whole Territories of the Union to the control of free labor. But I will do him the credit to say that I always thought that he saw, at the time he accepted the amendment of Mr. DIXON, that there were to be no more slave States. The South achieved another victory, as she supposed; the bill became a law. From the moment of its passage, slavery and freedom confronted each other in the Territories.

In the passage of this bill the people of the North felt that a great wrong had been committed against their rights. This was a mistaken view; the North should have rejoiced and applauded the Senator from Illinois for accepting Mr. DIXON's amendment. The South should have mourned the removal of that barrier, the removal of which will let in upon her feeble and decaying institutions millions of free laborers.

In the passage of the Kansas-Nebraska bill, the rampart that protected slavery in the southern Territories was broken down. Northern opinions, northern ideas, and northern institutions, were invited to the contest for the possession of these Territories.

How foolish for the South to hope to contend with success in such an encounter. Slavery is old, decrepit, and consumptive; freedom is young, strong, and vigorous. The one is naturally stationary and loves ease; the other is migratory and enterprising. There are six million people interested in the extension of slavery; there are twenty million freemen to contend for these Territories, out of which to carve for themselves homes where labor is honorable. Up to the time of the passage of the Kansas-Nebraska act, a large majority of the people of the North did not question the right of the South to control the destinies of the Territories south of the Missouri line. The people of the North should have welcomed the passage of the Kansas-Nebraska act. I am astonished that Republicans should call for a restoration of the Missouri compromise. With the terrible odds that are against her, the South should not have repealed it if she desired to retain her rights in the Territories.

Has it never occurred to southern gentlemen that millions of laboring free men are born yearly, who demand subsistence and will have it; that as the marts of labor become crowded they will spread into the Territories and take possession of them. The Senator from South Carolina undervalues the strength and intelligence of these men when he denounces them as slaves. Would a dissolution of the Union give these southern Territories to slavery? No, sir. It is a mistake to suppose that it would. A dissolution of the Union would not lessen the amount of immigration, or the number of free white men seeking for homes and a market for their labor. Wherever there is land for settlement, they will rush in and occupy it, and the compulsory labor of slaves will have to give way before the intelligent labor of freemen. Had the Missouri line been retained, the northern laborer would not have sought to go south of it. But this line having been abolished

by the South, no complaint can be made if the North avails herself of the concession. Senators had better consider before they talk of dissolution, and first understand if the perpetuity of their beloved institution will be more securely guaranteed by it. The question of dissolution is not discussed by the people of California. I am not at liberty to say, if the people I in part represent are denied by Congress the legislation they require, they will consider it a blessing to remain a part of this Confederation.

The Senator from South Carolina very boastingly told us, a few days since, how much cotton the South exported, and that "cotton was king." He did not tell us that the price of cotton fluctuated, and that the South was at the mercy of the manufacturers. Suppose, sir, the sixteen free States of the Union should see fit to enact a high protective tariff, for the purpose of giving employment to free labor, would cotton be king then? Why, sir, the single free State of California exports the product for which cotton is raised, to an amount of more than one half in value of the whole exports of the cotton of the slave States. Cotton king! No, sir. Gold is king. I represent a State, sir, where labor is honorable; where the judge has left his bench, the lawyer and doctor their offices, and the clergyman his pulpit, for the purpose of delving in the earth; where no station is so high, and no position so great, that its occupant is not proud to boast that he has labored with his hands. There is no State in the Union, no place on earth, where labor is so honored and so well rewarded; no time and no place since the Almighty doomed the sons of Adam to toil, where the curse, if it be a curse, rests so lightly as now on the people of California.

Many Senators have complained of the Senator from South Carolina for his denunciations of the laborers of the North as "white slaves," and the "mud-sills of society." I quote from his speech:

"In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is a class requiring but a low order of intellect, and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud-sill of society and of political government; and you might as well attempt to build a house in the air as to build either the one or the other except on this mud-sill. Fortunately for the South, she found a race adapted to that purpose to her hand—a race inferior to her own, but eminently qualified in temper, in vigor, in docility, in capacity, to stand the climate, to answer all her purposes. We use them for our purpose, and call them slaves. We found them slaves by the 'common consent of mankind,' which, according to Cicero, '*lex nature est*;' the highest proof of what is nature's law. We are old-fashioned at the South yet; it is a word discarded now by 'ears polite.' I will not characterize that class at the North with that term; but you have it; it is there; it is everywhere; it is eternal."

"We do not think that whites should be slaves either by law or necessity. Our slaves are black, of another and inferior race. The status in which we have placed them is an elevation. They are elevated from the condition in which God first created them, by being made our slaves. None of that race on the whole face of the globe can be compared with the slaves of the South. They are happy, content, unassuming, and utterly incapable, from intellectual weakness, ever to give us any trouble by their aspirations. Yours are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot box is stronger than an army with banners, and could combine, where would you be? Your society would be reconstructed, your Government overthrown, your property divided, not as they have mistakenly attempted to initiate such proceedings by meeting in parks, with arms in their hands, but by the quiet process of the ballot-box. You have been making war upon us to our very hearth-stones. How would you like for us to send lecturers and agitators North, to teach these people this, to aid in combining, and to lead them?"

I, sir, am glad that the Senator has spoken thus. It may have the effect of arousing in the working men that spirit which has been lying dormant for centuries. It may also have the effect of arousing the two hundred thousand men, with pure white skins, in South Carolina, who are now degraded and despised by thirty thousand aristocratic slaveholders. It may teach them to demand what is the power—

"Link'd with success, assumed and kept with skill,
That molds another's weakness to its will;
Wields with their hands, but, still to them unknown,
Makes even their mightiest deeds appear his own?"

I suppose, sir, the Senator from South Caro-

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lina did not intend to be personal in his remarks to any of his peers upon this floor. If I had thought so, I would have noticed them at the time. I am, sir, with one exception, the youngest in years of the Senators upon this floor. It is not long since I served an apprenticeship of five years at one of the most laborious mechanical trades pursued by man—a trade that from its nature devotes its follower to thought, but debars him from conversation. I would not have alluded to this if it were not for the remarks of the Senator from South Carolina, and the thousands who know that I am the son of an artisan, and have been a mechanic, would feel disappointed in me if I did not reply to him. I am not proud of this. I am sorry it is true. I would that I could have enjoyed the pleasure of life in my boyhood's days; but they were denied to me. I say this with pain. I have not the admiration for the men of the class from whence I sprang that might be expected; they submit too tamely to oppression, and are too prone to neglect their rights and duties as citizens. But, sir, the class of society to whose toil I was born, under our form of government, will control the destinies of this nation. If I were inclined to forget my connection with them, or to deny that I sprang from them, this Chamber would not be the place in which I could do either. While I hold a seat here, I have but to look at the beautiful capitals adorning the pilasters that support this roof, to be reminded of my father's talent, and to see his handiwork.

I left the scenes of my youth and manhood for the "far West," because I was tired of the struggles and jealousies of men of my class, who could not understand why one of their fellows should seek to elevate his condition above the common level. I made my new abode among strangers, where labor is honored. I had left without regret; there remained no tie of blood to bind me to any being in existence. If I fell in the struggle for reputation and fortune, there was no relative on earth to mourn my fall. The people of California elevated me to the highest office within their gift. My election was not the result of an accident. For years I had to struggle, often seeing the goal of ambition within my reach; it was again and again taken from me by the aid of men of my own class. I had not only them to contend with, but almost the entire partisan press of my State was subsidized by Government money and patronage to oppose my election. I sincerely hope, sir, the time will come when such speeches as that from the Senator from South Carolina will be considered a lesson to the laborers of the nation.

This Lecompton constitution will pass this body. If it should pass the other House, it will become a law. The South will rejoice at another triumph. Such triumphs constitute her defeat.

Since this Lecompton constitution has been before the Senate, the Administration has seen proper to attempt to make its acceptance a party test, and its organs have sought to read out of the party all the Democrats who have had the boldness to denounce the frauds by which it was created.

Among the men thus sought to be ostracized, are the great captains and generals of the party, who so gallantly fought during the last presidential contest, and without whose exertions this very Administration would have no existence.

Let the Administration take heed that the party does not read it out. I deny the right of the Administration to make a party test; it is a power that exists only in the Democratic masses. The dictation of self-appointed party leaders shall not be the test of my democracy.

I cannot, as the representative of a free people, consent by any act of mine to coerce the people of Kansas to accept a government they abhor. I have no fear that the people of Kansas will permit this constitution to be enforced in the event of its becoming a law. If they do permit it to be enforced, they deserve to be subjected to the most abject slavery, and should be made to work under the lash of those who framed for them this constitution.

Mr. President, in the views I previously expressed on the Executive message, I said that the President of the United States should be held responsible for the difficulties in Kansas. This remark was considered startling at the time, and

was the subject of much censure. Recent developments have confirmed me in the correctness of the position I then took, and from the expression of public opinion that has reached me, I am satisfied that a majority of the people of the country unite with me in holding him to this responsibility.

Much has been said about not submitting the constitution of Kansas to the people, and a comparison has been drawn between it and the constitution of Minnesota. I agree with the friends of Lecompton that it is not an objection that should be fatal to the admission of a State into the Union, that such constitution has not been submitted to the people, if it be ascertained that the people, as in the case of Minnesota, favor admission.

Entertaining these views, I would not oppose the admission of a State with a clause in its constitution tolerating slavery, if I were satisfied that it was the expressed wish of a majority of the people.

It is a conceded fact, not requiring discussion or argument, that four fifths of the people of Kansas are opposed to the Lecompton constitution. It was a fraud from its very inception. Every election in that Territory, looking to this constitution as a result, was founded in fraud. Senators who have preceded me have stated at length the history of these frauds, and I will now only refer to some of them, as the facts have not been disputed. In one precinct of that Territory, (Kickapoo,) one thousand and twenty-nine votes were polled on the alleged adoption of the Lecompton constitution; while the board of commissioners appointed by the Legislature of Kansas to investigate the subject, state that there are not more than four hundred legal voters in that district.

At another precinct (Shawnee) there were returned, as having been polled for the Lecompton constitution, seven hundred and fifty-three votes. The census of this place shows thirty houses and one hundred and fifteen legal voters. When the poll list left this town the record of names covered four pages of paper, when it reached Mr. Calhoun it covered fifteen pages. At still another precinct, (Oxford,) twelve hundred and sixty-six votes are reported as having been polled. The census shows forty-seven white inhabitants.

It is notorious that the people of a neighboring State were permitted to vote at this election, at such precincts, and as often as they desired. The names of people are recorded in the poll lists as having voted, who had been dead for months. But why enumerate these disgusting details? The facts are before the people. They are known to the President. He continues to keep the men in office who are charged with the commission of these frauds. The result of all their enormity is before us, in the shape of this Lecompton constitution, indorsed by him. Will not the world believe he instigated the commission of these frauds, as he gives strength to those who committed them? This portion of my subject is painful for me to refer to. I wish, sir, for the honor of my country, the story of these frauds could be blotted from existence. I hope, in mercy, sir, to the boasted intelligence of this age, the historian, when writing a history of these times, will ascribe this attempt of the Executive to force this constitution upon an unwilling people to the fading intellect, the petulant passion, and trembling dotage of an old man on the verge of the grave.

Mr. GREEN. It was the common understanding among Senators that the Senate would take a recess until seven o'clock to-night, and that the Senator from Illinois [Mr. Douglas] would then address the Senate on the subject under consideration. With that view I move that the Senate now take a recess until seven o'clock. I wish to state that no vote will be taken until to-morrow.

The motion was agreed to; and the Senate took a recess until seven o'clock, p. m.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m., and the galleries, vestibule, and passages were unusually crowded. When Mr. Douglas entered the Chamber he was greeted by applause in the galleries.

Mr. GWIN. I wish to make a motion, to which

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I hope there will be no objection; it is, that the ladies be permitted to occupy the privileged seats on the floor of the Senate.

Mr. SEWARD. I have no objection to make, except that the Senator from California has quite unkindly taken my motion and appropriated the honor of it himself. [Laughter.] I second the motion.

The VICE PRESIDENT. The Senator from California moves that ladies, who are in attendance without, be allowed to occupy the privileged seats in the Senate Chamber. It requires unanimous consent. If there be no objection the Chair will allow them to be admitted. The Chair hears no objection. The Doorkeeper will admit the ladies.

The enunciation of the decision was received with applause from the galleries, which was promptly checked by the Vice President. Ladies were then admitted to such positions as were attainable; and members of the House of Representatives took possession of such Senator's seats as were vacant, and the aisles.

The VICE PRESIDENT. The Senate will be good enough to come to order. All persons in the Chamber will obtain seats as soon as possible, so that the proceedings may go on. When the Chair directed the Doorkeeper to admit ladies on the floor, there were demonstrations of applause in the galleries and on the floor. The Chair feels quite sure that it is unnecessary to do more than to suggest to persons present that it is improper at any time to disturb the deliberations of the Senate by such demonstrations, and he hopes not to find it necessary at any future time to check them.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. DOUGLAS. Mr. President, I know not that my strength is sufficient to enable me to present to-night the views which I should like to submit upon the question now under consideration. My sickness for the last two weeks has deprived me of the pleasure of listening to the debates, or of an opportunity of reading the speeches that have been made; hence I shall not be able to perform the duty which might naturally have been expected of me, of replying to any criticisms that may have been presented upon my course, or upon my speeches, or upon my report. I must content myself with presenting my views upon the questions that are naturally brought up by the bill under consideration. I trust, however, that I may be pardoned for referring briefly, in the first instance, to my course upon the slavery question during the period that I have had a seat in the two Houses of Congress.

When I entered Congress, in 1843, I found upon the statute-book the evidences of a policy to adjust the slavery question and avoid sectional agitation by a geographical line drawn across the continent, separating free territory from slave territory. That policy had its origin at the beginning of this Government, and had prevailed up to that time. In 1787, while the convention was in session, forming the Constitution of the United States, the Congress of the Confederation adopted the ordinance of 1787, prohibiting slavery in all the territory northwest of the Ohio river. The first Congress that assembled under the Constitution extended all the provisions of that ordinance, with the exception of the clause prohibiting slavery, to the territory south of that river, thus making the Ohio river the dividing line between free territory and slave territory, free labor and slave labor.

Subsequently, after the acquisition of Louisiana, when Missouri, a portion of that territory, applied for admission into the Union as a State, the same policy was carried out by adopting the parallel of 36° 30', north latitude, from the western border of Missouri, as far westward as our territory then extended, as the barrier between free territory upon the one side, and slave territory upon the other.

Thus the question stood when I first entered the Congress of the United States. I examined the question when the proposition was made for

the annexation of Texas, in 1845; and though I was unable to vindicate the policy of a geographical line upon sound political principles, still, finding that it had been in existence from the beginning of the Government, had been acquiesced in up to that time by the North and by the South, and that it had its origin in patriotic motives, I was anxious to abide by and perpetuate that policy rather than open the slavery agitation, and create sectional strife and heart-burning by attempting to restore the Government to those great principles which seemed to me to be more consistent with the right of self-government, upon which our institutions rest. For this reason I cordially acquiesced, in 1845, in the insertion into the resolutions for the annexation of Texas of a clause extending the Missouri compromise line through the Republic of Texas so far westward as the new acquisition then reached. I not only acquiesced in and supported the measure then, but I did it with the avowed purpose of continuing that line to the Pacific ocean, so soon as we should acquire the territory. Accordingly, in 1848, when we had secured New Mexico, Utah, and California, from the Republic of Mexico, and the question arose in this body in regard to the kind of government which should be established therein, the Senate, on my motion, adopted a proposition to extend the Missouri compromise line to the Pacific ocean, with the same understanding with which it was originally adopted. The Journal of the Senate contains the following entry of that proposition:

"On motion of Mr. DOUGLAS to amend the bill, section fourteen, line one, by inserting after the word 'enacted'—'that the line of 36° 30' of north latitude known as the Missouri compromise line, as defined by the eighth section of an act entitled 'An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of said State into the Union on an equality with the original States, and to prohibit slavery in certain Territories,' approved March 6, 1820, be, and the same is hereby, declared to extend to the Pacific ocean, and the said eighth section, together with the compromise therein effected, is hereby revived and declared to be in full force and binding for the future organization of the Territories of the United States in the same sense and with the same understanding with which it was originally adopted."

"It was determined in the affirmative—yeas 32, nays 21."

"On motion of Mr. BALDWIN, the yeas and nays being desired by one fifth of the Senators present—

"Those who voted in the affirmative, are

"Messrs. Atchison, Badger, Bell, Benton, Berrien, Bland, Bright, Butler, Calhoun, Cameron, Davis of Mississippi, Dickinson, Douglas, Downs, Fitzgerald, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, King, Lewis, Mangum, Mason, Metcalfe, Pearce, Sebastian, Spruance, Sturgeon, Turney, and Underwood."

"Those who voted in the negative, are

"Messrs. Allen, Atherton, Baldwin, Bradbury, Breese, Clarke, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge, Felch, Green, Hale, Hamlin, Miller, Niles, Phelps, Upham, Walker, and Webster."

"So the proposed amendment was agreed to."

Thus it will be seen that the proposition offered by me to extend the Missouri compromise line to the Pacific ocean, in the same sense and with the same understanding with which it was originally adopted, was agreed to by the Senate by a majority of twelve. When the bill was sent to the House of Representatives, that provision was stricken out, I think, by thirty-nine majority. By that vote, the policy of separating free territory from slave territory by a geographical line was abandoned by the Congress of the United States. It is not my purpose on this occasion to inquire whether the policy was right or wrong; whether its abandonment at that time was wise or unwise; that is a question long since consigned to history, and I leave it to that tribunal to determine. I only refer to it now for the purpose of showing the view which I then took of the question. It will be seen by reference to the votes in the Senate and House of Representatives, that southern men in a body, voted for the extension of the Missouri compromise line, and a very large majority of the northern men voted against it. The argument then made against that policy of a geographical line was one which upon principle it was difficult to answer. It was urged that if slavery was wrong north of the line, it could not be right south of the line; that if it was unwise, impolitic, and injurious on the one side, it could not be wise, politic, and judicious upon the other; that if the people should be left to decide the question for themselves on the one side, they should be entitled to the same privilege on the other. I thought

these arguments were difficult to answer upon principle. The only answer urged was, that the policy had its origin in patriotic motives, in fraternal feeling, in that brotherly affection which ought to animate all the citizens of a common country; and that for the sake of peace and harmony and concord, we ought to adhere to and preserve that policy. Under these considerations, I not only voted for it, but moved it, and lamented as much as any man in the country its failure; because that failure precipitated us into a sectional strife and agitation, the like of which had never before been witnessed in the United States, and which alarmed the wisest, the purest, and the best patriots in the land for the safety of the Republic.

You all recollect the agitation which raged through this land from 1848 to 1850, and which was only quieted by the compromise measures of the latter year. You all remember how the venerable sage and patriot of Ashland was called forth from his retirement for the sole purpose of being able to contribute, by his wisdom, by his patriotism, by his experience, by the weight of his authority, something to calm the troubled waters, and restore peace and harmony to a distracted country. That contest waged fiercely, almost savagely, threatening the peace and existence of the Union, until at last, by the wise counsels of a Clay, a Webster, and a Cass, and the other leading spirits of the country, a new plan of conciliation and settlement was agreed upon, which again restored peace to the Union. The policy of a geographical line separating free territory from slave territory was abandoned by its friends only because they found themselves without the power to adhere to it, and carry it into effect in good faith. If that policy had been continued, if the Missouri line had been extended to the Pacific ocean, there would have been an end to the slavery agitation forever, for on one side as far west as the continent extended slavery would have been prohibited, while on the other, by legal implication, it would have been taken for granted that the institution of slavery would have existed and continued, and emigration would have sought the one side of the line or the other, as it preferred the one or the other class of domestic and social institutions. I confess, sir, that it was my opinion then, and is my opinion now, that the extension of that line would have been favorable to the South, so far as any sectional advantage would have been obtained, if it be an advantage to any section to extend its peculiar institutions. Southern men seemed so to consider it, for they voted almost unanimously in favor of that policy of prohibiting slavery on one side contented with a silent implication in its favor on the other. Northern Representatives and Senators seemed to take the same view of the subject, for a large majority of them voted against this geographical policy, and in lieu of it insisted upon a law prohibiting slavery everywhere within the Territories of the United States, north as well as south of the line; and not only in the Territories, but in the dockyards, the navy-yards, and all other public places over which the Congress of the United States had exclusive jurisdiction.

Such, sir, was the state of public opinion, as evidenced by the acts of Representatives and Senators on the question of a geographical line by the extension of the Missouri compromise, as it is called, from 1848 to 1850, which caused it to be abandoned, and the compromise measures of 1850 to be substituted in its place. Those measures are familiar to the Senate and to the country. They are predicated upon the abandonment of a geographical line, and upon the great principle of self-government in the Territories, and the sovereignty of the States over the question of slavery, as well as over all other matters of local and domestic concern. Inasmuch as the time-honored and venerated policy of a geographical line had been abandoned, the great leaders of the Senate, and the great Commoners in the other House of Congress, saw no other remedy but to return to the true principles of the Constitution—to those great principles of self-government and popular sovereignty, upon which all free institutions rest—and to leave the people of the Territories and of the States free to decide the slavery question, as well as all other questions, for themselves.

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Mr. President, I am one of those who concurred cheerfully and heartily in this new line of policy marked out by the compromise measures of 1850. Having been compelled to abandon the former policy of a geographical line, for want of ability to carry it out, I joined with the great patriots to whom I have alluded, to calm and quiet the country, by the adoption of a policy more congenial to my views of free institutions, not only for the purpose of healing and harmonizing the strife and controversy which then existed, but for the further purpose of providing a rule of action in all time to come which would avoid sectional strife and sectional controversy in the future. It was one of the great merits of the compromise measures of 1850, indeed, it was their chief merit, that they furnished a principle, a rule of action which should apply everywhere, north and south of 36° 30', not only to the territory which we then had, but to all that we might afterwards acquire, and thus, if that principle was adhered to, prevent any strife, any controversy, any sectional agitation in the future. The object was to localize, not to nationalize, the controversy in regard to slavery, to make it a question for each State and each Territory to decide for itself, without any other State, or any other Territory, or the Federal Government, or any outside power, interfering, directly or indirectly, to influence or control the result.

My course upon those measures created, at first, great excitement, and I may say great indignation at my own home, so that it became necessary for me to go before the people and vindicate my action. I made a speech at Chicago upon my return home, in which I stated the principles of the compromise measures of 1850 as I have now stated them here, and vindicated them to the best of my ability. It is enough to say, that upon sober reflection, the people of Illinois approved the course which I then pursued; and when the Legislature came together, they passed, with great unanimity, resolutions indorsing emphatically the principle of those measures.

In 1854, when it became necessary to organize the Territories of Kansas and Nebraska, the question arose, what principle was to apply to those Territories? It was true they both lay north of the line of 36° 30'; but it was also true that four years before, the policy of a geographical line had been abandoned and repudiated by the Congress of the United States, and in lieu of it the plan of leaving each Territory free to decide the question for itself had been adopted. I felt it to be my duty, as a Senator from the State of Illinois, and I will say as a member of the Democratic party, to adhere in good faith to the principles of the compromise measures of 1850, and to apply them to Kansas and Nebraska as well as to the other Territories. To show that I was bound to pursue this course, it is only necessary to refer to the public incidents of those times. In the presidential election of 1852, the great political parties of that day each nominated its candidate for the Presidency upon a platform which indorsed the compromise measures of 1850, and both pledged themselves to carry them out in good faith in all future time in the organization of all new Territories. The Whig party adopted that platform at Baltimore, and placed General Scott, their candidate, upon it. The Democratic party adopted a platform identical in principle, so far as this question was concerned, and elected General Pierce President of the United States upon it. Thus the Whig party and the Democratic party each stood pledged to apply this principle in the organization of all new Territories. Not only was I as a Democrat—as a Senator who voted for their adoption—bound to apply their principle to this case; but as a Senator from Illinois, I was under an imperative obligation, if I desired to obey the will and carry out the wishes of my constituents, to apply the same principle. To show the views of my Legislature upon that subject, I will read one resolution, which was passed at the session of 1851:

“Resolved, That our liberty and independence are based on the right of the people to form for themselves such a government as they may choose; that this great privilege, the birthright of freemen, the gift of Heaven, secured to us by the blood of our ancestors, ought to be extended to future generations; and that no limitation ought to be applied to this power in the organization of any Territory of the United States, of either a territorial government or a State constitution: *Provided*, The government so established shall be republican, and in conformity with the Constitution.”

That resolution was adopted by a vote of sixty-one in the affirmative and only four in the negative. I undertake to say that resolution spoke the sentiments of the people of Illinois; and I, as their Senator, was only carrying out their sentiments and wishes by applying this principle to the Territories of Kansas and Nebraska. This principle was applied in that bill in the precise language of the compromise measures of 1850, except the addition of a clause removing from the statute-book the eighth section of the Missouri act, as being inconsistent with that principle, and declaring that it was the true intent and meaning of the act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.

Now, sir, the question arises whether the Lecompton constitution, which has been presented here for our acceptance, is in accordance with this principle embodied in the compromise measures, and clearly defined in the organic act of Kansas. Have the people of Kansas been left perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution? Is the Lecompton constitution the act and deed of the people of Kansas? Does it embody their will? If not, you have no constitutional right to impose it upon them. If it does embody their will, if it is their act and deed, you have then a right to waive any irregularities that may have occurred, and receive the State into the Union. This is the main point, in my estimation, upon which the vote of the Senate, and of the House of Representatives, ought to depend in the decision of the Kansas question. Now, is there a man within the hearing of my voice who believes that the Lecompton constitution does embody the will of a majority of the *bona fide* inhabitants of Kansas? Where is the evidence that it does embody that will?

We are told that it was made by a convention assembled at Lecompton in September last, and has been submitted to the people for ratification or rejection. How submitted? In a manner that allowed every man to vote for it, but precluded the possibility of any man voting against it. We are told that there is a majority of about five thousand five hundred votes recorded in its favor under these circumstances. I refrain from going into the evidence which has been taken before the commission recently held in Kansas to show what proportion of these votes were fraudulent; but, supposing them all to have been legal, *bona fide* residents, what does that fact prove, when the people on that occasion were allowed only to vote for, and could not vote against, the constitution? On the other hand, we have a vote of the people in pursuance of law, on the 4th of January last, when this constitution was submitted by the Legislature to the people for acceptance or rejection, showing a majority of more than ten thousand against it. If you grant that both these elections were valid, if you grant that the votes were legal and fair, yet the majority is about two to one against this constitution. Here is evidence to my mind conclusive that this Lecompton constitution is not the embodiment of the popular will of Kansas. How is this evidence to be rebutted? By the assumption that the election on the 21st of December, where the voters were allowed to vote for it but not against it, was a legal election; and that the election on the 4th of January, where the people were allowed to vote for or against the constitution as they chose, was not a legal and valid election.

Sir, where do you find your evidence of the legality of the election of the 21st of December? Under what law was that election held? Under no law, except the decree of the Lecompton convention. Did that convention possess legislative power? Did it possess any authority to prescribe an election law? That convention possessed only such power as it derived from the Territorial Legislature in the act authorizing the assembling of the convention; and I submit that the same authority, the same power, existed in the Territorial Legislature to order an election on the 4th of January as existed in the convention to order one on the 21st of December. The Legislature had the

same power over the whole subject on the 17th of December, when it passed a law for the submission of the constitution to the people, that it had on the 19th of February, when it enacted the statute for the assembling of the convention.

The convention assembled under the authority of the Territorial Legislature alone, and hence was bound to conduct all its proceedings in conformity with, and in subordination to, the authority of the Legislature. The moment the convention attempted to put its constitution into operation against the authority of the Territorial Legislature, it committed an act of rebellion against the Government of the United States. But we are told by the President that at the time the Territorial Legislature passed the law submitting the whole constitution to the people, the Territory had been prepared for admission into the Union as a State. How prepared? By what authority prepared? Not by the authority of any act of Congress—by no other authority than that of the Territorial Legislature; and clearly a convention assembled under that authority could do no act to subvert the Territorial Legislature which brought the convention into existence.

But gentlemen assume that the organic act of the Territory was an enabling act; that it delegated to the Legislature all the power that Congress had to authorize the assembling of a convention. Although I dissent from this doctrine, I am willing, for the sake of the argument, to assume it to be correct; and if it be correct, to what conclusion does it lead us? It only substitutes the Territorial Legislature for the authority of Congress, and gives validity to the convention; and therefore the Legislature would have just the same right that Congress otherwise would have had, and no more, and no less. Suppose now that Congress had passed an enabling act, and a convention had been called, and a constitution framed under it; but three days before that constitution was to take effect, Congress should pass another act repealing the convention law, and submitting the constitution to the vote of the people: would it be denied that the act of Congress submitting the constitution would be a valid act? If Congress would have authority thus to interpose, and submit the constitution to the vote of the people, it clearly follows that if the Legislature stood in the place of Congress, and was vested with the power which Congress had on the subject, it had the same right to interpose, and submit this constitution to the people, for ratification or rejection.

Therefore, sir, if you judge this constitution by the technical rules of law, it was voted down by an overwhelming majority of the people of Kansas, and it became null and void; and you are called upon now to give vitality to a void, rejected, repudiated constitution. If, however, you set aside the technicalities of law, and approach it in the spirit of statesmanship, in the spirit of justice and of fairness, with an eye single to ascertain what is the wish and the will of that people, you are forced to the conclusion that the Lecompton constitution does not embody that will.

Sir, we have heard the argument over and over again, that the Lecompton convention were justified in withholding this constitution from submission to the people, for the reason that it would have been voted down if it had been submitted to the people for ratification or rejection. We are told that there was a large majority of Free-Soilers, of Abolitionists, of free-State men in the Territory, who would have voted down the constitution if they had got a chance, and that is the excuse for not allowing the people to vote upon it. That is an admission that this constitution is not the act and deed of the people of Kansas; that it does not embody their will; and yet you are called upon to give it force and vitality; to make it the fundamental law of Kansas with a knowledge that it is not the will of the people, and misrepresents their wishes. I ask you, sir, where is your right, under our principles of Government, to force a constitution upon an unwilling people? You may resort to all the evidence that you can obtain, from every source that you please, and you are driven to the same conclusion, that this constitution is not the will of the people. [The confusion created by the large number of persons in the galleries endeavoring to find places where they could see and hear, and others pressing in, was so great

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that the honorable Senator could, hardly make himself be heard.]

Mr. STUART. I am aware of the very great difficulty of preserving order; but still I think that, by a suggestion from the Chair, gentlemen in the galleries and about the lobbies would do it. They can do it if they will. The honorable Senator from Illinois speaks with difficulty, at any rate, and I hope there will be sufficient order preserved that he may be heard.

The VICE PRESIDENT. The Chair has observed a good deal of disorder about the central door of the main gallery. It is quite obvious that there are as many persons there as can stand now, and therefore it would be well for gentlemen not to press in. They are respectfully requested to preserve order and decorum.

Mr. DOUGLAS. If further evidence was necessary to show that the Lecompton constitution is not the will of the people of Kansas, you find it in the action of the Legislature of that Territory. On the first Monday in October an election took place for members of the Territorial Legislature. It was a severe struggle between the two great parties in the Territory. On a fair test, and at the fairest election, as is conceded on all hands, ever held in the Territory, a Legislature was elected. That Legislature came together and remonstrated, by an overwhelming majority, against this constitution, as not being the act and deed of that people, and not embodying their will. Ask the late Governor of the Territory, and he will tell you that it is a mockery to call this the act and deed of the people. Ask the Secretary of the Territory, ex-Governor Stanton, and he will tell you the same thing. I will hazard the prediction, that if you ask Governor Denver to-day, he will tell you, if he answers at all, that it is a mockery, nay, a crime, to attempt to enforce this constitution as an embodiment of the will of that people. Ask, then, your official high Government agents in the Territory; ask the Legislature elected by the people at the last election; consult the poll-books on a fair election held in pursuance of law; consult private citizens from there; consult whatever sources of information you please, and you get the same answer—that this constitution does not embody the public will, is not the act and deed of the people, does not represent their wishes; and hence I deny your right, your authority, to make it their organic law. If the Lecompton constitution ever becomes the organic law of the State of Kansas, it will be the act of Congress that makes it so, and not the act or will of the people of Kansas.

But we are told that it is a matter of but small moment whether the constitution embodies the public will or not, because it can be modified and changed by the people of Kansas at any time as soon as they are admitted into the Union. Sir, it matters not whether it can be changed or cannot be changed, so far as the principle involved is concerned. It matters not whether this constitution is to be the permanent fundamental law of Kansas, or is to last only a day, or a month, or a year; because, if it is not their act and deed you have no right to force it upon them for a single day. If you have the power to force it upon this people for one day, you may do it for a year, for ten years, or permanently. The principle involved is the same. It is as much a violation of fundamental principle, a violation of popular sovereignty, a violation of the Constitution of the United States, to force a State constitution on an unwilling people for a day, as it is for a year or for a longer time. When you set the example of violating the fundamental principles of free government, even for a short period, you have made a precedent that will enable unscrupulous men in future times, under high partisan excitement, to subvert all the other great principles upon which our institutions rest.

But, sir, is it true that this constitution may be changed immediately by the people of Kansas? The President of the United States tells us that the people can make and unmake constitutions at pleasure; that the people have no right to tie their own hands and prohibit a change of the constitution until 1864, or any other period; that the right of change always exists, and that the change may be made by the people at any time, in their own way, at pleasure, by the consent of the Legisla-

ture. I do not agree that the people cannot tie their own hands. I hold that a constitution is a social compact between all the people of the State that adopts it; between each man in the State, and every other man; binding upon them all; and they have a right to say it shall only be changed at a particular time and in a particular manner, and then only after such and such periods of deliberation. Not only have they a right to do this, but it is wise that the fundamental law should have some stability, some permanency, and not be liable to fluctuation and change by every ebullition of passion.

This constitution provides that, after the year 1864, it may be changed by the Legislature, by a two-thirds vote of each House, submitting to the people the question whether they will hold a convention for the purpose of amending the constitution. I hold that, when a constitution provides one time of change, by every rule of interpretation it excludes all other times; and, when it prescribes one mode of change, it excludes all other modes. I hold that it is the fair intentment and interpretation of this constitution that it is not to be changed until after the year 1864; and then only in the manner prescribed in the instrument. If it were true that this constitution was the act and deed of the people of Kansas—if it were true that it embodied their will—I hold that such a provision against change for a sufficient length of time to enable the people to test its practical workings would be a wise provision, and not liable to objection. That people are not capable of self-government who cannot make a constitution under which they are willing to live for a period of six years without change. I do not object that this constitution cannot be changed until after 1864, provided you show me that it be the act and deed of the people, and embodies their will now. If it be not their act and deed, you have no right to fix it upon them for a day—not for an hour—not for an instant; for it is a violation of the great principle of free government to force it upon them.

The President of the United States tells us that he sees no objection to inserting a clause in the act of admission declaratory of the right of the people of Kansas, with the consent of the first Legislature, to change this constitution notwithstanding the provision which it contains, that it shall not be changed until after the year 1864. Where does Congress get power to intervene and change a provision in the constitution of a State? If this constitution declares, as I insist it does, that it shall not be changed until after 1864, what right has Congress to intervene, to alter, or annul that provision prohibiting alteration? If you can annul one provision, you may another, and another, and another, until you have destroyed the entire instrument. I deny your right to annul; I deny your right to change, or even to construe the meaning of a single clause of this constitution. If it be the act and deed of the people of Kansas, and becomes their fundamental law, it is sacred; you have no right to touch it, no right to construe it, no right to determine its meaning; it is theirs, not yours. You must take it as it is or reject it as a whole; but put not your sacrilegious hands upon the instrument if it be their act and deed. Whenever this Government undertakes to construe State constitutions and to recognize the right of the people of a State to act in a different manner from that provided in their constitution; whenever it undertakes to give a meaning to a clause of a State constitution, which that State has not given; whenever the Government undertakes to do that, and its right is acknowledged, farewell to State rights, farewell to State sovereignty; your States become mere provinces, dependencies, with no more independence and no more rights than the counties of the different States. This doctrine, that Congress may intervene, and annul, construe, or change a clause in a State constitution, subverts the fundamental principles upon which our complex system of government rests.

Upon this point, the Committee on Territories, in the majority report, find themselves constrained to dissent from the doctrine of the President. They see no necessity; and, if I understand the report, no legal authority on the part of Congress to intervene and construe this or any other provision of the Constitution; but the distinguished gentle-

man who makes the report from the Committee on Territories has, in his own estimation, obviated all objection by finding a clause in the constitution of Kansas which he thinks remedies the whole evil. It is in the bill of rights, and is in these words:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

The VICE PRESIDENT. The Senator from Illinois will pause for a moment. The Sergeant-at-Arms will go up and close the center door of the ladies' gallery; shut it, and keep it shut, so as to admit no more persons there.

Mr. DOUGLAS. There appears to be some difficulty at the southern door of the eastern gallery, and I hope the Chair will direct that to be closed.

The VICE PRESIDENT. The Chair has sent an officer to that door to close it, and preserve quiet there. The Senator from Illinois will proceed.

Mr. DOUGLAS. The Senator from Missouri, who makes the report of the majority of the committee, is under the impression that this clause in the bill of rights overrides and changes the provision in the Lecompton constitution which declares that there shall be no change until after 1864, and then only by a two-thirds vote of the Legislature. How does he make that override the prohibition? By taking the clause in the bill of rights, which is intended only to assert abstract rights that may be exercised by the people when driven to the last resort, to wit: to revolution. That is an abstract principle, intended to assert the right in the people of Kansas to change their form of government, under the same law, the same authority that our ancestors resisted British power, and overthrew the British authority upon this continent. It was under that principle that our fathers threw the tea into Boston harbor. It was under that principle that our fathers burnt up the stamps, and sent the stamp agents out of the country. It was under that principle that our fathers resorted to arms to maintain the right to change their form of government from a monarchy to a Republic—change by revolution because they had arrived at the point where resistance was a less evil than submission. That the people have a right to appeal to the God of arms to overthrow the power that oppresses them, and change their form of government whenever their oppressions are intolerable, and resistance is a less evil than submission, is a great truth that no Republican, no Democrat, no citizen of a free country, should ever question. But, sir, that clause was never intended to furnish the lawful mode by which this constitution could be changed, for the reason that the same instrument points out a different mode than the one therein asserted; and when a specific mode is prescribed, and time is to elapse before that mode can be resorted to, that excludes the idea that it can be done in any other mode, or at a prior time.

But, sir, this article from the bill of rights proves entirely too much. The President says you may put into this bill a clause recognizing the right of the people of Kansas to change their constitution by the consent of the first Legislature. What does the bill of rights say? That it is the inalienable and indefeasible right of the people, at all times, to alter, abolish, or reform their form of government in such manner as they may think proper, not in such manner as the Legislature shall prescribe, not at such time as the legislative authority, or the existing government may provide, but in such manner as the people think proper in town meeting, in convention, through the Legislature, in popular assemblages, at the point of the bayonet, in any manner the people themselves may determine. That is the right and the nature of the right authorized by this bill of rights. It is the revolutionary remedy, not the lawful mode. There are two modes of changing the constitution of a State; one lawful, the other revolutionary. The lawful mode is the one prescribed in the instrument. The revolutionary mode is one in violation of the instrument. The revolutionary mode may be peaceful, or may be forcible; that depends on whether there is resistance. If a people are unan-

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imous in favor of a change, if nobody opposes it, the revolutionary means may be a peaceful remedy; but if, in the progress of the revolution, while you are making the change, you meet with resistance, then it becomes civil war, treason, rebellion, if you fail, and a successful revolution if you succeed.

I say, then, the mode pointed out in the bill of rights is the revolutionary mode, and not the lawful means provided in the instrument; but if the Committee on Territories be right in saying that this is a lawful mode, then the recommendation of the President, that Congress should recognize the right to do it by the first Legislature, violates this constitution. Why? The President recommends us to recognize their rights through the Legislature, and in that mode alone. The bill of rights says the people shall do it in such manner as they please. If the construction given by the Committee on Territories be right, you dare not vote for the President's proposition to recognize the right of the first Legislature to do it, for you give a construction to the instrument in violation of its terms.

Mr. HAMMOND. Will the Senator from Illinois allow me to interrupt him for a moment?

Mr. DOUGLAS. With a great deal of pleasure.

Mr. HAMMOND. I understood the Senator to say just now that Congress had no right to look into the Constitution of a State and place a construction upon it. If that be true, I would inquire of the Senator from Illinois, how is Congress to know whether a constitution is republican or not? If it be true, I would inquire of him further, why is he here now discussing and placing a construction upon the constitution of Kansas?

Mr. DOUGLAS. I will take great pleasure in answering the gentleman from South Carolina. I have a right to look into this constitution to see whether, in my opinion, it is republican. I have this right to look at it only for the purpose of regulating my vote. The judgment on which I base my vote is one binding on nobody but myself. I am talking now, not on forming a construction by which members of Congress are to govern themselves, but I am speaking of your right to place a construction on this constitution binding upon the people and government of Kansas. Give me the power to construe the constitution of Kansas authoritatively, and then I have the power to change it, to alter it, to annul it, to make it mean what I please, and not what they mean.

Mr. HAMMOND. I should have thought that the Senator would have denounced the attempt to construe the constitution, and left the matter there, after having asserted that no such power exists; but when he goes on to construe it himself, he is inconsistent with his first proposition that there is no right to construe it.

Mr. DOUGLAS. No, sir. I deny the right of Congress to construe it authoritatively for the people of Kansas. I am not denying the right of the Senator from South Carolina to put his own construction upon it. I am not denying the right of each Senator here to make up his own mind in regard to it. It is the duty of each Senator here to do that for himself; but that is only to satisfy his own judgment and his own conscience in regulating his vote upon the question. The point I am arguing is, whether this Congress has any power, by a rule of construction, to change the constitution of the people of a State, and make its construction binding on the authorities and people of that State. I repeat, if this Congress can exercise that power, there is an end of State rights, an end of State sovereignty; this Government becomes a consolidated Government, an empire, a central Power, with provinces and dependencies, and ceases to be a confederation of sovereign and independent States. I am arguing against the propriety of Congress acceding to the recommendation of the President to strike that fatal blow at the sovereignty of the States of this Union.

But, sir, my friend from Ohio, who cannot accede quite to this doctrine of the President any more than the Committee on Territories can, proposes to remedy this matter in a different way. He has offered an amendment, which I ask the Clerk to read.

The Clerk read the following amendment, in-

tended to be proposed by Mr. PUGH to the amendment intended to be proposed by Mr. GREEN to the bill (S. No. 161) "for the admission of the State of Kansas into the Union:" At the end thereof add the following section:

SEC. — And be it further enacted, That the admission of the States of Minnesota and Kansas into the Union, by this act, shall never be so construed as to deny, limit, or otherwise impair, the right of the people of the said States, with the assent of their Legislatures, severally, at all times, to alter, reform, or abolish their form of government, in such manner as they may think proper, so that the same be still republican and in accordance with the Constitution of the United States.

Mr. DOUGLAS. I am at a loss to know what object my friend from Ohio expects to accomplish by this proviso, that nothing in the act of admission shall be construed to deny, limit, or otherwise impair, the right of the people to change their constitution. Who ever dreamed that there was anything in the act of admission which could be so construed? It is not the act of admission to which we are alluding; it is the provision in this constitution which says it shall not be changed until after 1864.

Nobody pretends that you can put anything in the act of admission which would limit this right. What I am denying is your right to put anything in the act of admission either to limit, or extend, or construe the constitution. Nobody pretends that this act of admission affects this point at all. The objection, if it be an objection, is in the constitution itself, not in the act of admission.

Then what legal effect would the amendment of the Senator from Ohio have, if it should be adopted? I presume no one pretends that it would have any legal effect. Is there a Senator here who pretends that the adoption of the amendment of the Senator from Ohio would confer any power or authority on the people of Kansas to change their constitution which they would not have without it? I am informed the Senator from Ohio said, in his speech in explanation of it, that it did not confer any right which the people would not otherwise have. Then why adopt it? I can conceive of but one motive, and that is to lead the people to infer that they have secured a right by that proviso which they really have not got; to lead them to suppose that they have gained an advantage which in reality they do not possess. Is that the object? Is it the object to obviate an objection, and yet in fact to leave the objection in full force? Why, I ask, is it proposed to put that amendment in the bill if it has no legitimate effect, if it does not give the people any right, and privilege, which they would not possess without it? Perhaps I may be asked, on the contrary, what is the objection to putting it in. It may be said it is only the expression of the individual opinion of the members of Congress. I will tell you my objection to putting this clause in the act of admission. I object to inserting any clause in the act of admission that expresses any opinion, one way or the other, in respect to the propriety of any provision in the constitution. If you may pronounce judgment on the propriety of one clause, although it has no legal effect to change it, you may on the propriety of another clause. Suppose, for instance, the Senator from New York should offer an amendment, that nothing contained in this act of admission shall be construed to sanction or tolerate the right to hold property in man; or that nothing herein contained shall be construed to authorize or permit slaveholding in said State; or should propose to insert an opinion that slaveholding was a crime: would southern men think there was no objection to it because it had no legal effect? Are you willing that Congress shall set the example of inserting, in acts of admission, clauses that pronounce judgment against the domestic institutions of a State? Are you willing that a Congress, composed of a majority of free-State men, shall put clauses in an act of admission condemning slaveholding? or, if we were a minority, would we be willing that you should put a clause in an act of admission condemning our free institutions?

Now, sir, I hold that Congress has no right to pronounce its opinion even upon the propriety of any local or domestic institution of any State of this Union. Each State is sovereign, with the unlimited and unrestricted power and right to manage its local and internal concerns to suit itself, sub-

ject only to the limitations of the Constitution of the United States. I warn gentlemen that when, in order to catch a little popular favor, they set the example of backing up a vote in favor of this enormous fraud by putting a clause in the bill having no legal effect, but expressing opinions upon the propriety of this or that clause of a State constitution, they are setting an example that may return upon them in a way that will not be pleasant. I protest against Congress interfering either to annul or construe, or express opinions upon the propriety of this clause or that clause of the constitution. I repeat, if the constitution be the act and deed of the people of Kansas, and if its provisions are not in violation of the Constitution of the United States, that people had a right to put them there; and you have no right to touch them, or to pronounce judgment upon them.

Mr. President, I come back to the question: ought we to receive Kansas into the Union with the Lecompton constitution? Is there satisfactory evidence that it is the act and deed of that people? that it embodies their will? Is the evidence satisfactory that the people of that Territory have been left perfectly free to form and regulate their domestic institutions in their own way? I think not. I do not acknowledge the propriety, or justice, or force of that special pleading which attempts, by technicalities, to fasten a constitution upon a people which, it is admitted, they would have voted down if they had had a chance to do so, and which does not embody their will. Let me ask gentlemen from the South, if the case had been reversed, would they have taken the same view of the subject? Suppose it were ascertained, beyond doubt or cavil, that three fourths of the people of Kansas were in favor of a slaveholding State, and a convention had been assembled by just such means and under just such circumstances as brought the Lecompton convention together; and suppose that when they assembled it was ascertained that three fourths of the convention were Free-Soilers, while three fourths of the people were in favor of a slaveholding State; suppose an election took place in the Territory during the sitting of the convention, which developed the fact that the convention did not represent the people; suppose that convention of Free-Soilers had proceeded to make a constitution and allowed the people to vote for it, but not against it, and thus forced a Free-Soil constitution upon a slaveholding people against their will—would you, gentlemen from the South, have submitted to the outrage? Would you have come up here and demanded that the Free-Soil constitution—adopted at an election where all the affirmative votes were received, and all the negative votes rejected, for the reason that it would have been voted down if the negative votes had been received—should be accepted? Would you have said that it was fair, that it was honest, to force an abolition constitution on a slaveholding people against their will? Would you not have come forward and have said to us that you denied that it was the embodiment of the public will, and demanded that it should be sent back to the people to be voted upon, so as to ascertain the fact? Would you not have said to us that you were willing to live up to the principle of the Nebraska bill, to leave the people perfectly free to form such institutions as they please; and that if we would only send that constitution back and let the people have a fair vote upon it, you would abide the result? Suppose we, being a northern majority, had said to you: "no; we have got a sectional advantage and we intend to hold it; and we will force this constitution upon an unwilling people, merely because we have the power to do it;" would you have said that was fair?

Mr. HAMMOND. Will the Senator allow me to answer him?

Mr. DOUGLAS. Certainly.

Mr. HAMMOND. As the Senator looked towards me in asking his question, I will undertake, though without authority, to answer for the slaveholding community. If having had the power to establish a slaveholding constitution, we had refrained from exercising it, and those in favor of a free-State constitution had established one to that effect, I say that the slaveholders would have submitted to it, until through the forms of constitutional law they could have altered it.

Mr. DOUGLAS. The Senator assumes what

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I did not certainly intend, when he says that I looked at him. I was propounding the question, however, to any Senator, and am as willing that the Senator from South Carolina should reply as any other. He assumes as true, for the purposes of his answer, the very fact that is denied—that they had the power.

Mr. HAMMOND. Asserted on all hands, sir.

Mr. DOUGLAS. What?

Mr. HAMMOND. Asserted that there was a free-State majority when the convention was elected.

Mr. BROWN. The Senator from Illinois asserted it to-night.

Mr. DOUGLAS. Yes; and I assert now that there was a free-State majority; and I assert also, that one half the counties of the Territory were disfranchised and not allowed to vote at the election of delegates. [Applause in the galleries.]

Mr. HAMMOND. That has been answered over and over again—

The VICE PRESIDENT. The Senator from South Carolina will pause until order is restored.

Mr. MASON. I rise to a question of privilege. If there is again disorder in this Chamber I shall insist upon the galleries being cleared.

Mr. BROWN. I hope that order will be enforced; the Senate is not a theater.

Mr. TOOMBS. The statement just made by the Senator from Illinois is a great mistake, and I shall take issue with him when he sits down. I say it is not true in any sense, and I will answer it.

Mr. MASON. Mr. President—

The VICE PRESIDENT. The Senator from Virginia gives notice that if there be a repetition of the demonstrations in the galleries he will move to clear them.

Mr. MASON. If there is again disorder in the galleries, let it arise from what source it may, I shall ask the Chair to enforce the order of the Senate.

The VICE PRESIDENT. Before the debate commenced the Chair expressed the hope that these demonstrations would not occur. He did not then think that he would have to repeat the expression of that hope. This floor is covered by persons not members of the Senate, admitted by the consent of the body unanimously, and certainly something is due to the courtesy of the Senate. The Chair does not believe these demonstrations will be repeated, and therefore takes no further notice of what has occurred. The Senator from Illinois will proceed.

Mr. DOUGLAS. The interposition of the denial that about one half of the counties were disfranchised, I presume can have but very little weight on the argument. It has been proven over and over again; in my estimation the proof is conclusive as to the fifteen counties, and satisfactory, I think, as to nineteen, being half the counties of the Territory, that there was not such a census and registration as authorized a vote for delegates. It has been attempted to be proved, however, that there were not a great many votes in those counties. I believe the president of the convention estimates that there were not more than fifteen hundred or two thousand in those counties. Suppose that was all. There were only a little over two thousand votes polled at the election of delegates in the other nineteen counties which elected all the delegates. If the disfranchised counties contained fifteen hundred voters, is it not conclusive that, with the addition of five or six hundred persons in the other counties, they could have changed the result? Having been disfranchised in one half the counties, the friends of those who were disfranchised may not have voted in the other counties, because they had no hope of overcoming the majority in the other half. I did not intend to go into the argument on that point again; and I should not have alluded to it now but for the fact that the Senator from South Carolina had to assume as true what I understood not to be true, in order to predicate his answer upon it, that he, as a southern man, would vote to admit the State if the case had been reversed, and a free-State constitution was being forced upon an unwilling people, with the knowledge that it did not reflect the sentiments of that people.

Mr. HAMMOND. Allow me to say that, if the slaveholders, under these circumstances, had never had a majority at all, they would neverthe-

less have submitted until they could alter the constitution, if they could possibly do it.

Mr. DOUGLAS. I can only say, then, that they are a very submissive people. [Laughter.]

Mr. HAMMOND. Not at all.

Mr. DOUGLAS. I have never seen the day when I would be willing to submit to the action of a minority forcing a constitution on an unwilling people against their will because it had got an advantage. It violates the fundamental principle of government; it violates the foundations on which all free government rests; it is a proposition in violation of the Democratic creed; in violation of the Republican creed, in violation of the American creed, in violation of the creed of every party which professes to be governed by the principles of free institutions and fair elections.

Mr. HAMMOND. Will the Senator allow me to say one word more? If the slaveholders, under the circumstances that he stated, were a minority, they would have submitted. If they were a majority, as I assume, they would have submitted until, under the forms of constitutional law, they could have properly asserted their power.

Mr. DOUGLAS. I understood the Senator to say that; I must say to him that I would rather not repeat questions on the same point over and over again. I am very feeble to-night, and shall probably not have strength enough to go through with my remarks. I only desire to say on that point, that I regard the principle involved here as vital and fundamental, as lying at the foundation of all free government, and the violation of it as a death blow to State rights and State sovereignty. But, sir, I pass on.

If you admit Kansas with the Lecompton constitution, you also admit her with the State government which has been brought into existence under it. Is the evidence satisfactory that that State government has been fairly and honestly elected? Is the evidence satisfactory that the elections were fairly and honestly held, and fairly and honestly returned? You have all seen the evidence showing the fraudulent voting, the forged returns, from precinct after precinct, changing the result not only upon the legislative ticket, but also upon the ticket for Governor and State officers. The false returns in regard to Delaware Crossing, changing the complexion of the Legislature, are admitted. The false returns are established equally conclusively as to the Shawnee precinct, the Oxford precinct, the Kickapoo precinct, and many others, making a difference of some three thousand votes in the general aggregate, and changing the whole result of the election. Yet, sir, we are called upon to admit Kansas with the State government thus brought into existence not only by fraudulent voting, but forged returns, sustained by perjury, now established beyond mistake. The Senate well recollects the efforts that I made before the subject was referred to the committee, and since, to ascertain to whom the certificates of election were awarded, that we might know whether they were given to the men honestly elected, or to the men whose elections depended upon forgery and perjury. Can any one tell me how to whom those certificates have been issued, if they have been issued at all? Can any man tell me whether we are installing, by receiving this State government, officers whose sole title depends upon forgery, or those whose title depends upon popular votes? We have been calling for that information for about three months, but we have called in vain. One day the rumor would be that Mr. Calhoun would declare the free-State ticket elected, and next day that he would declare the pro-slavery ticket elected. So it has alternated, like the chills and fever, day after day, until within the last three days, when the action of Congress became a little dubious, when it was doubtful whether northern men were willing to vote for a State government depending on forgery and perjury, and then we find that the president of the Lecompton convention addresses a letter to the editor of the Star, a newspaper in this city, telling what he thinks is the result of the election. He says it is true that he has received no answer to his letters of inquiry to Governor Denver; he has no official information on the subject, but, from rumors and unofficial information, he is now satisfied that the Delaware Crossing return was

a fraud; that it will be set aside; and that, accordingly, the result will be that certificates will be issued to the free-State men. I do not mean to deny that Mr. Calhoun may think such will be the result; but while he may think so, I would rather know how the fact is. His thoughts are not important, but the fact is vital in establishing the honesty or dishonesty of the State government which we are about to recognize. It so happens that Mr. Calhoun has no more power, no more authority over that question now, than the Senator from Missouri, or any other member of this body. The celebrated Lecompton schedule provides, that—

"In case of removal, absence, or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties; and in case of absence, refusal, or disability of the president *pro tempore*, a committee, consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention."

As Mr. Calhoun is absent from the Territory, and, by reason of that absence, is deprived of all authority over the subject-matter, and as the president *pro tempore* has succeeded to his powers, is it satisfactory for the deposed president to address a letter to the editor of the Star, announcing his private opinion as to who has been elected? I should like to know who the president *pro tempore* is, and where he is; and, if he is in Kansas, whether he has arrived at the same conclusion which the ex-president Calhoun has announced. I should like to know whether that president *pro tempore* has already issued his certificates to the pro-slavery men in Kansas, while Mr. Calhoun expresses the opinion in the Star that the certificates will be issued to the free-State men? If that president *pro tempore* has become a fugitive from justice, and escaped from the Territory, I should like then to know who are the committee of seven that were to take his place; and whether they, or a majority of them, have arrived at the same conclusion to which Mr. Calhoun has come? Inasmuch as this opinion is published to the world just before the vote is to be taken here, and is expected to catch the votes of some green members of one body or the other, I should like to know whether certificates have been issued? and, if so, by whom, and to whom? where the president *pro tempore* is? where the committee of seven may be found? and then we might know who constitute the Legislature, and who constitute the State government which we are to bring into being. We are not only to admit Kansas with a constitution, but with a State government; with a Governor, a Legislature, a judiciary; with executive, legislative, judicial, and ministerial officers. Inasmuch as we are told by the President that the first Legislature may take steps to call a convention to change the constitution, I should like to know of whom that Legislature is composed? Inasmuch as the Governor would have the power to veto an act of the Legislature calling a convention, I should like to know who is Governor, so that I may judge whether he would veto such an act? Cannot our good friends get the president *pro tempore* of the convention to write a letter to the Star? Can they not procure a letter from the committee of seven? Can they not clear up this mystery, and relieve our suspicious minds of anything unfair or foul in the arrangement of this matter? Let us know how the fact is.

This publication of itself is calculated to create more apprehension than there was before. As long as Mr. Calhoun took the ground that he would never declare the result until Lecompton was admitted, and that if it was not admitted, he would never make the decision, there seemed to be some reason in his course; but when, after taking that ground for months, it became understood that Lecompton was dead, or was lingering and languishing, and likely to die, and when a few more votes were necessary, and a pretext was necessary to be given, in order to secure them, we find this letter published by the deposed ex-President, giving his opinion when he had no power over the subject; and when it appears by the constitution itself that another man or another body of men has the decision in their hands, it is calculated to arouse our suspicions as to what the result will be after Lecompton is admitted.

Mr. President, in the course of the debate on this bill, before I was compelled to absent myself from

the Senate on account of sickness, and I presume the same has been the case during my absence, much was said on the slavery question in connection with the admission of Kansas. Many gentlemen have labored to produce the impression that the whole opposition to the admission arises out of the fact that the Lecompton constitution makes Kansas a slave State. I am sure that no gentlemen here will do me the injustice to assert or suppose that my opposition is predicated on that consideration, in view of the fact that my speech against the admission of Kansas under the Lecompton constitution was made on the 9th of December, two weeks before the vote was taken upon the slavery clause in Kansas, and when the general impression was that the pro-slavery clause would be excluded. I predicated my opposition then, as I do now, upon the ground that it was a violation of the fundamental principles of government, a violation of popular sovereignty, a violation of the Democratic platform, a violation of all party platforms, and a fatal blow to the independence of the new States. I told you then that you had no more right to force a free-State constitution upon a people against their will than you had to force a slave-State constitution. Will gentlemen say that, on the other side, slavery has no influence in producing that united, almost unanimous support which we find from gentlemen living in one section of the Union in favor of the Lecompton constitution? If slavery had nothing to do with it, would there have been so much hesitation about Mr. Calhoun's declaring the result of the election prior to the vote in Congress? I submit, then, whether we ought not to discard the slavery question altogether, and approach the real question before us fairly, calmly, dispassionately, and decide whether, but for the slavery clause, this Lecompton constitution could receive a single vote in either House of Congress. Were it not for the slavery clause, would there be any objection to sending it back to the people for a vote? Were it not for the slavery clause, would there be any objection to letting Kansas wait until she had ninety thousand people, instead of coming into the Union with not over forty-five or fifty thousand? Were it not for the slavery question, would Kansas have occupied any considerable portion of our thoughts? would it have divided and distracted political parties so as to create bitter and acrimonious feelings? I say now to our southern friends, that I will act on this question on the right of the people to decide for themselves, irrespective of the fact whether they decide for or against slavery, provided it be submitted to a fair vote at a fair election, and with honest returns.

In this connection there is another topic to which I desire to allude. I seldom refer to the course of newspapers, or notice the articles which they publish in regard to myself; but the course of the Washington Union has been so extraordinary, for the last two or three months, that I think it well enough to make some allusion to it. It has read me out of the Democratic party every other day, at least, for two or three months, and keeps reading me out, [laughter;] and, as if it had not succeeded, still continues to read me out, using such terms as "traitor," "renegade," "deserter," and other kind and polite epithets of that nature. Sir, I have no vindication to make of my democracy against the Washington Union, or any other newspapers. I am willing to allow my history and action for the last twenty years to speak for themselves as to my political principles, and my fidelity to political obligations. The Washington Union has a personal grievance. When its editor was nominated for Public Printer I declined to vote for him, and stated that at some time I might give my reasons for doing so. Since I declined to give that vote, this scurrilous abuse, these vindictive and constant attacks have been repeated almost daily on me. There is one article in an issue of that paper which I ask my friend from Michigan to read.

Mr. STUART read the following editorial article from the Washington Union of November 17, 1857:

"FREE-SOILISM.—The primary object of all government in its original institution, is the protection of person and property. It is for this alone that men surrender a portion of their natural rights.

"In order that this object may be fully accomplished, it is necessary that this protection should be equally extended

to all classes of free citizens without exception. This, at least, is a fundamental principle of the Constitution of the United States, which is the original compact on which all our institutions are based.

"Slaves were recognized as property in the British colonies of North America by the Government of Great Britain, by the colonial laws, and by the Constitution of the United States. Under these sanctions vested rights have accrued to the amount of some sixteen hundred million dollars. It is, therefore, the duty of Congress and the State Legislatures to protect that property.

"The Constitution declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.' Every citizen of one State coming into another State has, therefore, a right to the protection of his person, and that property which is recognized as such by the Constitution of the United States, any law of a State to the contrary notwithstanding. So far from any State having a right to deprive him of this property, it is its bounden duty to protect him in its possession.

"If these views are correct—and we believe it would be difficult to invalidate them—it follows that all State laws, whether organic or otherwise, which prohibit a citizen of one State from settling in another, and bringing his slave property with him, and most especially declaring it forfeited, are direct violations of the original intention of a Government which, as before stated, is the protection of person and property, and of the Constitution of the United States, which recognizes property in slaves, and declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States,' among the most essential of which is the protection of person and property.

"What is recognized as property by the Constitution of the United States, by a provision which applies equally to all the States, has an inalienable right to be protected in all the States."

"The protection of property being, next to that of person, the most important object of all good government, and property in slaves being recognized by the Constitution of the United States, as well as originally by all the Old Thirteen States, we have never doubted that the emancipation of slaves in those States where it previously existed, by an arbitrary act of the Legislature, was a gross violation of the rights of property."

"The emancipation of the slaves of the northern States was then, as previously stated, a gross outrage on the rights of property, inasmuch as it was not a voluntary relinquishment on the part of the owners. It was an act of coercive legislation."

"This measure of emancipation was the parent or the offspring of a doctrine which may be so extended as to place the property of every man in the community at the mercy of rabid fanaticism or political expediency. It is only to substitute scruples of conscience in place of established constitutional principles, and all laws and all constitutions become a dead letter. The rights of person and property become subservient not to laws and constitutions, but to fanatical dogmas, and thus the end and object of all good government is completely frustrated. There is no longer any rule of law nor any constitutional guide; and the people are left to the discretion, or rather the madness, of a school of instructors who can neither comprehend their own dogmas nor make them comprehensible to others."

"Where is all this to end? and what security have the free citizens of the United States that their dearest rights may not, one after another, be offered up at the shrine of the demon of fanaticism, the most dangerous of all the enemies of freedom? If the Constitution is no longer to be our guide and protector, where shall we find barriers to defend us against a system of legislation restrained by no laws and no constitutions, which creates crime at pleasure, punishes them at will, and sacrifices the rights of person and property to a dogma, or a scruple of conscience? All this is but the old laws of Puritanism now fomenting and sowing in the exhausted beer-barrel of Massachusetts. The descendants of this race of ecclesiastical tyrants, or rather ecclesiastical slaves, have spread over the western part of the State of New York, and throughout all the new States, where they have, to some extent, disseminated their manners, habits, and principles, most especially their blind subservency to old idols, and their abject subjection to their priests. There is no doubt that they aspire to give tone and character to the whole Confederacy, and believe that their dream will be realized. We are pretty well convinced, however, that the people of the United States will never become a nation of fanatical Puritans."

Mr. DOUGLAS. Mr. President, you here find several distinct propositions advanced boldly by the Washington Union editorially and apparently authoritatively, and every man who questions any of them is denounced as an Abolitionist, a Free-Soiler, a fanatic. The propositions are, first, that the primary object of all government at its original institution is the protection of person and property; second, that the Constitution of the United States declares that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States; and that, therefore, thirdly, all State laws, whether organic or otherwise, which prohibit the citizens of one State from settling in another with their slave property, and especially declaring it forfeited, are direct violations of the original intention of the Government and Constitution of the United States; and fourth, that the emancipation of the slaves of the northern States was a gross outrage on the rights of property, inasmuch as it was involuntarily done on the part of the owner.

Remember that this article was published in the Union on the 17th of November, and on the 18th appeared the first article giving the adhesion of the Union to the Lecompton constitution. It was in these words:

"KANSAS AND HER CONSTITUTION.—The vexed question is settled. The problem is solved. The dread point of danger is passed. All serious trouble to Kansas affairs is over and gone."

and a column, nearly, of the same sort. Then, when you come to look into the Lecompton constitution, you find the same doctrine incorporated in it which was put forth editorially in the Union. What is it?

"ARTICLE 7. Section 1. The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave and its increase is the same and as inviolable as the right of the owner of any property whatever."

Then in the schedule is a provision that the constitution may be amended after 1864 by a two thirds vote,

"But no alteration shall be made to affect the right of property in the ownership of slaves."

It will be seen by these clauses in the Lecompton constitution, that they are identical in spirit with this authoritative article in the Washington Union of the day previous to its indorsement of this constitution, and every man is branded as a Free-Soiler and Abolitionist, who does not subscribe to them. The proposition is advanced that the emancipation acts of New York, of New England, of Pennsylvania, and of New Jersey, were unconstitutional, were outrages upon the right of property, were violations of the Constitution of the United States. The proposition is advanced that a southern man has a right to move from South Carolina, with his negroes, into Illinois, to settle there and hold them there as slaves, anything in the constitution and laws of Illinois to the contrary, notwithstanding. The proposition is, that a citizen of Virginia has rights in a free State, which the citizen of a free State cannot himself have. We prohibit ourselves from holding slaves within our limits; and yet, according to this doctrine, a citizen of Kentucky can move into our State, bring in one hundred slaves with him, and hold them as such in defiance of the constitution and laws of our own State. If that proposition is true, the creed of the Democratic party is false. The principle of the Kansas-Nebraska bill is, that "each State and each Territory shall be left perfectly free to form and regulate its domestic institutions in its own way, subject only to the Constitution of the United States." I claim that Illinois has the sovereign right to prohibit slavery, a right as undeniable as that the sovereignty of Virginia may authorize its existence. We have the same right to prohibit it that you have to recognize and protect it. Each State is sovereign within its own sphere of powers, sovereign in respect to its own domestic and local institutions and internal concerns. So long as you regulate your local institutions to suit yourselves, we are content; but when you claim the right to override our laws and our constitution, and deny our right to form our institutions to suit ourselves, I protest against it. The same doctrine is asserted in this Lecompton constitution. There, it is stated, that the right of property in slaves is "before and higher than any constitutional sanction."

Mr. President, I recognize the right of the slaveholding States to regulate their local institutions, to claim the services of their slaves under their own State laws, and I am prepared to perform each and every one of my obligations under the Constitution of the United States in respect to them; but I do not admit, and I do not think they are safe in asserting, that their right of property in slaves is higher than and above constitutional obligations, is independent of constitutional obligations. When you rely upon the Constitution and upon your own laws, you are safe. When you go beyond and above constitutional obligations, I know not where your safety is. If this doctrine be true that slavery is higher than the Constitution, and above the Constitution, it necessarily follows that a State cannot abolish it, cannot prohibit it, and the doctrine of the Washington Union, that the emancipation laws were outrages on the rights of property, and violations of the Constitution, becomes the law

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When I saw that article in the Union of the 17th of November, followed by the glorification of the Lecompton constitution on the 18th of November, and this clause in the constitution asserting the doctrine that no State has a right to prohibit slavery within its limits, I saw that there was a fatal blow being struck at the sovereignty of the States of this Union, a death blow to State rights, subversive of the Democratic platform and of the principles upon which the Democratic party have ever stood and upon which I trust they ever will stand. Because of these extraordinary doctrines, I declined to vote for the editor of the Washington Union for Public Printer; and for that refusal, as I suppose, I have been read out of the party by the editor of the Union at least every other day from that time to this. Sir, I submit the question: who has deserted the Democratic party and the Democratic platform, he who stands by the sovereign right of the States to establish, abolish, and prohibit slavery as it pleases, or he who attempts to strike down the sovereignty of the States, and combine all power in one central government, and establish an empire instead of a Confederacy?

The principles upon which the presidential campaign of 1856 was fought, on which the present Chief Magistrate was brought to the high position he now occupies, are well known to the country. At least, in Illinois, I think I am authorized to state what they were with clearness and precision, so far as the slavery question is concerned. The Democracy of Illinois are prepared to stand on the platform upon which the battle of 1856 was fought. It was:

First, The migration or importation of negroes into the country having been prohibited since 1808—never again to be renewed—each State will take care of its own colored population.

Second, That while negroes are not citizens of the United States, and hence not entitled to political equality with whites, they should enjoy all the rights, privileges, and immunities which they are capable of exercising, consistent with the safety and welfare of the community where they live.

Third, That each State and Territory must judge and determine for itself of the nature and extent of these rights and privileges.

Fourth, That while each free State should and will maintain and protect all the rights of the slaveholding States, they will, each for itself, maintain and defend its sovereign right within its own limits, to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States.

Fifth, That in the language of Mr. Buchanan's letter of acceptance of the presidential nomination, the Nebraska-Kansas act does no more than give the form of law to this elementary principle of self-government, when it declares that the people of a Territory, like those of a State, shall decide for themselves whether slavery shall or shall not exist within their limits.

These were the general propositions on which we maintained the canvass on the slavery question—the right of each State to decide for itself; that a negro should have such rights as he was capable of enjoying, and could enjoy, consistently with the safety and welfare of society; and that each State should decide for itself the nature and extent and description of those rights and privileges. Hence, if you choose in North Carolina to have slaves, it is your business, and not ours. If we choose in Illinois to prohibit slavery, it is our right, and you must not interfere with it. If New York chooses to give privileges to the negro which we withhold, it is her right to extend them, but she must not attempt to force us to do the same thing. Let each State take care of its own affairs, mind its own business, and let its neighbors alone, then there will be peace in the country. Whenever you attempt to enforce uniformity, and, judging that a peculiar institution is good for you, and therefore good for everybody else, try to force it on everybody, you will find that there will be resistance to the demand. Our Government was not formed on the idea that there was to be uniformity of local laws or local institutions. It was founded upon the supposition that there must be diversity and variety in the institutions and laws. Our fathers foresaw that the local insti-

tutions which would suit the granite hills of New Hampshire would be ill adapted to the rice plantations of South Carolina. They foresaw that the institutions which would be well adapted to the mountains and valleys of Pennsylvania, would not suit the plantation interests of Virginia. They foresaw that the great diversity of climate, of production, of interests, would require a corresponding diversity of local laws and local institutions. For this reason, they provided for thirteen separate States, each with a separate Legislature, and each State sovereign within its own sphere, with the right to make all its local laws and local institutions to suit itself, on the supposition that they would be as different and as diversified as the number of States themselves. Then the General Government was made, with a Congress having limited and specified powers, extending only to those subjects which were national and not local, which were Federal and not State.

These were the principles on which our institutions were established. These are the principles on which the Democratic party has ever fought its battles. This attempt now to establish the doctrine that a free State has no power to prohibit slavery, that our emancipation acts were unconstitutional and void, that they were outrages on the rights of property, that slavery is national and not local, that it goes everywhere under the Constitution of the United States, and yet is higher than the Constitution, above the Constitution, beyond the reach of sovereign power, existing by virtue of that higher law proclaimed by the Senator from New York, will not be tolerated. When the doctrine of a higher law, a law above the Constitution, a law overriding the Constitution, and imposing obligations upon public men in defiance of the Constitution, was first proclaimed in the Senate, it was deemed moral treason in this body; but now I am read out of the party three times a week by the Washington Union, for disputing this higher law, which is embodied in the Lecompton constitution, that slavery, the right to slave property, does not depend upon human law nor constitutional sanction, but is above and beyond and before all constitutional sanctions and obligations! I feel bound, as a Senator from a sovereign State, to repudiate and rebuke this doctrine. I am bound as a Democrat, bound as an American citizen, bound as a Senator claiming to represent a sovereign State, to enter my protest, and the protest of my constituency, against such a doctrine. Whenever such a doctrine shall be ingrafted on the policy of this country, you will have revolutionized the Government, annihilated the sovereignty of the States, established a consolidated despotism with uniformity of local institutions, and that uniformity being slavery, existing by Divine right, and a higher law beyond the reach of the Constitution and of human authority.

Mr. President, if my protest against this interpolation into the policy of this country or the creed of the Democratic party is to bring me under the ban, I am ready to meet the issue. I am told that this Lecompton constitution is a party test, a party measure; that no man is a Democrat who does not sanction it, who does not vote to bring Kansas into the Union with the government established under that constitution. Sir, who made it a party test? Who made it a party measure? Certainly the party has not assembled in convention to ordain any such thing to be a party measure. I know of but one State convention that has indorsed it. It has not been declared to be a party measure by State conventions or by a national convention, or by a senatorial caucus, or by a caucus of the Democratic members of the House of Representatives. How, then, came it to be a party measure? The Democratic party laid down its creed at its last national convention. That creed is unalterable for four years, according to the rules and practices of the party. Who has interpolated this Lecompton constitution into the party platform?

Oh! but we are told it is an Administration measure. Because it is an Administration measure, does it therefore follow that it is a party measure? Is it the right of an Administration to declare what are party measures and what are not? That has been attempted heretofore, and it has failed. When John Tyler prescribed a creed

to the Whig party, his right to do so was not respected. When a certain doctrine in regard to the neutrality laws was proclaimed to be a party measure, my friends around me here considered it a "grave error," and it was not respected. When the Army bill was proclaimed an Administration measure, the authority to make it so was put at defiance, and the Senate rejected it by a vote of four to one, and the House of Representatives voted it down by an overwhelming majority. Is the Pacific railroad bill a party measure? I should like to see whether the guillotine is to be applied to every recreant renegade who does not come up to that test. Is the bankrupt law a party measure? We shall see, when the vote is taken, how many renegades there will be then. Was the loan bill an Administration measure, or a party measure? Is the guillotine to be applied to every one who does not yield implicit obedience to the behests of an Administration in power? There is infinitely more plausibility in declaring each of the measures to which I have just alluded to be an Administration measure, than in declaring the Lecompton constitution to be such. By what right does the Administration take cognizance of the Lecompton constitution?

The Constitution of the United States says that "new States may be admitted into the Union by the Congress," not by the President, not by the Cabinet, not by the Administration. The Lecompton constitution itself says, "this constitution shall be submitted to the Congress of the United States at its next session;" not to the President, not to the Cabinet, not to the Administration. The convention in Kansas did not send it to the Administration, did not authorize it to be sent to the President, but directed it to be sent to Congress; and the President of the United States only got hold of it through the commission of the surveyor general, who was also president of the Lecompton convention. The constitution as made was ordered to be sent directly to Congress; Congress having power to admit States, and the President having nothing to do with it. The moment you pass a law admitting a State it executes itself. It is not a law to be executed by the President or by the Administration. It is the last measure on earth that could be rightfully made an Administration measure. It is not usual for the constitution of a new State to come to Congress through the hands of the President. True, the Minnesota constitution was sent to the President because the convention of Minnesota directed it to be so sent; and the President submitted it to us without any recommendation. Because Senators and Representatives do not yield their judgments and their consciences, and bow in abject obedience to the requirements of an Administration in regard to a measure on which the Administration are not required to act at all, a system of proscription, of persecution, is to be adopted against every man who maintains his self-respect, his own judgment, and his own conscience.

I do not recognize the right of the President or his Cabinet, no matter what my respect may be for them, to tell me my duty in the Senate Chamber. The President has his duties to perform under the Constitution; and he is responsible to his constituency. A Senator has his duties to perform here under the Constitution and according to his oath; and he is responsible to the sovereign State which he represents as his constituency. A member of the House of Representatives has his duties under the Constitution and his oath; and he is responsible to the people that elected him. The President has no more right to prescribe tests to Senators than Senators have to the President; the President has no more right to prescribe tests to the Representatives than the Representatives have to the President. Suppose we here should attempt to prescribe a test of faith to the President of the United States; would he not rebuke our impertinence and impudence as subversive of the fundamental principle of the Constitution? Would he not tell us that the Constitution and his oath and his conscience were his guide; that we must perform our duties, and he would perform his, and let each be responsible to his own constituency?

Sir, whenever the time comes that the President of the United States can change the allegiance of the Senators from the States to himself,

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what becomes of the sovereignty of the States? When the time comes that a Senator is to account to the Executive and not to his State, whom does he represent? If the will of my State is one way, and the will of the President is the other, am I to be told that I must obey the Executive and betray my State, or else be branded as a traitor to the party, and hunted down by all the newspapers that share the patronage of the Government, and every man who holds a petty office in any part of my State to have the question put to him, "Are you Douglas's enemy?" if not, "your head comes off." Why? "Because he is a recreant Senator; because he chooses to follow his judgment and his conscience, and represent his State instead of obeying my executive behest." I should like to know what is the use of Congresses, what is the use of Senates and Houses of Representatives, when their highest duty is to obey the Executive in disregard of the wishes, rights, and honor of their constituents. What despotism on earth would be equal to this, if you establish the doctrine that the Executive has a right to command the votes, the consciences, the judgments of the Senators, and of the Representatives, instead of their constituents? In old England, whose oppressions we thought intolerable, an Administration is hurled from power in an hour when voted down by the representatives of the people upon a Government measure. If the rule of old England applied here, this Cabinet would have gone out of office when the Army bill was voted down, the other day, in the House of Representatives. There, in that monarchical country, where they have a Queen by divine right, and lords by the grace of God, and where republicanism is supposed to have but a slight foothold, the representatives of the people can check the Throne, restrain the Government, change the Ministry, and give a new direction to the policy of the Government, without being accountable to the King or the Queen. There the representatives of the people are responsible to their constituents. Across the channel, under Louis Napoleon, it may be otherwise; yet I doubt whether it would be so boldly proclaimed there that a man is a traitor for daring to vote according to his sense of duty, according to the will of his State, according to the interests of his constituents.

Suppose the Executive should tell the Senator from California [Mr. Gurn] to vote against his Pacific railroad bill: would he obey? If not, he will be deemed a rebel. Suppose the Executive should tell the Senator from Virginia [Mr. Mason] to vote for the Pacific railroad bill, or the Senator from Georgia [Mr. Toombs] to vote for the Army bill, or the Senator from Mississippi [Mr. Brown] to sustain him on the neutrality laws: we should have more rebels and more traitors. But it is said a dispensation is granted, from the fountain of all power, for rebellion on all subjects but one. The President says, in effect, "do as you please on all questions but one;" that one is Lecompton. On what principle is it that we must not judge for ourselves on this measure, and may on everything else? I suppose it is on the old adage that a man needs no friends when he knows he is right, and he only wants his friends to stand by him when he is wrong. The President says that he regrets this constitution was not submitted to the people, although he knows that if it had been submitted it would have been rejected. Hence the President regrets that it was not rejected. Would he regret that it was not submitted and rejected, if he did not think it was wrong? And yet he demands our assistance in forcing it on an unwilling people, and threatens vengeance on all who refuse obedience. He recommends the Army bill; he thinks it necessary to carry on the Mormon war; it is necessary to carry out a measure of the Administration, and hence it is an Administration measure; but he does not quarrel with anybody for voting against it. He thinks every one of the other recommendations to which I have alluded is right, and therefore there is no harm in going against them. The only harm is in going against that which the President acknowledges to be wrong; and yet this system of proscription, to subdue men to abject obedience to executive will, is to be pursued.

Is it seriously intended to brand every Democrat in the United States as a traitor who is op-

posed to the Lecompton constitution? If so, do your friends in Pennsylvania desire any traitors to vote with them next fall? We are traitors if we vote against Lecompton; our constituents are traitors if they do not think Lecompton is right; and yet you expect those whom you call traitors to vote with and sustain you. Are you to read out of the party every man who thinks it wrong to force a constitution on a people against their will? If so, what will be the size of the Administration party in New York? what will it be in Pennsylvania? how many will it number in Ohio, or in Indiana, or in Illinois, or in any other northern State? Surely you do not expect the support of those whom you brand as renegades! Would it not be well to allow all freemen freedom of thought, freedom of speech, and freedom of action? Would it not be well to allow each Senator and Representative to vote according to his judgment, and perform his duty according to his own sense of his obligation to himself, and to his State, and to his God?

For my own part, Mr. President, come what may, I intend to vote, speak, and act, according to my own sense of duty, so long as I hold a seat in this Chamber. I have no defense to make of my Democracy. I have no professions to make of my fidelity. I have no vindication to make of my course. Let it speak for itself. The insinuation that I am acting with the Republicans, or Americans, has no terror, and will not drive me from my duty or propriety. It is an argument for which I have no respect. When I saw the Senator from Virginia acting with the Republicans on the neutrality laws, in support of the President, I did not feel it to be my duty to taunt him with voting with those to whom he happened to be opposed in general politics. When I saw the Senator from Georgia acting with the Republicans upon the Army bill, it did not impair my confidence in his fidelity to principle. When I see Senators here every day acting with the Republicans on various questions, it only shows me that they have independence and self-respect enough to go according to their own convictions of duty without being influenced by the course of others.

I have no professions to make upon any of those points. I intend to perform my duty in accordance with my own convictions. Neither the frowns of power nor the influence of patronage will change my action, or drive me from my principles. I stand firmly, immovably upon those great principles of self-government and State sovereignty upon which the campaign was fought and the election won. I stand by the time-honored principles of the Democratic party, illustrated by Jefferson and Jackson; those principles of State rights, of State sovereignty, of strict construction, on which the great Democratic party has ever stood. I will stand by the Constitution of the United States, with all its compromises, and perform all my obligations under it. I will stand by the American Union as it exists under the Constitution. If, standing firmly by my principles, I shall be driven into private life, it is a fate that has no terrors for me. I prefer private life, preserving my own self-respect and manhood, to abject and servile submission to executive will. If the alternative be private life or servile obedience to executive will, I am prepared to retire. Official position has no charms for me when deprived of that freedom of thought and action which becomes a gentleman and a Senator.

Mr. President, I owe an apology to the Senate for the desultory manner in which I have discussed this question. My health has been so feeble for some time past that I have not been able to arrange my thoughts or the order in which they should be presented. If, in the heat of debate, I have expressed a sentiment which would seem to be unkind or disrespectful to any Senator, I shall regret it. While I intend to maintain, firmly and fearlessly, my own views, far be it from me to impugn the motives or question the propriety of the action of any other Senator. I take it for granted that each Senator will obey the dictates of his own conscience, and will be accountable to his constituents for the course which he may think proper to pursue.

Mr. TOOMBS. I shall detain the Senate but a few minutes. The honorable Senator from Illi-

nois having declined to address the Senate in the earlier stages of the debate on this bill, and having been prevented by providential causes from addressing it within the last few days, it had not been my purpose, as it would have been my pleasure, to respond to some of the points which I understood he had, in the early part of the session, advanced against this measure. I did not intend, on this occasion, to do so; but that Senator having arraigned, in my judgment, and unjustly arraigned, the section of this Union from which I come, for the purpose of his own defense, I desire to be heard for a short time upon his course, and in vindication of theirs.

The last two hours of the Senator's speech have been devoted to two single points. The first was an article in the Washington Union of the 17th of November. I should have let the Senator settle his difficulty with that newspaper in his own way, either here or elsewhere; and I think it would have been more consistent with the dignity of the Senate and of the subject to settle it elsewhere than here. Still, it would have brought no comment from me, I should have stood the infliction, if the Senator had not connected my own section of the country with that article in the Washington Union.

Mr. President, no man in this body knows better than the Senator from Illinois that no such principle as he attacked has ever been asserted by a single slaveholding State in this Union, or a single Representative of the slaveholding States. If they have, I demand of that Senator now to say so. Sir, they have not. He cannot show that one of those States, through any of its authorized organs, not even through its newspapers, through none of its Senators, and through none of its Representatives, has ever asserted the right to carry slaves into a sovereign State against its constitution. This being so, he has spent one hour of his speech in order to make capital in Illinois, and that is all. That is the beginning and the end of it. That Senator has no right to arraign my constituents or the men of the South for an article in the Washington Union—none, sir, none. He has not a right to make it the occasion of making capital for himself, by seeming to be the defender of the principles of the constitutions of the free States, when no man at the South has ever assailed them. He defends what nobody assails; and he assails what nobody defends.

The last hour of his speech was occupied in defending his Democracy. Well, Mr. President, I do not profess to sit in judgment over Democrats; but I think his Democracy needs some defense, and probably that was time well spent. He intimates that other gentlemen have abandoned the party, when they voted against what he chooses to call Administration measures. I have never considered it necessary to defend myself against that charge. I believe my friend from Virginia has not; my friend from Mississippi has not. We have voted as we pleased; we have exercised our rights as Senators; we have no grievance with the Administration. They have recommended what, in their judgment, was the public interest; we have voted for what we thought was the public interest. The account has been settled; neither side has a word to say. Why should the Senator from Illinois take an hour and a half to settle his account? There must be something more in it than voting against Administration measures. He must be dissatisfied with his own position, or suppose that other people are. Sir, I have no defense here to make to the Senate for my votes; I have none to make to the Administration; I have none to make anywhere, except the reasons that I choose to give in my place in the Senate; and I give them neither to newspapers, nor to Presidents, nor to people. What I have done is done; what I have said is said; there stands the record; and I need no one hour, nor two hours, to defend my conduct here, or anywhere else.

But, sir, I choose to review some of the reasons which the honorable Senator has given for his course, as I felt it my duty, during the progress of his remarks, to take issue with him on one important fact connected with this matter. The Senator started ten years ago, and said that in 1848 we voted to extend the Missouri compromise line to the Pacific. I admit it: but how

many of his present friends voted with him then? How many of the men whose cooperation he is seeking to-day, with whom he is consulting, in order to defeat the consummation of these great measures, voted with him on the proposition which he and I sustained ten years ago? With the exception, it may be, of the Senators from Kentucky and Tennessee, all those gentlemen who support him now were then his bitter opponents. Here they sit all around me; my friends from Vermont, from New Hampshire, and all of them here, stood then his determined enemies. Did the South defeat the extension of the Missouri compromise line to the Pacific? She did not. While she denied her right to prohibit her institutions anywhere, she said "this compromise having been adopted by our fathers, we will stand by it;" and it got every southern vote. These miserable pretenders who talk of its sanctity now, not a man of them voted for it then. These hypocrites, who pretend that it was a sacred compact, every man of them gave his vote against it. It did not get the support of any of its present defenders in this Hall to-day, but the Senator from Tennessee and the Senator from Kentucky.

When you refused division we demanded principle. I cooperated with the Senator from Illinois in 1850. We then said that the people settling our distant Territories should determine for themselves their own institutions. Who sanctioned that? Was it the Senator from New York? Not he. Was it the Senator from Vermont? Not he. The Senator from Illinois and myself were together then; but where is the man among all his present confederates who stood with him then? Echo answers, where? He is not to be found.

Then we come to 1854, when there was a practical illustration of the principle adopted in 1850. I stood by the Senator then. I stood by him in 1848 and I stood by him in 1850, though not of his party. I represented then the Whig party; I was true to my allegiance; I stood by its flag as long as it floated on this continent; but when it was carried into the Abolition phalanx, I trampled it under my foot and despised it as its great leader said he would do.

Where is the man among the Senator's present comrades, who backed this sentiment in 1854? Where is he? He is not to be found. I believe not even the Senator from Michigan was among them. Certainly he was not in 1848; and even the Senator from Illinois, in 1850, though his own principles were in conformity with this great idea, himself voted in favor of the power of Congress to cram constitutions, not only down the will of a majority, but down the throats of every man in the Territories of the United States, north and south of 36° 30'.

Mr. STUART. Does the Senator from Georgia allude to my action in 1854?

Mr. TOOMBS. No, sir, in 1850.

Mr. STUART. In 1850 I was not in Congress.

Mr. TOOMBS. I know the Senator voted for the Wilmot proviso when he and I were in the other House.

Mr. STUART. Yes, sir; and if the Senator will show me the difference between the constitutionality of the Wilmot proviso and the Missouri compromise, I shall be greatly obliged to him.

Mr. TOOMBS. I will do that at a more convenient season.

Mr. STUART. Yes, sir!

Mr. TOOMBS. I am not to be diverted from this review that I am on now. I have endeavored to show the difference between the two on former occasions; but whether it be constitutional or not, I am telling where men stood, and I say that all these men who to-day declare that Congress has no right to cram constitutions down the throats of a majority, deny every act of their public life, for they have held it to be right to cram free constitutions down anybody's throat. The difficulty is when there is a "nigger" in it. [Laughter.] That is the constitution that is not to be crammed down; and that is the case with every man of them. When there is slavery in it, they strike for freedom and the will of the people; but when it comes to a free constitution, no Wilmot-proviso man, no man who has stood here for the right of Congress to prohibit slavery forever in Territo-

ries and States, can stand up without playing the hypocrite meanly and contemptibly, and talk of cramming constitutions down people's throats. I was ashamed of some gentlemen when I heard them do it. If you would put it on the ground that your objection is not to the cramming process, but to that which is to be crammed down, it would be well enough. The Wilmot-proviso man holds that you can prohibit slavery forever in the Territories. That means that you can cram freedom whether the people want it or not, but take care how you cram slavery.

Mr. WADE. That is it.

Mr. TOOMBS. That is it, says my friend from Ohio, who is always honest and outspoken, and straightforward, and I wish to God the rest of you would imitate him. He speaks out like a man. He says that is the difference, and it is. He means what he says. He and I can agree about everything on earth until we get to our sable population, I do believe.

In 1854, we carried out this principle, and we took away prohibition. I am amazed at all these gentlemen who stand by prohibition; I am amazed at my friend from Kentucky, who says it would have been better if that had stood; I am amazed that any man who was ready to maintain that slavery or involuntary servitude, except for crime, should never exist north of 36° 30', should come here and insult the understanding of Senators—old gentlemen—and they ought to be respectable gentlemen; they ought to be tolerably sensible gentlemen—by telling us that they are opposed to cramming constitutions down people's throats, when they have stood for nothing else all their lifetime. That is just what you are for. Your complaint is that you would not let us cram constitutions on the people; that we took off prohibition and allowed them to do as they pleased.

The honorable Senator from Illinois came here in the beginning of December, and then he had certain reasons against admitting Kansas with the Lecompton constitution. One of the most remarkable things in the speech of the honorable Senator to-night, which struck me forcibly, and I have no doubt will strike every man here, is that every argument which he used arose since the 9th of December, when he fired in opposition against the Administration. All his reasons for opposition have arisen since the opposition began. That is a little remarkable, and I will review some of his reasons.

The election on the 21st of December had not then taken place, so that there was no fraud in that which could influence him. The election on the 4th of January had not then taken place, and there was no fraud in that which could affect him. Regent Calhoun had not done this great grievance, and there was no objection on that ground. The President had not victimized his friends, there was no objection on that score; and I believe every single objection, except as to the mode of submitting the constitution, which has been made to-night in a three hours' speech by the Senator from Illinois, has arisen since he started his opposition. I will now proceed to examine them.

The great question has been asked all around, the great question upon which this issue is put before the nation is: have the people of Kansas been left free to form their institutions in their own way? I say they have. I say the proof is conclusive, and the objections are pretenses and pretences manufactured for a purpose, and not for the truth. I mean to say that the question of a convention was fairly submitted, that the Legislature had power to submit it, that a majority of the legal voters elected that convention, that no human being can question the legality of that vote, and that the convention formed a constitution and submitted one clause of it to the people, and the clause which they submitted was adopted by a majority of legal votes. Suppose it was true, as alleged by some gentlemen, the honorable Senator from Kentucky, and others, that somebody voted for John C. Fremont, and somebody voted for Stephen A. Douglas—that does not vitiate the election. It may be, doubtless it was, the enemy who did these things. The question is, though there may be a thousand fraudulent votes, if it was a fair election, on which side was the greater number of votes? That is the test everywhere. It is the test at a constable's election. It is the test at

a State election. It is the test at a presidential election. It is the test at all elections, and every honest man knows it. I say, then, this being a legal election, the question being submitted to the people according to law, a majority of the legal voters who voted have affirmed this constitution, and therefore a majority of the people of Kansas, by their will constitutionally expressed, have maintained the Lecompton constitution, and all other statements are unfounded in fact, and against the proof of the case.

But we are told that they had another election on the 4th of January, and the Senator from Illinois relies upon it. That Senator is terribly exercised at the idea of interfering with the constitution by an expression of opinion, even saying that it is a good one, even expressing the slightest idea of what it means; and yet, he says that a Legislature may order an election upon a constitution made by the representatives of the sovereign people and not submitted to them. Why, he asks, is not that election regarded? Let me ask why could the Legislature call a convention? Because Congress gave them all the powers it had, and among them was the powers to call a convention. When Congress passes an enabling act, and under it the people call a convention, and the convention forms a constitution without submitting it to the people, can Congress submit it? I put that question to the honorable Senator. He has declined to affirm it. He has declined to declare the necessity of such submission. I say they cannot submit it because Congress cannot decide for the sovereign people of a State or a Territory seeking admission into this Union. The argument is very aptly put, very speciously put in this way: if the Territorial Legislature can call a convention cannot they submit its constitution? I say, no; clearly not. It is an ignorance of all principle to assert it. The Legislature derived their power from Congress; it is limited by their charter. To call a convention is within it; but to control the people in their sovereignty is neither within the power of the principal nor of the agent, and that is the whole reason. The action of the Legislature calling for a vote on the 4th of January, was therefore, a nullity. As I remarked the other day, the constitution of my own State was never submitted to a popular vote. The Legislature called the convention that formed it. Can the Legislature submit it to a popular vote to-morrow? We have lived under it for sixty years, all unconscious that it did not express the will of the people, all unconscious that we were slaves, all unconscious that we did not have republican institutions. If the Senator would go down there and wake our people up to it, and tell the Legislature to submit the constitution, it is likely that we might be caught without any government at all, for there are objections to it. The Legislature may invoke their master, the sovereign power, through the forms of law, and when it is invoked it is their master. They may call spirits from the vasty deep, but they cannot put them down. It is beyond their power and that is the whole question.

The Senator says Congress cannot even express an opinion, but he would have us to send it back because he would have the Territorial Legislature submit it, to see whether it is the will of the people. I say there is but one way of ascertaining whether it is the will of the people, and that is according to law. If the convention was legal, it was their province to submit it, and when they have submitted it, it is conclusive until it is revoked by the same high sovereign authority. Neither Congress, nor the Territorial Legislature, nor the State Legislature in the case of a State, can interfere in any way with the sovereign powers of the people. I say it is the will of the people; a majority of the people. If rebels would not vote, I think it would have been wise in the people of Kansas to have expelled those persons; to have disfranchised them. We disfranchised those who stood loyal to the Crown during our Revolution; we refused to allow them to participate in our governments, and we have the same right to exclude rebels to our own institutions; and if the people of Kansas had chosen to do it, their exclusion would have been perfectly just, and I should have been ready to maintain it; but instead of that they were generous, more than just. They said "come and vote; we represent a legal author-

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ity, the Government of the United States, and the territorial government put in operation by them; we give you a fair opportunity." We sent Governors and judges there, and the Governors said to them "we will protect you in giving expression to your sentiments by your votes." They would not vote, and now you come to me and say the will of the people is not fairly expressed. If a factious majority (I will put it even on that) will stand out against law; if they will stand out against the demands of their own government, they not only are excluded from participating in the will of the people, but they ought to receive even a more condign punishment if they resist it afterwards.

But the Senator says it was not submitted right; that they could not vote for it or against it freely. That this is a pretext, and known to be such, is very clear, as was shown by the honorable Senator from Ohio [Mr. PUGH], the other day, by reference to the Minnesota constitution. That has been before the Committee on Territories, and the Senator from Illinois has reported it as a substantial compliance with the law of Congress; but how did they submit it? They said that no man should vote for or against the constitution by itself; they would count no ticket for the constitution or against the constitution by itself; they would count no tickets in regard to the constitution unless they also contained the names of persons for State officers.

Again, suppose this pro-slavery clause had been in the constitution, and the convention had submitted the whole constitution with that clause in it, what would have been the result? A pro-slavery man might have said, "I want slavery, but I do not want your constitution." An anti-slavery man might have said, "I do not want slavery, nor do I want banks, but I want the rest of your constitution." That, therefore, would have been a bad submission, according to the rule of the Senator from Illinois. Identically the same objections which he makes would have existed if all the clauses had been in the constitution, and all had been submitted at once. In such a case, how could a pro-slavery man who wanted negroes, but did not want the other provisions of the constitution, vote for it? I hope the Senate will pardon me for relieving them from the injustice to which he supposes they would have been subjected. That would have been exactly the case if the whole constitution had been submitted altogether.

The constitution never was submitted, and the Senator from Illinois does not hold that it was necessary to submit any of it; and, therefore, when the convention adjourned, it was the organic law of Kansas, except the provision in regard to slavery, and when that was approved it all stood as the organic law. This was done before the Territorial Legislature met. The whole constitution, but the submission of the pro-slavery clause, was disposed of before the Legislature met; and that was voted upon, in obedience to the popular will, which the Legislature had no right to forbid or to contravene.

We are told, sir, that if the Lecompton constitution becomes the organic law of Kansas, it will be by the act of Congress, and not by the act of the people of the Territory. That depends upon the reasoning which has brought the Senator to this point. In this connection I will allude to a matter of fact, in regard to which I took occasion to make an issue with him during his speech. He says that nineteen counties of this Territory were deprived of their rights, and disfranchised, at the election of delegates to the convention. I undertook to say that that was not true in any sense, and it is not. I offer the evidence of the law; and how is that? All the counties in Kansas—there being thirty-seven—were embraced in election districts, but three of them had not a human being in them; not one in them who voted at the last election on the 4th of January; not one that voted on the 21st of December. They were paper counties. The other thirty-four counties were every one of them embraced in the districts, and to every one of them the right of voting was offered. I say, therefore, the statement of the Senator that they were disfranchised is not supported by the record, is not supported by the fact, is not maintained by the truth of the case. I know it has been stated by Governor Walker; it has been

stated by Governor Stanton; but he is the very man who made the award; he is the very man who divided the Territory into election districts; he is the very man who assigned the representatives to the various districts. Twenty-one of these counties actually voted, and were represented in the convention; thirteen of them were not. Seven of those thirteen did not vote on the 4th of January. Six of them presented a vote altogether of eleven hundred. Four of these six counties drove out the persons whose duty it was to enroll them. I say, then, that every man in Kansas voted who wanted to vote, and all who were excluded were so excluded by their own act, by their own rebellion; and, therefore, it is not true that a human being in the nineteen counties was disfranchised, and that the statement stands nailed by the very official records, to which the Senator refers, the report of Stanton, the report of Walker, the vote of the 4th of January. There is not a tittle of evidence to sustain a single sentence they have uttered about it. The eleven hundred voters could all have voted if they had chosen to do so. They refused to see the law executed. The law was fair, it was just, it was honest. It was executed everywhere except where traitors prevented it. And these are the very traitors who can find facile instruments on the Senate's floor to pretend that they had wrongs. Every man knows it is not true. It has been said by half a dozen Senators, but they all know it is not true. The facts are on the record. They can no more be denied than the sun at noon-day. There is nothing to controvert the record. There is absolute verity in it. There is no dispute about it. Yet this plain fact, for these iniquitous purposes, is denied before high Heaven and this great assembly. So much for the disfranchisement. If anybody wants to see the record it is plain. The convention was a very good one with the Senator from Illinois in June last. It was a very good convention with Walker until it said its own will should rule, and not his. It was a very good convention for Stanton until it refused to carry out his will, and set up its own. Its rebellion was in claiming its rights, under the Kansas bill; that its will, not Walker's, not Stanton's, should govern in framing the constitution. That is all there was in it.

The Senator from Illinois says to the friends of this measure, "take care, I have said that you are overriding the popular will; that is the point upon which I mean to go before the people; now take care; make no declaration in the bill which denies that, because, if you do so, you will be doing something fatal to the slave States." Let me say to him,

"Non tui auxilio, nec defensoribus istis."

The slave States will take care of themselves. We want no such aid. I demand no aid from any man from any free State for the interests of my country. We are men in our own right. We scorn our enemies, and we seek not their protection. We stand not on the law. Make the most of it; and when you come here and warn us against declaring principles of legislation, lest they may take away our rights, I tell you that when the law can take away our rights, they are not worth maintaining. We hold them by a better and a braver tenure. We have power enough for traitors at home and enemies abroad. I scorn any man who tells me that the great right to two thousand million dollars' worth of property depends on legislation, on Senate votes or House votes. Sir, I come of a different stock entirely, and so do my people. That is not our title. We do not claim under it. We do not ask for your indorsement in any shape. Make any law you please, and you would be derided by the slave, if you sought to weaken our title to him. No, sir; we will stand by the Constitution as long as you choose, and when you choose to leave it, I will bid you an affectionate farewell. That is all I have to say. Whenever you think it is more to your advantage and mine to quit, I will bid you good morning with a great deal of pleasure. I desire no strife between us on this point, but I want this matter understood. I want you to understand the tenure by which we hold our property. We hold it by the tenure of our own States, who won it by their valor from foreign masters, and we have never transferred it. You will be entitled to it when you win it, and not till then;

and so I beg my friend from Illinois to set himself easy on that point; to give himself no concern about the tenure of slaves. He may make himself perfectly easy about them. They will take care of themselves.

I know what the meaning of that is. It is this: "Do not acknowledge these great popular rights; for it will be unsafe in Illinois." I say that in the constitution of Kansas, by every just rule of legal interpretation, she has declared, in the first instance, that her constitution shall be altered in a particular way after 1864, but as to what may be done in the mean time it is silent. In aid of that construction there is a clause in her bill of rights which says, that the people have a right to alter or abolish their form of government whenever they please. My friend says this is a revolutionary right. Mr. President, do I stand in the American Senate and hear to-night a gentleman distinguished in the Democratic party say that a great constitutional principle, won, it is true, by arms, but, when planted in constitutions, is nothing but a revolutionary right? He says they have only asserted a revolutionary right. I apprehend we asserted a good many of them in the Constitution of the United States. I apprehend they asserted a good many of them in old *Magna Charta*. We have not improved much on that. There has been but little improvement made except in the organization to protect them in the nineteenth century in the American systems, upon those great securities for personal rights which were demanded in the thirteenth century by the English barons. They declared life, liberty, and property, to be sacred; they declared that they should never be infringed, except by the judgment of their peers, or the law of the land. We have incorporated these great principles into constitutions—trial by jury, which England sought to deprive us of by sending over to us a court of admiralty; liberty of the press, which she denied to us. They have ceased, however, to be revolutionary rights; they have now become constitutional ones. That is the difficulty with the gentleman from Illinois.

When a right to change a constitution is put in the fundamental law, though it was wrenched by revolution from a despotic Government originally, it then becomes peaceful when planted in the constitution of a free people. This right, which is put in the constitution of Kansas, is as peaceful and constitutional as any other right that secures life, liberty, or property; and he can only get rid of it by saying that it is revolutionary to change a government. Sir, it is revolutionary to change a government except in the manner prescribed by the organic law, or, in default of such prescription, by the existing government. Nothing else is revolution. If a government is changed by the consent of the existing government, and in conformity with the existing law, or when it is silent, by the existing government, it is a lawful and not a revolutionary change. When it is changed against its own forms, and against the existing Government, it is revolutionary, but not till then. These plain obvious distinctions running through society, observed of all men, and I had supposed recognized by the children at Sunday-schools, are denied in the Senate of the United States to-night for a purpose. Sir, it is not a revolutionary right—it is a constitutional right, it is nominated in the bond. The people have nominated it in their constitutional bond, and he, the great defender, the great asserter of popular sovereignty, tells us to-night that when the people have declared that they shall alter their constitution and forms of government when they please, how they please, and as they please, it means that they shall not have that right except by the sword! That is the position of the Senator from Illinois. He, the great defender of popular sovereignty, denies to the people the right even to reserve in their fundamental law these great and necessary ingredients to the maintenance of popular rights and private rights too. Away with it, sir. We have a right to do it, and I have no hesitation in declaring that.

I am prepared to say in this bill that, by the constitution of Kansas, she has reserved the right to her people before 1864 to alter, modify, or change her constitution, as they may will. My asserting it does not interfere with their right—

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does not control her constitution. I but declare what she has said. If you declare that, it will take all the wind out of the sails of the gentlemen who want to assail you with cramming constitutions down other people's throats. That is all there is in the argument; and a very poor one at that. These are the character of objections to the amendment of my honorable friend from Ohio, not now in his seat, [Mr. PUGH.] You are especially warned against that. Why? What does the honorable gentleman from Illinois care for that amendment? Does it interfere with political rights? Does it interfere with any great fundamental principle? Does it interfere with slavery? I hope he will dismiss his care of slavery from his mind. I have already told him that we would prefer ourselves to pick its friends. The honorable Senator says he cannot inquire into that; and I believe other Senators, while denying, with him, the right to inquire into this constitution, reserving sacredly even an expression of opinion, say Kansas ought not to be admitted under the Lecompton constitution; because four years ago there was a Missouri invasion; because, after the constitution was adopted, there was fraud in an election at Kickapoo, or at Delaware Crossing. The Senator to-night speaks feelingly, eloquently; he rolls the sweet morsel under his tongue that there were frauds at the State election, and that, therefore, we must reject the Lecompton constitution. I will not answer these arguments to Senators. I know they are worthless, except to those who seek a pretext; those who want a reason for comprehending it from beginning to end. We have already said this Congress has not a right to decide it. If there be any allegation as to fraud in the election of members of the other House, that body is the proper tribunal to decide it; if there be any such allegation as to the election of a member of this body, the Senate is the tribunal to determine it; if there be any allegation of fraud as to the election of members of the State Legislature, it will be for them, when they meet, to decide it. He seems to regret—it is a sore place to him—that Mr. Calhoun, in whom this constitution intrusted the power, I believe, in conformity with the precedent of Maine, as president of the convention, to declare the result of the election—he is alarmed at the idea that he has declared it fairly; that he has disregarded fraudulent returns, and gave an honest one. The great complaint against the "regent"—this man Calhoun—is, that he has performed his trust with fidelity and honor; that he has rejected fraudulent returns, and declares the men elected who got the fair votes. That is the Black Republican report; I regret to hear it complained of by the Senator. It shows to what "uses we may come at last."

Sir, we have nothing to do with these frauds. I have not gone into them. I might have shown you—the evidence is abundant—that, in the strife which has existed in this Territory for the last four years, fraud and violence, robbery and murder, have been the usual concomitants of society. I seek to terminate this strife. What great injury do I propose to inflict by admitting Kansas, and, as gentlemen say, cramming this constitution down the throats of her people? Why, sir, as the case was happily put the other day my friend from Louisiana, by this act we unfetter their hands; we untie the cords that bind them; we make them one of the free, sovereign, and independent States of the American Union, to make constitutions and laws at their own pleasure; to right their own wrongs, and to redress their own grievances. This is the enormous outrage upon which the Republican members, with their Democratic and American allies, are endeavoring to rouse this great people. Mr. President, they will be mistaken. I have an abiding faith, I have the confidence of a life now passing beyond its meridian, that after all, in the great body of the American people, there is wisdom enough, judgment enough, honesty enough to protect themselves against false friends and against open enemies; to preserve the liberty won by their fathers, and to transmit it to the latest posterity which may come after.

Mr. GREEN. Mr. President—

Mr. KING. If the Senator will allow me, I wish to give one piece of information to the gentleman from Georgia. I was very glad to hear the Senator from Georgia disavow the doctrine put

forth in the Union of the 17th of November; but the Senator from Georgia must remember that there are three departments of the Government, the executive, the legislative, and the judicial. The Union may regard itself the organ of all three; and I suppose that it is through the judiciary that that doctrine is intended to be fastened on this country. If the Senator from Georgia has not heard of any pretension to that doctrine anywhere, I can inform him that the State of Virginia is now litigating in the courts the right of one of her citizens to hold slaves in the State of New York, the Lemmon case, well known through the country.

Mr. TOOMBS. That is a great mistake in the way you state it.

Mr. POLK. If it meets the views of my colleague, who has the right to the floor to close the debate, I will move that the Senate adjourn.

Mr. STUART. Will the Senator withdraw the motion for a moment? We should, in the first place, I think, move an amended hour for meeting. I suppose the order that was made yesterday to meet at ten o'clock will remain, unless we change it.

The VICE PRESIDENT. The Chair understands that vote to have been to meet at ten o'clock to-day. The Chair understood it to apply to to-day only.

Mr. STUART. If so, I have no objection; but I wish to say one word in response to what has just fallen from the Senator from Georgia, and but a word. I acknowledge the right of any and every Senator on this floor to express his opinions in any language that seems meet to him; but when a Senator arraigns me, and arraigns his associates on this floor, then I submit that he goes beyond his right. I deny his power, and I do not respect the terms in which he does it.

Sir, if the Senator from Georgia claims to be the model Senator, for arrogance of declamation, haughtiness of manner, disrespect to his co-peers, I yield it to him. He has won the laurels to-night, and is at liberty to wear them. But, sir, there is an old adage, that men only resort to personalities when borne down by arguments that they cannot answer. To call Senators "hypocrites," to charge that they utter as facts here things that they know to be untrue, to say that they are the "facile instruments" of rebels in Kansas, is what may be said in a bar-room with less intelligence and no want of bravery. Sir, it will never do in the Senate. The argument of the Senator can be answered. His declamations and disrespectful terms must be protested against. This I do for myself without personal feeling, without personal animosity, but in the plain exercise of those rights and privileges that belong to me as a Senator upon this floor, in virtue of the Constitution of the United States and the equality of the States themselves.

This, sir, maintaining my position, expressing my stern remonstrance against that sort of disrespectful expression, accomplishes all I desire to express to-night.

Mr. TOOMBS. A single word to the honorable Senator. I hope the Senator will go home, go to bed, and go to sleep; and I hope he will feel better in the morning. If he should not, I shall be glad to hear from him when he gets up.

Mr. STUART. Thank you, sir. That is not the kind of language. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

TUESDAY, March 23, 1858.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. GREEN. Mr. President, the Committee on Territories examined the subject that was submitted to them, having before them the constitution of the State of Kansas and all the facts connected with its formation. The result of that examination has been reported to the Senate and the country. The majority of the committee deemed it proper to select me to make that presentation to the Senate. In consequence of that fact, it now devolves upon me to review the arguments that have been presented against that report, and against the positions of the friends of this meas-

ure, and to reply to them as briefly as I well can. I need not undertake to magnify the importance of this subject. I could not do so. It extends in its effects and consequences to the vital interests of the Republic. Nothing could strike a more fatal blow at what ought to be the permanent interests of all sections of the Union, than the improper decision of the subject now under consideration.

The Senator from Michigan, [Mr. STUART,] with a flourish of trumpets unusual with him, said that the friends of the Kansas measure had been driven from all their positions. With due deference to him, I must be permitted to remark that I am not conscious of any friend of this bill being driven from its support; or of any position taken in the report of the committee being surrendered or abandoned; nor am I conscious of any successful answer to any single position taken in that report. If we have been driven from any one, I would like to have that one pointed out. General charges, general assertions, and general allegations, will not do for the Senate of the United States. They will not do for a court of justice of the lowest grade. They will not even do upon the stump, or at the hustings. We must come to specific facts—to the true questions that have to be decided; and not undertake to prejudice the one side or the other by making broad, general, unsupported assertions.

So it is with the Senator from Illinois, [Mr. DOUGLAS.] He says that the principle of the Kansas bill was, that the people should be left perfectly free to decide all domestic questions for themselves in their own way; and then assumes that such freedom of action has not been accorded to them. As I have previously remarked, before we can arrive at a safe and just conclusion, we must take all material facts and trace them up in their proper connection; and if, in such connection, we cannot agree in the deductions or in the conclusions, that variance in opinion will be an honorable difference between honorable Senators. For my part, I see no cause and have heard no reason to justify a sound logician in changing one single position. The principles upon which the report is based remain unshaken. But one single point of the report was called in question by the Senator from Illinois. What point in it was even controverted by the Senator from Michigan? What principle enunciated in it has been called in question by any Senator on the opposite side?

It is true, exception was taken by the honorable Senator from Vermont [Mr. COLLAMER] to the language. He said there were harsh expressions in it; that the Opposition party in Kansas were characterized as "rebels," as "contumacious," as standing in a position of hostility to the Government. It does so characterize them; and, if the facts presented in that report will not justify the accusations, it is a duty to take them back. Each single charge, with regard to the character of the Opposition in Kansas, is sustained by official evidence presented in the report, from which there is, and can be, no escape. If the honorable Senator supposes it unparliamentary or indecorous to make specific charges, upon evidence presented, in a State paper, to remain permanently upon the records of the country, I remark that the speech of his colleague from the same State of Vermont, [Mr. FOOT,] which also becomes a part of the parliamentary history of this country, has more of abuse, more of denunciation, more of harsh epithet, than can be found in any speech, or in any paper, presented on the subject from this side of the Chamber. With what propriety, therefore, shall one representative of a State complain of the expressions of opponents, whilst tolerating, in his colleague, the use of language so extraordinarily harsh as to have taken the whole Senate by surprise?

I say, further, that that was the only exception taken by the honorable Senator to the report. The Senator from New Hampshire [Mr. CLARK] desired an explanation in regard to one expression in it; which explanation was at once given, and is borne out by the context in the report, and leaves no possible chance for misconception. With what justice, therefore, shall we be taunted with having been driven to the wall; with having been driven from our position; with having been vanquished in all the debate and in all the inves-

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tigation had before the Senate and the country? Such is not the case, as I understand it.

But the Senator from Michigan says, that although it is true that the convention adopted this constitution, yet that adoption is not evidence that it embodies the will of the people of Kansas. There seems to be a sort of oneness in the molding of expressions by the Opposition—"embody the will of the people!"—as if mutually adopted by agreement among the Opposition. I will make no issue upon that point. There is not a Senator, nor a member of the House, nor a citizen of the Union, but what says that all constitutions *ought* to embody the will of the majority. How that fact is to be ascertained—what legal steps can be pursued for its ascertainment, consistent with order, peace, and constitutional government—is another question; but that we ought to take the proper steps, the legal steps, to ascertain the will of the people, is a conceded fact. It is imagined by some, and I believe by the Senator from Michigan, that the best mode of ascertaining the will of the people is by a submission to a vote of the people; and he referred to the vote on the 4th of January as affording the clearest and most conclusive evidence that the people of that Territory disapproved the constitution. He also brought, as evidence of that assertion, what he says is a direct vote of the people; and he also referred to a mass meeting, held at Leavenworth, consisting of delegates claiming to represent, by voluntary action, a vast majority (as he says) of the people of the Territory. How, I ask, can he undertake to give the sense of the people from the mere action of a meeting at Leavenworth? Why rely on a single meeting to ascertain public opinion, if we are to reject as unreliable the opinion of a legal convention, legally elected at a public election, and thus representing the opinions of the people in a legal sense? Those who could get up a meeting, without law, without system, without order, through their delegates to a self-constituted assembly at Leavenworth, can be relied upon to represent the people and speak their will, according to his argument; but when the legally chosen, the legally appointed delegates, elected by the people at the ballot-box, speak, it is not to be received as evidence of the will of the people! The irregular and the irresponsible, this body is told, can be relied upon; the regular, legal, and the responsible, should be rejected as unreliable! Are the friends of the constitution to be vanquished by reasoning and by facts like these?

Mr. President, as I propose to notice the several objections urged by the Senator from Illinois, and others, my train of remark will be rather desultory. The Senator from Illinois takes the position, that, although there was a submission of the slave article of the constitution, on the 21st of December, yet it was an unfair submission. I have, on several occasions, corrected Senators in their quotation of the constitution on this subject. This is the last time that I shall ever correct them upon it. They all have, including the Senator from Illinois, uniformly represented this to have been the mode of voting: that no man could vote *for* or *against* slavery on the 21st of December until he first voted *for* the constitution. Such is not the fact. There is no such provision in the schedule—none in the constitution. There was but one single question submitted. The complaint has been often made, by these same Senators, that there was no submission of the whole constitution; yet they now say that it *was* submitted, and unfairly submitted, because each man was compelled to vote for the constitution before he could vote upon the other subject. I answered that objection in the first remarks I ever submitted to the Senate on this subject. I took the ground, and it has never yet been successfully answered, that there was but one question submitted by the convention—not *for* the constitution as one question, and slavery or no slavery another question; but the one single question of "slavery or no slavery." It will be observed that the form of the ballot which each voter had to make use of was not for the constitution and slavery, or *for* the constitution and no slavery. No such ballot as that was proposed—none whatever. What then? Why, the question of slavery was submitted. How was slavery to be protected? How was it to be

guaranteed in the constitution. It was already inserted in the constitution. The question submitted, then, was, *Shall it remain there, or not?* That was the vital question which was submitted to the people to decide. The voter was not called on to vote *for* the constitution with slavery, or *for* the constitution with no slavery; but, shall the protection of slavery be, or shall it not be, in the constitution?

Thus, as I heretofore exemplified, when the constitution of the State of Louisiana was adopted, each voter voting was required to make use of a ballot, thus: "Constitution accepted," or, "Constitution rejected." There would have been just as much plausibility for the Senator from Illinois to complain of the action of the convention of the State of Louisiana, alleging that each voter should be compelled to vote first for the constitution and then its acceptance, or for the constitution and then its rejection, as to undertake to build up an argument that under this schedule the voter is compelled to vote for the constitution and then slavery, or for the constitution and then against slavery. They are presented in identically the same manner. The whole scope of this section of the schedule shows that but one single question was submitted for decision. All other questions were settled by the convention. It is said the people of Kansas complained that no other question was submitted. It is said that the people of the country complain because no other question was submitted. I understood the Senator from Illinois, in the first speech he made here in the Senate before the arrival of the constitution from Kansas, to predicate his objections upon the non-submission of the constitution.

Mr. DOOLITTLE. Will the Senator allow me to ask him a question?

Mr. GREEN. Certainly.

Mr. DOOLITTLE. I would inquire of the honorable Senator whether the schedule does not require of the man offering to vote, not only to vote for the constitution—

Mr. GREEN. It requires no such thing.

Mr. DOOLITTLE. Does it not go beyond that, and require him to take an oath to support it?

Mr. GREEN. Of course, if adopted.

Mr. DOOLITTLE. Does it not only require him to vote for the constitution with slavery, or the constitution with no slavery, but to take an oath to support it before he can vote at all?

Mr. GREEN. I will answer the Senator. First, I see the remains of that old error still clinging to the mind of the Senator. He asks me the question, with the schedule before him, whether it did not require a voter to vote for the constitution with or without slavery? There is no such word in it. Let the Senator look at it. It is now in his hand. Second, with regard to the oath to be taken: if challenged, the voter was required to take an oath to support the constitution if it become the supreme law of the land, as all good citizens are. There would have been a peculiar propriety in the people of Kansas making such a requisition, as there had been a proclamation by the Opposition that they would never submit to law and order. Those who stand in open rebellion to the government, ought to be subject to some honorable and fair test before they are permitted to participate in shaping the fundamental law.

As I do not wish to be drawn off from the train of remarks I contemplate making, I will return to the point at which I was interrupted. The Senator from Illinois made the remark, in his first speech on this subject, that the President of the United States did not understand the Kansas-Nebraska bill, he being at that time our distinguished representative at London; and he excused the ignorance of the President on the ground of his absence from the United States. The President's fundamental error, to which he then called attention, consisted alone in this: the President said that the Kansas-Nebraska act did not require the constitution, when formed, to be submitted to the vote of the whole people. This was regarded by the Senator as the fundamental error. He, the author of the bill—he, the advocate of the bill—he, the defender of the bill before the country, ought to know more about it than the Pres-

ident, who was then absent from the country, and who, perhaps, had not read all that had taken place on the subject. Sir, I have a right to believe that the President of the United States has, at least, read the report of the honorable Senator, made at the time he introduced the Kansas-Nebraska bill; and if he took his impressions from that report, if they are false impressions, the responsibility falls upon the report, and not upon the President. To show what justification he had in his belief upon the subject, I will read a few words.

Here is the report by Mr. DOUGLAS to accompany the bill (S. No. 22) made January 5, 1854. He goes on and gives a history of the compromise measures of 1850—a very clear, forcible illustration of the principles intended to be thereby established, in the same strain that he did last night with so much ability, and which gratified me so much to hear. The object then was to organize the Territories of Kansas and Nebraska. The object of the bill was to apply the same principles settled in the compromise measures of 1850 to the Kansas-Nebraska bill organizing these Territories in 1854. He reasons out the subject with great force and with great beauty, and arrives at the following conclusions:

"From these provisions it is apparent that the compromise measures of 1850 affirm and rest upon the following propositions: 'The substitute for the bill which your committee have prepared, and which is commended to the favorable action of the Senate, proposes to carry these propositions and principles into practical operation in the precise language of the compromise measures of 1850.'"

What are those principles?

"First, That all questions pertaining to slavery in the Territories, and the new States to be formed therefrom, are to be left to the decision of the people residing therein."

That would seem to sustain the view which the Senator from Illinois pressed, when he said that the President was out of the United States, and he therefore excused him for not understanding what the principles of that bill were. But, sir, I have not read all of that first principle. It says what I have read, and then goes on to say:

"Are to be left to the decision of the people residing therein, by their appropriate representatives, to be chosen by them for that purpose."

This is the report of the Senator from Illinois, made when the Kansas bill was presented. At that time he said the decision of the slavery question was to be left to the people, to be exercised—how? By their appropriate representatives in convention assembled. Because the President did not complain of the action of the people of Kansas in not submitting the constitution to a vote of the people, but followed out the principle which the Senator had presented as the leading idea in the Kansas-Nebraska act, that it was to be decided by their representatives, he complains of the President, and of the action of the people of Kansas. I have ever held, and yet hold, that it was for the people, acting through their convention, either to submit or not to submit the constitution; that the Congress of the United States has no constitutional right to stop and demand of them to submit it; that, if such demand should be made, it would be a violation of duty, a violation of constitutional right, and that we who did it would be setting an example never set by our predecessors in office, and, I trust, never will be set by those who are to come after us.

It is said, however, with a great deal of ingenuity, by the Senator from Vermont, that it is true the people, by convention, can act; but, in order to make it binding and conclusive action, they must have legal authority to act; that the action of the people of Kansas, not being predicated upon an enabling act, is mere voluntary action, and not, therefore, legal action—not binding upon those who do not choose to act. The Senator from Illinois shadows forth about the same idea in his first speech. It is this:

"So far as the act of the Territorial Legislature of Kansas calling this convention was concerned, I have always been under the impression that it was fair and just in its provisions. I have always thought the people should have gone together *en masse* and voted for delegates, so that the voice expressed by the convention would have been the unquestioned voice of the people of Kansas. I have always thought that those who staid away from that election stood in their own wrong, and should have gone and voted, and should have furnished their names to be put on the registered list, so as to be voters. I have always held that it was

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their own fault that they did not thus go and vote; but yet, if they chose, they had a right to stay away."

There seems to be in this a little contradiction. If they did wrong when they staid away, then it was their duty to have voted; and hence those who did vote did right. He further says:

"They had a right to say that that convention, although not an unlawful assemblage, is not a legal convention to make a government; and hence we are under no obligation to go and express any opinion about it. They had a right to say, if they chose, 'we will stay away until we see the constitution they shall frame, the petition they shall send to Congress; and, when they submit it to us for ratification, we will vote for it if we like it, or vote it down if we do not like it.' I say they had a right to do either, though I thought, and think yet, as good citizens, they ought to have gone and voted; but that was their business, and not mine."

The Senator from Vermont proclaims the same idea that there was no legality attached to it; and he drew a distinction, which I think my honorable colleague completely answered—that there was a difference between a legal proceeding and a proceeding by authority. What he meant by legal was, that it was not prohibited by law, and therefore not unlawful. I think I can adduce a little authority to show that this was a legal proceeding. The authority that I propose to present consists, first, in the report presented by the Senator from Illinois in 1856, in which he makes his celebrated argument upon the power of Congress over the Territories. He deduces the power that Congress has under the Constitution to legislate for the Territory, or over the Territory, from that clause which says:

"New States may be admitted by the Congress into this Union."

Without conceding the correctness of his source of power, I will proceed to show what he thought had been accomplished by the establishment of a territorial government. He uses this language on page 4:

"Hence, before the power can be safely exercised, the right of Congress to organize Territories, by instituting temporary governments, must be traced directly to some provision of the Constitution conferring the authority in express terms, or as a means necessary and proper to carry into effect some one or more of the powers which are specifically delegated. Is not the organization of a Territory eminently necessary and proper as a means of enabling the people thereof to form and mold their local and domestic institutions, and establish a State government under the authority of the Constitution, preparatory to its admission into the Union?"

His idea, as shadowed forth in this report, and not only shadowed forth, but expressed in very explicit language, is, that the exercise of the power to establish a temporary government for a Territory was a means to execute another constitutional power; that that other constitutional power was to admit a State; and that the establishment of a territorial government was to enable them to prepare for that admission. Thus, according to his idea at that time, it, in the language of Governor Walker, is an enabling act; but I care nothing about that. It was a legal proceeding, when they proceeded to form a State government, whether this is an enabling act or not. It is well known that a prior consent of Congress has not been the established practice of the Government. It is equally well known that all these territorial governments are in the law expressly stated to be for the purpose of preparing them for admission into the Union. They are all said to be temporary. The express word is employed even in the Kansas act—a temporary government for Kansas in the territorial form. So of Nebraska—a temporary government in the territorial form.

Now, if it be a "temporary" government, if it be to enable them to prepare for admission into the Union, if it be as a means to enable Congress to execute the power to admit a State, as he argues in his report, then it is all that an enabling act could possibly be. But whether that be so or not, I proceed upon a broad principle of equity, which is this: the uniform practice of the Government has been to admit Territories as States; and citizens of any of the old States, North, East, South, or elsewhere, going and settling in a new Territory established during the past practice of the Government, looking at the past action of Congress, have a right, growing out of the common practice, to expect the organization of a State government, when they obtain the requisite strength. The common practice to so admit them is an inducement to them to settle there; and not to con-

cede to them what has been uniformly conceded to all others, without exception, would be a fraud upon the people who settle in the Territory. It would be a breach of the common law which has grown up. Now, as Congress has not been uniform in granting enabling acts, as Congress has heretofore said an enabling act is not a necessary prerequisite, as the practice of the Government has been uniformly to admit them as States at the proper time, he who settles there has a right, under that practice, to expect that that common-law practice shall be adhered to and carried out in good faith—more especially when settling in the Territory acquired from France by the Louisiana treaty, which specially stipulated that it should be done.

But, independent of all that, there was a government in Kansas, clothed with governmental power, subject only to the Constitution of the United States, which contemplated their admission into the bosom of the old family. That government was a territorial government. It has been said that it was a usurped government; that it was established by fraud and violence; that external power from the State of Missouri went over there and forced it upon them, all of which I pass by as unworthy of notice. Whether true or untrue, it was a government *de facto*. It was a government wielding the power of the territorial authority. It was a government authorized, under the organic act, to do all that any other government, under that act, could have done. California was under a kind of military government, established under General Riley, and the Senator from Illinois, with great ingenuity, and great plausibility, (and I am willing to adopt it for the purposes of the argument,) in his report predicates the right of the State of California to admission into the Union on these points: First that there was a government *de facto* there, and that, acting through this *de facto* government, the people had established a State government, and asked admission into the Union. Such is the history of the case. He employs this language:

"It also appears, from the proclamation of General Riley, acting Governor, to the people of California, dated June 3, 1849, that the government *de facto* was constituted as follows: * * *

"On the 3d of April, 1849, President Taylor appointed Thomas Butler King agent, for the purpose of conveying important instructions to our military and naval commanders who were intrusted with the administration of the civil government *de facto* in California."

Thus predicating his whole argument on the double idea that the people had acted, and acted through a government *de facto*. Had you not a government *de facto*, as regular, as legal, as just, in the case of Kansas, as you had in California, even if you admit that in its origination frauds were committed, force resorted to, and external aid brought to bear? Now, sir, here is a government *de facto*. They proceeded to call a convention. So in Kansas; there was a government *de facto*, and they proceeded to call a convention. The Senator from Vermont says, however, that it is not a legality. Let us see what the Senator from Illinois says upon that subject; for I love to answer one of my opponents with the language of another. The Senator from Illinois, speaking of the action in California, says:

"But there is not an irregularity in the case of California which has not occurred and been waived in the admission of some new State into the Union. If the Senator will point me to any irregularity in the case of California, I will point him to a corresponding one in the case of some other State which has been received into the Union." * * *

"I hold that the people of California had a right to do what they have done; yea, that they had a moral, political, and legal right to do all they have done."—Appendix to Globe, 1850, page 1523.

So that the action of the people of California, being subordinate to the government *de facto*, was a legal action. The action of the people of Kansas, being through the constituted authorities, and a government *de facto*, was clearly legal action. This, like other complaints which have been gotten up since the first day of December, seems to be an after-thought. Read the Springfield speech of the honorable Senator from Illinois. Would he have spoken in such terms as he did with reference to the expected action in Kansas if he had looked upon it as a mere farce—that people could have stayed away if they pleased? Did he say so then? I desire to read it. It has been read

frequently. I wish to incorporate it in the proper connection as it bears on the proposition I am now discussing. I ask my friend from Indiana to read it for me.

Mr. BRIGHT read as follows:

"Of the Kansas question but little need be said at the present time. You are familiar with the history of the question, and my connection with it. Subsequent reflection has strengthened and confirmed my convictions in the soundness of the principles and the correctness of the course I have felt it my duty to pursue upon that subject. Kansas is about to speak for herself through her delegates assembled in convention to form a constitution, preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every bona fide inhabitant the free and quiet exercise of the elective franchise.

"If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes, with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution in opposition to the wishes of a majority of the people living under it, let the responsibility rest on those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them and upon the political party for whose benefit and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State, institutions repugnant to their feelings and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principles of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just—the rights of the voters are clearly defined—and the exercise of those rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State, by the votes and voice of her own people, and in conformity with the great principles of the Kansas-Nebraska act; provided all the free-State men will go to the polls and vote their principles in accordance with their professions. If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union. That the Democrats in Kansas will perform their duty, fearlessly and nobly, according to the principles they cherish, I have no doubt; and that the struggle will be such as will gladden the heart, and strengthen the hopes of every friend of the Union, I have entire confidence."

Mr. GREEN. Now, sir, I have had that speech read because in the connection I am now speaking it shows he then regarded it as a proceeding that would be binding, perfectly obligatory, and was anticipating that some of the contumacious would stay away and not vote, alleging at the same time that they would be equally bound as though they had appeared at the polls and voted. That shows that he regarded it as a legal proceeding. That speech was made on the 12th of June, three days before the election held under the election law of Kansas, and hence when he takes another position, on the first day of December, it seems to me—I will not impute to him any motive—to have been entirely an after-thought. So understood the whole country; so understood every friend of the Kansas-Nebraska bill; so understood the President, and all of the party that sustained him; and never until some subsequent proceedings were had, was any complaint ever uttered. It was a legal proceeding. It is easy to demonstrate, in addition to what I have said, that there is full legislative power, including the power to call a convention at the instance of the people, to form a constitution preparatory to their admission into the Union; that it was with this view, as stated by the Senator from Illinois, that the organic act of the Territory was first passed to enable them to prepare for admission under the clause of the Constitution, which says that Congress may admit new States. It then results that the voice of the people fairly expressed, demanded a change of government from that of a territorial to that of a State. There was no pretense of fraud at that time; no pretense of any invasion from Missouri, or from the Camanches of the West; no pretense of improper influences; all was admitted to be fair, regular, just, and proper. The first step in the proceeding, then, is a legal step of the people in the exercise of their power. Ah, says the Senator from Vermont, they will have

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no power until Congress enables them to come into the Union.

Mr. COLLAMER. I did not say that they had not power. They had the power to meet and petition, and all that.

Mr. GREEN. Did you not say that they had no power?

Mr. COLLAMER. Not authoritative.

Mr. GREEN. I understand the Senator. He spoke of their political rights, because there is a difference between a mere physical act and a moral and political right. They have a physical ability to gather in mass meeting, and utter expressions, if they have the power of articulation, and physical power to draw up a petition and present it to Congress.

Mr. COLLAMER. And a political right.

Mr. GREEN. And a political right to present it. But what political right have they to form a State government at any time? Never till Congress says so? He shakes his head. Can they do it before? Can they do this before Congress passes a provision giving them power to do so?

Mr. COLLAMER. They may meet, form a constitution, and present a petition to Congress with the constitution for admission under it; but it is for Congress to say whether they will admit them in their discretion.

Mr. GREEN. There is no difficulty about this subject when we come to a proper understanding. The admission of a State is one thing; the formation of a State another. Congress cannot form a State. Congress, therefore, cannot give power to the people to form a State; for they cannot confer a power they do not possess. If, then, there ever is a power in a Territory to form a State, from whom is it derived? Not from any sister States, because they cannot create another State; not from the Federal Government, because it cannot create a State. Then, from whom is derived the power to create a State? From Heaven; that is the source of the power. An enabling act was given to the people by Him, and Him only. It has been held by the wisest statesmen in this Government that life, liberty, and the pursuit of happiness are the inalienable rights of man; and that to secure these rights, governments are instituted, deriving their just powers—from whom? From Congress? From a sister State? From an enabling act? No; but deriving their just powers from the consent of the governed, and whenever the consent of the governed is given, the just power has been conferred, and they (the governed) are the people of the Territory. They cannot, however, force themselves into the Union. That Territory belongs to all the States, and Congress is the administrator of it. The people of the Territory cannot appropriate the public lands to themselves. They cannot oust the rightful jurisdiction of the Federal Government. Therefore, an assent, either by admission or otherwise, must be given by Congress before the independence, the sovereignty of the State becomes complete; but the power to form a government is an original inherent power which they may of right exercise when their numbers justify.

If they may thus exercise it; if it be an original power; if it be an inherent power; if it be an inalienable power; then it is a legal power. True, they cannot establish a government that would abrogate the Federal power. They cannot be brought into collision with Congress, because as the ownership of the Territory is in the States, and jurisdiction over it is in Congress, the assent of Congress must be had either before the formation, or after the formation of the State government, and the one is as regular as the other; as the past history of the Government proves.

In the next step of this proceeding, (for that territorial government has been indorsed by Congress, and all the authorities of this Government,) the Territorial Legislature passed the convention act—that one of which the Senator from Illinois spoke, when he said it was just and fair in all its provisions. It provided for a registry; a registry was taken—fairly taken. Those objections which have been urged to it have been so completely and so fully and so often answered, that I really do not like to stop and do it now. I have answered them; my colleague has answered them; the Senator from Georgia [Mr. TOOMBS] has answered them; various other Senators have answered them; and

the Senator from Pennsylvania [Mr. BIGLER] has answered them; proving the employment of terms by our opponents in this question, which may not be designed, but which are calculated to convey a false impression to the public mind. They say, generally, that nineteen counties only were registered, and nineteen unregistered. Now, the employment of language like that—I will not say is designed—but it is calculated to make the public at a distance—not in the city of Washington—but the public at a distance—believe that half the people were disfranchised, when there is not one word of truth in it.

Now, if we desire to investigate, according to the facts, and present the facts to the country, why do we not speak of the people? Did you want unpopulated counties represented in convention? I thought it was the people whose rights you talked about protecting, and not the barren hills and wastes, the prairies and the swamps. They have no voice in it, and ought not to have any. They are the creatures for the use of man, and not the masters; they are to be used by man, and are given for his accommodation and benefit. All of the nineteen counties that had any inhabitants at all were attached to other counties, except two or three, and from them the registering officer was driven off. This is established by abundant evidence. In all of them only one thousand four hundred and twenty-three votes were given at the 4th of January election under a qualification of voters which would not have permitted them to vote for the delegates to the convention. The qualification for those who should vote for delegates to the convention was, that they should be citizens of the United States, and residents of the Territory on the 15th day of March. The qualification of those who voted on the 4th of January was, that they should then be inhabitants of the place. Now, if, with this broader latitude, with this free license for people to come in, through the influence of the emigrant aid societies, with all the machinery of importation, they could at this later period only manufacture one thousand four hundred and twenty-three votes, when there was no restraint of law as to the number polled, how many could that same locality have polled with the qualification required under the convention act on the 15th day of June preceding? I am assured, by good authority, not over five hundred. So that it dwindles into mere insignificance. But, whether large or small, whether great or little, it resulted from their own acts, as is proven by the testimony of Secretary Stanton and others.

Then the convention is elected. It legally assembles. It performs its work. The people adopt the constitution finally, as they had a right to do, in pursuance of the principles incorporated into the organic act, as Senator DOUGLAS, in his own language, asserts they were to settle these questions for themselves, by representatives chosen for that purpose. Not by a direct vote of the people; not by a subsequent submission to a popular vote; but, though he attributed that idea of President Buchanan to his absence from the United States, as a fundamental error, still his own report says they are to settle it by their representatives, chosen for that purpose. Just in that way the people of Kansas did settle all questions pertaining to their domestic institutions, except the question of slavery; and that question was submitted to a subsequent vote of the people on the 21st of December.

What is arrayed against all this? What imputation is made against this proceeding? What is to lessen the force of it? Why, says the Senator from Vermont, [Mr. FIORI] there were broken pledges; they had a right to stay away and not vote; they had assurances from the President, assurances from Governor Walker, assurances from Governor Stanton, and pledges from the candidates, that the constitution, when framed, should be submitted to them for ratification or rejection. I called upon the Senator at the time, and requested him to favor me with the evidence of his assertion. He did not have time to produce it then, but I suppose he will, if he can, at a more convenient season. The Senator from Vermont [Mr. COLLAMER] went off and hunted up a little item, and brought it up here for his colleague, but that does not even reach the case. I know, and the country knows, that Governor Walker

preferred that the constitution should be submitted; but Governor Walker never did assume to pledge to the people that it should be submitted. Mark the difference. Governor Walker says to them, if the convention does not submit the constitution, I promise you I will oppose its adoption; but that very assertion shows that he understood the convention were not bound to do it, for it implied a doubt whether they should submit it or not. Do you tell me that amounts to an assurance that the constitution should be submitted? There is nothing like it on the record; and when gentlemen make the assertion, they make it without any evidence upon which to found it. Even Governor Walker, with his strong proclivities to invite the action of emigrant aid societies, to rush out a population to vote down the constitution or vote out slavery—even he, in his own zeal, never undertook to pledge to the people that it should be submitted to them for a vote. He preferred it, he advocated it, he urged it; but he had no power to pledge that it should be submitted, and he never did.

How is it with Governor Stanton? Governor Stanton, on the contrary, said expressly and explicitly that the distracting question of slavery ought to be submitted, and that was as a mere question of policy. Now the convention, I suppose, had more confidence in Governor Stanton than in Governor Walker. I presume so from their action; for they acted on the suggestion of Governor Stanton, adopted the constitution finally in all its branches, and in all its parts, except the article on the subject of slavery, and that they submitted to a vote of the people. But neither Governor, nor Secretary, nor President, nor anybody else, had any right to dictate to the convention any part of their action, either in the form of the constitution, or the mode of its adoption.

The election took place on the 21st of December, and the character of that election is a great bone of contention. I can show, by Governor Walker's own position, that the question which constituted the real matter of controversy was, shall there be slavery or no slavery? Is there anything else in controversy before the Senate? Is there anything else that stirs up the least feeling, even in the Republican party, save and except this slavery question? Not one particle. Everything else is hunted up with eager anxiety merely as make-weights, as it seems to me; but there is not one single valid objection pointed out. On the 21st of December, then, the question was submitted. To disfranchised counties, or to but nineteen counties? No; but submitted to every county in the State, submitted to every citizen of the State, whether he had been registered or whether he had not been registered. I have before said that those who failed to register themselves committed a wrong in their own light. But the Senator from Vermont said that the argument reminded him of an anecdote of a boy who could not count the pigs because one of them kept running about all the time. Now, if that pig had to give his name to be registered, and would not do it—what then? How register him?

Mr. COLLAMER. Count him.

Mr. GREEN. But if the law says that he should give his name to be registered, so that when he came up to vote it might be known whether he was entitled to do so or not, how could you ascertain his name without he gave it? That is the cause of all the difficulty. Now, it is a fact not to be controverted, that they did refuse to be registered, and the imperfect registration was the result of their own wrong. But whether right or wrong, whether it was the fault of the officers or the fault of the people, when the great question was submitted, whether registered or unregistered, whether entered upon the poll-list or not entered upon the poll-list, all were allowed to come and vote. Why did they do it? It is said they anticipated fraud. Anticipated fraud! A majority anticipate that a minority would whip them! It is not a part of the American character; nor do I believe that to have been the reason, nor does anybody here on either side believe it; but if true, it amounts to no excuse.

But, says the Senator from Illinois, why did they not submit the whole constitution? He answers the question himself by saying the only reason given, was that it would be voted down.

Who said so? Why, the Senator from Illinois, and, I believe, the Senator from Michigan. Who else said so? Did the people of Kansas say so? Some one of that convention may have said so; but the convention itself, as a convention, never put its action on any such ground. To represent them as being influenced by such a consideration when you have not the slightest evidence, I say is neither legitimate nor logical.

But assumptions have been made from the beginning of this discussion down to the present time; and no more gross assumptions have been made by any Senator, than by the distinguished Senator from Kentucky. Why, said he, this election was all very fair on its face, but gross frauds have been perpetrated. That Senator is a distinguished lawyer; he knows the force and weight of evidence; but if he referred to anything that would be received as evidence before any justice of the peace in any county of his State, I should like to have it pointed out. Why, said he, both the Governors have given it as their opinion that a large majority of the people of the Territory are against the constitution. Talking about legal proceedings, the Senate of the United States having a constitution, adopted according to law, brought before them, it is to be overruled, broken down by the opinion of two gentlemen who rode through the country! Why, sir, will a lawyer assert that to be evidence at all? When did they give that evidence? Since they fell out with the Administration, and joined the enemy. It is no evidence at all, and comes in a very questionable shape.

Again: the Senator from Illinois says this constitution does not meet the will of the people. Where is the evidence of that? Why the Legislature elected in October passed resolutions protesting against its reception and admission. Does that prove that the constitution does not meet the will of the people of Kansas? Does he not know that, when that Legislature was elected, the constitution had not been formed? That Legislature was elected in October; the convention had not then formed the constitution. Did they condemn it in advance? Did they reflect the will of their constituents? The question had not been before the voters of the Territory to say whether they approved that constitution or did not approve it; and, consequently, the Legislature elected could not possibly represent them and reflect their will on that subject. It is worse than idle, it is absolutely ridiculous, to say that the Legislature elected in October, before the constitution was formed, could express the will of the people on that constitution. The convention, chosen by the people to make the constitution, can better reflect the will of the people than the Legislature chosen for a different purpose.

The people elected that convention to make a constitution. They had not then performed their work. They elected a certain set of men to go to the Territorial Legislature. Subsequent to that election the people's convention did form a constitution, and the Legislature undertook to pronounce judgment upon the work of the people's representatives. Does that afford any evidence that it would be condemned by the people? I cannot so understand it; nor do I believe that any man who will turn his attention to it for one moment will believe it is entitled to any weight or consideration whatever. Even the Senator from Illinois, following the example of the distinguished Senator from Kentucky, says, "Ask the Governors what the will of the people there is." Is that to have any weight? I submit, with due deference to the longer experience of the distinguished Senators, that the way to ascertain the people's will is not to ask their Governors what it is. Can you have the people's will except when collected in the form of law? Will you look at a mob, guess at its size, and say that that overrides a legal vote? You sanction that principle when you undertake to repudiate the action of this legal convention, because a Governor may have said he rode through the country and counted so many stumps and so many cabins, and he was inclined to think the majority was on that side. I trust such arguments will never be made here again. Moreover, the Governors were not chosen by the people, while the convention was, for the direct purpose of making the constitution, and

their action is the best evidence of the people's will.

The Legislature of the Territory was not chosen for the purpose of expressing the will of the people on the constitution; neither was the Governor, who was appointed by Federal authority.

But the great question, it is said, is, does the constitution embody the people's will? Now I come to the point which I have been incidentally noticing for some time. Their will is collected only through the forms of law. But, says one Senator, we do not object to these forms of law, but we go for the equity of the case. Well, what is equity? First, equity follows the law; second, the rules of evidence in equity and law are the same. If in law your evidence would not be admissible, neither will it be received in equity to ascertain the equity of this case. Flying report, wild guess, visionary imaginations, are to be brought up to weigh down legal evidence, by old experienced lawyers and statesmen. I am astonished at it. There must be an impelling power behind to rush them into error so gross, else it could never be done. What that impelling influence is I know not. In the United States of America, distinguished for its endeavors to protect the people's rights, there has never been but one rule to collect the people's will—by a legal proceeding. The moment you depart from this rule, when you next have an election of President of the United States the ballots will be cast, the votes will be counted, the electors returned, and a wild cry will be raised outside of this Capitol—Governors A, B, C, or D will say that an immense majority of the people of the United States were opposed to the President. They will say he does not represent the public will; that a majority are against him. I have already heard it said that Mr. Buchanan is a minority President, that Mr. Pierce was a minority President. Take one more step, incite the people in their frenzy to go one inch further under the example intimated here that you may guess at numbers, and not take the people's will in the forms of law, and you will have bristling bayonets and threatening cannon pointed at the walls of your Capitol to displace those legally elected to put in the mob and the candidate of the mob. It is fraught with a danger that demands the most serious reflection. We should pause before we set an example so calamitous in its tendency.

Does this constitution embody the people's will? I say, yes; and when I answer, I predicate my answer upon that which cannot be controverted or gainsayed. When the Opposition answer, it is a loose, unsupported assertion. But the question, does it embody the people's will? comes back with all its force, again and again. What is the test? Were there disfranchised counties where members were not elected? That does not affect it. There were but very few people in them, and nearly all the people were registered—all were, that desired it. You cannot compel a man to vote. You ought to give all the privilege of voting; and having the privilege, if they refuse to vote, the consequence must rest upon their own heads. Take the case of Iowa, to which the Senator from Kentucky referred—

Mr. CRITTENDEN. Not Iowa; Wisconsin.

Mr. GREEN. I thought it was Iowa to which the Senator referred.

Mr. CRITTENDEN. No, sir.

Mr. GREEN. I think I am correct, and the Senator will see that I am correct in a moment. He was upon the point that a constitution was formed by them, and the boundary, or some other part, was not acceptable to Congress. Congress said to them, you may come in, if you conform your boundary to the northern boundary of the State of Missouri, and comply with certain conditions. The constitution went back to the State, and Congress never heard anything more of it; and I will tell you why. The people voted it down. Congress undertook to change the boundary which the people had inserted in the first constitution, and to prescribe terms to them. They voted down the propositions which Congress made to them, and subsequently formed a new constitution; but when they did come into the Union, what was the evidence that it embodied the people's will?

Mr. HARLAN. Will the Senator allow me a moment?

Mr. GREEN. Certainly.

Mr. HARLAN. Congress prescribed no new boundary to Iowa, as the Senator will see by examining the act.

Mr. GREEN. It prescribed some conditions which they repudiated. How was the second constitution received? By a submission to the people. What was the vote upon that? Now you want clear, unmistakable evidence that the constitution embodies the people's will. In the case of Iowa, over nine thousand four hundred and fifty voted for the constitution, and nine thousand and sixty voted against the constitution, and three counties were disfranchised. If the votes of those three counties had been brought in, and counted in the negative they would have overturned that majority. Yet you see the forms of law were observed. One of those counties, which seems to be rather remarkable, was named Buchanan; not a vote was received from it. There were two other counties from which not a vote was received; but yet it was their own negligence. The law afforded them the opportunity, and if they did not avail themselves of that opportunity, they were bound by the decision of those who went to the polls and voted. So in Kansas; so in California; so in every instance. I believe there never has been a vote taken in the United States in which every man participated who was entitled.

Take the case of the recent amendments to the constitution in the State of Pennsylvania. I am informed by the Senator from that State that they can poll about five hundred thousand votes in the State. Last year they adopted some amendments to their constitution, less than one hundred and forty thousand voting. The highest vote that any amendment received, was one hundred and sixteen or one hundred and eighteen thousand. Yet it was the will of the people—the legally expressed will. Those who do not think it proper to come forward and exercise the rights which are extended to them, are bound by the decision that is made. Deal with Kansas on the same principle; extend to her the same rule of action, and you will be estopped from finding any fault or making any complaint. But every time they hear this word estopped, a cold shudder seems to run over these Republican Senators. Estopped! They say that is the lawyer's plea. I trust we are not opposed to law and order. I trust we will ever act on the legal rules established by centuries of experience, by enlightened human reason, as best calculated and designed to protect the rights of the people. On those we ever act; and when we depart from them, we will be not only at sea without rudder and without compass, but we will be in a terrific storm driving us upon the rocks of destruction.

But one of the great and important points—it looms up with great magnificence in the Opposition here—is the vote on the 4th of January. After the constitution had been finally adopted, and was complete, on the 21st day of December, after the work of the convention had been consummated, a Legislature meets—not appointed for that purpose, not selected for that purpose, because when they were elected, in October, the constitution had not been formed—but in spite of that, without instruction from the people, without authority from the people, they undertake to defeat the will of the people by ordering a subsequent election. I would like to know if I could dare to ask that question, who gave instructions out there to get up that vote? Whence did the orders emanate? Who sent them the advice? It makes no difference to me how it originated; its consequences are just the same; but, as a matter of curiosity, to go into and fill up the vacant spaces in the history of this strange transaction, I would like to know who issued the orders. Had that Legislature the power to order an election? Why, say Senators, it had as much power over the subject of a constitution as had any preceding Legislature. I say they had not. I have before stated to you that the source of power was the people, not the Legislature. They only make use of the Legislature as a legal instrumentality to collect the people's will. The people instructed the Legislature to call that convention. The people had, by a direct vote, said, we want a State organization. Therefore, when the Legislature met, they were but doing and performing, in the language of the report, "a

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ministerial act," providing a fair, just, and equitable method for the people to exercise their rights, and elect delegates to form a constitution. When that convention assembled, it was, in contemplation of law, according to all ideas of representative government, the people of Kansas; and could no more be interfered with, stayed, checked, or controlled in its action, than could a convention in one State be controlled by a Legislature in another. The Legislature of the Territory, after this constitution is adopted, undertakes to set it aside; undertakes to make a submission in a manner that must set it aside, and for the design of setting it aside, if it could have any legal effect whatever. But who ever heard of a State constitution being thus submitted?

Now, if I have been successful in proving that the steps taken there were legal steps, were usual steps, were proper steps, all of them ended in the consummation of the instrument on the 21st of December, and it was then a fixed fact and a constitution of a State—not in the Union, because it cannot be in the Union without the assent of Congress. Then, being a constitution, thus formed and emanating from the people, it could be no more interfered with than could the constitution of the State of New York be voted down by submitting it to a vote of the people. What would any Senator think if he should hear it stated that in his own State the Legislature had said, "we will see whether this is the constitution or not, and we will submit it to a vote of the people?" Suppose the constitution had been performing its functions for twenty years, yet that at once somebody, like the sentimental German mentioned by Mr. Webster, should say, "an idea strikes me; let us see whether our constitution embodies the people's will; and let us submit it to a vote of the people." When the Senator from Kentucky holds forth that idea it strikes me with real astonishment. I had not learned in the same school. He uses this language:

"Was it not of consequence, was it not of importance, to know the will of the people, whether they really did approve of this constitution which was about to be offered to Congress—a law which, when Congress puts its imprimatur on it by admitting the State, is to be permanent? Would it be any harm to take the vote over and over again? What objection could there be to it? You might have said, 'it is an unnecessary care of the people's rights; you have had their decision once; therefore, it is not necessary to have it again;' but out of abundant care and abundant zeal you may choose to take it again and again, and ascertain whether there may be change or variation in the public opinion. Where is the man who can say aught against it? Do you object to it because it is taking too great care of public liberty? paying too great respect to popular rights? Nobody will take that ground."

According to this idea of the Senator, although a constitution may be fairly and finally adopted, yet we should adopt the principle of saying, there may be a change of opinion, and we will take the sense of the people again and again and again upon it. After Kentucky has adopted a constitution, and the people have lived under it for years, would it be in the power of any one all at once to say, "an idea strikes me; I will see whether this embodies the will of the people; let us take the vote again and again and again." You can with as much propriety do it in the one case as in the other. If that convention adopted a constitution at all, you could no more interfere with it than could the Legislature of Kentucky interfere with their constitution by saying, "we will ascertain again and again and again whether the people now approve of it." It is contrary to the principles of government. Take the case of the election of the smallest officer in the smallest municipality. Even in the election of a constable, could any one the next day after the election say, "let us try this over again, and see if there is any change;" and the day after that say, "let us try it over and over again, in order to see if there is any change in public opinion?" I expect Colonel Frémont would like to have adopted the doctrine of the Senator from Kentucky, in order to try the presidential election over again. [Laughter.] I remember when I went to school and played at marbles, the boys used to cry "slips" on me, in order to try it over again. When a power has been exercised according to law, there is no power to try it over again except by pursuing all the customary legal steps requisite to reach the same end.

But to create doubt, to excite suspicion, to generate distrust, and make men afraid to do their

duty, the Opposition insinuate and charge fraud. I have heard the cry of fraud so often, that I would almost think the old maxim had been adopted—I do not apply it to Senators—but a very distinguished man once said, a lie well stuck to and oft repeated was as good as the truth. Fraud! What fraud affecting either one of the elections relating to the adoption of this constitution? I challenge any Senator to show it. What fraud? Was there fraud when the people voted and said in an emphatic voice, we want a State government? It was not alleged. Was there fraud when the people of Kansas elected delegates, and sent them up to a convention to make a constitution? Neither has that been alleged. Was there fraud affecting the validity of the decision on the slavery question on the 21st of December? That is not alleged.

It has been said by the Senator from Kentucky that some two thousand of the votes cast on that day are believed to be fraudulent votes. Suppose they were: it leaves the question unaffected. The Senator from Georgia well answered that objection. But what is the evidence that there were any fraudulent votes? Why, says the Senator, the President of the Council, Mr. Babcock, and Mr. Deitzler, Speaker of the House of Representatives, both say they rode through the country, and did not see cabins enough to hold the people who voted. Look at the character of the evidence. Here are two men, called voluntarily—not in the performance of duty in obedience to law, without any jurisdiction over the subject—to see the fairness of the opening and counting of this vote; and they say there were six thousand seven hundred and ninety-five votes cast. They then volunteer a statement in regard to some of the votes. Who are they? Bitter enemies of the constitution—men who have been classed in the secret legion—men who have been arrayed against all government—men who have doubtless taken the secret oath reported here as being discovered and brought to light, and embodied in this report by Senator Douglas—an oath by all means to accomplish their nefarious ends. That class of persons, standing out in rebellion, standing out in defiance of law, standing out in opposition to Federal authority as well as territorial authority, with a sworn purpose to defeat that State organization, with a sworn purpose to defeat that constitution, who have taken an oath to prohibit slavery—they are the witnesses called upon by the honorable Senator from Kentucky. They volunteered a statement, and made a statement, not in the discharge of any official duty; and the statement itself shows that they knew nothing about that of which they spoke; for they say, we have been through those counties, and are satisfied there is not that number of people there.

Why, Mr. President, it is a fact known to those familiar with the subject, that in Johnson county there was a reservation of land for the Indians of about double the quantity to which they were entitled under the treaty. It was discovered; and citizens, before it was opened up to settlement by the operation of the Department, went there, and made their locations all over it. They could not live on it, because it is prohibited under the reservation; but it would ultimately be open to market. Those holding claims, could not make permanent improvements, and perfect them, and were compelled to live in the small towns around, and watch their claims, until the reservation should be opened by the Department. That is the secret of this whole matter. There was not fraud there. As Governor Walker has well said, there was no danger of Missourians undertaking to influence those elections; there was no danger of Missourians going over there, and voting. I have his evidence in this document to vindicate them from the charges that have been so unjustly heaped upon their heads.

But was there no fraud at the election on the 4th of January? Yes; there was. There can be no question about that. They cast more votes than they had in the whole Territory on the same day at the same voting at a hotly contested election. On the constitution there was no contest at all. Our side did not vote at all on that question; the constitution being finally adopted. We stand upon our rights and we do not intend to be trifled with, said the Democratic party. I do not mean

pro-slavery men only, for there are hundreds of men from the northern States who are in favor of a State organization, and then, if subsequent events should show that they ought not to have slavery, to change the constitution, who will act shoulder to shoulder with us and do it. They said the constitution being finally adopted, we will not attend the polls. Hence these same people who could only poll for State officers, at a hotly contested election, six thousand two hundred and thirty-eight votes, at an election where there was no contest, polled ten thousand and sixty-four. What do you think of them? Why was this? There was no difference in the qualification which the voters should possess in order to exercise the elective franchise. What constituted the difference in numbers? This: at the one place they were watched, there was a contending party arrayed against them; in the other case they were not watched and put in as many votes as they pleased. We know they are a class who are in the habit of making use of fictitious names; and that is proved by Mr. Secretary Stanton. If a man will use a fictitious name for one purpose, as we have proved it on him, will he not do so again for another purpose?

It is also known that over four hundred came from Lawrence and voted at that day in Leavenworth. This is shown by the Lawrence vote. The vote at Leavenworth was four hundred larger than was their actual vote. Their vote for State officers at Lawrence fell off a corresponding number; and yet, on the vote on the constitution at Lawrence, they gave more votes than they ever gave in their lives before. They involve contradiction; they involve absurdities; and when we see their course, as portrayed by Governor Stanton and Governor Walker, we have a right to regard them as spurious. I care not, however, if they were the most legal imaginable; I care not if you prove them to be the *bona fide* citizens voting; it was voting on a subject previously decided, and I trust that this Congress will never set an example which would induce the people to say: "we will call an election on a day not appointed by law, when a question has been finally decided, and we will then vote just as many votes as we please." It is well known that, if this principle was to be sanctioned, the subsequent election would always prevail. Knowing exactly how many votes were previously cast, knowing what they had to work up to, they could of course manufacture a majority, and thus lead to fraud, to violence, and bloodshed. The character of those persons may be pretty well understood from what I have quoted in the report presented to the Senate; but, as still better evidence upon the same subject, I beg leave to have read an extract from a speech delivered in New York, June 11, 1856, by the very distinguished Senator from Illinois.

The Clerk read as follows:

"On the other hand, in Kansas you find that the New England Emigrant Aid Society, through pauperism, with a capital of \$5,000,000, undertook to regulate the Territory fifteen hundred miles off, and to control their liberties, without respect to the rights, wishes, and interests of the people of the Territory. This foreign interference on the part of the Free-Soilers; this foreign interference by corporations from New England to regulate western affairs, has created in Kansas what every man had a right to suppose it would create—civil war, dissension, violence, and bloodshed. For every drop of blood that has been shed in the Territory of Kansas, the 'Black Republican' leaders are responsible. [Loud cheers.] It is a part of their line of policy to get up civil war there, and then make political capital out of the innocent blood shed by their tools and dupes, for the purpose of promoting their candidates in the presidential election. What is their excuse for not obeying the law in Kansas? They tell us that the laws enacted by the Territorial Legislature are barbarous and inhuman!"

"Out of a volume of at least a thousand pages, containing innumerable enactments, applicable to every relation in life, and protecting every interest in society, yet out of that long list of laws relating to all the affairs of human concern, only two short enactments have been specified as being either unjust or improper. One of them relates to the question of slavery, and the other regulates the affairs of elections. It is worthy of remark, and should never be forgotten, that under neither of those laws has any one case yet arisen—no one case has arisen under those two laws which are objected to as being improper. No case has ever arisen, no writ has ever been issued, no trial has ever been had, no act of violence has ever occurred, under either of these two obnoxious laws. Then, what excuse is there for that violence? Why, these men, these Abolitionists, these 'Black Republicans,' send out their agents there to get up strife and bloodshed, to be copied into the Abolition papers here for political effect. Contributions are taken to buy Sharpe's rifles, and to send men out there to resist the law. 'Preachers of the Gospel, instead of expounding the Holy

Scriptures, convert the house of God into a recruiting office for brigands to go to Kansas to stir up strife and civil war, in order that the Tribune, Times, Post, and other Abolition papers here may portray the horrors of the border ruffians. These men, sent out by your Beechers, by your Sillimans, by your Theodore Parkers, by your Garrisons, go into Kansas, burn innocent people's houses; and when the court issues a writ against the house-burner, and when the sheriff goes to execute that writ, they shoot down the officers of the law; screen the house burner from the penalty of the law, and protect him in his violence, and then talk of the consequences and effects of the Nebraska bill. Every act of violence that has occurred in Kansas in resistance to the officers of the law, has been either house violence, murder, breach of the peace, or some other crime recognized as such in all civilized countries; but the 'Black Republicans' have protected the criminal in his lawless course."

Mr. GREEN. Now, Mr. President, that is presented as evidence to show the character of those who have gotten up the opposition, who have managed the opposition, who have controlled the opposition. Senator DOUGLAS well portrayed them. When the Senator from Kentucky says the last expression of the people ought to prevail, I must say to him that, with some qualification, it is correct. The last legal expression on the subject, properly submitted to the people, on which they have a right to vote, ought to prevail, and will prevail; but a subject having been completely decided, no other proceeding can be instituted to undo what has been done. Even when they did attempt to undo it, it was by the use of instrumentalities like those portrayed by the Senator from Illinois. They sought to get up strife and bloodshed to fill the columns of the Tribune, his present friend and supporter, the Post, and other papers in the northern States, to manufacture capital for political purposes. I hope the Senate and House of Representatives will take a course to remove those means if they desire to make use of them for electioneering purposes, and to quiet the subject forever.

But, sir, it has been said that the Legislature instituted a commission to go around and collect evidence to prove what frauds have been committed at the various elections, that this commission has been perambulating the country collecting the facts, and that these facts sustain all the charges of fraud. I said many weeks ago that I had no doubt of the fact that in most of the elections of the United States, frauds to a greater or less extent are committed. It is because of the imperfection of man. If he were perfect, there would be no difficulty, and he would need no law. But what I have ever said, and what I still adhere to, is that no fraud has been established affecting the validity of this constitution. If there were frauds in the October election, they do not affect the constitution adopted by the people; if there were frauds in the election on the 4th of January at Delaware Crossing, they do not affect any of the proceedings in the formation of the constitution; if there were frauds at the election on the 21st of December, they do not affect it, because there was majority enough without even the alleged fraudulent votes. Why, then, shall we stop to inquire about the proceedings of that commission?

But, sir, the whole action of that commission is null and void, and entitled to no consideration for various reasons. First, the legislative authority that created that commission had no jurisdiction over the subject they undertake to investigate. They had no jurisdiction over the election of the 21st of December. They had no jurisdiction over the other elections. All that they could do was to test the legality of their own election. Having no jurisdiction whatever on this subject, any commission they may have created is null and void, and its acts are of no weight or consequence whatever.

More than that, they could not even swear a man so as to bind him. They had not power to administer an oath; and a man sworn by them, even if he made a false statement, under that form of oath would not be guilty of perjury. We know the instruments they could make use of, and the character of the persons they could call on for testimony. Their object was to break down the legal constitution of the Territory. That was their sole purpose. It was their declared purpose. It was not to ascertain the truth, for at one of the examinations at Leavenworth they asked a witness whether he knew of any fraudulent votes in that place? He replied, "yes, I do; four hundred came from Lawrence, and voted on your

side." "Oh," said the commissioner, "we do not want to hear a word about that." The question was asked of another, "do you know of any illegal vote being given?" He replied, "yes; forty or fifty Germans, living in Missouri, were carried over by Pomeroy, and voted in Atchison county." "Oh, hush," said the questioner, "we do not want to know anything about that."

Mr. POLK. They were carried from Weston. Mr. GREEN. Such proceedings were common. I attach no importance to that commission for the reasons that I have assigned. They had no jurisdiction, and, therefore, their acts could have had no validity, and the oath administered by them would have had no validity. No perjury could be committed under it. Therefore, they could get their own tools to swear to what they pleased; and I am not certain that they could not get a respectable number to swear anything, even if the oath were legal—I mean respectable in point of numbers, not character.

But, Mr. President, if I were to follow on in a close examination of all this, I should consume too much time, weary the Senate, and travel over and over again the ground others have occupied so well. I shall, therefore, hasten on as rapidly as I can. It has been demonstrated that a legal constitution is presented. It has been demonstrated that there is no legal evidence to prove that it does not embody the will of the people, and that if we depart from the legal rules we are striking at the foundation of civil liberty. Why, then, shall Kansas not be admitted? What reason can be urged against it? The principal part of the Opposition on the other side of the Chamber is alone in consequence of the slave question. They are now but carrying out, when the question is first presented in its practical form, what the Senator from Illinois, with great power, said was their fixed and determined purpose in 1856. Here is what Mr. DOUGLAS said:

"What were those principles that they [that is, the Republican party] proudly and defiantly proclaimed to their opponents? They were, first, the restoration of that black line called the Missouri compromise; secondly, the repeal of the fugitive slave law; thirdly, the abolition of slavery in the District of Columbia; fourthly, the abolition of the slave trade among the States; fifthly, the admission of no more territory or States into this Union, unless slavery was first prohibited; sixthly, the crucifixion of every man who voted for Kansas and Nebraska."

I am afraid they have crucified one by getting him in their embrace. I hope not; because I yet believe that he is not influenced in his opposition by the consideration of the existence of slavery in the constitution. I believe it; and I believe the Senator from Michigan [Mr. STUART] when he makes the same assertion; and I believe the Senator from California [Mr. BRODERICK] when he makes a similar assertion. They are governed by one principle; but they are building up and strengthening a dangerous party that exists in this country, whose fixed purpose is to admit no more slave States. The first time that practical issue is presented, we find the Senator from Illinois, our old leader, who has fought so many gallant battles, and gained so many brilliant victories, going over on that issue which they tender, though he may be governed, and is governed, by another consideration. The motive does not sanctify the deed. In a moral sense, between him and his Creator, it doubtless does; but in a political sense, when practical results are to follow, the motive is a small matter. The deed is good or bad, according to the results that follow from it. At the time he portrayed this as the platform of the Republican party, he said:

"The Cincinnati convention had accepted that gauntlet and has negatived every one of the propositions and has proclaimed a creed which meets the cordial approbation of every Democrat in America, no matter from what point of the compass he may come."

This was in 1856. In 1858 the practical question is presented. In 1856 it was wrong to oppose the admission of a State on account of its tolerating slavery. In 1858 that question comes before the Senate of the United States, and every Republican opposes it, for, as he has before said, their creed is to oppose that admission; and he, for other considerations, not on account of slavery, coöperates in the work. Without his aid, his lead, his guidance, in this Chamber, and his friends in the other House, Kansas would have been a young sister of the Confederacy many weeks ago; and

that very work which he deprecated, that very purpose which he said constituted an issue with the Democracy, he aids them in carrying out—not for the same motive and reason that they have, but in practical results it is all the same thing.

As the Senator from New York [Mr. SEWARD] announced to us, the real question is, shall any more slave States ever be admitted? The real question for the South is not the permanent existence of slavery in Kansas; that is but the John Doe and Richard Roe of the case. The South, of necessity, as well as the North, with the enterprise and energy of the American character, will need expansion. It must have expansion. If penned in with a Chinese wall applied only to the blacks, with the privilege of exit to the whites, when the country becomes overpopulated, the disparity will become greater and greater between the two races, and insurrection, civil war, and extermination will be the natural consequences. This you seek to hasten; this the Republican party of the United States proclaim to be their supreme purpose. To increase their strength, to increase their hopes, to encourage them in their prospects, our best of friends on this question, heretofore, have gone over to them. I speak it with extreme regret. I will never build up the enemy of my country, even if I do have some small objections to the proceedings of my political friends. Even if the proceedings in Kansas did not come up exactly to my notions, I would not go to the aid of the enemy, on a dangerous vital point like this, that strikes a fatal blow at the heart of our country.

My old friend from Kentucky, too, I find on that side; not for the purpose of aiding them—I know his patriotism too well to believe that—but because he has objections to the proceedings in Kansas. Well, whether he has objections ill or well founded, he should not aid in building up, and I hope he may not, a party which will, if any party ever does, divide this Union. The more especially am I astonished at him, in consequence of another reason. I understand him as being favorable to the principles of the American party. I am no American in that sense, but I have no hostility to them personally, and do not esteem them dangerous, in comparison to the Republicans. To one of their principles, at least, I heartily subscribe to: that no man ought to be permitted to vote until he is naturalized. That, however, is a question for the States, not Congress. But, sir, this emigrant aid society seeks to abolitionize Kansas; and their programme is to extend to every other Territory, after succeeding there. Here is their organization. Their purposes are declared, and the instrumentalities they intend to use are shown. Here is what they say in their address:

"Of the whole emigration from Europe, amounting to some four hundred thousand persons, there can be no difficulty in inducing some thirty or forty thousand to take the same direction," [to Kansas.]

They are to bring their appliances to bear on the freshly-arrived emigrant before he becomes familiar with our institutions and induce him to go to Kansas to abolitionize Kansas. These are the instrumentalities they make use of. The Senator from Kentucky, abhorrent as he esteems that class, as much as he thinks they ought not to be permitted to participate in the Government, is to encourage and aid the very party that makes use of them to accomplish this damning deed. How far will they be able to accomplish their ends, by taking their stand at emigrant ships, and catching a newly-arrived emigrant, and before he becomes familiar with our institutions, before he becomes imbued with the character of our Government, extending to him a hand and saying: "I will help induce you to go into a new Territory about being opened, if you will keep African slavery out of there?"

They apply to him arguments like these: "The African comes into competition with your labor, and it is your interest to vote against slavery." Thus, that class are deceived, misled, many of them honestly misled. They have prejudices against slavery, and they are strengthened in it if they are taken in hand by the emigrant aid societies, whose purpose is to keep up a relentless war against slavery, and against the South. They continue to do this by making use of the emigrant, and my old friend from Kentucky still stands by

them. They have done it to a great degree in regard to Kansas. We, of Missouri, from our proximity, from the facility of our settlements over the line, maintained a permanent majority in the Territory of actual *bona fide* inhabitants, and defeated their schemes up to the adoption of this constitution, and because they encouraged this sort of subsequent emigration, they now think they have a majority. I should not be surprised if they had; but up to that time we had the majority. By subsequent proceedings, making use of instrumentalities like these, they sought to prevent Kansas from entering the portals of the Union.

Mr. President, establish this as the system, establish this as the settled policy of the Government, by the aid of those of the South who may have some little peculiarity of distinction, and are called by the name American rather than Democrat, still our interest in the great question is none the less identical; and if ruin should overtake us by southern defection, the fatal effects will fall upon all alike, while execrations will follow the faithless. It is not the importance of holding slaves in Kansas that is the great question; but the decree is to go forth from the decision of this question whether the South shall be permitted to expand as well as the North. Disguise it as you may, explain it as often as you please, proclaim it from the house-tops, and publish it from hill to hill, and from mountain to mountain, let it echo and reëcho over the valley that A, B, and C, did not vote against the bill on that account, still the public judgment will stand that it was on account of slavery. Then Black Republicanism—I use the term with respect—will become bolder, and onward and onward in its career, crushing out the last hope of Democratic aid at the North; and will never find its barrier until it meets the sullen, stubborn cannon of the South.

To the Democratic party of the North, noble, bold, and true as they are and have been to us, though we may differ on some peculiarities of the proceeding in Kansas, are we to bid them an everlasting farewell? I trust we are not; but whether we do or do not, is their influence to be cast in the scale, in a cause like this, that will be for weal or for woe to the Union? Do it, and you break down the last hope of Democracy. Do it, and that party which has held the reins of Government, under which we have prospered, expanded, progressed, as no other people on the globe have, falls powerless, scattered into forty thousand atoms. The pride, the honor, the glory of the party has been that it was not confined to the South or the North; that it was not confined to the East or the West; and I trust the time will never come when the Democratic party will be thus circumscribed. The scorching sun of the South will wither up Republicanism. It can fructify only in the snows and icebergs of the North. There is something cold in the heart that sustains it. The warm, gushing feelings of the man that sympathizes with the whole country never permits it to find a lodgment. If, on a question like this, the Democratic party is to be broken up and torn asunder—if a sectional party is to be substituted for it—if a single idea, and that idea based on the right of Government to annihilate the property of a citizen, is to predominate—the consequences will be upon those who take the fatal step. However rightful the motive may be; however praiseworthy the object, it never can be explained; the people cannot be deceived; they will know that it was on account of slavery. The moral influence of this decision will be felt as decisive action on the one side or the other. It will either be to sustain the Constitution and rights of the people, the rights of the South, and the rights of the North—for if I could bound my vision by the line that separates the slaveholding from the non-slaveholding States, I would deserve to be thrown out of the walls of the Capitol—or that party thus expansive in its views, noble in its purposes, and thereby powerful for good, will be broken down. If it is done by the aid or sanction of southern men, the consequences to the South and North will be equally disastrous.

We are appealed to on another subject. It has been said General Calhoun has given certificates to the anti-slavery party in Kansas. Well, sir, suppose he has done so, is that a reason why you

and I shall defeat a great principle? I told you in the beginning that "Kansas" is but the form of the issue, and the name of the case. Shall we sacrifice the opportunity of establishing a great principle, vital to the South, and, as far as the North depends upon the South, vital to the North?—for our interests are so interlocked that they never can be separated without injury to both. I say this is a vital question, and the principle is not to be affected by the election of officeholders there. Where is the Senator, where is the member of the House of Representatives, who will say, "I would vote to admit Kansas if my party had prevailed in the State election? I would vote to admit Kansas if the American party had been elected? I would vote to admit Kansas if the Republican ticket had been elected; but I will vote against it if the Democratic ticket is elected?" Where is the Democrat who will say, on the reverse, "I would vote to admit it, if the Democrats carried the election; but I will vote against it if either of the other parties had carried it?"

When you act upon that principle, you violate the Constitution of your country that you have sworn to support. That Constitution gives you a right to look into the constitution of a new State, to see if it be republican. It does not give you the right to go and inquire who has been elected Governor and members of the State Legislature. With the same propriety you might inquire whether Governor Wise has been legally elected; whether Governor Banks has been legally elected; and you might institute a commission with as much propriety as the Kansas Legislature did, to see if frauds were committed in the election of Governor Banks, or in the election of Governor Wise, or in any State election. What right have you, then, to look into that question? None; and if not, what right have you to vote against the admission of a State merely because the newly elected State officers are not such as you approve? If the Constitution does not give you that right, you dare not attempt to exercise it.

Again: the Senator from Illinois complained, some two or three weeks ago, bitterly complained, that Calhoun was here in the city, and keeping the people still in doubt whether the Democratic ticket was elected, or whether the Republican ticket was elected. He absolutely complained of that. Last night, when he addressed the Senate, he spoke of the fact of issuing the certificates, and he complained still louder. Why these double complaints—in one case for not acting, and in the other case because he did act? It reminds me of certain persons of whom it was said they were

"Like unto children sitting in the markets, and calling unto their fellows,

"And saying, We have piped unto you, and ye have not danced; we have mourned unto you, and ye have not lamented.

"For John came neither eating nor drinking, and they say, He hath a devil.

"The son of man came eating and drinking, and they say, Behold a man gluttonous, and a wine-bibber, a friend of publicans and sinners."

He then complained because it was not done; and, on the other hand, he now complains still more loudly because it is done. But I care nothing about it in either event. It is none of my right to stop and inquire into the election. The Constitution under which I am acting does not give me that privilege; and if I dare transgress the boundary of my right and duty under the Constitution in the one case, where shall I stop in any other case?

Now, Mr. President, I intend to close my remarks. My object has been to show that there has been no fraud affecting the legality of this proceeding. That there have been frauds in all the elections, I think highly probable; but so there have been in New York city; so there have been in Baltimore; so there have been in Louisville, where, I believe, two thousand men were disfranchised at the last election—at least it has been so reported; it may not be true.

Mr. SEWARD. Will the honorable Senator allow me to state one thing I would like to hear him upon in this connection?

Mr. GREEN. Certainly.

Mr. SEWARD. I wish to ask the honorable Senator whether the Lecompton constitution did not direct the canvass of the votes cast upon the constitution itself, and in both elections, to be

made within eight days after the elections were held; whether, in regard to the question of fraud, he attaches no importance whatever to the delay which has attended the ascertaining and reporting of the results of those elections. If the honorable Senator will take it in kindness, I should like to hear him on that point.

Mr. GREEN. It does not embarrass me in the least; the subject does not require me to be bashful. The election on the 4th of January, for State officers, is a question with which we have no concern. It is an election that cannot come before us, and I should be traveling beyond my duty, and touching upon ground that does not properly belong to me, if I should undertake to give any opinion at all upon the subject. Suppose the returns were to be made in eight days. Were they or were they not? I do not know, nor does the Senator from New York. Suppose they were not made in eight days: does that affect the legality of this constitution after it has become a finality, after it has been adopted and become an entirety? Could it affect any vote in this Chamber?

While the Senator from New York was asking me this question, the momentary pause I made brought to my mind another subject, upon which I must say a few words. It is this: it has been alleged on the other side of the Chamber that the submission of the seventh article of the constitution, including the slave clause, was not a fair submission. The people could have voted out slavery, if they had a majority, and chose to come forward; yet they say, if they had voted it out, slavery would still have been retained in Kansas as perfectly as if that article had been retained. The able and distinguished Senator from Delaware [Mr. BAYARD] so completely and so triumphantly answered that objection that I should do wrong to undertake to improve it. I cannot do it; it is not susceptible of improvement; it is conclusive and unanswerable.

But there is one point growing out of the same idea that I must notice; and that is, that point upon which the Senator from Illinois dwelt so long when he spoke of the right of property being older than the Constitution, and he held that declaration up to animadvert upon. He contended that it was a fallacy; and because the Washington Union published that fallacy, therefore he would not vote for the editor for a certain office. I do not complain of his action on that question. He had a right to do it. My opinion is founded on the Declaration of Independence: we hold these truths to be self-evident—speaking of the white race—that all men are created free and equal, and endowed by their Creator with certain inalienable rights; and that among these are life, liberty, and the pursuit of happiness—that pursuit of happiness includes the acquisition of property; and to secure these ends governments are instituted. What ends? Life, liberty, and the pursuit of happiness. What does the pursuit of happiness include? The lawful acquisition of one's own labor; and therefore it is before the Constitution, older than Government, and Government cannot destroy it.

I go further than that. This declaration says these are inalienable rights. What is meant by an inalienable right? That which a man cannot alienate from himself: he cannot part from it. In forming a political association, the government you create has just such power as you can confer upon that government, or may confer upon that government, or choose to confer upon that government. Now, if this pursuit of happiness is one of the inalienable rights, and the pursuit of happiness includes the right to private property, and it cannot be alienated, then the government never can possess it. If government never can possess it, and a man cannot part from it, much less can a majority take it from a minority. I go so far as this: if I were in Kansas and had a horse, or a slave, or a saw-log, or a farm, or a Yankee clock, and every man in the Territory or State should vote to say that clock shall not be your property; that horse shall not be your property; that farm, or that saw-log, or slave, shall not be your property, I hold that their vote of ninety-nine thousand nine hundred and ninety-nine against me alone would not and could not divest me of my right. In the regulation of future political action in the Territory you may say we will

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not have a slave here; those that are here we will set free, but we will pay you for them. He who brings them in after the law prohibits it, comes in with his eyes open, and the law, in taking the property from him, does not confiscate it—he is forfeiting property by his own act. That is the difference. No man can be despoiled of his rights by numbers. They may crush him; they may overpower him; they may trample him in the dust; but still the voice of justice will cry aloud to Heaven for redress—not for vengeance; for I never want to hear vengeance invoked in this Chamber.

In reply to the question put some time since by the Senator from New York, I will state that I am informed by a friend here that all the returns with regard to the State election were made within eight days. That is a matter *en pais*, but I had never turned my attention to it. My attention had been confined to the legal point on which I had the right to act. The Senator from New York, therefore, is now answered. They were returned within that time.

There is one point, however, that I have hastily passed over, and that is the one which the Senator from Illinois animadverts upon with so much peculiar zest—the mode of amendment of the constitution. The Senator says that, when the Constitution prescribes a certain mode of amendment that mode only can be pursued; and if any other mode is resorted to, it is revolutionary. He quotes the article from the declaration of rights, to be found in the report I made to the Senate at the time the bill was presented, and he says that is a revolutionary right. He says it is like the Declaration of Independence. Here it is:

“All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper.”

This, says the Senator from Illinois, is a right of revolution by war—grim-visaged war—a revolution by the sword. I answer that such is not the interpretation; and I intend to prove, to my own satisfaction at least, the position I take on that subject. This provision is but copied, in the language of President Buchanan, from various other State constitutions. Nearly all the States of the Union have a similar declaration in their bill of rights. When, therefore, it was put into the declaration of rights in Kansas, it was put in there with its known construction and ordinary execution and application. What is that known construction, ordinary execution, and application in the several States? I will tell you. Indiana, with a similar provision, and also a provision in the constitution which said that no change should be made in it for twelve years, called a convention and amended it before that time, not in the method pointed out in the constitution. It has been thus construed in Indiana; it has been thus construed in Maryland; it has been thus construed in Delaware; it has been thus construed in Pennsylvania; in New York, and in various other States. Now, with this known construction, with this known application, it was incorporated into the bill of rights in the State of Kansas; and what truer, more unanswerable rule is there than this: that when a law has been received with a certain known approved construction uniformly, if another community adopt the same law, they are held to adopt the same construction? Hence, I say, they adopted it with that known application.

But I have two other reasons to present to the Senator. He says it is a revolutionary right. I do not care what you call it:

“That which we call a rose,
By any other name would smell as sweet.”

Call it revolution, if you please. It is a civil means in conformity with the declaration of the Constitution by which the people may reform, alter, amend, or abolish their constitution. I care nothing about the name. He says it is a revolution by the sword. I say it is not that, but a legal change through the agency of the ballot-box. First, this provision is found in all our State constitutions. They are all republican, because they could not be in the Union without being republican. Second, the Constitution says that the Federal Government shall protect each State from domestic violence. It is bound to do it. Suppose

the Senator from Illinois should undertake to put his construction into effect, and say it is a right to draw the sword to revolutionize the Government: it would be domestic violence, and the Federal Government would have to crush it on the instant. Therefore it proves that it cannot be understood as implying a resort to the sword to revolutionize a State government. That construction, therefore, is excluded.

Finally, when a constitution makes two provisions on the same subject, it is the duty of both the judge and the statesman to give a construction to both clauses that will give force and effect to each if it be possible; and if not, if they be so repugnant that they cannot stand together, one or the other must give way. Now, a reasonable construction can be given to both of these clauses which will enable both to stand and have vitality, force, and effect. I explained this before, but I passed over it so hastily that perhaps I shall be excused for repeating the same idea again. The constitution says, after the year 1864, the Legislature, by a two-thirds vote, may proceed to amend the constitution. The constitution also says that the people at all times have the right to amend their constitution. How shall you construe the two clauses so as to allow the people at all times to have the power to amend it? I answer; if the government takes the initiative, if the government of its own volition—I mean the governing power, the Legislature—undertakes to amend the constitution, they can only do it in the way pointed out in the constitution, because their power is derived from the constitution; and if a certain method be specified and pointed out for their action, it prohibits the government, the governing officers, the Governor, and Legislature, or otherwise, just according as the amending power may be vested for the time being, from pursuing any other method. Now, the governing power is limited to the mode pointed out. The people are not limited, and cannot be limited. How can you get them together? I answer, just as they always do get together. They instruct their Legislature to provide a rule of uniform action to enable them legally to come together. It may be called revolution if you choose, but when the people come together *en masse*, or by representatives under the sanction of law, they are in the exercise of their original rights untrammelled by constitutions, unrestrained by any provisions in their old constitution. They can do just as they please, consistent with private rights. This is the construction that is to be placed upon the two provisions.

If you say otherwise, that will bring you in conflict with the honorable Senator from Michigan. It amounts just to this: if they may be tied up and prohibited from amending their constitution until the year 1864, they can be until 1865, 1866, 1870, and seventy times seventy. The principle is the same; and yet the Senator from Michigan says the people will never submit to the doctrine that they shall not govern themselves. If they will not, they must retain the power of amending their constitutions in a legal, orderly method. Otherwise, a preceding generation governs them. Otherwise, the people may be restrained from changing their constitution for as long as they live, which is a doctrine repugnant to the genius of our institutions. There is no question about this fact that this is the received and known construction, that it has been followed out time and time again.

I believe, with others, that constitutions ought not to be changed too frequently; that they ought not to be twisted and turned to suit the emergency of any particular occasion; that they ought to have stability and uniformity, and be continued long enough to command veneration. If our Federal Constitution had been changed every year, there would be but little veneration for it. If our State constitutions were changed every few years, there would be but little respect for them. I desire, therefore, to see stability, uniformity, and every constitution kept in existence long enough to command the entire respect of the people. If they see the blunders and errors, they can suggest a remedy without endangering its other better parts. They can resort to legal means, call a convention, and mold and make a new constitution. What I mean by legal means is, to devise a rule which shall make the action uniform, equal, and

just; just as the convention law in Kansas was; just as the convention laws in all the States of this Union are and have been. It is simply to prescribe a rule by the existing Government, at the instance of the people by which they may come together, in person or by representatives, and exercise an original power in the reformation of their government.

I shall now leave the subject. I have shown that this is a legal constitution, fairly adopted; that the allegations of fraud made against it are unsupported; and that there is no well-sustained allegation of fraud against any single proceeding affecting the validity of this constitution. I have also endeavored to show that it is a very important question, vital to the interests of the whole Union, vital to the Democratic party, vital to the South. I would not appeal to “Americans” to build up the Democratic party, but I would appeal to them not to assist in building up the only party dangerous to the integrity of the institutions of our country. I would appeal to them, if they cannot be of us, at least help us to break down the common enemy of us both.

MR. CRITTENDEN. Mr. President, I do not intend to reopen this debate by any general reply to the honorable Senator who has just taken his seat. The usual course of debate here would forbid that; but I desire to answer the appeal which he made to me at the close of his remarks, and I shall endeavor to confine myself to that.

The Senator says that in the argument which I addressed to the Senate some days ago, I contended that there had been fraud in the formation of this constitution, and that the only proof which I offered of it was the opinions of Governor Walker and of Secretary Stanton—that I relied on their evidence alone to prove the fraud. I am sure that upon the least reflection the honorable Senator will find that in this he has done my argument at least great injustice. That is not the only evidence I referred to, by any means. It was a general sort of proof derived from high and authoritative sources, witnesses that neither the Administration nor the members here supporting the Administration would object to. They were the men chosen out of all the world but a few months ago to represent the authority of the Government, and act for it in this Territory. The act of the Government gives them credit with me and with all the world; and so far as I know, they were well entitled to it, and have done nothing to detract from or diminish it. I cite them therefore as witnesses present on the spot engaged in the official transactions of the Territory, holding intercourse constantly with the people, learning there on the spot its true history from the mouths of thousands of witnesses. I think I may appeal to them as respectable witnesses on such a point. They, being public officers, communicated to their Government—and they were bound to communicate to it the truth—the fact that this constitution had been got up and made in fraud. That is the substance of all they say; and not only that, but against the will of an overwhelming majority of the people. I did rely upon this; but this was not all the testimony I presented, by any means. What does the gentleman say to the election on the 4th of January last, when ten thousand voted against this constitution? That is evidence of record, high as any which the gentleman adduces to the contrary. Is not that an evidence that this instrument was fraudulent?

Look again at the resolutions of the Legislature of the Territory, passed during the present winter, denouncing this constitution as an unfair piece of trickery; as an attempt to impose upon them a government against their will. I alluded to that. Is not that evidence? I alluded to what is reported and shown by one member of the Committee on Territories, to whom all this subject was long ago referred, who states that the most glaring frauds were committed in the election, who sets down particular precincts in which the frauds were committed; and there is the testimony of the Speaker of the House of Representatives, and the President of the Council, affirming, upon their own knowledge, that the three famous precincts of Shawnee, Kickapoo, and Oxford, did not contain anything like the number of voters whose ballots were cast at that election. Is not this evidence of fraud?

Here is an investigation conducted by a committee of the Legislature, held openly, a court for the examination of witnesses examined under oath, and they proved the frauds to be more great and more enormous than either Mr. Walker or Mr. Stanton had suggested, and more extensive and more outrageous than the Speaker of the House of Representatives and the President of the Council had certified to be their opinion upon this subject. What they gave as matter of opinion has been converted into fact and sustained by actual proof and examination.

These are the evidences upon which I relied; and, further, I relied upon this constitution, standing in connection with and being contaminated with the frauds that had been committed all around and about it, to show that it was a scene of fraud of a minority government, seeking by trick and contrivance to maintain a supremacy over a majority of the people. Sir, is the right of self-government to be here denied to them? These were the proofs on which I relied, and not, as the Senator supposes, on the simple testimony of two gentlemen, though they were the Governor and Secretary of the Territory, giving their opinion on the subject. I relied upon facts which are proved. They have been sufficient to convince my mind; and convincing me of truth, I have endeavored to follow it. That is my guide, so help me God, here, and it shall be my guide forever. I thank my God that he has given me some faculty to distinguish between right and wrong, and I thank Him, moreover, (for the gift would have been worthless if He had not gone further,) that He has given with it the little courage that is necessary to dare to speak it. I have spoken it, and I intend to follow it, and fear nothing in following that path appointed to all men to pursue.

These are my convictions. The Senator regrets, however, that these convictions require me to act on this question with a party that he thinks dangerous and injurious to the country. Mr. President, I told you, when I had the honor of addressing you before, that I belonged to no party that had any great representation here. What I do, if gentlemen will give me credit for candor, I do from my honest convictions and in the endeavor to do justice and follow the truth. I do not act thus to build up one party or to put down another. I have no connection with these parties. I stand here, the independent Senator of my native State of old Kentucky. All that I know on such subjects she has taught me. She has taught me to be just and to be honorable. That is her maxim; and, so help me Heaven, I will endeavor to act up to it.

The question is not between me and the honorable Senator who has just addressed you, who is best supporting a party. I do not seek to support the Democratic party, nor do I seek to support the Republican party. I seek to do what I believe to be the truth and the right before my whole countrymen and for my whole countrymen. I believe that the course I have taken is the best for the South, the best for the North, the best for the whole country, and more than anything else calculated to wipe out those sectional lines and those sectional feelings which dwell so much in the hearts of men and are so dangerous to our Union and our Government. I believe that I serve the North and the South and the whole country best by the course I pursue, or I should not pursue it.

I have seen it already stated that I announced myself in express terms as now taking my part with the northern Democracy. Gentlemen will all bear me witness that I said no such thing. I do not remember half what I said, and I have never read what I did say since it has been published; but I know I never said that, because I know I never thought it, and I very seldom say what I do not think. If such words could possibly have escaped between my heart and my lips, they could never have come from the heart or from the understanding, and I here take the earliest opportunity of disclaiming them. But, sir, I never used them. I took a different position—one that I thought befitted better a man of my age and the representative of old Kentucky.

The Senator says that I have supposed always in my argument that the constitution does not embody the sense of the people of Kansas. I certainly have supposed so; and the evidences on

which I relied are too much in the knowledge, and too fresh in the recollection of the Senate, to require any repetition. I believe it is against the sentiments of a large and overwhelming majority of the people of Kansas. I do not undertake to justify the action of the people of Kansas who are opposed to this constitution. In times past, they have acted in a very disorderly and reprehensible manner, seeming to be regardless of the peace of the country and of the laws of the country, and anxious only for the pursuit and accomplishment of their own purposes. I think they could have borne longer, and they could have borne more, if they were oppressed to the whole extent that they say they were. For the boon of liberty and free government we must expect to pay a heavy price, and they ought to have been ready to pay their part, by bearing temporary evils for the sake of imperishable and lasting principles. I agree further with my honorable friend from South Carolina, [Mr. HAMMOND,] that if the pro-slavery men there had fallen, as they might have done, into the same predicament, "they would have borne longer and more before they would have resorted to means tending so much to rebellion and to war." I believe so, and I should have hoped, but for the knowledge of the contrary that has been brought home to us, that the opponents of the Lecompton constitution in Kansas would have borne more and longer, until a time should come when a returning sense of justice on the part of the Government, or an opportunity to assert their rights, might have restored them to them, unfettered by any act of rebellion on their part. This great Government is such a sheltering place, and such a glory to our country, that they ought not to have endangered it, or one of its principles, or an hour of its peace, by the course they pursued. But still, sir, they are a political community, and I would not, for their offenses, break down the principle of self-government. Such examples of intrusion upon, and infractions of, great principles, are always made upon occasions when some bad case has excited the public indignation. It is under such excitement that encroachments are made. These persons did act in such a way as to offend, to a great extent, the people of a certain portion of this country, myself among them, by their want of constitutional and of legal submission, and temper to bear what they suffered a little longer, in the assurance of the rescue and the remedy which was ultimately to come in this Government. I will not, however, because of that, trespass a single hair's breadth on their political rights as a political community and citizens of this country. I will preserve those rights sacredly, because adherence to principle is the great remedy for these temporary evils and effervescences whenever they may occur. They are like little eruptions on the human body; they will pass away if you preserve the general health. So will these political evils pass away if you preserve untouched, and as a sacred rule to be continually and faithfully followed, the principles and the Constitution of your country—the principles of liberty, and that supreme law which our fathers laid down to us in the form of a Constitution. That is my view of this subject.

The evidences seem to me to be complete, that this constitution is not according to the will of the majority of the people of Kansas. In connection with this point, I said that if we even doubted as to this question, inasmuch as the constitution upon which we are called now to put our sanction is to be permanent in its character—a permanent law for the people of a State—let us be sure that it is in accordance with the will of the people. When the inhabitants of Territories have come here heretofore, asking for admission into the Union, they have come with unequivocal evidence of a universal assent. They might differ about other things, but they all wanted to become a State. This is the first instance, that I know of, where doubts have attended a constitution as to whether it is the will of the people or not. Is not that a question well worthy of inquiry, when we are giving our sanction to a constitution—a constitution, too, which even restricts the people themselves from changing it, except in the mode appointed and prescribed in the constitution? One part of the people come here and protest against it, and another part of the people

come here and insist upon it; the one urging that it is the will of the people as obtained in an authentic form through the ballot-box, and the other urging that there was fraud in the ballot-box, that they could not vote because test oaths were required, which those who applied them knew must exclude them from the polls. All these parties are all now before us. We are the great paternal tribunal to do justice—not merely the justice that is administered according to legal forms and legal solemnities, but justice in its broad, political sense. Would it be anything but paternal in us now to say, "Fellow-citizens, you have got all that into that Territory by yourselves, and you have got into dangerous and destructive feuds, putting at hazard the peace of the country; you are in dispute as to whether this constitution is the will of the people; go home with it, put it to a vote of all the people, and we shall perhaps, on a second trial, see what we are not now so fully informed of?"

Mr. POLK. I should like to ask the Senator from Kentucky if he understands that there was any test oath required for voting on the 21st of December?

Mr. CRITTENDEN. Yes, sir; I know there was.

Mr. POLK. Or was there on the 15th of June, when delegates were elected to the constitutional convention? Do you understand that there was any test oath at that election?

Mr. CRITTENDEN. I am speaking of one at which there was a test oath—the election on the constitution. It was an oath to support the constitution—a test oath to be taken before the vote was received.

Mr. POLK. Was there any test oath required in the election for the constitution?

Mr. CRITTENDEN. Yes, sir.

Mr. POLK. What was the test oath?

Mr. CRITTENDEN. The test was that they should swear to support the constitution as it might be adopted, before they were allowed to vote upon it.

Mr. POLK. If adopted.

Mr. CRITTENDEN. Swear to support the constitution just as I have said.

Mr. POLK. I should like to know exactly what is the test oath to which the Senator from Kentucky referred?

Mr. CRITTENDEN. I will read it to the gentleman, for his more precise information:

"Any person offering to vote at the aforesaid election, upon the said constitution, shall, if challenged, take an oath to support the Constitution of the United States, and to support this constitution, under the penalty of perjury under the territorial laws."

Mr. POLK. I want to know if that is the test oath to which the Senator referred, and which he considered objectionable?

Mr. CRITTENDEN. I cannot tell what the gentleman wants. That is the test oath I alluded to.

Mr. POLK. I suppose the Senator is not offended?

Mr. CRITTENDEN. Not at all.

Mr. POLK. I wished to ask him what was the test oath he referred to, and I certainly did it with respect.

Mr. CRITTENDEN. Certainly, I so understood; and I intended to answer the gentleman respectfully. Well, sir, I asked on this subject, in my argument, if it was not competent for Congress to send this constitution back, and have another election now, to ascertain and make certain whether this was the will of the majority; and I said that it would be competent for Congress to send it back and back again. I spoke simply of the power of Congress. They have that power unquestionably. Nobody will deny that; but shall they do it? That depends altogether on the circumstances of the case, and the ground there may be for a reasonable doubt on the subject. The power is within the competency of Congress. Whether they will exercise it or not in this or that case, is a mere question of expediency depending on circumstances. I think this a proper case for it, and I said so—not for sending it back, as the Senator from Missouri [Mr. GREEN] says, time and time again, and crying slips, as he did at school, and trying it over. I spoke of this as a thing that might be done;

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which it was within the power of Congress to do; and when I speak of Congress, I always speak in the sense that they shall exercise their powers with prudence and discretion. The Senator laughs at this idea of sending it back. Why, sir, if it is of any importance to us to know the will of the people, if we desire that the will of the people shall be the rule of the government of the people, is it not a matter of importance, if it is left in doubt by any proceedings that have taken place, to repeat those proceedings until we are assured of the public will, and then make that public will the basis of our action? This is the right of the people to govern themselves, and by that I stand. There is no question of slavery involved here, as I understand this case. That as to Kansas is a settled question.

The Senator from Missouri is surprised at my feelings. He says that I am loyal, and intimates that I have had bad schooling. Mr. President, I know my defects, and can hear them spoken of without the least degree of offense or resentment. The Senator is wrong in attributing it to the school in which I have been brought up. Sir, I have been brought up in the best of schools, and if my education is still defective, it is on account of some defect in me, and not in the school. The gentleman is a young man, and a young Senator. I hope and I wish for him a long life of public usefulness. He may have learned much more than I have done, and if so, it only shows the superiority of his capacity to learn, for I am sure he has not been in a better school. Sir, this is the school in which I was taught. I took lessons here when this was a very great body indeed—I will make no comparisons of what it is now, or was then, or at any other time; but I learned from your Clays and your Websters, your Calhouns and your Prestons, your Bentons and your Wrights, and such men. I am a scholar, I know, not likely to do much credit to the school in which I was taught, and it is of very little consequence to the world, or to the public, whether I have learned well or ill. It will soon be of no importance to this country, or to anybody. But the gentleman has a long life before him, and I trust in God it may be full of usefulness and full of honor—full of usefulness to his country, and that deserved reward to himself which an intelligent people is always sure to give for fidelity and usefulness. I take not any offense at any of the allusions that he has made to my argument. His remarks were rather marked with kindness, for which I thank him. He ought to know that I have done nothing for the purpose of offending one party or upholding another. I think I have a right to be understood on that point—that my action is an independent one, and that I belong to none of these great political organizations. I am of the American party, and I embrace their principles of reforming the ballot-box by a change of the naturalization laws. That is what I am for, and therein I am an American. By their colors I stand, and I act upon their principles here. Their great object is to purify your ballot-box, by preventing foreigners who have just arrived on your shores, from participating in this privilege, and putting their votes in with mine, with the natives of my country, with our naturalized fellow-citizens, who have as deep an interest in this Government as I have. I am in favor of changing the naturalization laws, not at all in hostility or unkind feeling towards foreigners, but because I wish to preserve, pure and untarnished, that crown and scepter which I can never trust so confidently as when held by American hands. Their principle is to protect the ballot-box, and I go for it here. Upon the same principle that I would protect it against foreigners who had no right to vote, I will protect it against anybody who undertakes to stuff it, or to put frauds into it, or to take frauds out of it. I am for protecting the ballot-box; and that is the principle on which I act here. The ballot-box is the only instrument by which the people can exercise that much talked of sovereignty that belongs to them. How else are they to exercise it? That is all nothing; it is mere words; it is mere mouthful of garbage that is uttered continually; they are like grains of powder put down a yard apart all over the country. If the people are to exercise their right of sovereignty in their own proper persons, they

cannot do it. There must be a concentration of it in the ballot-box. The ballot-box is the crown and the scepter of that sovereignty which the people possess. I wish to protect that sovereignty; I wish to uphold and maintain it sacredly; and I act upon the principles of the American party, when I stand here to give my vote against what I consider a great outrage on the purity of the ballot-box.

Mr. President, I have occupied more of your time than I intended. I know that, by the courtesy of the Senate, the gentleman who introduced this measure had a right to conclude the debate, but I have felt myself called upon to explain the remarks which he had misunderstood as to the grounds of the argument.

Mr. GREEN. I do not design to make any rejoinder to the honorable Senator from Kentucky. I do not believe we misunderstand each other much. His remarks are just such as cannot possibly ruffle my feelings in the least.

Mr. CRITTENDEN. They were not so intended at all, sir.

Mr. GREEN. They are couched in terms of respect, as I intended to speak of him. I agree with him entirely, that the ballot-box, and the ballot-box only, is the way to ascertain the people's will, and not through Governors who do not make use of the ballot-box, but merely make a statement on the ground that they have traveled through the country and know something about it.

ADMISSION OF KANSAS.

SPEECH OF HON. S. R. MALLORY,
OF FLORIDA,

IN THE SENATE, March 16, 1858.

[REVISED BY HIMSELF.*]

The Senate, as in Committee of the Whole, having under consideration the bill to admit the State of Kansas into the Union:

Mr. MALLORY said:

I do not suppose, Mr. President, after the exhibition we have just witnessed, in which the history of Federalism, the Hartford convention, and "modern Democracy," are so singularly mixed up with "border ruffianism" and the history of Kansas, that any effort on this side of the Chamber, without the aid of a revelation from Heaven itself, could produce the slightest impression on the mind of the gentleman who has just spoken, [Mr. KING,] or those who think with him upon the subject before us.

If apology were needed for occupying the time of the Senate upon so trite a subject, when speaking must be so barren of results here, it may be found in the fact that, from the introduction of the Kansas-Nebraska measure to the present time, neither upon that, nor upon any of the measures flowing from it, have I addressed this body. Nor, sir, would I do so now, but that some little pains have been taken to misrepresent my views upon this subject to friends in my own State, for whose generous support and unfailing confidence I shall ever feel deeply grateful.

Mr. President, it was my intention, after having heard the speech of the honorable Senator from New York [Mr. SEWARD] on this question, to have reviewed, briefly at least, what I considered a most extraordinary production; but during my absence from this body, I find that it has been done so ably and so thoroughly by the Senator from Louisiana, [Mr. BENJAMIN,] and the Senator from Virginia, [Mr. HUNTER,] that any effort of mine would but weaken the effect of what they have said, or mar its beauty; but I must be permitted to remark, that if I were called upon to designate the speech I have heard since I have occupied a seat on this floor, which was most calculated to awaken and to cherish sectional excitement, and to produce discord throughout this Confederacy, I should have to point to this speech of the honorable Senator from New York. If it was not expressly and cunningly designed to produce these results, it is exceedingly well calculated for it. It is not a broad, candid, comprehensive, statement of facts, argued out to their legitimate

conclusions and logical deductions without regard to where they may lead; but it is a cunning scheme of fact and error—a web skillfully devised to bolster up the policy of the Senator and his party as to "bleeding Kansas."

But, sir, the feature which struck me as most offensive, in listening to the honorable Senator, was the cold and unpromising *future* of the whole production, the want of light and life throughout. It came over my senses like cold northern blasts, telling of an icy origin. Like a treacherous guide, it takes us over a barren waste, and after pointing out all the horrors of the road, leaves us without a ray of light to govern our future steps.

His labored recital of historical events, his rhetorical figures, the ornate costume of his ideas, and his epigrammatic sentences, conduct us to the subjugation of the southern States; and he tells us, in effect, that if we submit to our fate gracefully, our death may be without terrors; but submission or not, die we must!

Sir, I speak with respect, personally, of the Senator from New York, for I have no reason to speak of him otherwise, but in my judgment his extraordinary speech is not a work of statesmanship, but approaches the confines of special pleading; and I may freely say of it, that whatever there be in it which is true, is not new; and whatever it contains which is new, is not true. The Senator's political vision is limited by a geographical line, and he speaks, not to his country, but to his party. With these brief remarks I will leave it.

I expect, Mr. President, in the few remarks I shall make, to confine myself to the question before the Senate. The 23d day of January, 1854, inaugurated a period of political excitement throughout a large portion of our Confederacy, which, still progressing undetermined, has thus far been characterized by such bitterness, such a spirit of rancor towards the southern States of the Confederacy, as, in the judgment of judicious men everywhere, is not only destroying the bonds of our social, but is having an immediate tendency to destroy the bonds of our political Union. On that day the obliteration of the Missouri compromise line, so called, was made a feature of the Kansas-Nebraska bill.

A great national wrong had been done to the southern portion of this Confederacy by the act admitting Missouri into the Union, in 1820, the eighth section of which provided for the prohibition of involuntary servitude, except for crime; or, in other words, the exclusion of southern slavery from all that portion of the territory acquired by our treaty with France in 1803, which lay north of 36° 30'.

And now, when we were called upon to form governments for a portion of this territory, and the South's participation was demanded, she insisted, as a recognition of her political equality, upon the repeal of a measure, the unconstitutionality and injustice of which time had made as apparent to her judgment as it was offensive to her pride.

Standing where she has ever stood, and where I trust she will always be found, by the Constitution, she demanded nothing from the fraternal feeling, from the forbearance of her sister States; but she did demand, as a recognition of the political equality of the States, the right to go with her property into the common domain of the Confederacy. Upon this demand we went before the country; and, after a heated and excited contest, the offensive statute was wiped from the statute-book.

This was followed by such a political storm throughout the non-slaveholding States, as none but a Government, resting upon the enlightened judgment of a free people, can ever withstand.

Under the guidance of leaders, in many instances as reckless and ambitious as they were able, every element of political discord and sectional strife was invoked and brought into prurient activity; and while the bench, the bar, the hustings, and the press, entered upon one wide crusade against the people of the southern States, the pulpit, no less impious than the rest, invoked upon them the curses and denunciations of Heaven itself. But, sir, the South threw herself into the contest; she knew her rights, and determined to maintain them. She appealed to the enlightened judgment of the American people, and there she

* For the original report, see page 1138 Cong. Globe.

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found a vindication as unequivocal as it was triumphant—a vindication which has since received the indorsement and support of the highest tribunal in the country.

In addition to the repeal of the eighth section of the Missouri act, the Kansas-Nebraska bill contained a clause which, in my judgment, was as unequivocal as it was totally and absolutely necessary; a clause which has been facetiously termed a "stump speech injected into a bill," declaring that it was "the true and bona fide intent and meaning of the bill not to legislate slavery into any State or Territory, nor to exclude it therefrom; but to leave the people thereof perfectly free to form their domestic institutions in their own way, subject only to the Constitution of the United States." Though perfectly unnecessary at the time, it may perhaps aid us in interpreting the whole measure.

Under this great enabling act, (for it was nothing more than an enabling act authorizing the people of Kansas and Nebraska to form their State governments,) the people of Kansas did enter upon the formation of a State government, following the legitimate precedents of their country.

They elected their Territorial Legislature and Delegate to Congress on the 29th of November, 1854; and in 1855 this Legislature passed an act "for taking the sense of the people of the Territory upon the expediency of calling a convention to form a State constitution," at the general election to be held in October, 1856.

The sense of the people was then taken, and it was in favor of calling a convention.

In obedience to this indication of the will of the people, the Territorial Legislature passed an act on the 27th of February, 1857, providing for the election of delegates on the third Monday of June, to form a State constitution; and under this act, which was singularly fair and just, providing, as it did, for the registration of every legal voter within the Territory, for the purpose of excluding outside influence, members of the convention were elected, and nine thousand two hundred and fifty-one qualified voters were registered.

In conformity to the provisions of this act, the delegates to form a State constitution were legally elected in June, 1857. They assembled at Leecompton, and proceeded legitimately to perform the duty for which they had assembled—the formation of a State constitution—terminated their labors, and adjourned on the 7th of November, 1857.

The honorable Senator from New York, who has addressed the Senate, [Mr. KING,] has chosen to say that every one of those acts which I have recited is characterized by illegality. I deny it *in toto*. I affirm—and I have no doubt whatever that it will be sustained by the voice of the American people—that neither one of those acts is tainted with illegality. That there may have been illegal voting, I will not deny; but that the acts of the *bona fide* voters and the results of these elections are to be affected by the illegality of others, I deny.

The convention, justly regarding the question of slavery as the lion in the path of the progress of Kansas, as the question which had created all the difficulty, turmoil, and civil war in the Territory, provided—though I by no means acknowledge that the convention was bound to do so—for its submission to the popular vote; and, on the day prescribed by the convention, it was submitted to the people of Kansas, who, by their popular vote, did decide in favor of the constitution with the slavery clause.

The constitution, thus framed, provided for a general election on the first Monday of January, 1858, which has been held, and at which a Governor, members of the Legislature and other State officers, and a member of Congress, were elected—the popular vote thus recognizing the new constitution to this extent, being, as I learn, from unofficial accounts, about thirteen thousand.

I have thus traced, step by step, the action of the people of Kansas, her true and law-abiding people, in the formation of their State constitution, from the passage of the Kansas bill to the present moment, when we are informed by the President of the United States that he has received from the presiding officer of her convention a copy of her constitution, and that she stands at our doors asking admission to the Union. In doing so, I have chosen to ignore and utterly to disre-

gard the assemblage at Topeka, and the existence of the so-called Topeka constitution.

The individuals who met there, not only without authority from this Government, but in open hostility, no more represented the people of Kansas, and no more possessed the right to speak for or to bind them by their acts, than the lawless mobs who, of late years, have, in some of our leading cities, set all law at defiance, to represent or speak for the loyal citizens thereof.

If the proceedings which I have briefly sketched, resulting in the formation of the Leecompton constitution, were legal, to say that those of the Topeka gathering were illegal and utterly void, is to characterize them by the mildest of terms.

I have equally ignored all alleged violations of election laws and acts of border ruffianism, from whatever quarter proceeding. No great political change, under popular forms of government, will, probably, ever be perfected without similar violations of law to some extent; and if the lawful acts of the legal people were thereby to be annulled, anarchy would necessarily be the result.

Destitute as we are of the power of punishing violations of election laws in Kansas directly, we should not resort to an indirect mode of correcting them, and, especially, to the injury of the people of Kansas. Frauds, crimes, doubtless were committed by both parties; but the lawful acts of those who steadily and rightly pursued the path of duty to the formation of the State constitution, are not to be thereby defeated.

Mr. President, it is admitted that these proceedings of the people of Kansas were pursued in conformity with law, and by authority conferred by the Kansas-Nebraska act originally; and it is admitted that the constitution they present to us is republican. Why, then, should it be rejected?

Sir, the evils which must, in my judgment, inevitably flow from such rejection, may present themselves to my mind in an exaggerated form and character. I may misconceive the times; I may misapprehend the temper of the people to whose sense of right such rejection would be an outrage; I may magnify the feeling of deep but silent scorn and indignation with which they now view this whole programme of opposition; and I may miscalculate the means to which they may resort to right the wrong which it contemplates; but if I do not, then is the rejection of Kansas fraught with evils which it will require all of human wisdom under the providence of God to avert.

Sir, we are told that in this contest the South is pursuing an abstraction; that the majority of the people of Kansas are in favor of the exclusion of slavery, and that, having the power, they will adopt immediate measures to change the constitution in this respect on their admission to the Union.

This may or may not be so; it does not lessen the importance of the question before us; for we cannot ignore the great central fact that the war cry raised against the life of the South, is, "no more slave States to be admitted to the Union;" that under this *shibboleth* inscribed upon their banner, her enemies in hosts are rallying, and that their ability to maintain it is here this day being practically tested; and that, if Kansas shall be rejected, it will be because of the slavery clause in her constitution.

This, sir, is the point which infuses life and light and soul into the issue before us.

Our opponents on this measure, invigorated by the temporary alliance of the honorable Senator from Illinois, [Mr. DOUGLAS,] have assailed, and are assailing, the unanswerable arguments, as I conceive, of the Executive, with equal ingenuity and power; but if one were to rise amongst them, and speak with the lips of an angel, the South has too much at stake not to see the utter want of truth and justice of this opposition, not to feel that similar pretexts will ever be found when similar occasions shall demand them.

Sir, the vital principle of the Kansas bill, carefully considered by some of the purest and best men from every section of the country, and some of the prominent men of its leading political parties, too, was brought forward by the honorable Senator from Illinois, to whom it had been intrusted as chairman of the Committee on Territories; and throughout the three years' war with which its

enemies have so bitterly assailed it, so nobly and firmly has he stood forth as its champion, under all circumstances, at all times, and in all places, sustaining its right, wisdom, and justice, that he has been popularly regarded as its sole and exclusive author. So well had he borne himself in this intellectual fight, that he had carved out for himself a place in the hearts of his countrymen rarely accorded to a living public man.

In this position he was nobly sustained by the united South, and by nearly every national Democrat in both Houses of Congress. He was sustained by the people in their primary and larger conventions, in their Legislatures, and finally by the supreme judicial tribunal of the country itself. Thus proudly did he stand then; but now, when the battle has been fought and won, and the fruits of victory only await our grasp; now, that Kansas is knocking at our doors, and, by clothing her with the robes of State sovereignty, we may localize the question of slavery, and enable her to still the voice of discord within her borders, we see the honorable Senator, not only withdrawing himself from his old companions in arms, but, with a bitterness hitherto unlooked for, opposing them in gaining the legitimate fruits of their common labors. In this extraordinary attitude, we see him surrounded by strange allies; the leaders of those with whom hitherto he has fought hand to hand in every phase of the fight; the leaders of those who have been the unrelenting enemies of the Kansas-Nebraska bill and himself; and who, failing in every agency of human evil, have invoked upon both the curse of Heaven itself. These are the allies with whom he is now cheered in his opposition to his tried friends. I trust the honorable Senator from Illinois will understand that, in reciting these facts, showing his position in this case, I do it in all kindness to himself, personally. My past relations to him it is unnecessary to allude to to show this.

An attitude so extraordinary has only been assumed on the most conscientious convictions of right, though we are all liable to error; and his position, therefore, will not be readily surrendered. His efforts to justify and sustain it are worthy of his fame; but depend upon it, sir, that like a strong man struggling in a morass, every effort he may make must but more distinctly disclose the unstable ground on which he stands.

Mr. President, our opponents upon this measure may succeed, or they may fail; Kansas may be admitted with her Leecompton constitution, and every element of her legitimate prosperity may be developed; or she may be rejected, and discord and civil war may continue, just as the wisdom and prudence, or the vice and folly of her people may control her counsels; but whether we admit her, or whether we do not, whatever may be the results of our proceedings here, if I am right in my conclusions of the policy which govern the Opposition, there will be but one course for the South.

Mr. SEWARD. Will the honorable Senator allow me, as an act of kindness to himself, to say that his speech is a very interesting one, and I am listening to him with great pleasure; but I am sure he speaks so low that he is not doing justice to himself. If he will raise his voice a little louder, he will be heard more distinctly across the Chamber.

Mr. MALLORY. I thank you, sir. I cannot expect to overcome any noise that may be made in the Chamber, but I will endeavor to make myself heard.

The PRESIDING OFFICER, (Mr. STUART.) The Chair will endeavor to preserve as good order as can be maintained in the Chamber; and he submits to Senators that it is important, on account of the evident condition of the health of the Senator from Florida.

Mr. MALLORY. I was going on to observe that whatever may be the effect of our efforts here, from this vexed question of Kansas, the South, looking boldly out on the dangers which expand before her, surveying with calm resolve her darkening political skies, will, in my judgment, take a new departure; warned, nerved, invigorated, saddened, perhaps, but unimpaired by the past.

She cannot ignore the fact that her enemies are gathering in strength around her; every day shows

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it; and whether the war-cry against her life be uttered by some wretched village fanatic, whose insane ravings and mad ambition rise no higher than to induce the slave to cut the master's throat, or whether it be uttered by some higher intellect here, in large and philosophic phrase, who, with the Union upon his lips, but with treason to its best interests festering in his heart, predicts the coming dawn, which shall rise upon the last footprint of African slavery upon this continent—whether the war-cry be uttered by the one or the other, it is opposition to her that forms their common bond of union. Nor, sir, let her any longer underrate the strength of her enemies. I have before me some notes, as brief as they are instructive. I refer to a well-known book, recently published, in which political facts are collected. In speaking of the anti-slavery party, the author says:

"It first made its appearance in national politics in the presidential contest of 1840, when its ticket, with James G. Birney, of Michigan, as its candidate for the Presidency, and Francis J. Lomoyne, of Pennsylvania, as its vice-presidential candidate, polled 7,000 votes. In 1844, with Mr. Birney again as its candidate, it polled 63,140 votes. In 1848, when Martin Van Buren as the presidential candidate of the Buffalo convention, and Gerrit Smith as that of the more ultra anti-slavery men, it polled 286,233 votes. In 1852, with John P. Hale as its nominee for the Presidency, it polled 157,296 votes. In 1855, with John C. Fremont as its presidential candidate, it polled 1,341,812 votes."—*Cluskey's Political Text Book*, p. 1.

With these facts before us, I do not pretend to ignore the coming fate of the South. I do not pretend any disguise on the subject. Can you doubt, sir, that you are yet to see one of this sectional party in that chair; this Government administered by its behests, and the South in a doomed minority, still appealing to the Constitution? No man here can doubt it; and it is useless to close our eyes to coming events. One by one the gallant and patriotic band of northern men, who, valuing the Union beyond the behests and commands of party, struggling here, struggling everywhere, to maintain the rights of their whole country, have been crushed out; and here, in this forum of equal States, we are yet to see the Constitution interpreted by that dreaded antagonism which is founded upon geographical distinctions alone.

The constitutional rights of the South, Mr. President, never have depended, and I trust they never will depend, on an equality of slave and free States in this Confederacy. If they depend on such an equality their rights are gone now, for that day has passed. This political equality cannot be maintained. It can neither be maintained by expansion, by acquisition, nor by division of territory; for these are resources equally open to both parties. Had the South, in days gone by, been united on the expediency of acquiring Cuba, and, when the apple was ripe, plucked it, and made it a southern State—nay, sir, were she to adopt a wise policy now, and resolve to take it, and talk about it afterwards—friendly and contiguous Canada, fast gravitating towards the North, would come in to re-establish northern political supremacy. Therefore, in my judgment, we must look inevitably to a preponderance of free States in this Confederacy. If I believed the rights of the South were dependent upon an equilibrium of free and slave States, I would use every human effort of which I am capable to induce the South to go out of the Union to-morrow. It were worse than folly, it would be the basest of crimes, to postpone to a distant day of comparative weakness, the correction of approaching evils, which, in our hour of strength, we may readily avert.

Much has been said by the Senator from New York, in his remarkable address, about the white man's occupying this continent, and on the doctrine of expansion; but I did expect to hear a gentleman, who is evidently a statesman, in this rhetorical, epigrammatic production of his, define under what circumstances the white man is to occupy this continent. My friend from Virginia, I find on reading his speech, has referred to this part of the address of the Senator from New York, and leaves me but little to say; but on this doctrine of expansion let me remark, that the hour has come when judicious minds begin to doubt the propriety, the wisdom of the expansion, on this continent, of our Government; when judicious minds begin to doubt the applicability of

our system of government to a widely expanded territory.

Sir, the surface of our territory now is more than double that of Great Britain, France, Spain, Portugal, Italy, Switzerland, Germany, Austria, Turkey in Europe, Poland, Prussia, Belgium, Holland, Denmark, Norway, and Sweden, whose united population exceed two hundred and fifty millions.

The child is now living, who is to see, according to the present ratio of increase, a population of two hundred millions upon our present domain; and when our distant States shall become as populous to the square mile, as Belgium, Prussia, or France, our form of government will receive a test to which we may all look with doubt and apprehension.

With a population sparsely spread over a wide extent of domain of unsurpassed fertility and wealth, a population ignorant of want, with a competency within the reach of ordinary industry and frugality, with a population of voters identified with the soil, and governing by the ballot-box the land which they till with their hands, our system of government has reflected greater blessings upon the people than has any other devised by the wisdom of man.

But, sir, with expansion and its concomitant evils of poverty, pauperism, and vice—with a large minority of voters in every populous State raising, periodically, the cry of "bread or blood"—the ballot-box, hitherto the safeguard of our liberties, may become, in the hands of ambition, a tremendous engine of oppression. We may already point to San Francisco, governed by a vigilance committee; Utah, ruled by a priestly despotism; Kansas controlled at the bayonet's point; and our large cities, in the hands of lawless mobs, who go unwhipped of justice, as some faint indications of the blessings of expansion.

But, sir, I will not pursue this topic further, suggestive as it is of replies to the honorable Senator's theories.

Thank Heaven, the South possesses the conservative institution of domestic slavery, which relieves her from evils which must necessarily attend a dense population under our form of government.

But, Mr. President, I will not digress on this subject longer; I desire to keep to the point before us, which is the question of the admission of Kansas. I will not go into all the objections, the technical objections, which have been urged by gentlemen on the opposite side of the Chamber, because I think it will be fair to meet the objections of our friends on this side, and I will treat them as made in all fairness. I understand that the objections of the honorable Senator from Illinois, made in his opening speech immediately after the presentation of the President's annual message, have been surrendered one by one, or tacitly so, and that they are all now to be summed up in this: that the constitution framed at Leecompton was not submitted to the vote of the people, and that it does not reflect the will of the people of Kansas.

Let me ask, sir, who are the people of Kansas? The Senator from New York tells us that the people means the majority. I deny any such doctrine, sir. The only people of Kansas known to us, are the law-abiding inhabitants thereof, who, by the authority and under the guidance of law, have come before us to make their wishes known.

States have made the source of their political power, the elective franchise, dependent upon the payment of taxes, service in the militia, the tenure of freehold estate, or the color of the skin; but they upon whom this power is conferred constitute the people, whether a majority or a minority of the inhabitants. The people are represented in the lower House, but does the majority necessarily rule there? Is not a quorum of the House, a bare majority of its members, sufficient to transact its business—and does not a majority of this quorum control its action? Do not seventeen members of this body determine frequently its gravest measures?

Sir, when we speak of the people of Kansas, we speak of a political body determined by the laws of the land; of a body acting by authority and in conformity with law.

It may be, sir, that the convention which formed

the constitution was elected by a minority of the voters of Kansas; but if we go behind the results of the election we shall probably find that those opposed to the convention refused to go to the polls for the express purpose of defeating the action of the law-abiding people of the Territory. Can a body of voters, by thus absenting themselves from the polls, defeat the action of those who choose to exercise their right to vote? Can the inaction of a majority thus defeat the legal action of a minority? Are not elections in every city and State of this Union sometimes determined by minorities? In this case, Governor Walker expressly notified the inhabitants that those who refused to vote, by the universal operation of our system of government, ratified the action of those who should vote.

Sir, the proposition that the convention was not elected by a majority of the inhabitants, and that, therefore, the constitution framed by it is void, cannot be maintained.

In reply to the objection that the constitution should have been submitted to the popular vote, I must say that it is becoming on those who claim this, to show that any necessity existed for such a submission. The people of Kansas did not provide for it through their Legislature; they did not provide for it through their convention; and so far as Congress could, they expressly left it to the people of Kansas to decide for themselves—for they said they should be left "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution." That was the only limitation. There was nothing there, I apprehend, commanding them to submit their constitution to a vote of the people of Kansas. If, therefore, we are to keep our pledge to the people of Kansas, we cannot interfere with their rights; and it is to me exceedingly strange that those who set up this doctrine that the non-submission of the constitution is fatal to it, cannot produce the authority requiring such submission. The precedents teach us that the people of Kansas have followed in the safe path of custom in refusing to submit their constitution. My friend from New Jersey [Mr. Thomson] has shown this in a close analysis of all the constitutions of the States of this Union; and there are but two constitutions that I know of, formed by the States of this Union, which were submitted by convention. His statement is as follows:

"The constitutions, now in force, of the following named States, were not submitted for ratification to the people, but adopted in convention:

"Vermont adopted her constitution July 4, 1793, in convention at Windsor. (Compiled Statutes of Vermont, page 15.)

"Connecticut, by convention, in 1818. (See Compilation of Statutes of Connecticut, 1834, pages 29 and 43.)

"Delaware, by convention, in 1831. (See acts of 1831, page 49; and Revised Code, page 43.)

"Pennsylvania, by convention, in 1833, with a provision for future amendments to be ratified by the people. (See Purdon's Digest, page 17, section 10.)

"North Carolina adopted her present constitution in 1776, by convention; amendments in 1835.

"South Carolina, in 1790, by convention.

"Georgia, by convention, on the 23d of May, 1798.

"Alabama, in 1819, by convention under enabling act. (See Code of Alabama, page 28, section 5, page 28.)

"Mississippi, by convention, in 1817; and revised in like manner in 1832.

"Tennessee, by convention, in 1796.

"Kentucky, by convention, in 1799.

"Arkansas, by convention, without an enabling act. (See Revised Statutes of Arkansas, pages 17-18.)

"Missouri, by convention, in 1820; and not submitted to the people.

"Illinois, by convention, in 1818; also appears not to have been submitted to the people.

"The following were compelled by statute to submit the constitutions framed by the conventions to the people:

"New York, constitution adopted in 1846. (Section 9, act of 1845, providing for the convention, required its ratification by the people.)

"New Jersey, act of 1844, approved February 23. Section 9 required its submission to the people. It was submitted and ratified in 1844.

"Maryland, formed in 1851, and ratified by the people, in accordance with previous act of Legislature. (See act of 1849, chapter 346, section 8.)

"Virginia, formed in 1851. Act March 13, 1851, required its ratification by the people.

"Indiana, formed in 1851, ratified by the people, as required by the law authorizing the convention. (See Act of 1850, approved January 18, sections 14 and 15.) The sections relative to the exclusion and colonization of negroes was submitted as a distinct proposition. (See Revised Statutes, volume 1, page 72.)

"Wisconsin, 1848. Section nine of schedule required its ratification by the people. (Revised Statutes, 1849.) In April, 1817, the constitution was defeated by over seven

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thousand majority. (Niles's Register, volume 72, page 114.) A new constitution was then formed, and the State admitted under it May 23, 1848.

"Iowa, formed in 1845. Previous laws of June 10, 1845, (over the veto of the Governor,) and of January 17, 1846, required ratification by the people.

"Ohio, the first constitution, formed under an enabling act of Congress, adopted 25th October, 1802, was not submitted to the people; that of the 10th March, 1807, was submitted to the people and approved by them.

"Louisiana, formed 1852. The constitution was, by previous enactment, required to be submitted, and was ratified by the people.

"Michigan, formed 1850. Act of March 9, 1850, required it to be submitted to the people. (See laws of 1850, No. 78, section 6, on page 65.)

"Maine, formed in 1819, by convention, (page 432 Hickey's Constitution;) amendments submitted to the people 1824, 1837, 1839.

"New Hampshire, formed in 1792. (See Compiled Statutes, page 15.) Approved by the two-third vote of the people, and established by convention September 5, 1792.

"Rhode Island, formed 1842. Ratified by vote of the people, in pursuance of act of the Legislature.

"Massachusetts, formed 1780. Convention adjourned till constitution was ratified by two third vote.

"Texas, formed 1845. Submitted to and ratified by the people.

"The constitutions of the following States were submitted by conventions to the people, without their being required by law to do so:

"Florida, formed in 1838. Territorial act of 1838 (see act of 1838, page 5) did not require the ratification of the constitution by the people. There was no authority of Congress. The convention (see Digest of Laws of Florida, page 9) required ratification by the people.

"California, formed in 1849. Convention required the ratification of the constitution by the people. There was no authority of Congress or legislative act to frame a constitution. (See Statutes of California, page 24, sections 5, 6, and 7.)

But, sir, if this argument really had any strength in it, it comes, perhaps, with less force from the honorable Senator from Illinois than it would from any of the gentlemen on the other side of the Chamber. Anything which the distinguished Senator may say on this subject has peculiar pertinence and significance, because, from first to last, he has been identified with the measure. It will be remembered that, to expedite the admission of Kansas into the Union as a State, the Senator from Illinois reported a bill from the Committee on Territories on the 17th of March, 1856, entitled, "A bill to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union, when they have the requisite population." After providing for a convention, this bill continues, and contains the following clause. It is the third section of the bill reported by the Senator from Illinois:

"Sec. 3. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection, which, if accepted by the convention, and ratified by the people at the election for the adoption of the constitution, shall be obligatory on the United States, and upon the said State of Kansas, to wit:—

This bill was not immediately acted upon; and on the 25th of June a substitute was introduced by the honorable Senator from Georgia, [Mr. Toombs,] of which he gave due notice. In the twelfth section of this amendment—for the substitute was introduced as an amendment—the precise words of the third section of the bill of the Senator from Illinois were retained, giving the power to the convention to adopt, and to the people of Kansas to ratify, the constitution. Here, then, were two bills before the Senate: one reported by the Senator from Illinois, containing a clause requiring ratification by the people; and the other introduced by the Senator from Georgia, incorporating this identical clause. Subsequently the Senator from New York [Mr. SEWARD] introduced a substitute, ignoring equally the people and the convention, providing for the immediate admission of Kansas as a State into the Union, on the acceptance of certain conditions by her Legislature.

These substitutes, together with the original bill reported by the chairman of the Committee on Territories, the Senator from Illinois, were recommended to that committee; and seven days after this, on the 30th of June, the Senator from Illinois brought forward from the committee a new bill, which, though it embraced many of the provisions of the bill introduced as a substitute by the Senator from Georgia, omitted this very important provision, which his own bill and the substitute itself of the Senator from Georgia had contained. It left out totally the provision re-

quiring the ratification of the constitution by the people of Kansas. In fact, it recognized in that manner, unequivocally, the right of the convention over the whole subject. I think that is a legitimate conclusion. The right of the people to ratify the constitution was therefore abandoned. I say, therefore, that when the opposition comes from him, on the ground that it is a fatal objection to the constitution that it was not submitted to the popular vote, it comes with less force than it would from any gentleman on the other side of the Chamber. His bill contained, instead of the clause before quoted, these words:

"Sec. 19. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Kansas, to wit:—

This bill passed the Senate, but it will be remembered that it failed in the House of Representatives. In this body, with the clause requiring popular ratification abandoned, after it had been twice reported to the Senate, it received the vote of every Democratic Senator, including the Senator from Illinois.

It was my purpose, Mr. President, to have pursued somewhat the line of argument which has been indicated by the opponents of this measure, connecting itself with the subject of slavery in Kansas; but feeling as I do on that subject, feeling as I did last night when I heard gentlemen going back two hundred years to show the tenure of slave property, as if the opinions of all the judges of England could affect the right to a single slave in any of our States, or induce a master to surrender it, I see the labyrinth of discussion into which gentlemen are led when they touch that subject. I am willing to meet gentlemen on the other side upon the practical workings of the institution in this country; I am willing to take it up as a practical issue, and to show to those who here maintain the controversy that even in their own States, in their own towns, and in their own homesteads, practice belies theory—that the negro there, with all the privileges which their enlarged philanthropy has thrown around him, is in a far more wretched condition than that from which they seek to relieve him in our States.

Of all the false representations and groundless assumptions of the enemies of the domestic slavery of the South, none have afforded a more fruitful theme of denunciation than its alleged debasing and brutalizing influence upon the negro; and such is the systematic perversity with which this falsehood is circulated that there are few communities in the free States in which it does not find believers.

But what are the facts. The slaves of the South are the descendants of the Africans, brought by New England ships and seamen to this country; and a comparison between their condition and that of their African brethren will illustrate, not the brutalizing, but the civilizing and Christianizing effect of southern slavery.

Of no part of Africa—Egypt, Nubia, and the shores of the Mediterranean excepted—does our knowledge extend back beyond the times of the Greeks and Romans. Regarded at that time as too degraded and savage to invite conquest or to excite cupidity, its very name has ever stood as a synonym for the extremes of barbarism and ignorance; and though the enterprising spirit of the last two centuries has sought her shore, a spirit which has penetrated almost every other part of the habitable globe, carrying the germs of civilization to their darkest recesses—the African of to-day is the ignorant and beastly savage that he was three thousand years ago.

While in less than two and a half centuries, the white race has subdued upon this continent the obstacles of savage man and still more savage nature, developed upon it all the elements of temporal happiness, and established the worship of the true God upon a sure foundation, Africa exhibits to-day the brutal vices, the beastly ignorance, and the bloody cruelties which characterized her in the days of the Pharaohs.

The missionaries of the living God have been among them; hundreds of zealous Christians have entered upon this great field of ignorance, idolatry, and cruelty, and sacrificed their lives to a futile attempt to redeem the African, while scarcely an

instance can be found of his abandoning one of his savage rites or bloody customs. Their court-yards, houses, streets, and market-places, are still paved with the skulls of prisoners taken in battle, or of slaves sacrificed at their feasts or their funerals. Wives and subjects are still offered as a bloody sacrifice or buried alive with deceased chiefs, husbands, or masters—not by scores at a time only, but by thousands.

British benevolence for fifty years has vainly sought to Christianize the African, who, in defiance alike of precept and example, always relapses into idolatry, whatever may be his professions of faith.

Sunk to the lowest conceivable grade of human brutality, exhibiting, indeed, traits less akin to human affections than do many of the beasts of their forests, there is no exception to the barbarous and idolatrous pall which rests upon pagan Africa, from which civilization can awaken the first throb of sympathy.

Without an alphabet, hieroglyphic, picture, or symbol, to convey or perpetuate thought; without customs or rites, religious or political, that do not immolate human victims upon their altars; without a knowledge of his antecedents, or the faintest conception of his future, the African, under the Creator's natural laws, under those revealed to his chosen people, and under the Divine institutes of the Savior, has been equally false to all.

Such a being cannot be degraded by servitude; but, on the contrary, any change in his condition must be an improvement; and can any candid mind look at the change which two and a half centuries have wrought in the condition of his descendants in the southern States, and believe that servitude has degraded him?

I will not dwell upon the admitted fact that our southern slaves are the best fed, best clothed and cared for, and the least tasked laboring class in all Christendom; but I will point to the more important fact, that every log cabin of the southern slaves contains a truer knowledge of the true God, and the great work of salvation, than can be found throughout the fifty millions of pagan Africa, and that a very large proportion of them are members of Christian congregations.

Human happiness, like the Creator's love, is about equally distributed among men; but if there be a class upon earth possessing more of the elements of, and fewer of the drawbacks to, human happiness, than their fellows, it is the southern slave, when uncursed by the poisonous taint of abolitionism.

Mr. President, in connection with the subject of slavery, we are told by the Senator from New York, [Mr. SEWARD,] that the South has governed the Confederacy, but that the reins of power are falling from her grasp, and that to other hands are our destinies to be committed. Sir, I concede it. The genius, the knowledge of government, the constitutional and conservative spirit of southern men, have as unequivocally stamped the policy of this Government, in the Cabinet and in the Senate, as their valor has led her banners in the field. Seven of your Presidents have themselves been slaveholders; and whenever the country has demanded the intellect, the genius, or the courage of her sons, they have found no more brilliant illustrations than among slaveholders.

Under the guidance of their policy, with their hand upon the helm of the ship of State, her onward progress in all that ennobles, in all that elevates our race, has been the marvel of mankind.

Domestic discords, family jars, have from time to time intruded themselves upon her path of progress; but while they are as inseparable from it as is the dust from the wheels of the locomotive, they have impeded it as little.

National policies, national parties, national men, shedding, like the gentle dews of heaven, their cheering influence equally upon every hill and valley of their country, have all combined to awaken and to cherish in our hearts obedience to the Constitution, and through it, a love for the Union.

Sectional extremes have brought their common grievances to this altar, and in obedience to its cherished spirit have renewed their common purpose to sustain it.

If, sir, the South has governed, such has been the spirit, such are the results of her government.

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With exultant tone we are told that she will *rule no more*. Be it so. In withdrawing from the ship of State, we may, at least, with pride look back upon the track she has traced upon the pathway of nations, marked, as it is, by imperishable monuments of man's cheering progress; and we may point to the storms of faction, the open assaults of foreign and domestic foes, and the treacherous deceptions of pretending friends, which, under the pilotage of the South, and the Constitution her only chart, she has nobly weathered; and now with all her banners aloft, her fame established, and her name unstained, with placid seas beneath, and smiling heavens above her, freighted with the hopes, the liberties, the freedoms of mankind—we will resign her as the greatest, the noblest trust that ever came from the hands of men. In the language of my friend from South Carolina, [Governor HAMMOND,] "great will be our honor and your responsibility;" and be sure that you let the world behold, when we demand her back, as demand her back we may, that you restore the emblem of her glory with no stripe erased—every star undimmed. Sir, I neither deplore this loss of power, nor fear its consequences to the South. She will be more than ever watchful of her rights, more sternly resolved to maintain them.

If she has hitherto betrayed a high degree of sensitiveness upon the agitation of the slavery question in Congress, when that agitation was dwarfed by the fact that the balance of power in this forum rendered it almost an abstraction, what must she feel when, recalling the threats of her enemies, she finds her voice not only impotent here, but all the branches of the Government in their hands to enforce them?

Sir, the union of these States must soon depend upon the constitutional and conservative action of this sectional party; and as successful aggression rarely pauses in its career, it becomes the duty of the South to learn, while time for calm reflection and counsel still remains, the position she is to occupy in this Union.

Conservative as I am, hopeful if not confident, that our darkening political heavens will grow brighter, and that we shall realize politically that the darkest hour is just before the dawn, I yet trust, nay I well know, she will never submit to that greatest of all degradation to a free people, a voluntary existence under a violated Constitution.

It is not for me to indicate the path she may, in her wisdom, pursue; but, sir, wherever it may lead, be it gloomy or bright, my whole heart is with her, and she will find me treading it with undivided affections.

ADMISSION OF KANSAS.

SPEECH OF HON. JOSHUA HILL,
OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

March 29, 1853.

The House being in the Committee of the Whole on the state of the Union—

Mr. HILL said:

Mr. CHAIRMAN: I congratulate you, sir, that after this protracted discussion, we find you to-day still able to occupy your seat; for, from the long and wearisome task which has devolved upon you, one might well suppose that you would be found in the condition of the afflicted man of Uz, "broken in pieces with words." Could there be such a thing as a Representative without a constituency, I should not on this occasion utter one single remark. But, sir, it is in deference to the high-spirited and intelligent people I leave behind, and whose Representative I am, that I essay upon this occasion to make known the feelings and sentiments which will govern me in the course I shall take in regard to the matter now under consideration.

It is not inappropriate that in the beginning I should say, that, in kind and familiar conversations I have held with gentlemen of various shades of political opinion—and I am happy to say I know no enemies, personally, among those who occupy this floor—I have been asked to forbear the expression of my peculiar views upon this floor, lest perchance I might say something that might

wound friends of this party or of that. I hope that I have as kind a nature as becomes any man; but I have found, in such cases, that it is safest for a man to be his own judge of the course proper for him to pursue; and so I have determined, irrespective of the advice given me, to go my own way. I am like the Frenchman, who consulted his wife as to the mode of building his house, and when, after hearing his plans, she agreed that they were most admirable, he said, "well, madame, it is very well that you think so, for it is all the same; the house would have been built that way any how."

I do not propose to address myself exclusively, by any means, to the immediate subject under consideration. I propose to take a somewhat wider range. I am in the habit of doing so. I am in the habit, I may say, of inveighing against that spirit which pervades the American nation, and which is so hurtful, in my judgment, to its prosperity and well-being. I speak it in no unkindness of spirit to those who are now in power, or to those who will, in all human probability, succeed them. But the evil of the day is, in my judgment, the partisan spirit that pervades the land—the spirit that tolerates nothing of manly independence in thought, or action, but requires blind obedience to the dictates, and behests of party. Sir, dear to me as are the fortunes of the organization to which I belong, and devoted as I am to them, if it should ever assume the control of this Government, (which, I confess, looks at this time like a very remote possibility,) and should presume to dictate rules of thought and action to me, I would leave the organization, and if I could not find one agreeable to associate with thereafter I would stand aloof, though I should stand by myself.

For the few thoughts which I may utter on this occasion—for they will be few—I beg the indulgence of the House. I had prepared something in a wholly different vein from that in which I now propose to speak, but I have yielded it up to my own better judgment. If my thoughts suit not others I can only say in the spirit of the remark of the renowned Bacon: "So I think: let those who can, think more wisely."

Mr. Chairman, the year 1854, a year ever memorable and renowned in the annals of this nation by the extraordinary events that marked its passage, dawned on the American people as peacefully, as happily, and as benignly, as any one that had marked our brief but blessed career as a nation. The disappointments and acerbities growing out of the then recent presidential election had subsided in the country. Under the influence of the legislation of 1850—known as the compromise measures of that year—and of the wise and conservative Administration of him who justly earned the proud title of the "Model President," the country was marching on without a single obstacle in its career of progress and glory.

Sir, I have been accustomed to think that, in an evil hour, (I trust it may yet prove otherwise, for I fain would that good should come of it,) for some purpose as yet, perhaps, unavowed, and certainly by me not wholly understood, it became a matter of Democratic policy to inaugurate territorial governments for those immense wilds and wastes, solitudes of prairie and forest, known as Nebraska and Kansas. I never could perceive the pressing necessity of these measures at the time. The highest estimate that was made by any speaker on the occasion was, that in all those vast Territories there were not over nine hundred white souls, consisting, as they did, of hunters, trappers, and traders, with very few women and children among them. If I were disposed to be invidious, I might conjecture that the motive for the organization of those Territories was to carve out offices for dependants and expectants. I do not know that there was any such design, and therefore I make no such imputation.

But, if it had stopped there, although I think it was a premature act, the country would not have complained. It was not a very grave error, if error it was. But the momentous part of the matter was this: that in this act of legislation the Democratic party adopted the suggestion of a then political opponent—Mr. Dixon, of Kentucky—to repeal a measure which had stood on the statute-book for thirty years; which had received the

sanction of a slaveholding President and of a Cabinet second in intelligence and worth to none that ever graced the Federal city. It had existed through successive Administrations, including that of the hero of the Hermitage—devoted as he was, heart and soul, in every pulsation, to the interests of the South. And during all that time no man had come forward and asked for its repeal.

Sir, it is a matter of history that at the time the proposition was made, the Washington Union, then conducted by a politician of signal ability, came out in an editorial the very next day, and denounced the proposition as a Whig trick, designed to divide and distract the Democratic party. The more cautious and distinguished chairman of the Senate's Committee on Territories, who had reported those bills, did not follow the lead of the organ of the party. He, like a prudent generalissimo, took time to reflect upon the proposition. Ay, sir, he slept upon it; and when his strong and vigorous intellect came to a conclusion, he rose, like a strong man, from his slumbers, resolved that he would do the deed or perish in attempting to execute it. The suggestion was incorporated into those measures, and became part and parcel of them, and impartial history must ever record that whatever of glory, of renown, or of shame, may attach to the transaction, the name of the distinguished Senator from Illinois must stand out in the front rank, towering above all others, as its advocate and defender. There he stands yet; and no matter how he may be contemned and derided to-day, he is regarded as the father of this great measure, and history will so record him.

But there was another who had been thought worthy, at one time, to bear the standard of the Democratic party to battle—a veteran in politics, and a statesman who stood deservedly high. I allude, sir, to General Cass, who, on the 20th of February, 1854, in the Senate of the United States, gave utterance, in a carefully prepared speech, to the expression of doubts and misgivings as to the wisdom and propriety of this act. The distinguished Senator said:

"Mr. President, I have not withheld the expression of my regret elsewhere, nor shall I withhold it here, that this question of repeal of the Missouri compromise, which opens all the disputed points connected with the subject of congressional action upon slavery in the Territories of the United States, has been brought before us. I do not think the practical advantages to result from the measure will outweigh the injury which the ill-feeling, fated to accompany the discussion of this subject through the country, is sure to produce. And I was confirmed in this impression from what was said by the Senator from Tennessee, [Mr. JONES,] by the Senator from Kentucky, [Mr. DIXON,] and from North Carolina, [Mr. BADER,] and also by the remarks which fell from the Senator from Virginia, [Mr. HUNTER,] and in which I fully concur, that the South will never receive any benefit from this measure, so far as respects the extension of slavery; for, legislate as we may, no human power can establish it in the regions defined by these bills. And such were the sentiments of two eminent patriots, to whose exertions we are greatly indebted for the satisfactory termination of the difficulties of 1850, and who since passed from their labors, and, I trust, to their reward. Thus believing, I should have been better content had the whole subject been left as it was by the bill when first introduced by the Senator from Illinois, without any provision regarding the Missouri compromise. I am aware that it was reported that I intended to propose the repeal of that measure, but it was an error. My intentions were wholly misunderstood. I had no design whatever to take such a step, and thus resuscitate a deed of conciliation which had done its work, and done it well, and which was hallowed by patriotism, by success, and by its association with great names, now transferred to history. It belonged to a past generation; and in the midst of a political tempest which appalled the wisest and firmest in the land, it had said to the waves of agitation, *Peace, be still*, and they became still. It would have been better, in my opinion, not to disturb its slumber, as all useful and practical objects could have been attained without it. But the question is here without my agency."

Thus, sir, discoursed General Cass. But in the same spirit to which I have alluded, he afterwards overcame his convictions of the impropriety of this repeal, and gave his vote for it.

Mr. Chairman, let it not be understood, from what I may say here in relation to the repeal of the Missouri compromise, that I was ever its eulogist or its advocate; for however vain and presumptuous it might appear in me to dissent from its great authors and advocates, I must say in truth, from the convictions of my best judgment, that the measure was extra-constitutional. So believing, had I been acting at the time of its adoption, I do not scruple to say that I would have seen the union of these States further imperiled than I believe it was in 1820, before I would

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have voted for it. It is said to have saved the Union. Certainly, if it deserved to have this said of it, it was a rare merit indeed; for I take it upon myself to say, (perilous, perhaps, as the expression may be to-day,) that if this Union could be restored to the purity with which it sprang from the fires of the Revolution, there is scarcely any sacrifice upon earth that I could make myself that I would not freely suffer for its preservation. But, sir, the Union of to-day, I greatly fear, is not the Union of seventy years ago. I know that we all profess the same degree of attachment for it that the men who framed it professed; but every man has his own way, in these degenerate days of loving the Union.

The extreme man of the South demands every concession to his requirements, and that there shall be no denial of the smallest right that he may have in the institution to which he is so fondly devoted; and not only this, but he insists that those who intrude their opinions and intermeddle with slavery, even by discussion among themselves, are inimical to the Union, and unworthy of his association. On the other hand, we hear other gentlemen say, we are attached to the Union; we are brothers, we wish to preserve the Union! We say that we will never consent, however, that the hated institution of slavery shall go one inch further upon American soil. Now, sir, this is a novel mode of showing affection for the Union! Perhaps at the same time they will disclaim that they have any design or desire to interfere with slavery in the States, or with the inter-slave trade. This is held as highly commendable, as great magnanimity and generosity! This is not my mode of estimating the duties of citizens to the Union, and it is not one of the reasons for my attachment to it. I go to the charter of our liberties; I go to the Constitution, and refer to the men who framed that instrument, and to the motives which actuated them at that time. Without arrogating to myself to be purer and better in heart, or superior to others in love for the Union and in tried patriotism, I say that I will stand by that charter; so long as I am able to interpret it, I will claim, as a southern man, all of my rights and my equality in the Union, and I will be content with nothing less. At the same time, I will not say to the North, in angry tone and defiant language, "come on and wrest these rights from us, if you dare!" I will not speak of bloody fields and desolated homes; such language, in my judgment, will never convince the understanding of any man—certainly not that of a fanatic. It is not the language of a brother; and, so long as we live in this Union, we are brothers.

I will return, Mr. Chairman, to the repeal of the Missouri compromise. When the deed was done, when the blow was struck, and when the compromise of 1820 slept with its fathers, there arose throughout the land a mighty clamor, and a wail went up, long, loud, and frantic; and, I am sorry to say, it came from those that loved the lost one far better in death than in the pride of "lusty life." Beside its bier, bedewed with some tears of honest, manly sorrow, there stood as chief mourners the Abolitionist and the Free-Soiler; they came to perform the last sad offices for this legislative victim. Why, sir, Mark Antony, in the depth of his pathos over the "piece of bleeding earth" that lay before him, the

"Ruins of the noblest man
That ever lived in the tide of times,"

was not more eloquent in his sorrow than were these disconsolates. Might not some Democratic Brutus, witnessing the affecting scene, have prophetically exclaimed: "Here comes its body, mourned by the Abolitionist and Free-Soiler, who, though they had no hand in its death, shall receive the benefit of its dying—a place in the Commonwealth—as which of you shall not?"

Was it true that, up to the time of its lamented death, these worthies had sought to preserve this cherished object of their peculiar regard? Let the history of their affectionate solicitude give the answer. Yet their lamentations were as pathetic and heart-rending as were those of Rachel mourning for her children, refusing to be comforted because the Missouri compromise "was not." I thought, as General Cass thought, that if the country could reasonably have been expected to acquiesce in the measure of repeal, it

would have been patriotic and proper. No evil could then have sprung from it. I knew that, surrounded by fanatical influences, there were men of milder mood, not fitted by nature to grapple with sterner spirits, who, when this hue-and-cry was raised, mustered in crowds and came to the rescue, and placed themselves under the banner of the anti-slavery party. When it is said to me that I am over-cautious in a measure that is abstractly right, and when I ought not to have desired anything more than its passage, I reply, that if these fanatical cries be music in the ears of some men, they grate harshly upon mine. They please me not. I could not laugh such things to scorn. I looked alone to the dreaded consequences to my country. It has been written that Nero, the tyrant, fiddled when Rome was burning; but the historian has not told us that the conflagration was the less destructive. So it is here. Making this reply, they may say that the measure, if not absolutely necessary, was one that was an act of justice to the South, under the Constitution, which was violated when the Missouri compromise was passed. Conceding this to be true, it seems to me that if there was no practical advantage in the thing, it was a most unnecessary hazard to the institutions of the country.

It occurs to me, in connection with this subject, to advert to the action of the distinguished gentleman from Virginia [Mr. MILLSON] who took a view of this subject which nearly coincided with my own at the time. I have not lost sight of him, but have regarded him with interest ever since. He was denounced in the South as being untrue to the section he represented, because he dared to vote against the passage of the Kansas-Nebraska bill. His intelligent constituency—among the most intelligent, I believe, in the State of Virginia—have returned him again and again, and thus vindicated the patriotism of his course. Certainly it will not be expected of me that I shall stand upon this floor as a panegyrist of the distinguished Senator from Illinois; but I am apt to think that he whom I have so often and so recently heard, in my own State, and in my own district, extolled as "a Saul in Israel, towering above the political hosts," is the same to-day that he was in 1854. Men—and I thank God it is so—are not like chameleons; certainly great men are not—and I class in that category the distinguished statesman from Illinois, because his own party stamped him with that seal, and they cannot take it away from him. He is intellectually to-day, as he has been heretofore, worthy of the *sobriquet* which has been applied to him, "the Little Giant." Is he less honest now than he was in 1854? Why should it be said so? Is any man more honest, more sincere, than he was in 1854? And this explains the question which I put to the distinguished gentleman from Virginia, [Mr. SMITH,] the other day: does the fact that a gentleman who disapproved of the legislation of 1854 and now approves of the admission of Kansas under the Lecompton constitution, make him a better Democrat than he who devoted life, soul, and every energy he possessed, to the adoption of that measure? Well, this is all of a piece with that sort of generosity to which I have adverted.

Sir, once for all, I denounce the proscriptive policy which would bow down and crush out the highest intellects at the mere bidding of the parasites and panderers who bask in the sunshine of power. There was a better day in the Republic—the day of "the era of good feeling," as it has been termed—when even Cabinet officers, the constitutional advisers of the Executive, could disagree upon great and important questions of State, and were still esteemed worthy to sit together at the council board. At the time of President Madison's administration of the Government there were some of his Cabinet opposed to the great measure of his Administration, the Bank of the United States, then a question paramount to all others. The Executive did not exact a blind obedience to his own peculiar views. The policy which does so, has been inaugurated in later but certainly not better days.

This spirit has extended itself, and I find in the Government organ in this city, only two days ago, a tirade poured out upon the heads of two venerable and distinguished men, of ripe experi-

ence, and whose oft-exhibited firmness and integrity of character, united with a rare knowledge and intelligence, entitle them to rank as statesmen. I allude, of course, to the vituperative attack which the Washington Union has seen fit to make upon Senators CRITTENDEN and BELL. Though I dissent from the conclusions of those distinguished gentlemen, I should be wanting in truth and sincerity if I did not say that I know, from my intercourse with them, that their present course is one dictated by the same love of country, and devotion to the pacification of the land, which has hitherto marked their long and distinguished career. But, sir, we have at last come to this, that DOUGLAS and BELL and CRITTENDEN and a host of others, who have been, hitherto, considered worthy and patriotic, if they make but one false step, come to one false conclusion, all their good deeds for a lifetime are to be canceled, and to go for naught. Is this just, is it proper? Where will it lead to? Does it not lead to the abject submission of the human intellect, or ruthless proscription? That is not my mode of carrying a measure. If it cannot be carried without bitterly denouncing as wanting in integrity and patriotism those who may differ with me, I would rather it should fail. Such a course suits not my taste, and never did. Circumstances which cannot be avoided divide men who are as honest the one as the other, and charity demands that you should be patient and forbearing with your erring brethren. I do not arrogate to myself such a degree of complacency as to say that I know and feel that I am right in the position I take to-day. I sometimes have misgivings as to the convictions of my own judgment, and well I may, when I see differing with me men of the best intellect in the land, and whom I know, from their antecedents, to be as patriotic as I can pretend to be.

Sir, in relation to the immediate subject under consideration, I had prepared, to some extent, (though I shall forbear to trouble the House with it at this time,) a succinct history of what has occurred in Kansas since it became a Territory and the progress of events which has marked its history. But it is sufficient for my purpose to state that I am satisfied, from what I have read and heard, and from what I know, as well as I can know facts which did not transpire in my immediate presence, that the Lecompton convention was a body that was legally constituted, called by the proper authority, and lawfully convened.

It is my judgment that they had power to form such a constitution as, in their wisdom, they might see fit; provided it did not run counter to the obligations of the embryo State to the Constitution of the United States, and that it was republican in form. I am satisfied, from an inspection of the constitution which they did form, that it contains all the elements that entitle it to be received as the constitution of a new State. I even go further, and say that its framers have collated with signal success and ability, from the various State constitutions, all that I think was most worthy of adoption. It stands to-day, in my judgment, one of the best instruments of the sort that it has ever been my fortune to read. Intrinsically, then, I say, there is nothing in it to complain of. Perhaps some of my friends on this side of the House may think that it has anti-republican features, because it establishes or tolerates the institution of slavery. Despite what Governor Walker had said, and even though he did say it, under the direction, if you please, and sanction and approval of the President and his Cabinet, the convention had full power to submit just as much of the constitution to the people as they pleased, or to submit no part of it, if they so chose.

These, I think, are sound views. The convention has framed a constitution, and, because there was one great subject of excitement paramount to all others in the Territory, they determined to submit that *sub modo*; and that is the chief complaint.

Sir, I am inclined to believe that if that constitution had ignored slavery as an institution of the new State, there would have been no opposition to it. The people of the Territory had the opportunity to vote against the slavery clause. They did not avail themselves of that opportunity, but refused to go to the polls and assert

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their rights. Their reasons for that course—whether advised from outside of the Territory or from within—are unknown to me. But I infer that the advice came from distant communities, and for purposes foreign to the interests of the people of the Territory themselves. Shall this miserable agitation which has enlisted the interest and excited the sympathy of the nation for years, continue to go on increasing in magnitude, and perhaps increasing in danger? Sir, I, for one, think it wisest to stop it where it is. Let us take the instrument which they have sent us as their constitution, and leave them to amend it as they may hereafter see fit. It seems to be the conceded doctrine that they can do so. It is the doctrine of the President. According to my opinion, they may, at least, change it as the constitution provides, and in no other mode. They are bound by what it prescribes. If it omits to prescribe the method, they may alter it according to their own volition. And then this foul blot, this miserable stain, that now lies like an incubus on the community, and shocks the moral sense of the people of the North, will be wiped away, and Kansas be fitted for companionship with the sisterhood of the free States.

I, sir, as a southern man, have never looked for Kansas to be a slave State, and have not expected it. That was one of the reasons why I thought the repeal of the Missouri compromise was unwise and unnecessary. I thought that it would work out no practical advantage to the South, and might end in serious detriment to the Union. I am still of that opinion. I do not believe it can ever give one foot of soil to slavery; I trust it may never extend freedom beyond where it would likely have been limited if the compromise had lived forever. But it has been supposed, and often spoken of, that the opposition arises from the desire to get possession of the Government. These are speculations which run through the human mind, and you cannot get rid of them if you would. Perhaps it may be wise for politicians, when about to enact measures of great magnitude, to consider the effect which they may have on their party organization. But standing, as I do,—or *lying*, as I might more properly say—between the upper and the nether millstones, I can feel but little interest in any movement of that sort. One has been grinding and crushing the principles which I have advocated, and the other but emulates it at every opportunity that presents itself. I can say to my constituents, Americans and Democrats, that I am glad to see that this Kansas convention has taken a step in the right direction. Senator Douglas has stigmatized, or complained of it, because the constitution contains what he is pleased to term “a little touch of Know Nothingism”—an American feature. Any affirmation, from any quarter, of what we know is the true policy of the nation, is grateful to my heart.

Now, a word of kind advice, kindly spoken, to gentlemen on this side of the House! It is this: if you contemplate the possibility of acquiring possession of this great Government, think, I beseech you, before you take the reins in your hands, or before you again aspire to contend for the empire, whether you are to go headlong in your career of denunciation of the South and her institutions, and yet hope to administer this Government in peace.

Properly speaking, not one word should have been said in connection with this constitution, that involves the question of slavery. It has been dragged in here most improperly. It is a thing that belonged exclusively to the local community. It is wrong that the merits or demerits of the institution should be discussed here, because they have nothing to do with the question which we are considering. And I, for one, as a southern man, declare that, though I stand second to none in my advocacy of our cherished institution, born as I was amongst it, as were my ancestors, all slaveholders; determined, as I am, to adhere to it, and to abide its fortunes, let them lead me where they may; desiring to die, when my time shall come in the will of Heaven, and to be buried in the land of my fathers, still I will not consent to debate the question upon this floor, because it is not legitimately before us. I know what my rights are, and shall be ready, when the time comes, if it

ever should—which God in his mercy avert!—to assert them to the utmost extreme. I shall stand prepared to take my destiny with those who are indissolubly linked with me. These are no idle enunciations. I deal not in them. They are the earnest convictions of my heart, and I will deceive no man. I say to the North, before you shall succeed to power, if you do obtain the possession of the Government, by all the glories of your boasted Bunker Hill; by the memories of your Pilgrim Fathers, whom I have never traduced, and never will; by the common blood that was poured out at Concord and Lexington and Saratoga, and on the battle-fields of the South, I implore you to give up and abandon this idea, which is suicidal to the Confederacy, of restricting the institution of slavery to its present limits. What would you say, in the event our country shall expand? But if you have determined to go on, if you have sworn in your hearts never to relent, you may, and perhaps will, have the power; but whenever you seek to use it, the unhappy day will have arrived when this nation, and civilized man throughout the world, will have cause to lament the dire calamity involved in your success.

I have sometimes thought that I have done injustice to our northern friends. I say it not as a taunt. I have thought that they acted as politicians merely, using an abstraction for the purpose of obtaining power, and not in their hearts cherishing the sentiments they profess. But I have seen exhibited, in the course of this discussion, unerring evidence to my mind, of a general sympathy with strong anti-slavery sentiments—ay, with abolition itself, and it has inspired me for the time with indignation and regret. I desire the preservation of the Union. It cannot be preserved, in my honest opinion, unless these ultra opinions are surrendered upon the altar of our country. In the midst of these various considerations, the committee will pardon me for saying that I have been accustomed, in the clashing of the great parties of this country, to look to that small, devoted band which is scattered throughout the States of this Confederacy, who preach peace and good-will to all good men, and who appeal to all to come up with them in the work of reforming our Government, of correcting the abuses which have crept into it, and of Americanizing every institution, as the nation's last hope.

NOTE.—The annexed copy of a letter, taken in connection with what is contained in the foregoing speech, fully expresses the author's views on the subject of the admission of Kansas under the Lecompton constitution. The words embraced in quotation marks are taken from the letter of invitation, and were copied into that, approvingly, from the special message of the President transmitting the constitution to Congress:

FROM HON. JOSHUA HILL.

HOUSE OF REPRESENTATIVES,
WASHINGTON, March 1, 1858.

DEAR SIR: I am in receipt of the invitation of the appropriate committee, to unite with them in a public meeting to be held at Tammany Hall, on Thursday evening next, at half past seven o'clock. I trust I am properly sensible of the honor intended me. I most cordially agree with the President of the United States in the sentiment which so justly demands the approval of your associates, that “the peace and quiet of the whole country are of greater importance than the mere temporary triumph of either of the political parties in Kansas;” and I even go further, and add, or of any political party in any State or in the United States. I further give my hearty assent to the proposition of the President, that “Kansas has, for years, occupied too much of public attention, and that it is high time this should be directed to far more important objects.” I am clearly of opinion that it was quite an unnecessary and wanton disturbance of the public tranquillity to enact a law for the organization of a Territory in a wilderness, without population, and with conditions attached repugnant to the conservative sentiment of the country. I never thought the Missouri compromise constitutional, but its repeal was sudden, unasked for, unexpected, and, I fear, unprofitable. Coupled as it was with the Badger proviso, without which, I am well assured it could not have been repealed, to say nothing of its accompanying covert squatter sovereignty and patent alien suffrage, both pernicious doctrines, I regarded it as of no practical advantage to the South, and hurtful to the nation at large.

I am not so well convinced that, “when once admitted into the Union, whether with or without slavery, the excitement beyond her own limits will speedily pass away.” I incline to the opinion that, so soon as the too sanguine people of the southern States lose all hope of Kansas becoming a slave State, or continuing one, they will advert to the influences which have disappointed their hopes, and if,

by possibility, it should occur to them that the past and present Administrations of the General Government have, in any manner, contributed to produce so unpalatable a result, they will feel and exhibit a just indignation.

Apart from its influences upon parties, I am unable to attach any great importance to the admission of Kansas. I am free to own that, if I had any well-grounded hope that, when admitted, it would continue a slave State, I should feel deep solicitude for its admission. If any man, from any section, sustains the Lecompton constitution because he desires the admission of the new State to be followed soon by the assembling of a new convention of her people, for the purpose of excluding slavery from her system, I frankly declare that I have no sympathies with such supporter, and cannot regard him as my “natural ally.”

Hoping that good counsels may prevail in your meeting, and that good may come of your deliberations, I have the honor to remain, with high respect, your obedient servant,
JOSHUA HILL.

PETER B. SWEENEY, Esq.,
Chairman General Committee, Tammany Hall.

ADMISSION OF KANSAS.

SPEECH OF HON. EDWARD WADE,
OF OHIO,
IN THE HOUSE OF REPRESENTATIVES,
March 29, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. WADE said:

Mr. CHAIRMAN: I come to add my mite to the multitude of words expended upon this Kansas question. We have had a good deal said during this debate of excitements, and they have been deprecated by nearly every speaker, and especially by those on the opposite side of the House. I have been surprised, sir, to hear the reasons urged upon us on this side why we should discontinue all these exciting movements, and come into harmony with sentiments towards which we have been hostile from the organization of this Government down to the present time. I know of no means by which excitements can be extinguished in political bodies but by putting an end to the causes of excitements.

Now, sir, in the political as in the moral world, principles which cannot be harmonized must be left to contention. Strife is inevitable, unless we are agreed; and how can two walk together except they be agreed? Are we agreed? Are we agreed upon the policy which should animate our Federal Government in relation to the extension of the institution of slavery? Every man knows here that we stand at the opposite poles of this question of slavery extension.

I am aware, too, that gentlemen contend that there is a controlling power above the policy that is involved in these questions, and that power is the Constitution of the United States; that this Constitution confers upon the slaveholding States the right to extend their institution over all of the Territories of the Government, and that Congress, of course, has no power to forbid this extension, to limit it, to qualify it, or in any manner to interpose an obstacle to it. But I do not propose to go into this constitutional question at this time. I am content to rest this upon the action of the Government from its foundation up to the time when it became necessary on the part of the South to agitate the slavery question as a means of obtaining political power. That is the real matter of contention between the two sections of the country—political power; and through that the extension of slavery is contemplated on the part of those on the other side to wrest from the free-State portion of the people every iota of the territory of the United States that is not already organized into Territories, and the nature of their institutions determined by the laws as they exist.

From this state of the question, Mr. Chairman, there results agitation. The two institutions of free labor and slave labor are at war with each other. Gentlemen may assert as they please, that they can be reconciled. We of the free States know perfectly well that they cannot be. We know that this question is one of life and death to the great mass of the people of the free States; for, sir, if the Territories are to be preoccupied by slave labor, and free labor is to be hedged up and headed off from the Territories, then the free States are destined to accumulate an overgrown population made up of capitalists and laborers—capitalists being, in the language of southern men, substantially the owners of the laborers. And,

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sir, whoever contemplates that such a state of things is to be brought about through the usurpation of the slave power, does not understand the character of the masses of the people of the free States. The great mass of that people, sir, will never submit to the Territories being preoccupied by slave labor and slave institutions. The accumulating tide of population in the free States, demands that their Representatives here stand between the aggressions of the slave power and the rights of the people of the free States.

Now, sir, are not our positions on this subject, North and South, antagonistic? I ask the advocates of slave labor and slave institutions, are not your institutions hostile to free labor? Have you ever proposed any method by which the two may be reconciled? Have there ever been proposed any means by which the two institutions could be made to harmonize? Mr. Chairman, when this can be done, we shall have a return of the golden age. The year of wonders will have come upon us, when you can so frame your institutions, so shape the customs, and habits, and feelings of the people, that free and slave labor can go on and work harmoniously, side by side—the free laborer working for his own family, and for his own pocket, for his own comfort, for his own elevation; and the slave working merely for a wretched subsistence, barely enough to keep him in working order. When you can find these two contradictions united, amalgamated, then, sir, the political millennium will have fully arrived. But it cannot be done, and hence the excitements which have grown up between the two systems of freedom and slavery. In morals, as well as in natural science, there are things which are irreconcilably hostile to each other—which can be united neither by force nor persuasion. Power compels, persuasion solicits, and you cannot unite them. There has never been a time, and there never will be a time, when opposite things could be united, either in the natural world or in the moral world. True, chemistry points you to some intermediate agent, which will work a union; but each will cease to be the same substance it was before. And gentlemen also suppose that excitements can be put down here, while these two principles of freedom and bondage are in hostile array, are but tugging at impossibilities.

How many specifics have not politicians tried, for putting an end to excitements on the question of slavery? I recollect back to the time when I became a voter, that this experiment was up in the Congress of the United States. Petitions for the abolition of slavery in the District of Columbia, and petitions for the abolition of the slave trade between the States, were sent in. This produced excitement, as they naturally would. They were bringing the rights of freemen into conflict with the power of slavery. As a matter of course, fermentation resulted as soon as it would by the admixture of an alkali and an acid. It was just as inevitable in the political world that this effervescence should take place in the one case as in the other.

Well, how did the politicians of that day meet this question? Did they not meet it with specifics, and tell us that they had calmed the troubled waters; that they had found the means by which harmony was to be restored and agitation to cease? Yes, sir, they told us that. Now, I want to show you what was said upon this subject many years ago, and the remedy which was prescribed for this disease of agitation. I read from the Appendix to the Congressional Globe, volume 8, page 188, session of 1839-40. Mr. Buchanan was then in the Senate of the United States, and he was one of the doctors who undertook to medicate the patient at that time. He says:

"In the session of 1835-36, (said Mr. B.) when an alarming excitement prevailed on this subject throughout a large portion of the country, I took a decided stand against the Abolitionists. I then presented a memorial from the Calm Quarterly Meeting of the highly respectable religious society of Friends in Pennsylvania, asking Congress to abolish slavery in the District of Columbia; and at the time of its presentation, I declared that, upon its reception, I should immediately move that the prayer of the memorialists be rejected. This memorial was received by a vote of 36 to 13; and my motion to reject the prayer of it prevailed, with but six dissenting voices. Since this decision, the Senate had adopted a practice which I think has proved eminently beneficial, because it has afforded us peace and quiet upon this subject. The memorial is presented, objection is made

to its reception, and a motion to lay the question of reception upon the table is then immediately made and adopted. This precludes all debate and all agitation.

"Now, (said Mr. B.) in consequence of my conduct here throughout that session, I have borne the brunt of the Abolitionists at home. I agree with the Senator from Kentucky that the danger has passed away, at least in Pennsylvania. The crisis is now over; and the fanaticism which threatened to invade the constitutional rights of the South, and to dissolve the Union, has been nearly extinguished.

"The battle has been fought where it must ever be fought, not in the South, but in the North. It is we of the North who must ever sustain the shock in such a contest. Under these circumstances, I appeal most solemnly to Senators from the slaveholding States, whether they ought not to be governed, in a great degree, by our advices to the mode in which these Abolition petitions shall be treated. It is impossible, after all which has passed, that they can doubt our devotion to the constitutional rights of the South. Let me assure them, then, that our greatest danger is from agitation here. Excitement is the element in which Abolition lives, and moves, and has its being. A flame kindled in the Capitol would soon pervade the Union. Let a question now be raised upon the abstract right of petition—let the enemies of Abolition in this body divide upon this question, as they probably would, and they will jeopard the great cause, to the maintenance of which they are all devoted, in this most unprofitable strife. The discussion of the Abolition question here can do no possible good, and may do much positive harm. When did fanaticism ever yield to the voice of reason? Let it alone, and it will soon burn out for want of the fuel on which it feeds."

That was said during the session of 1839-40. We were told at that time that this great trouble had passed away, and that because this little paltry trick of politicians was practiced upon the people in the Congress of the United States, of course it had killed out agitation. Agitation had expired, said the great doctors at that time.

Now, what are we at in 1858? Ten years have passed away since that was spoken in the other end of the Capitol, and yet agitation has gone on increasing with tenfold power. That same remedy has been prescribed from the commencement of the slavery agitation up to the present hour. And it has been said that if you will, by some trick, some chicanery, get the matter out of Congress, you will expel it from the country. Yet, Mr. Chairman, do not gentlemen here upon this floor know that it is the excitement in the country that brings the subject here, and not the excitement here that disseminates it in the country? That is the case in the free States; and all the specifics of the political doctors, and all their quack medicines, have done nothing but to increase that excitement to such a degree that we are now told that if we do not yield to the demand of the slave power, we are doomed to see a dissolution of the Union. Such has been the march of excitement, and such the effect of putting down excitement here on the part of those who have had the engineering of this matter in the Congress of the United States.

We were told that the Kansas-Nebraska bill was to be the great sovereign specific which was to end all this agitation. Every gentleman now upon this floor who was upon it at the time of the passage of that act, knows that we were told by every advocate of that most impolitic measure, to say the least of it, that if we would only pass that bill, all excitement would be done away. I will read an extract from a speech made upon that occasion by the honorable gentleman from Georgia, [Mr. STEPHENS,] who, I believe, is the leader of the forces of this House who are in favor of the Lecompton constitution at this time. He says:

"The old principle in our territorial policy has passed away, and we have in its stead a new one. We are not, therefore, to be shaken in our purpose to carry out this new principle by any such clamor or appeals. Our purpose is fixed, and our course is onward. What little agitation may be got up in Congress, or out of it, while this debate lasts, will speedily subside, as soon as this new principle is once more vindicated. Why do you hear no more wrangling here about slavery and freedom in Utah and New Mexico? Because, by this new principle, the irritating cause was cast out of Congress, and turned over to the people, who are most capable of disposing of it for themselves. Pass this bill—the sooner the better—and the same result will ensue. This shows the wisdom and statesmanship of those by whom this principle was adopted as our settled policy on this subject in 1850. A cinch in the eye will irritate and inflame it, until you get it out; a thorn in the flesh will do the same thing. The best remedy is to remove it immediately. That is just what the compromise of 1850 proposes to do with this slavery question in the Territories whenever it arises. Cast it out of Congress, and leave it to the people, to whom it very properly and rightfully belongs."

That medicine was administered at that time; but has it cured the excitement? Well, now, this present Lecompton constitution is to be the last—as they say in circus and wild-beast advertise-

ments in country villages—positively the last exhibition; and unless you avail yourself of the present, you will have no other opportunity to see an excitement in the Congress of the United States upon the subject of slavery.

Mr. Buchanan tells us, in his message transmitting this constitution to us, that if we will only impose this constitution on the people of the Territory, all agitation will cease instantly, and we shall have a new millennium. This Democratic party seems to have a singular knack at getting up political millenniums; but it has equally a knack at getting up the contests which precede these millenniums.

Well, sir, I say to you and the House what I said when that Nebraska bill was on its passage: you never can have peace on this subject until peace is made by justice, and till justice and right are administered to all—the great and the lowly, the wise and the foolish; for that alone is the harbinger of peace. We are told by Holy Writ that there is no peace to the wicked. There ought to be no peace, when justice is withheld from him who has a right to justice; and I tell you that so long as man exists on the earth, there will be no quiet, there can be no quiet, while men are unjust to each other, while one man claims for himself that which he withholds from his fellow-man, and to which that fellow-man has an equal right by the laws of God and nature.

Why, gentlemen quote Scripture here for their dogmas of peace without righteousness. The Bible tells us that the fruit of righteousness is peace; and the effect of righteousness is quietness and assurance forever.

Now, sir, it happened to be my fortune to have a seat on this floor—the first public office I ever held—during that celebrated Nebraska-Kansas controversy in 1854; and I desire now to quote from what I laid down at that time as my opinions of the effect of that bill:

"But, Mr. Chairman, this reckless departure from the old landmarks of territorial organization may, and I think will, be fraught with consequences not now dreamed of by its perpetrators.

"The excitement now pervading the country on this question cannot fail to have its influence on the minds of emigrants from the free States, and from the slave States also. This non-intervention by Congress in the question of slavery in these Territories must inevitably excite, in the emigrants thither, the sectional spirit of the regions from which they go. The spirit of slavery propaganda, ever rampant in the South, will impel emigrants from the slave States to rush in with the intent of occupying for the benefit of slavery. In the free States, emigrant societies are already organized, and in process of organization, with abundant capital, for the express purpose of appropriating the Territories to the uses of freedom.

"On this arena, therefore, Congress invites a struggle for supremacy between freedom and slavery. 'A clear field, and no favor,' is our language. 'Fight it out on your own hook; it is your matter, not ours.'"

Now, sir, I appeal to every gentleman on this floor who was engaged in that controversy, if these anticipations have not been realized to the letter? They have, sir; and it seemed to me the strangest thing in the universe, that men could not see that the device of squatter, or popular sovereignty, in its application to a case of this kind, would not, and could not, work harmoniously. It might be perfectly right in the settlement of the Territories, provided you had a homogeneous people with which to settle the Territories. I appeal to gentlemen on this floor if the motives which actuated the Congress of 1820-21 in establishing the Missouri restriction were not in anticipation of this precise state of the case—whether it was not in that view of it that the Territories were separated, and one side of the line appropriated to freedom, while on the opposite side of the line slavery was allowed to take its chance with freedom? I can just recollect the period of that controversy, though I did not understand precisely what it was about. But I recollect, in the popular discussions of that day, to have heard it said that the Union was in imminent peril until that Missouri line was fixed as the boundary between slave territory and free territory. The men of that day had undoubtedly the same views that every reflecting mind has had here, that the obliteration of that line would be the reopening of the controversy afresh, and the cause of an excitement, the end of which no man can predict.

Another reflection comes up here; and that is, that this contest between free institutions and slave institutions, without the intervention of Congress,

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will go on and increase in severity, as it increases in extent of surface, until the one shall grind the other to powder. There is no salvation for the weaker institution, which ever it shall prove to be, till the strong arm of Congress shall interpose between them. That is just what we have arrived at in this Kansas discussion. It is precisely the state of things that was to be expected.

We were told by the political prophets and preachers of the pro-slavery gospel that their "squatter-sovereignty" doctrines were to bring peace and harmony to the Union. Where is our peace at the present time? We, upon this side of the House, have held up over us threats to dissolve the Union, unless we retract our opposition, and permit this felon constitution to be imposed upon a majority of the people of Kansas—a constitution which the people have repudiated by a vote of four to one, or five to one, or ten to one. I do not know what the ratio is; but whatever it may be, this is evident: that you are under the necessity of resorting to force to compel a portion of that people to submit to it. If they are in a minority, then it shows the impotency of pro-slavery immigration; but if those who are resisting this Lecompton constitution are in a majority, then it shows the tyranny of Congress and of the President, in attempting to impose it upon them.

This leads me to comment, for a few moments, on the course that has been pursued in relation to the investigation of the facts surrounding this Lecompton constitution. Gentlemen upon the opposite side of the House argue it precisely as they would argue a question of demurrer or writ of error in a court of law; while we, who advocate an investigation into the facts, insist that we make out a *prima facie* case; that at least eight tenths of the people of that Territory are opposed to this constitution. You come here and say, in the language of the Jew, "the law allows this constitution, the judge awards it; therefore it is my right, and I will have it." We meet you as statesmen, saying that this is no mere legal question about an old horse or a wheelbarrow; but it is a question of the right of the people to govern themselves. You tell us the constitution is fair on its face. It is all right, says the President, on the face of it; so was sin, as depicted by Milton, fair externally. How is it within? We ask you to permit us to probe this fair and just and beautiful thing, as you call it. Oh, you say, it is all regular; it is absolutely beautiful; it is a pity to spoil such a regular and fair constitution. But we come here and tell you, that it is full of "dead men's bones and all uncleanness;" a mere whited sepulcher; and we ask you to permit us to take our crowbars and our picks, and to perforate it, and see what is inside of it. You say, no; you shrink from it like men conscious that you have no case; conscious, before the nation and the civilized world, that you must entrap your antagonists here, just as a twopenny pettifogger would grab a widow's cow, by virtue of a slip in special pleading. You take exactly the same course. You seek to determine the rights of men, and to fix their institutions for all time, for aught you know, by frauds as base and infamous as ever characterized a gang of counterfeiters in their dens in the wilderness, to evade the pursuit of the officers of the law. There is no escape from this. Why, if you are innocent, hang upon a wretched technicality? Do gentlemen suppose that the people of this nation, North and South, are not able to comprehend the length and breadth of this question? Here, sir, was a proposition made by the friends of the free-State men of Kansas, to ascertain the fact whether or not a majority of the people of that Territory were consenting to this Lecompton constitution. What did they propose to do? They proposed to go on and show, by indubitable evidence, that, in the election of members to the constitutional convention, in the election by which the doings of that convention were ratified, and in the arrangement of the laws respecting the elections in that Territory, there were frauds by which the people were defrauded of the elective franchise.

Mr. JENKINS. I desire to ask the gentleman a question to know whether I understand him correctly. I would inquire whether he is making an argument against the reception of the Lecompton

constitution, upon the ground that it is the work of fraud, and not of the people of Kansas?

Mr. WADE. That is what I am doing.

Mr. JENKINS. Then, I ask the gentleman this question: whether, if it were not the work of fraud, but had been fairly formed, and represented the will of the people of Kansas, he would vote to admit Kansas with the slavery clause in her constitution?

Mr. WADE. When we have settled the question whether it is the will of the people or not, I will answer that question.

Mr. JENKINS. That is a regular Yankee answer. [Laughter.]

Mr. WADE. Yes; and it is destructive to the slaveholder's argument. That is the difficulty with it.

Mr. BOWIE. You do not answer the question at all.

Mr. JENKINS. Will the gentleman let me ask him another question?

Mr. WADE. A question only.

Mr. JENKINS. If the gentleman would not, under those circumstances, vote for the admission of Kansas, what does he mean when he talks about the right of the people of Kansas to frame their own constitution, and to regulate their domestic institutions?

Mr. WADE. We are endeavoring to get you to permit them to make their own fundamental laws, and you will not do it.

Mr. JENKINS. But suppose they should wish to come in with slave institutions, would the gentleman admit the State then?

Mr. WADE. Will the gentleman probe this question of fraud in the constitution with me? If he will do this, then I will answer his question. But I understand you. You think you have a little the advantage of us, but like a thorough-going pettifogger, you will not relinquish it for anything we can do or say.

Mr. Chairman, the whole country will hear of this refusal to investigate, and it will satisfy your own people in the slave States of the fraud, if they could but have it honestly placed before them; and I would be willing to leave it to a verdict of the people of the slave States alone to say whether or not this Lecompton constitution should be imposed upon the people of Kansas, if you could get a fair and honest expression of that people, uncontaminated by the prejudices which would be thrown around it to pervert their judgments.

I have divers things here on this question of fraud which I designed to refer to, but I have not time.

Sir, there was a communication said to have been made by the President to Mr. Walker and Mr. Stanton, in relation to their intermeddling with these fraudulent votes in the Territory. There is no communication in the documents furnished us by the President of the date of 8th of September. I will read from the Washington correspondence of the Richmond Enquirer. I hope gentlemen will read, ponder, and inwardly digest it:

"WASHINGTON, Monday, November 2, 1856.

"President Buchanan most unequivocally condemns the action of Governor Walker touching the Kansas elections, but yet there will be no removal. Secretary Floyd was telegraphed to New York on Friday evening last to hurry home to attend a Cabinet meeting to-day on the subject of Kansas, and I feel assured Walker's actions will be pronounced an error, and he will be reprimanded for falling into it in direct violation of his instruction September 8, in which he is specially charged to leave all questions of fraud to the Legislature, where it properly belonged.

"The President regrets this blunder the more, as it places the southern members of his Cabinet in an unpleasant position, and is likely to reopen the Kansas question throughout the South. Mr. Buchanan is surprised that Governor Walker should have fallen into such an error, as his instructions were too plain to be misunderstood, and were prepared to meet precisely the state of the case which occurred. Yet, he says it was only an error, and his first one, which is also rather a matter of surprise, as he has had to steer through a narrow, crooked channel, full of snares, and enveloped in fog.

"The impression of Governor Walker's friends here is, that he will receive the reprimand, acknowledge the blunder, and let his name be submitted to the Senate. If the southern fire eaters are disposed to reject him, let them do so. Better this than sneak out of the difficulty as his predecessors did. Let the Senate reject him, and he will occupy a position from which he can properly defend himself and the Administration. Should he resign, he will properly sink into political oblivion, from which no future act can resurrect him."

How is that? He was instructed with refer-

ence to a state of the case that might occur, and that was the state of the fraudulent returns enough, to determine the election on that occasion. Now, sir, if this thing be so—I cannot vouch for it and I know nothing about it—if Governor Walker or any other Governor of Kansas Territory were instructed not to meddle with these returns in view of a fraud in those returns, it deeply implicates the Administration; and that communication of the 8th of September, if it exists, ought to be produced here, that we may know whether or not this was a scheme devised expressly for the purpose of cheating the free-State men out of their rights in that Territory.

Why could not Governor Walker intermeddle with these returns? I know it is said that the laws of the Territory referred it to the Legislature, and the Legislature referred it to a constitutional convention, and therefore the Governor had no right to intermeddle.

But, sir, I insist on it that these instructions and these modes of determining the rightfulness of these elections were devised so as to obtain a false verdict, for the express purpose of coming here with a formal constitution, which was not the embodied will of the people of that Territory, but was the embodied will of the slave power in this Government.

The New York Herald, by its Washington correspondent, of October 31, 1857, states the same thing. He adverts to the same letter of the 8th of September, as follows:

"WASHINGTON, October 31, 1857.

"The telegraph report in this morning's papers, that Governor Walker and Secretary Stanton would be removed unless they shall choose to resign, is without foundation. While the President and Cabinet condemn the course of Governor Walker in issuing his proclamation and transcending his instructions in throwing out the vote of the Oxford precinct—for he had no authority to do so under the territorial laws, it belonging to the Legislature to determine the authenticity of their own members—thereby displeasing both parties; but it does not follow that he must be removed. The whole matter will be brought before a special meeting of the Cabinet this evening.

"Secretary Floyd was telegraphed for last evening, his presence being desired at a Cabinet meeting to be held on Monday next, relative to Governor Walker and his late proclamation, which will be censured by the Administration, as in direct violation of his instructions of September 8. He had no authority whatever to pronounce upon the legality of votes, and was specially instructed to receive the returns, and let the Legislature determine their character."

The Star, of the date of November 2, 1856, stated at the same time that Governor Walker was acting contrary to his instructions. That is, he was instructed not to meddle with the election returns which he knew to be fraudulent:

"GOVERNOR WALKER AND JOHNSON COUNTY.—We apprehend that the Journal of Commerce is in error in its belief that there is no foundation whatever for the statements of Washington letters for the press, attributing to the Administration dissatisfaction with the course pursued by Governor Walker with reference to the alleged election frauds in Johnson county, Kansas. We do not, however, believe that the disapprobation of that course, which the Administration is said to entertain, is so great as to justify the newspaper correspondent's statements that the design of removing him is entertained."

"Thus, for twenty-four hours, it seemed to be believed by usually well-informed persons around us, that in assuming, as alleged, to decide upon the character of the Johnson county returns—setting aside the certificates of judges of the election, and issuing his warrants, entitling them to hold seats in the Legislature, to candidates returned to him by the said judges as having been defeated—he has overstepped his authority, under the circumstances, in a most delicate point, acting, in fact, directly contrary to his instructions. Our impression is, that in a few days those instructions will be published," &c.

So it seems that this scheme was got up for the express purpose of handing over to us a constitution that should be fair upon its face while false and fraudulent within. All investigation into these facts was to be stifled. I need not go on with this matter further. I intend to print with my speech some of these extracts, and to show that while congressional intervention was prohibited by the Nebraska bill, it was superseded by an executive intervention of a more odious and hateful character.

Let us see whether the Administration has been fair and impartial. I arraign the President for gross partiality; nay, sir, for siding with the vehemence and vindictiveness of a partisan with these Lecomptonites in the Legislature. What does he say? He says in his organ, the Washington Union, of the 7th of August, 1856:

"Governor Walker is a southern man; he has been sent

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out by an Administration pledged to the defense of southern rights; he is surrounded by a corps of officers, most of them from the South, and every one of them sound national men; he was instructed to regard the territorial authorities as legal, and sustain them against the rebellion of the Topeka Abolitionists; he is acting in concert with the friends of the South, and gallantly fighting their enemies. We cannot help but think that such a man so sent, so instructed, so surrounded, and so acting, is entitled to sympathy, comfort, and aid from the South, whenever they can be given with a conscientious regard to truth. With such a battle raging in his front, it was ungracious to open this fire on his rear."

Now, sir, has not the President, by the showing of his own organ, for which he is responsible, intervened in behalf of slavery, in behalf of the South? Did he not send troops to Kansas for the express purpose of maintaining the supremacy of southern influence in that Territory; and did not he appoint a Governor for the same specific purpose? His organ says he has done everything for the South. The North, the abused and insulted North, was no more in the President's contemplation in his arrangements about this Kansas matter, than though they had been a nation of New Zealanders. The North had nothing to do with it; but we intend to; and if we are not infested with too many traitors at home, we will try to do it; and if we do, we will try to take care of the traitors afterwards.

Now, let me give an extract from the Union a few (not more than ten) days since:

"If there should be seen a single Democrat to waver, suspicion of infidelity to the party must necessarily arise. The Democratic party must be preserved! If patriotic services deserve reward at the hands of the people when displayed on the field of battle, they no less deserve it when displayed in civil life."

Yes, now is the time, they say, when the fish are hungry; so hungry that they will bite at a red rag. Why, did ever you see a boy go into a pasture to catch a horse, and shake the corn at him with more distinctness and certainty than the Administration here shakes the patronage of the Government before the Democrats of the House to bring them up to the scratch in regard to this Lecompton matter? But the article goes on:

"The matter is now in the precise condition in which the executive influence may be most available and decisive. The shaky and hesitating Democrats are marked, and may be brought into the ranks. A large executive patronage is yet undisposed of. Additional patronage is to be afforded by the Army bill, if it should pass, as it will, in some shape."

Thus speaks the Union to the Democrats. It shakes patronage in their faces, and says, "Gentlemen, wake up, wake up; we are ready to give you salt or provender, just as your appetites crave; we have enough of it; no danger about that."

But, sir, in the few moments of time I have left, I desire to say some words upon the subject of these strifes between the two sections of the Union. The truth about this matter is, that the South is the weaker section in point of wealth and numbers; and if numbers, as they ought, in democracies, control, the Government ought to be in the hands of the North—the non-slaveholding States. Now, the difficulty to be reconciled under the Constitution is this eternal inequality between the slave and the free States; an inequality which I will now go on to show is, and must continue to be, hopelessly perpetual.

ADMISSION OF KANSAS.

SPEECH OF HON. CHAS. READY,
OF TENNESSEE,
IN THE HOUSE OF REPRESENTATIVES,
March 29, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. READY said:

Mr. CHAIRMAN: I propose to discuss the pending proposition for the admission of Kansas under the Lecompton constitution. In doing so, it is not my intention to go into a labored defense of slavery, or to elaborate the question as to whether or not it can lawfully exist under the Constitution of the United States, as erroneous as I believe to be the opinions expressed by many gentlemen on the subject. For my present purpose, I am content to find the Constitution recognizes the lawful existence of slavery, by providing for the reclamation of fugitive slaves; that three fifths of the

slave population are to be estimated in apportioning the Representatives to Congress. I might add the ninth section of the first article, in regard to the importation of slaves. Suffice it to say, "*ita lex scripta est.*" I plant myself on the Constitution, and there I intend to stand. With its provisions I am satisfied, and I intend to maintain them, and the Union under them, as long as it may be done consistently with the landmarks of this great American chart. If the day shall ever come when it shall be trodden under foot, the Union dissolved, and broken into fragments, neither patriot nor traitor shall have cause to say to me, "*Et tu, Brute!*"

Nor is it my purpose to indulge in harsh epithets toward those who differ with me, or to draw invidious comparisons between the morality, intelligence, or prosperity of the different sections of the country, as they may be affected one way or the other by their local laws. I thought the admonition of the member from Connecticut, [Mr. BISHOP,] upon this point, was wholesome and appropriate; and I wish that all northern as well as southern gentlemen would reflect upon, and act in accordance with it. Having said this, I must add, that I am sure there are few if any instances in which southern men may have been betrayed into the use of remarks of the character indicated, except in response to disparaging and offensive arguments applied to their section. But I drop this now, and I trust forever. Standing, as I have just said, upon the Constitution, whose platform is broad enough for all the North, and all the South, for myself, as a southern man, "*to the manner born,*" I am willing to meet there the men of the North, and greet them as political brothers, as long as they are willing to stand with me on terms of harmony and political equality.

Without further preliminary remarks, I come directly to the discussion of the important measure which has occupied so much of our time. Under a law passed four years since, Kansas was organized as a Territory. Her organic law was founded upon the assertion of a great fundamental principle—the non-intervention of Congress on the subject of slavery in the Territories; to give effect to which, it was necessary to repeal the Missouri compromise. Finding in the Constitution no grant of power to Congress to restrict slavery in the Territories, or elsewhere, I believed the compromise was unconstitutional. I, also, believed it was a violation of our treaty stipulations with France, by which we acquired the territory; and that it was unjust to the South. I was, therefore, in favor of its repeal, and of leaving the people of the Territory "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Whatever difference of opinion may have existed in regard to the repeal of the Missouri compromise when the act was passed, I believe a very large majority of the people of the United States finally came to the conclusion that congressional non-intervention, as declared in the act, was the true doctrine on which the question of slavery was to be settled. I was of that opinion; and believed, in common with the friends of the measure, that it would harmonize discordant elements, and give quiet to the country on this most agitating subject.

In the progress of events, a difference of opinion was developed as to the construction of the clause declaring that "the people of the Territory were left perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

One side asserted the right of the people of the Territory, in their own territorial capacity, to establish or prohibit slavery; a doctrine which has generally been called "*squalter sovereignty.*" The other side held, as I believe correctly, that neither the people in their territorial capacity, or the Territorial Legislature, have power either to establish or prohibit it. I distinctly announced this position in a speech I made in this House, in 1854, in the discussion of the bill for the organization of the Territories of Kansas and Nebraska; and no friend of the bill, North or South, controverted its soundness. These conflicting opinions, at least as between the supporters of the bill mentioned, must have assumed a distinct antagonism

after its passage. They have since entered largely into the creeds of political parties; have been held by different members of one of the great parties, and have been elements in the political contests of the times. Immigrants have flocked into the Territory with extraordinary rapidity, and under extraordinary auspices, for the purpose of giving the ascendancy to each side of this disputed question of power. They have been urged on by partisans in the States, until arrayed in deadly hostility against each other. The narrative of scenes of violence amongst them (no doubt often exaggerated) has but served to arouse their respective friends in the States, until the excitement has pervaded almost every portion of the country. Such is a brief history of the progress and present state of affairs in regard to Kansas.

She now presents herself with a constitution, and asks for admission into the Union. In view of her history, it is not a matter of surprise that she is embarrassed at every step taken to divest herself of her territorial pupillage, and assume the character of a sovereign State. But we should remember she is asking a high constitutional privilege, which should not be denied her, except on weighty and conclusive reasons. Shall she be admitted? I answer in the affirmative.

It is conceded by all that she has sufficient population to entitle her to admission; and I have not heard it doubted that her constitution is republican in form. Was it legally formed? If it was, there can be no valid objection to her admission. In July, 1855, the Territorial Legislature passed an act submitting it to the vote of the people to determine whether they were in favor of holding a convention to frame a State constitution, preparatory for admission into the Union. An election was accordingly held, in October, 1856, the result of which was an almost unanimous vote in favor of the measure. In accordance therewith, the Territorial Legislature, on the 19th of February, 1857, passed a law for making an enumeration of the inhabitants; for registering the qualified voters; and for the election of delegates to a convention. The then Governor, Mr. Geary, vetoed the bill, because it did not require that the constitution to be framed should be submitted to a popular vote for adoption or rejection. Upon a reconsideration of the bill in each House of the Legislative Assembly, it was passed over the Governor's veto by a two-thirds vote; and, consequently, it became a valid law. It was regularly, fairly, and legally enacted, as far as we have any knowledge or information. It is unusually guarded in all its provisions, with the view of protecting the rights of every legal voter; of guarding the ballot-box against frauds; and for securing a full and fair expression of the popular will in the election of delegates. There is nothing in it startling to fair-minded men; but much to claim their admiration and confidence. If it differs from previous laws passed under like circumstances, for a like object, the difference was in favor of the honest legal voter and against corrupt and bad men. The eleventh section of the law provides:

"Every bona fide inhabitant of Kansas, being a citizen of the United States, and twenty-one years of age, whose residence in the county where he offers to vote shall have been three months next before said election, shall be entitled to vote."

With this specification of the qualification of voters, so eminently just and proper, and the means provided for ascertaining the qualification of each and every man presenting himself as a voter, and of preventing and punishing violence, fraud, and illegality of any kind, it is inconceivable how fair men can raise an objection to it.

In pursuance of this law, the enumeration of the inhabitants and registry of the voters were taken, as far as practicable. The voters registered numbered nine thousand two hundred and fifty-one, falling but little short of the largest vote, up to that time, ever cast in the Territory. The apportionment was made by the acting Governor; and on the 3d of June, 1857, in pursuance of the law, the election of delegates took place. The convention assembled at Lecompton, on the first Monday of September, 1857, I believe; and the constitution now before us is the result of its labor.

Upon the face of the record, all is fair; and the

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question recurs, shall Kansas be admitted as a State, under this constitution?

It is opposed by some gentlemen, first, because there was not an enabling act passed by Congress; while others, as strongly opposed, take the ground that an enabling act was not necessary. I apprehend the grounds of the opinion of both classes are alike inconsistent with the right of admission under the Lecompton constitution.

I hold that the act of the Territorial Legislature, authorizing the election of delegates and the holding of a convention, based as it was upon the previously expressed will of the people, in pursuance of law, was the only enabling act necessary, in addition to the organic act of the Territory, which is, of itself, an enabling act:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

This provision, as I have already intimated, did not authorize the people of the Territory, while in their territorial pupillage, to decide upon the question of slavery. Congress has no power itself to establish or prohibit slavery in the Territories or elsewhere, as has been decided by the Supreme Court; and this was the broad foundation on which rested the repeal of the Missouri restriction of slavery north of 36° 30'. Not possessing the power, of course Congress could not confer it elsewhere.

It was not necessary to incorporate the provision quoted in the organic act, merely to authorize the people of the Territory to establish or prohibit slavery when they came to act in their sovereign capacity, as when framing a State constitution. The right exists as an attribute of sovereignty; was not, by the Constitution, conferred on Congress; and was therefore "reserved to the States, respectively, or to the people."

But there was a motive, an object to be accomplished, by this provision of the act; and it doubtless was, to enable the people of the Territory, after the period had arrived at which they could constitutionally act, in their own time and manner, either by the employment of a convention chosen by themselves or by popular vote, to decide the question of slavery for themselves, without the necessity of further congressional action. How could they be "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," if it was necessary for Congress to pass a subsequent act to enable them to do it? If the right rested with Congress, why should it not prescribe the mode as well as the time? Then one, or both, might not accord with their wishes; and, being thereby restrained, they would not be "perfectly free to form and regulate their domestic institutions in their own way."

I might refer to the opinions of distinguished gentlemen, whose peculiar positions at the time they were expressed, and the relations in which they now stand to this subject, give them unusual point and force. I refer to the opinions of Senator DOUGLAS, in his Springfield speech of the 12th of June, 1857; and to the speeches of Governor Walker and Secretary Stanton to the people of Kansas, pending the election of delegates to the convention, in which they all hold that no other enabling act was necessary.

A majority of the House of Representatives of the Thirty-Fourth Congress, in which Republican members were in the ascendency, and many of whom are members of the present House, did not consider an enabling act by Congress necessary in regard to Kansas. The Toombs bill, carefully prepared, fair and just in its provisions, authorizing Kansas to form a constitution, passed by the Senate by a large majority, was lost in the House by the votes of the Republican party. It will be remembered they then had a favorite bantling, known as the Topeka constitution, framed by a convention gotten up without any law, in opposition to and in defiance of all lawful authority, and revolutionary in its character, under which they were attempting to bring Kansas into the Union as a sovereign State. No enabling act was then necessary in their opinion.

When the territorial act of July, 1855, authorizing the holding of a convention, reached the

Thirty-Fourth Congress, then in session, and its fair, just, and wise provisions were seen, but few regrets were entertained in either House for the failure of the Toombs bill; and doubts were no longer entertained that in due season the people of Kansas would form and regulate their domestic institutions in their own way, in accordance with the strictest fidelity to the organic act and the Constitution of the United States. The late and the existing Administrations recognized the legality of the proceeding; and I believe I may say there was a general acquiescence in all the departments of the Government.

It has, in fact, never been considered an indispensable or necessary preliminary in the case, that Congress should pass an enabling act, though it has sometimes been done. At least half of the States admitted since the adoption of the Federal Constitution have come in without an enabling act, my own State (Tennessee) among them; her only authority for the formation of a constitution having been derived from an act of her Territorial Legislature. But I forbear to specify examples, though they are numerous, and dismiss this objection.

A second objection is, that a large portion of the free-State voters were disfranchised and not allowed to vote for delegates to the convention; that the arrangements for a registry of the votes were inadequate to the end, or that the officers failed to discharge their duty through negligence, fraud, or some other cause; and not having been registered, they were prevented from voting.

The law under which the registry was made designated competent officers in each county, with power to appoint deputies under them, and allowed one month to perform the duty, at the end of which time they were to file lists in the offices of the probate judges of their respective counties. Copies of the lists were to be posted in public places for the inspection of all; and one month more was allowed for the correction of errors, by striking off any names which should be proved to have been improperly returned, and adding any which should appear to have been improperly omitted. Here was ample time and opportunity for full justice in the premises. The number registered, nine thousand two hundred and fifty-one, could not have fallen very far short of all the legal votes in the Territory. If the election for State officers, in October, 1857, which was warmly contested, and brought out the largest vote ever polled there up to that time, and which is believed to have exhibited near, if not quite, the full strength of the voting population, may be regarded as a correct criterion, it may be safely estimated that not exceeding two thousand to three thousand votes were omitted in the registry.

It appears from authentic sources—official documents—and, in fact, I believe it is not denied, that many of the free-State men, or Republicans, refused to register; that in some instances they gave fictitious names; that they resorted to threats of violence and intimidation of the officers, as well as every other means in their power to prevent the execution of the law.

Mr. Stanton, then acting Governor, in addressing those very men, makes the following statement on this subject:

"I may say, however, I have heard statements quite as authentic as your own, and in some instances, from members of your own party, (Republicans,) to the effect that your political friends have very generally, indeed, almost universally, refused to participate in the pending proceedings for registering the names of the legal voters. In some instances they have given fictitious names, and in numerous others they refused to give any names at all. You cannot deny that your party have heretofore resolved not to take part in the registration, and it appears to me that, without indulging ungenerous suspicions of the integrity of officers, you might well attribute any errors and omissions of the sheriffs to the existence of this well known and controlling fact."

George Wilson, judge of probate for Anderson county, made an affidavit that, to his personal knowledge, this party threatened the life of any who should attempt to take the legal census; that the life of any one attempting to execute the law in this respect was in danger; and that these threats prevented the taking of the census in Anderson county within the time prescribed by law. He also swears that similar threats prevented the execution of the law in Allen and Franklin counties.

I believe these statements have never been refuted, or seriously controverted. On the contrary, the determination of the Free-Soilers not to vote in the election of delegates to the convention has become a matter of history, as also the efforts of Governor Walker and others to induce them to change their intentions, by warning them that "those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election." This principle lies at the very foundation of all representative government, which could not exist without it. Strike it out of our political system and you could not elect a Representative to this House, whose enemies might not manage to avoid his election, and render it a mere farce. In view of this important truth, those people were admonished by the Governor *not to console themselves with the expectation of defeating the ratification of the constitution by a subsequent vote*; for although he was in favor of submitting it to the people for their approval or rejection, he did not know the convention would so decide, and there was no power to control their discretion.

These admonitions, and the great truths on which they were founded, were unheeded, and we are now invoked to treat them as idle babblings and political heresies. For myself, I am willing to test this objection by such heresies.

I pass to the charge of fraud, which may be numbered as objection third. Fraud in the election of delegates to the convention, and fraud generally; for I believe some affect to consider everything connected with the convention, from the enactment of the law for the election of delegates to the end of their labors, and the entire work of their heads and hands, as soiled with fraud. I believe one gentleman [Mr. GRANGER] said the Lecompton constitution "is covered all over with fraud, and spotted with corruption."

This is a grave charge. It is easily made, and frequently hard to prove. It is a legal aphorism that fraud must be *proved* and not presumed. It is founded in good sense, and must prevail as well in political as in judicial tribunals. I ask, then, where is the evidence of fraud? It was not in the enactment of a wise, just, and efficient law to preserve the purity of the ballot-box, and the rights of every bona fide citizen; to prevent and punish all fraudulent and violent interference in the election, and to secure a full and fair expression of the popular will. It was not in the faithful attempt of the officers, under that law, to carry out its laudable intent, by making a fair registry of all the voters in the Territory, for the purpose of securing them in the exercise of the elective franchise, and to enable them to keep off aliens, non-residents, and invaders of every description. It was not in the willful obstinacy, fraud, and threatened violence of the free-State men to prevent the completion of the registry. Surely gentlemen of the Republican party will not now turn on their present co-laborer, late acting-Governor Stanton, by whom the apportionment of delegates was made, and say that was fraudulent, and "thou art the man." No, gentlemen, though I may be prepared to believe much, I cannot believe you will beguile of such ingratitude. It would be an accumulation of misfortunes on him too grievous to be borne; and, in the bitterness of his anguish, well might he exclaim, "save me from my friends!"

Was there fraud in the election of delegates to the convention? There is no proof of it. And in all the investigation of illegal voting in Kansas, I am not aware that any attempt has been made to ferret out illegal votes in this election, for the reason, I suppose, that the registry was an ample protection. But, even if it be conceded that fraudulent votes were cast, the fact would not, in legal phrase, be cause for challenging the array, or setting aside the verdict of the jury; annulling the convention, and avoiding its acts, any more than it would give cause for annulling the present House of Representatives, or declaring its acts void, because illegal votes may have been cast in the election of its members; a thing which probably occurs to some extent in every popular elec-

tion. Nor would it invalidate the election of an individual delegate, unless the legal votes he received were not greater than the number of legal votes received by his opponent. Even then, if he were permitted to take and hold his seat, it would be too late to raise objections after the labors of the convention were finished, and the constitution would not thereby be "*spotted with corruption*." Moreover, it would not be for those to invalidate an election on the charge of fraud who refused to vote, and, as far as they could, prevented others from voting, and did all in their power to prevent an election. We are not to be misled by the cry of "*stop thief!*"

Was there any fraud in the action of the convention after it assembled? Were there any delegates fairly elected and excluded from their seats? Did any of the delegates violate pledges, and deceive their constituents? Was any article, or section, surreptitiously inserted in the constitution? I have not heard of any of these things. And if the constitution was soiled with fraud and corruption, where is the proof?

A fourth objection is, the constitution was not submitted to the people for their vote of approval or disapproval. Answer, it was not necessary to submit the entire instrument. There is no principle in the theory of our Government, no constitutional or municipal law, no established, positive, and recognized rule, and there was no mandate to the convention from the sovereign people which was imperative upon them to submit any portion of it for adoption or rejection by their votes. It was not contemplated by the Legislature by which the law for holding a convention was passed over the Governor's veto. It could not have been contemplated by the people when they elected delegates to the convention, or they would have then made an expression of their wishes. There had not been a uniform rule of practice established by the action of other States. About as many had come in under constitutions not submitted to the approval of the people as under those submitted. Several of the States had held conventions and revised their constitutions, which they did not submit to the popular vote. In other cases, when they were submitted, the returns of the votes showed a large portion of the people did not take interest enough to vote, and they were adopted by minority votes. Even the Constitution of the United States was not submitted to a popular vote, but was ratified by a convention of the States respectively. Judge DOUGLAS (I quote him because he is one of the prominent leaders of the anti-Lecomptonites) did not think, in 1855, it was necessary to submit the constitution to the people for ratification. He reported to the Senate, and voted for, the Toombs bill, which contains no such provision.

The people of Kansas evidently acted on the universally recognized rule of representative governments, that, in all cases in which the people act through their representatives, their entire sovereign power over the subjects in reference to which the representatives are chosen to act, is vested in them. It is, however, conceded, if there be a reservation at the time the power is conferred, that will limit it. But in this case, there being no limitation, it was purely a matter of discretion on the part of the representatives, whether their action should be final and binding, or first be submitted to the approval of their constituents; and it must be as valid in one case as the other.

Mr. Chairman, what is the real controversy in Kansas? I mean the thing in which a principle is involved—a tangible substance, as contradistinguished from a mere chimera, conjured up by passion and prejudice, or from the vain imagining of ambitious demagogues. It is the naked question of slavery, and that alone. No one can doubt it who has been even a casual observer of events in that Territory and in this House since the Kansas territorial bill was first introduced in 1854, and in the States which have supplied the fuel and fanned the fires of fanaticism in and out of the Territory. "*Free Kansas; no more slave territory; no more slave States*," has been emblazoned on the Republican banners everywhere; and I may add, I have seen similar inscriptions on Democratic banners, posters, and newspapers in some of the northern States. Whether those who rallied under them deceived themselves, or

were deceived by others; or whether there have been such gyrations and changing of front that some of those northern Democrats have found themselves unable to follow in the giddy whirl of the waltz, I shall not undertake to decide; but truth and justice require that I should say, I know southern men have been consistent on this subject.

But to the point: *Slavery, slave oligarchy, slaveocracy, slave-drivers, northern dough-faces, the rights of man, all men were born free and equal, the rights of the white man, universal freedom, slave against free labor, the degradation of white labor, free States against slave States, Kansas was consecrated to freedom, bleeding Kansas, &c.*, have been the burden of most of the Free-Soil speeches during this discussion. A member from Illinois, [Mr. FARNSWORTH,] the member from the Western Reserve in Ohio, another from Ohio, [Mr. BINGHAM,] and a member from Indiana, [Mr. COLFAX,] and two, I think, from Michigan, avowed some days since, they would not vote to admit another slave State, even if a majority of the people thereof had approved a pro-slavery constitution. How many others have avowed or entertain the same sentiments I will not undertake to say. It is enough for my purpose that the facts referred to establish my proposition, that slavery or no slavery is now the only real issue in regard to Kansas.

Well, sir, the Lecompton convention, in the exercise of its discretion, submitted the slavery clause of the constitution to the popular vote, on the 21st of December last. The prerequisite of a registry was dispensed with, and "*every white male inhabitant of the Territory*," without regard to the length of time he had been there, had the right to vote. If the free-State men were in the majority, here was an opportunity for them to secure a constitution without the slavery clause; to silence the agitator, and put an end to all their strife. If they had voted down the slavery clause, I undertake here to say, Kansas would this day be a sovereign State of the Union; that she would have been admitted without opposition from southern men; and of course she would by northern men. But they still refused to vote. Out of six thousand seven hundred and ninety-five votes cast, only five hundred and sixty-nine were against the slavery clause, leaving a majority of five thousand six hundred and fifty-seven in favor of it. But it is said this election was fraudulent, which furnishes an additional reason why the bill for admitting Kansas ought not to pass. How was it fraudulent? and what right have the free-State men, who would not vote, to complain? It is alleged the board of commissioners, appointed by the Free-Soil Legislature elected in October, 1857, have investigated and found two thousand seven hundred and twenty illegal votes, leaving three thousand four hundred and twenty-three legal votes for the slavery clause of the constitution to five hundred and sixty-nine against, giving a majority in favor of two thousand eight hundred and fifty-four votes. It is not pretended there were fewer legal votes cast for than against. If a few hundred or thousand illegal votes were cast for the clause, it did not change the result. The slavery clause was elected, according to all rules of election, and had a right to the certificate.

In the mean time, acting Governor Stanton, alarmed at what he supposed real dangers, convened the Free-Soil Legislature. There may have been a preconcert of that party to excite the fears of the order-loving Governor, to produce this very result, and secure an opportunity of carrying out ulterior plans, which were in part developed by the passage of a law submitting the entire constitution to a vote of the people on the 4th of January.

It is obvious this move was the offspring of something beyond any merely odious feature in the constitution. They already had the opportunity of voting out the slavery clause on the 21st of December, if they had the numerical strength; and, although this discussion has been of unusual length and range, I have not yet heard any other clause designated as really offensive. Expunge the slavery clause, and I am sure the most fastidious Free-Soiler would be constrained to admit it would compare favorably with the Topeka constitution.

Then why did they refuse to vote on the 21st of December? I will not say it was because they believed they had not the necessary number to carry the election, and saw defeat staring them in the face. I care not for that. There was another cause to which I refer it. The Topeka constitution was the illegitimate but darling bantling of the leaders of this party. With fair speech and promise they had beguiled the people, and it had been unlawfully conceived, in hostility to the national and to the legally organized territorial government. Its birth was attended by—I will not say just here—treason and rebellion, but by their close resemblance. Having been born under such auspices, it was necessary at the baptismal font, in order to inspire confidence in its future usefulness, that its sponsors should bind themselves by doubly solemn vows. They staked their all upon it. And they heard by presentiment, the death-knell of all their hopes, in the Lecompton constitution. Governorships, secretaryships, seats in the Senate and House of Congress, the keys of the Treasury, judgeships, &c., they saw would vanish from their grasp as if by the influence of magic, and they would be discredited as mountebanks and cheats. It was necessary that something should be done. A counterplot was laid. They succeeded in getting a law passed to submit the entire constitution to a vote of the people on a different day from that designated by the convention for taking the vote on the slavery clause. They rightly calculated that the friends of the constitution having voted on the day appointed by the highest political jurisdiction known to our system of government, would not vote again on the day appointed by an inferior jurisdiction, which, in fact, then had no power over the subject; and that, consequently, they would on that day have everything in their own hands. By such means they hoped to involve the subject in multiplied intricacies; and, if they could not thereby come in at once under the Topeka, they might at least prevent Congress from recognizing Lecompton, and get the subject referred back to a new convention, when they might eventually succeed in carrying their measures.

They held their election on the 4th of January. The friends of law and order did not vote, and they profess to have voted down the Lecompton constitution by a majority of ten thousand two hundred and twenty-six votes. How many of them were fraudulent, we have no certain means of ascertaining. There has not been a commission to investigate the frauds, because it was unnecessary. But they held another election on the 9th of March, under an act of their Free-Soil Legislature, for the election of delegates to another constitutional convention; and I have learned, from a respectable source, that in Leavenworth city the entire vote was only six hundred and fifty, (though they had a contest between two tickets,) against eleven hundred and ninety-six polled on the 4th of January; a difference of five hundred and forty-six in one town only. I have also seen a statement in a respectable journal, that the entire vote polled in the Territory at the last election is estimated at from eight to ten thousand, against a much larger vote on the 4th of January. These figures indicate a suspicion of fraud, which is strengthened by the facts that the Free-Soil party has generally been beaten by their opponents; that in two elections, when they knew their opponents would measure strength with them, they refused to vote, although they knew, in each instance, if they had the majority, they could, by their fiat at the ballot-box, seal Kansas as a free State, and silence forever the voice of opposition. Nor is it unreasonable to suppose a party would be incited to frauds upon the ballot-box by leaders who have set themselves up in open hostility to the existing lawful government, the best on earth, securing equal rights to all, and have marshaled their cohorts to carry out their ambitious designs by the sword and the bayonet. Such facts raise a strong probability that a faithful investigating committee would make some startling developments.

But suppose at the election of the 4th of January, all the votes were given by legal voters, and that there is actually a majority in the Territory against the Lecompton constitution: ought the bill for the admission of Kansas under it to be

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rejected? I answer, no. The constitution, as I have shown, was regularly, legally, properly made, according to law, to the forms, nature, and practice of our governmental system. It was ordained by the convention, clothed with the entire sovereignty of the people, as the constitution, subject to the approval or rejection by the people of the slavery clause. In the exercise of their sovereign power, they prescribed in the constitution the time and manner of its approval or rejection; and they could not be altered by a Legislative Assembly, the mere creature of the organic law of the Territory, without any sovereign power. If they had power to do it, they had the same power to alter any other provision, section, or article in the constitution. The establishment of such a doctrine would sap the foundation, and, at one blow, strike down all constitutional government.

The election of the 4th of January, was, therefore, without lawful authority. It was a mere popular assemblage and expression of opinion by those who took part in it. No one would be entitled to a legal redress for refusal of his vote, or liable to punishment for an illegal vote. It could not have any legal effect, or be binding on any one. It is but a naked absurdity to say it could legally invalidate or weaken the constitution ordained by the convention, and ratified by a lawful election of the people on the 21st of December.

But I have heard the position assumed that, inasmuch as the Constitution of the United States provides that "new States may be admitted by the Congress into the Union," it is left to the discretion of Congress to admit them or not. And, although the vote of the 4th of January can have no other force or validity, it is an argument to Congress to control the exercise of its discretion. We are asked, will you admit the new State under a constitution which a majority of her people have condemned? Especially, will you do it in the face of the popular sovereignty doctrine of the organic act of the Territory? I answer, first: it is not the popular sovereignty of a mob, or of a promiscuous voluntary assemblage, brought together helter-skelter, without the authority of a valid law, which is recognized by that act or any other; but it is popular sovereignty according to legal rules. Second: there is not satisfactory evidence that a majority of the *bona fide* inhabitants, being legal voters, have condemned it. It cannot be proved, except by an election lawfully held, when all entitled have an opportunity and legal right to vote, and when those who are not entitled are answerable to the violated law for unlawfully voting. Such an election was not held on the 4th of January.

Third: I answer, even if there be a majority of the inhabitants of Kansas who oppose this constitution, they are not now entitled to be heard. They stood mute when they were invited to speak, and allowed others to answer for them, in favor of the constitution. And especially are they not entitled now to be heard, because they were and are in open hostility and rebellion against the general and territorial governments, disregarding and resisting the authority of the former, and attempting unlawfully to subvert the latter.

We have the evidence of Governor Walker and Governor Denver, in their official capacity, that this party has formed a military organization without lawful authority; that an enrollment of the militia of the Territory has been ordered by their leader, and every man who refuses to be enrolled for duty, to be separately registered; that they have received arms and munitions of war from the Abolition societies. Their forces have been actually in the field, marshaled and well drilled and ready for the onslaught. We have the authority of Governor Walker that they had established an insurgent government in the city of Lawrence, "in defiance of the territorial government, and denying its existence and authority;" had imposed upon their officers appointed, the duty of taking an oath to support the Topeka constitution, thereby overthrowing or ignoring the territorial government under the act of Congress; that they had distributed handbills of their proceedings throughout the Territory, "to incite other cities, towns, and counties, to establish insurrectionary governments, thereby placing the people of the Territory in open conflict with the

Government of the United States." They have assembled legislative bodies, under the Topeka constitution, for the purpose of organizing a government under it, and have only been restrained from carrying out their plans and purposes by the presence of the United States troops. All this has occurred since Congress refused to recognize that constitution or the government under it, and since the United States Government has recognized the proceedings instituted by authority of the territorial government to form a State constitution. Still more recently, even since the commencement of the present session of Congress, and within the last few weeks, their Topeka Legislature has been in session, for the purpose of organizing and establishing their revolutionary government, in defiance of the United States and the lawful government under it. Well and truthfully did the President say, in his message of the 2d of February, that these people "*have been in a state of rebellion against the Government;*" that "*they have never acknowledged, but have constantly renounced and defied the Government to which they owe allegiance, and have been all the time in a state of resistance against its authority.*" What is rebellion? It is "an open and avowed renunciation of the authority of the government to which one owes allegiance, or the taking of arms traitorously to resist the authority of lawful government." Both of these things have been done by those people. And shall their wishes, expressed even while they are standing boldly out in open hostility and rebellion against the Government, control the discretion of Congress? control it in opposition to the wishes of the loyal, law-abiding citizens who have lawfully ordained and established a constitutional and republican government, which they ask you to recognize?

It is a wise principle, by which courts of equity are governed, that when a man invokes their jurisdiction in his behalf "*he must come with clean hands.*" Enlightened statesmen will scarcely hold that it is not broad and comprehensive enough to be enforced by a great political jurisdiction. The Kansas Free-Soilers and Topekaists, with their lips and hands stained with treason and rebellion, invoke our action for their benefit, against the rights of those citizens whose conduct appears regular, lawful, and loyal. I hold they should be turned away, dismissed from court, and the loyal citizens allowed all the rights and benefits accruing from their obedience to law. The adoption of any other rule would be subversion of all good government, and would be the offer of a bounty to the depraved and lawless.

What higher claim upon Congress have those revolutionary people than have the Mormons of Utah, under the lead of Brigham Young? Yet, but the other day, by an almost unanimous vote, the House indignantly laid upon the table an address from them. And why? Because, while their words proclaimed obedience to lawful authority and loyalty to the Government, their treasonable purposes were shadowed forth. If, now, you comply with the wishes of the Topekaists, and shut your doors on Kansas, with her lawful constitution, you ought to apologize to Brigham and his followers.

Mr. Chairman, so far as Kansas herself is concerned, I care but little whether she is now admitted under the constitution or not. It may be that both parties there have acted improperly. I believe they have. I also believe it is a matter of but little or any consequence to the South, more than to any other portion of the country. Nevertheless, I believe the Lecomptonites, in forming and presenting us their constitution, have shown us they stand "*rectus in curia*," while it clearly appears the Free-Soil party are in the wrong. And I believe sound policy requires that we should settle this agitation in Congress and in the country without further delay. If the strife about slavery in Kansas is to be kept up, let it be confined within her own borders, and her own deliberative halls. There is but one way to do it speedily and effectually; and that is, by admitting her into the Union under this constitution. I have been gratified to observe within a few days past, in the St. Louis Republican, an announcement as follows:

"By passengers from Kansas we learn that the Territory was quiet in every respect, the general feeling of the inhabi-

ants being to frown down any future attempt to create disturbances, whether beginning with parties North or South in principle."

I trust, and believe from information from other sources, that such is truly the state of feeling there; and if she is now admitted, agitation and strife will cease there, as throughout the whole country.

By admitting her under the bill as passed by the Senate, and now on your table, we shall not conflict with any principle contained in her territorial act. We shall "leave the people perfectly free (as they have always, heretofore been) to form and regulate (according to law) their domestic institutions in their own way, subject only to the Constitution of the United States." If they, or any portion of them, have not exercised that right, in the proper time and manner, it has been the fault of those who now unwarrantably complain. They will not be deprived of any right by taking them into the family of States. On the contrary, they will be placed on higher ground, by being fully clothed with all the attributes of sovereignty. They will have a right hereafter, acting with the majority and under the authority of law, to alter and amend their constitution, by the exercise of their sovereignty.

Mr. Chairman, I feel that I may say, without being presumptuous, I have no party prejudices on this subject. It has been my aim to divest myself of sectional prejudices, if I have any, (and I do not claim exemption from the infirmities of human nature,) and arrive at such conclusion on the pending measure as would be likely to advance the best interests of the whole country, and such as my conscience will approve as right. And I feel assured that, when I can lay my hand on my breast and say, "*hic murus aheneus esto*," my constituents and the country will approve my course.

ADMISSION OF KANSAS.

SPEECH OF HON. D. W. GOOCH,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

March 29, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GOOCH said:

Mr. CHAIRMAN: I desire to give some of the reasons which will control my vote on the admission of Kansas into the Union under the Lecompton constitution. I am glad that so many members of this House have placed on the record their reasons for the votes which they propose to give on this question, because it will enable those who may succeed us, and perhaps often be called upon to review our action in this matter, to learn not only the votes given, but the reasons which influenced the men who gave the votes.

Although eighteen new States have been admitted into the Union since the adoption of the Federal Constitution, the question whether the instrument presented, as the constitution of the State about to be admitted, was the will of the people, is now seriously raised for the first time. Many other and grave questions in relation to the admission of new States, have arisen at the time of their applications for admission, but they have all been adjusted without permanently disturbing the peace and harmony of the country; and I trust that the question now pending, relative to the admission of Kansas under the Lecompton constitution, may be so decided that no principle shall be violated, and no wrong done, either to the people of Kansas or any part of our common country. And, as this question is a new and important one, it is our duty so to decide it that the decision which we shall make may be a safe precedent for the future.

I will state, at the outset, what seems to me should be our rule of action. When an instrument is presented to Congress purporting to be the constitution of a State asking admission into the Union, and any serious question is raised whether that instrument is or not the will of the people whose constitution it purports to be, it is clearly the duty of Congress to settle that question beyond all reasonable doubt, before the admission shall be made. And if, after proper investigation, the doubt shall still remain, it is the duty

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of Congress to remit that instrument to the source from whence it came, in order that the people may so frame their own constitution, and communicate it to Congress with such verification, that there shall be no embarrassment on that question; and until that has been done, no State can rightfully claim admission into the Union. In the decision of this question there are but two parties; one is the State asking admission; the other the Congress of the United States, with full power to accept or reject the application, as justice and equity may require.

Now, sir, we have presented to us, through the President of the United States, the Lecompton constitution, claiming to be the embodied will of the people of Kansas asking admission into the Union under it. But along with this instrument, through different channels, come protests from the people of Kansas, alleging that it has not the sanction, and was not made by the people of Kansas, nor for the people of Kansas, by any duly authorized agent. And we are now called upon to decide whether or not this instrument is the constitution of the people of Kansas. This would seem to be a simple question of fact, and one easily ascertained and verified. And I think, if we could lay aside everything of party and sectional prejudice, and bring ourselves to a fair and impartial consideration of this question, a very little time and a very little investigation would enable us to decide it to our own satisfaction, and to the satisfaction of all fair-minded men.

I propose in the first place to inquire, for a moment, whether this constitution is, *in fact*, the will of the people of Kansas. This instrument was not submitted, and was not intended, by the convention that framed it, to be submitted to a vote of the people. And yet the President tells us in his late message that he took it for granted that the whole constitution would be submitted, and that that was the correct principle. It is the correct principle; the people have a right to examine the instrument which their agents have made for them, under which all their important institutions are to be formed, and under which they and their descendants are to live, perhaps for many generations, and to see if anything has been omitted which they wish inserted, or anything inserted which they wish omitted, and then decide whether, on the whole, they prefer to accept or reject it. This right is not, and cannot be limited to the acceptance or rejection of a single article in the constitution, however important that may be. And it does not belong to the President, nor to Congress, nor to any convention, to decide that there is or is to be only one important article in, or one important question decided by a constitution; nor which is the most important article in our question decided by a constitution. In a constitution everything is supposed to be important, or would not be there. In the same message to which I have already referred, the President tells us that the will of the people of Kansas on the question of slavery could only be authentically ascertained by a direct vote of the people. Now, sir, I want the will of the people on this whole instrument authentically ascertained. And I would ask the President if there is one method for authentically ascertaining the will of the people on the question of slavery, and another authentically ascertaining the will of the people on all other questions? I know of but one way of authentically ascertaining the will of the people on any question, and that is by giving them a full and fair opportunity to express it at the ballot-box. And I ask, and every member on this floor has a right to ask, that this instrument shall come to us, bringing along with it full evidence that it is the will of the people of Kansas duly authenticated, according to correct principles, before we admit her into the Union under it. But we learn from the recent message of the President why this whole constitution was not submitted to a vote of the people. He says:

"Had the whole constitution been submitted to the people, the adherents of this organization [the Topeka constitution] would have voted against it."

Ah! yes, and there were too many of them, and therefore the submission must be of only one article of the constitution, and that in such manner and form that the "adherents" would not vote at all, or if they should, it would not avail any-

thing, as the character of the instrument would still be the same—it would still recognize and provide for the existence of slavery in the State of Kansas.

Now, sir, the President has undoubtedly assigned the reason, and the sole reason, why the Lecompton convention did not submit the whole constitution to a vote of the people. The convention knew before, as well the President did after the vote, that the people would vote it down, and therefore they would not submit it. But I should hardly have supposed that the President would have communicated this to us as a reason why we should admit Kansas into the Union under this constitution, unless he wishes us, by adopting the fraud and treachery of the Lecompton convention, to place the Congress of the United States on a level with it. We have been favored with very full communications from the President, relating to this constitution, covering the whole time, from the day of its inception until the time he transmitted it to Congress. And yet there is one important fact he has failed to communicate. He did not remember, or rather he "remembered to forget" to communicate to us, that this constitution had been submitted to a direct vote of the people of Kansas on the 4th day of January last, almost a month before the date of his message, in compliance with the law of the Territorial Legislature, and rejected by a majority of more than ten thousand of the legal voters of that Territory; a fact certainly well worth knowing in deciding this question, whether the vote was an authoritative one or only an expression of the estimation in which this instrument is held by the people of Kansas.

Mr. HUGHES. I would like to know the opinion of the gentleman from Massachusetts as to the power of the people of Kansas to amend their constitution prior to 1864, under the Lecompton constitution?

Mr. GOOCH. I will answer the gentleman before I get through, and if he will listen I will be bound that he shall be answered.

I will refer to one or two other facts to show that this instrument is not considered to be the will of the people of Kansas, even by those who ask us to admit her into the Union under it. I listened to the honorable gentleman from Pennsylvania, [Mr. PHILLIPS,] when he addressed the committee, a few days since, on this question. And I saw that his remarks attracted the attention, and seemed to meet the approbation of the other side of the House. He used this language, (I quote from his speech, as reported in the Globe:)

"Suppose this is a bad constitution. Suppose that it admits slavery there, and that the people do not want it there. I do not believe that slavery can exist there; I have not an idea that it can; and as it cannot exist there as an institution, I should rather see it out of the constitution. I do not object to the existence of slavery in a State where the people desire it."

I quote this because it shows conclusively that those who ask us to admit Kansas into the Union under this constitution do not believe it to be the will of the people, nor suited to their condition. The gentleman says he does not believe that slavery can exist there—he had rather see it out of the constitution—and yet he does not object to the existence of slavery in a State where the people desire it, which means just this—the people of Kansas do not desire slavery, and therefore I had rather see it out of their constitution. Now, sir, I am in favor of gratifying the gentleman from Pennsylvania, and all of his friends, and giving to the people of Kansas an opportunity of taking slavery out of their constitution, and making it satisfactory to themselves. If anything more were necessary to fully establish this point, the fact that neither the President nor any other man who has advocated the admission of Kansas under this constitution has ever asserted that he did believe this constitution to be *in fact* the will of the people, would be sufficient. But we find, on the other hand, when we look into the communications of the President, and the discussions at this and the other end of the Capitol, that all the advocates for admission under the Lecompton constitution tell us that this is not a question of fact, but a question of law; involving the careful construction of organic acts and territorial statutes, the application of many legal prin-

ciples and nice distinctions, and all the technicalities of the law; that the organic act conferred certain powers on the Territorial Legislature, and that the Territorial Legislature conferred certain powers on the Lecompton convention, and that these powers have been exercised, and therefore this is the constitution of the people of Kansas, and they are "estopped" to deny it, on account of their "laches," no matter whether it contains their will or not; that cannot even be inquired into. Now, sir, as I have before stated, there are but two parties to this question—one, the people of Kansas; the other, the Congress of the United States. And if it is not too absurd to talk about "estoppel" and "laches" in this connection, I would say that I supposed that estoppels could be pleaded, and laches taken advantage of only by a party to the record. Who does it here? Who puts in the plea, and claims the advantage? The people of Kansas cannot do it. The Congress of the United States certainly will not do it. Congress does not want to exclude the truth, and decide this question without full knowledge of the facts. Now, if we are unwilling, or any of us are unwilling, to investigate this question, it would be much more manly, ay, statesmanlike, to say we will not investigate because we will not, than to attempt to introduce here all the odious pleas of the courts of law, frowned upon even there, because so often used to defeat justice.

But, sir, let us examine this question, and see how it stands on the law as they present it. They assert, and must maintain, that the organic act conferred upon the Territorial Legislature full power to require the people of Kansas to decide, by a vote, whether they would have a convention to frame a constitution for them, and to provide for the choice of delegates, and meeting of the convention, which convention would have full power to annihilate the territorial government, and create another in its place.

Now, if the organic act confers this important power, where in the act is it to be found? I believe that it has been rather hard to locate. Some have found it in one section, others in another. The President found it, or rather inserted it himself, in a clause of the thirty-second section of the organic act, and quotes it in his late message, as follows: "Meaning," &c., "to leave the people of the Territory perfectly free" in framing their constitution, "to form and regulate their own institutions in their own way, subject only to the Constitution of the United States." The words "in framing their constitution" are not in the act, but are interpolated by the President, in order that he may make the clause mean what it does not mean as it stands in the law, and thus enable himself to use it to sustain his own position. It seems to be a little enabling act that the President has inserted for his own benefit.

Now, sir, I have often seen forced constructions of statutes, but this is forcing the statute itself. I think that the offense is original with the President, and may well be designated as the rape of the statute. I believe it is now generally conceded that the President found this power in the wrong place. And it is only necessary to add further, on this point, that the clause quoted by the President, and all that stands in connection with it, does not, and was not, intended to confer any power on the Territorial Legislature.

But there is another clause, and only one other, in which they pretend to find this power. It is the first clause of the twenty-fourth section of the organic act, which is as follows:

"The legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States, and the provisions of this act."

And wherever this power may have been before, I believe it is now authoritatively located in this clause by the majority report of the special committee of this House, to whom was referred the special message of the President, with instructions to fully investigate all matters pertaining to the Lecompton constitution. I am glad that its locality is fixed at last, for we shall see, as we go along, that this power did not get into the organic act, or if it did, did not begin to develop itself until the act was three years old, (about the time original sin and total depravity are said to develop themselves in infants,) and since that time it has been going from one end of

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the act to the other with such rapidity, that we have not been able to keep it in one place long enough to even look at it.

Let us now consider for a moment whether the words "rightful subjects of legislation" in the clause above quoted, can be construed to confer power to make a constitution, and give to it force and vitality. But I wish for a moment to notice the distinction between a constitution framed and adopted by the people of a sovereign State, and the instrument framed and adopted by the people of a Territory for the purpose of admission into the Union under it as the constitution. The formation and adoption of a constitution by the people of a sovereign State is an act of sovereignty—an exercise of the highest power—of uncontrollable power. An act of sovereignty needs the approbation, sanction, recognition, of no other power to give it full force and vitality. Being supreme in itself, no other power can add to it or take from it. If any act can be annulled or limited, or in any manner qualified or restricted by any power superior to the power that did the act, it has not the attribute of sovereignty, and the power which did the act is not sovereign. Now, the instrument framed and adopted by the people of a Territory, under which, as their constitution, they ask admission into the Union, has in it no element of sovereignty until recognized by Congress. It may be the will of the people of the Territory duly embodied and expressed, and authentically ascertained; but it has, and can have, no force or vitality until recognized or accepted by Congress. It is in the nature of a petition, and it should embody the will and express the wish of the people of the Territory, and Congress are bound to respect it only as it does, in fact, embody the will and express the wish of the people. Through it the people of the Territory say to the Congress of the United States—you have the power, and we ask you to clothe us with sovereignty, by admitting us into the Union under this instrument as our constitution on an equal footing with the original States. Hence we see that this Lecompton constitution, even if it have both the authority and form of law perfect in every particular, (all of which I deny,) has not so much of majesty or sovereignty in it that we cannot examine it or inquire into it, and see whether it is what it purports to be. It is only a petition, and before we grant the prayer we certainly have the right to look into the situation of the petitioner. But do the words "rightful subjects of legislation" confer the power to provide for the formation and adoption of a constitution? The Kansas-Nebraska act itself repealed the Missouri compromise line, in order, as we are told, that the people of the Territory might have full power and control over all rightful subjects of legislation in the Territory. And we were then told that the control of the institution of slavery was one of the rightful subjects of legislation of the Territory, and, therefore, Congress had not then, and never had, the right to legislate so as to introduce it or exclude it from the Territory, or make any provision in relation to it; and the Missouri compromise, although it had all the sanctity of a compact, and had received the sanction and approbation of all the great men of the country for more than a third of a century, must be repealed, because it took from the people the control of one of the rightful subjects of legislation. And the doctrine then was that Congress never should interfere at all with any rightful subject of legislation in a Territory; and this was called popular sovereignty.

Now, sir, let us see what has been done or attempted to be done by the very men who passed this organic act which repealed the Missouri compromise, and gave to the people of the Territory full and entire control over "all rightful subjects of legislation," with at least an implied pledge on the part of the authors and supporters of the organic act that the control of none of these rightful subjects of legislation should ever be assumed or interfered with by the Congress of the United States while they have the power to prevent it. In July, 1856, the very men who passed the Kansas-Nebraska act, only a little more than two years before, framed and passed through the Senate an act entitled "An act to authorize the people of the Territory of Kansas to form a constitution

and State government, preparatory to their admission into the Union on an equal footing with the original States," now commonly known as the Toombs bill, which the honorable gentleman from Tennessee, who has just taken his seat, has so fully described to us. This act was also voted for in the House by the very men who now advocate the admission of Kansas under the Lecompton constitution, but failed to receive a majority, and consequently failed to become a law. Now, sir, this act, by its very terms, provided for a census of the legal votes of the Territory, an apportionment of delegates among the legal voters, the election of delegates, the meeting of a convention, with the power to form a constitution—all to be done under the direction of officers appointed by the President, or holding office under the United States Government, without the least regard to the legislative power of the Territory. Now, sir, was the power to provide for the formation of a constitution preparatory to admission into the Union, one of the rightful subjects of legislation given to the people of Kansas by the Kansas-Nebraska act? and if it was, what right, I ask, had the very men in the Senate and House of Representatives, who conferred this power on the legislative power of the Territory, to attempt to take it away?

And I ask, is it right—I do not ask if Congress has the power, but I ask the other side, is it right for Congress to take away from the people of the Territory one of the rightful subjects of legislation, whenever Congress deems it advisable to do so? And if so, then I ask, what has become of your boasted doctrine of popular sovereignty, which was to give to the people of the Territory every civil and political right which man could possibly enjoy under the Constitution of the United States, and, by removing the question of slavery from the Halls of Congress, was to introduce into the legislation of the country an almost perfect millennium, which was never to be disturbed?

I do not object to the doctrine that Congress has the right to control the legislation of a Territory when Congress deems it advisable to do so. I think that the power should be exercised only when necessity demands it. But do the gentlemen on the other side of the House agree to it? Now, sir, they must admit, that when they passed the Kansas-Nebraska act and thereby repealed the Missouri compromise line, they put forth to the people of the country and the world the allegation that they did it because that compromise line interfered with one of the rightful subjects of legislation of the people of the Territory, which ought not to be interfered with by any act of Congress, no matter how old or sacred it might be, merely as a pretense and excuse to justify that which they knew would admit of no justification; and that, in two years from that time they used all their influence and power to take away from the people of the Territory one of the rightful subjects of legislation, thereby branding themselves with deception; or else that the power to provide for the formation of a constitution preparatory to admission into the Union, was not conferred upon the legislative power of the Territory, as one of the rightful subjects of legislation of the Territory, by the organic act. Now, sir, if they accept the one, they establish just what I, and the men with whom I act, have always believed to be true; if the other, then the Lecompton constitution has no authority of law, and falls a dead letter.

But, again, sir, how shall we explain the fact, that the men who framed and passed the organic act did not know that this power was conferred upon the Territorial Legislature until more than three years after the passage of that act, and not until the necessities of the Lecompton constitution demanded that somebody should find it somewhere. I know that necessity has always had the reputation of being a hard master, and I do not think the task which he set those who were to find that power conferred by the organic act, will improve his character in that respect. He probably never had more dutiful pupils, and yet, I think that they are hardly satisfied with what they have accomplished.

That the organic act should contain within itself a provision giving to the Territorial Legislature power to provide for the entire overthrow of

the territorial government, the making of a dependent province into a sovereign State, the abolition of all territorial offices, and the ousting from office of all the officers appointed by the President, all of whom, by the terms of the act itself, were to hold their offices for four or more years, unless sooner removed by the power that appointed them, and that that power should be so concealed for more than four years, that no man, not even the framers of the act, knew it was there until the peculiar necessities of the Lecompton constitution demanded that somebody should find it, and, when found, that it should be for so long a time in so many places at once, that nobody could tell exactly where it was, are among the many wonderful facts that have transpired in the history of Kansas.

I now propose to admit, for a moment, that the organic act does confer on the Territorial Legislature all the power claimed by the President, and then, from his own statements, show that the organic act has been violated, both by the Legislature and the convention. In his last annual message he states the matter thus:

"The act of the Territorial Legislature had omitted to provide for submitting to the people the constitution which might be framed by the convention; and, in the excited state of public feeling throughout Kansas, an apprehension extensively prevailed that a design existed to force upon them a constitution, in relation to slavery, against their will. In this emergency it became my duty, as it was my unquestionable right, having in view the union of all good citizens in support of the territorial laws, to express an opinion on the true construction of the provisions concerning slavery contained in the organic act of Congress of the 30th May, 1854. Congress declared it to be 'the true intent and meaning of this act, not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way.' Under it Kansas, 'when admitted as a State,' was to 'be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission.'

"Did Congress mean, by this language, that the delegates elected to frame a constitution should have authority finally to decide the question of slavery, or did they intend, by leaving it to the people, that the people of Kansas themselves should decide this question by a direct vote? On this subject, I confess I had never entertained a serious doubt; and therefore, in my instructions to Governor Walker of the 23rd March last, I merely said, that when 'a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence.'"

Here we see that the Territorial Legislature, in the opinion of the President, had made an omission in not requiring the Lecompton convention to submit the constitution which they might frame to a vote of the people; that the public feeling was aroused throughout all the Territory, and the people felt that they were to be defrauded. The people were excited because they wanted the privilege of accepting or rejecting the constitution by a direct vote, and the President to meet "this emergency," came forward voluntarily and expounded the organic act through Governor Walker. And he tells us how he expounded the act, and why he so expounded it. He says he never had a doubt that Congress intended that the convention should submit the decision of the question of slavery—all that is meant by "domestic institutions" in the organic act—to a direct vote of the people, and therefore he expounded the organic act, quieted the apprehensions of the people, provided for the emergency, and made everything satisfactory, by saying, "Governor Walker, when a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the free expression of the popular will must not be interrupted either by fraud or violence." It was for or against the instrument they were to vote, not for or against one article of the instrument.

Now, sir, I wish to say just here, that no man with a particle of manhood in him would have submitted any instrument which that convention might have framed, much less such an instrument as the Lecompton constitution, to Congress, with the recommendation that they would admit Kansas into the Union under it, until the pledge which he had given to the people of Kansas had been redeemed in full; not even if John Calhoun had requested it. But, sir, the President has since told us, that when he used the words "constitution" and "instrument" in that part of his message which I have just quoted, he meant only the ques-

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tion of slavery, and that "domestic institutions" in the organic act meant only slavery. I once heard of a distinguished Spaniard, who, when he spoke of himself, always used the plural number, and took off his hat. Mr. Buchanan seems to have the same high consideration of esteem for slavery that the Spaniard had for himself. But we will take the matter just as he states it, with all his explanations of what he did mean, and what he did not mean, by what he then said. But I must say, that it looks very much as though he was now trying to cut down the meaning of his language to a fit for the Lecompton constitution, and I hardly think he has got it small enough yet.

His statement is now, in substance, just this: the organic act required that the people of Kansas should decide, by a direct vote on their constitution, whether or not they would have slavery for one of their domestic institutions. Now, sir, if this be so, ought not the Territorial Legislature to have provided that the Lecompton convention should submit that question to the decision of the people? And in that omission did they not violate the organic act? Whatever may be the answer to these questions there can be no doubt that the convention must make such submission as the organic act requires. The organic act requires, according to Mr. Buchanan, that the convention must submit the question of slavery—all that is meant by domestic institutions in the organic act—to a direct vote of the people. Now, was this done by the convention? If we strike out of the Lecompton constitution the article which the people have the power to strike out, does the constitution still provide that slavery may be one of the domestic institutions of the people of Kansas? If it does, then the decision of that question was not submitted according to the requirements of the organic act; for slavery would be one of the domestic institutions of the State of Kansas if it were stricken out, and it would be one of the domestic institutions if it remained. Now, if we strike out the article which the people had the power to strike out, the following still remains a part of the constitution: "*The property in slaves now in the Territory shall in no manner be interfered with.*" And the President tells us, in his message, that the principle is the same, whether they are few or many. The only difference in principle, whether the article which the people had the right to strike out is in or out, is this: if it is in, the people of Kansas can import slaves; if it is out, they can raise them. Now, sir, I have never heard that slavery is not just as much a domestic institution in States where slaves are raised as in States where they are imported; and just as much a domestic institution in the States where the slaves are comparatively few, as in the States where they are a great proportion of the population. If this be so, and it most certainly is, then the convention did not permit the people of Kansas to decide, by a vote on the constitution, whether they would have slavery as one of their domestic institutions or not, and consequently violated the organic act; and by so doing took from the Lecompton constitution all authority of law.

I now pass to some of the principal reasons which the President presses upon us to induce us to admit Kansas under the Lecompton constitution. The first is, that the people of Kansas will then be sovereign, and can alter or amend this constitution immediately, and at pleasure. Constitutions can be altered or amended only in two ways. If the constitution contain within itself a provision for its own alteration or amendment, it can be altered or amended by complying with that provision, and the terms of the provision must be strictly complied with at every step. This is *regular process*, because here is jurisdiction, and a strict compliance with the forms of law in the exercise of that jurisdiction, both of which are essential to regular process. A constitution can also be altered or amended by the people, acting either through their existing government, and in union with it, or in their primary capacity, and without the aid of the existing government; and in either case, so to speak, the people take their constitution into their own hands, and alter and amend it as they please, without regard to any provision which may have been in it before, and then reestablish it; and change or modify the existing government, or establish a new government,

as the amended constitution may require. This is not regular process, but it is revolution. If the existing government coöperate, or acquiesce, and the people are united, or the opposition so inconsiderable that it offers no resistance, the revolution is a peaceful and rightful one—rightful, because the constitution is made more perfectly the will of the people by general consent; but if the existing government, as in the case of Rhode Island, or the people, or any considerable portion of the people, resist, and the changes in the constitution are persisted in, then it becomes a violent revolution—a revolution of physical force—and its success will depend upon the strength and will of the opposing parties, and its rightfulness upon the necessities of the case.

Let us now consider the condition of the people of Kansas, with reference to changes or amendments of this constitution, if admitted under it. They can amend it, according to regular process, by complying with the fourteenth section of the schedule, which is as follows:

"Sec. 14. After the year one thousand eight hundred and sixty-four, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors, at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the Representatives; said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

Now, if the amendments are to be made in accordance with the provisions of this section, the question of submission cannot be decided until after 1864, and the Legislature cannot provide for calling the convention and choice of delegates until after 1866; and consequently no amendment can be made for more than eight years from this time. It will be seen that two thirds of the Legislature must concur in the submission to the electors, and then there is a very ugly clause at the end of the section, in reference to "property in the ownership of slaves." Now, sir, if ever there is a time, in the life-time of a people, when it is all-important that they should have the power to regulate their own domestic institutions, according to their own interests and wishes, it is during the first few years of the existence of the State. It is during this period that all their important institutions spring into existence, and take upon themselves form and character which centuries afterwards cannot wholly change. And this is especially true of Kansas, increasing as she is in wealth and population. But the President proposes that they shall alter or amend this constitution by the other method, by revolution. Can they do it by peaceful revolution? Can they have the coöperation of the government to be organized under this constitution? The officers of that government were elected more than three months ago, and yet no man knows who they are, or are to be, if we except John Calhoun. And yet, one half of the Senators already elected will hold their office, and be able to control this matter, for more than four years. But does any man suppose that after all the power and restraint of the Federal Government are removed, the people of Kansas, surrounded as they are by those ever ready to interfere in all her elections when the question of slavery is an issue, can alter or amend that constitution without bloodshed and violence?

Does not the excitement, which even the discussion of this question here creates all through the country, fully demonstrate that no change could be made in this constitution by the people of Kansas, after they are admitted under it, by common consent? If we wish to see civil war in Kansas, I know of no way in which we can so surely bring it about as by admitting her into the Union under this constitution, and then telling her to alter or amend it. If ever there was a people on the globe that needed a constitution which should not be touched or altered for years to come, that people are to be found in Kansas. And when I read the President's message, wherein he informed us how readily and easily they could alter or amend this instrument, I could but ask what is the value of a constitution? Why have it

at all? I had supposed that a constitution, and especially one just adopted, was to be stable and permanent; and I desire to commend to the President the definition of a constitution, given in a judicial decision by a judge of his own State many years ago. It is as follows:

"The constitution is the form of government, delineated by the mighty hand of the people, in which certain first principles of fundamental laws are established. The constitution is certain and fixed; it contains the permanent will of the people, and is the supreme law of the land; it is paramount to the power of the Legislature, and can be revoked or altered only by the authority that made it. The life-giving principle, and the death-doing stroke, must proceed from the same hand. The constitution is the work or will of the people themselves, in their original sovereign and unlimited capacity."

"The constitution is the sun of the political system, around which all legislative, executive, and judicial bodies must revolve." "The constitution of a State is stable and permanent, not to be worked upon by the temper of the times, nor to rise and fall with the tide of events; notwithstanding the competition of opposing interest, and the violence of contending parties, it remains firm and immovable as a mountain amidst the strife of storms, or a rock in the ocean amidst the raging of the waves."

Such should be the constitution of a State; such should be the instrument which the people of Kansas should have when admitted as a State into this Union, unless we wish to see her baptized in blood even in her infancy, and the first principles of her fundamental laws delineated and established by the force and violence of revolution instead of by the peaceful decision of the ballot-box. And is the Lecompton constitution such an instrument? Does it indeed and in truth so contain the embodied and permanent will of the people of Kansas, that it will be stable and permanent, not worked upon by the temper of the times, nor rise and fall with the tide of events? Are its provisions and principles so firmly fixed in the hearts and affections of her people that they will withstand the competition of opposing interests and the violence of contending parties? Is this an instrument to which the anxious statesman and the trusting people can look in the hour of perplexity and danger, and say to party strife and contending faction, thus far canst thou go but no further; all beyond is safe and secure from thy sacrilegious touch? The President admits that the Lecompton constitution has not one of these qualities, and yet urges us to take it, misbegotten and deformed as it is, covered all over with the violation of every principle of law, truth, and justice, and force it upon the people of Kansas, and then let the passions of an outraged and maddened people alter and amend it to suit themselves. Shall we give heed to such suggestions, let them come from what source they may? Shall we listen to such recommendations from the man who demonstrates in his messages to us that he has misled and deceived this people, by using to them language which could not fail to mislead and deceive them, and which he now attempts to explain to us in a manner which would subject any school-boy to the discipline of his teacher in any well-governed school in the land? How happens it that this instrument comes to us through the President, accompanied by a special message? Why did we not receive it through the representative of the people of Kansas on the floor of this House? Did the President ask from John Calhoun the privilege of communicating this instrument to Congress, that he might again charge rebellion upon the people of Kansas? Or did John Calhoun prefer the President, of all men, as his instrument to communicate the Lecompton constitution to Congress?

I wish to notice one other reason given by the President in his special message to induce us to admit Kansas under this constitution. I quote from the last page of his late special message:

"In considering this question, it should never be forgotten that, in proportion to its insignificance, let the decision be what it may, so far as it may affect the few thousand inhabitants of Kansas, who have, from the beginning, resisted the laws, for this very reason the rejection of the constitution will be so much the more keenly felt by the people of fourteen of the States of this Union, where slavery is recognized under the Constitution of the United States."

And here we have, in a single sentence, the whole matter summed up by the President himself. And I will venture the assertion that, if he had not given this reason himself, but I had charged it upon him, it would have been hurled back as false by every friend of the President upon the floor of this House. If I had asserted that he

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did not care for or regard the interests or wishes of the people of Kansas, in the decision of this question, but that his object and purpose were to gratify the wishes of the fifteen slave States of this Union, it is true I should have said what I believe, and what the great body of the people believe, but could not probably have proved to the satisfaction of the President's friends without the aid of his own admission. I think that the motive which controlled the Lecompton convention in framing this constitution, as well as the President in submitting it, may be found in that part of his message which I have just quoted; and I am willing to leave both him and the Lecompton convention where they stand on the record. And I now ask the members of this House from the slave States if they now ask us to vote for the admission of Kansas under this constitution for such a reason? Will you vote for it yourselves for such a reason, or will you vote for it to avoid the danger, and dissipate the dark and ominous clouds which the President sees impending? Have you so much fear for your own safety, or the safety of your institutions, that you feel called upon to heed the suggestion of the President, and disregard the rights and interest of the people of Kansas in the decision of this question? And I would ask the Democrats from the free States if they will vote for the admission of Kansas, under this constitution, for such reasons as the President has given? Are you willing to disregard the rights of the people of Kansas, and the wishes of sixteen of the free States, because the people of fourteen of the fifteen slave States will feel the rejection of this constitution so very keenly? If you are, I must say that your charity not only does not begin at home, but it does not come home at all.

There is one other very grave objection to this constitution, which I wish to mention. I refer to the fraud and violence which have been perpetrated in all the elections in Kansas, and with which this instrument comes to us tainted. The small portion of time which remains to me will not permit me to dwell upon them; neither is it necessary that I should. They are fully established by the records of this House and the arguments of those who have preceded me on this question. We are now called upon to decide whether or not, by accepting this constitution, we will give encouragement and sanction to the bold and reckless men who are ever to be found in and around new Territories, where the restraints of civilized life are much less felt, and where the temptations to fraud and violence are much greater than in other parts of the country, to act over again, in other new Territories about to organize their governments, the scenes which have been witnessed in Kansas, and which have pained the heart of every good citizen in the land. If there is any one thing at the present day which demands the stern, uncompromising condemnation of the American statesman, it is fraud, and everything which has the appearance of fraud, at the ballot-box. If we wish to maintain the integrity of our institutions, we must guard well the purity of the ballot-box. The man who sanctions fraud or corruption at the ballot-box, in order that he or his political party may gain advantage thereby, is a thousand times more false to American institutions than was the greatest traitor to the cause of the Revolution. We have already seen that in one portion of our country this evil could be cured only by revolution and blood; and unless those high in office guard well this sacred repository of constitutional liberty, the evils which we have already witnessed in that locality will extend over our whole land, and in proportion to the magnitude of the evil must be the awful severity of the remedy. Sir, let every American citizen, whether in high political office or in private life, feel that he has committed to him, in the protection of the ballot-box, a sacred trust, and let him guard it well from foes without and foes within.

And in conclusion, I will say that I am satisfied that the Lecompton constitution is not in fact the will of the people of Kansas. I am satisfied that it has no authority of law which requires us to accept it as the constitution of the people of Kansas. I am satisfied that to admit Kansas into the Union under it, would be a gross outrage upon

the people of Kansas, and a violation of all the principles on which our institutions are founded. I am satisfied it would establish a most dangerous precedent, the natural consequence of which would be much embarrassment to the Government in the organization and administration of other territorial governments, and innumerable evils to the settlers in the Territories. I am satisfied that the manifestation of a willingness on the part of the Congress of the United States to accept as the constitution of a people, about to be admitted into the Union, an instrument which contains the declaration—

"ART. 7.—*Slavery*.—Sec. 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

would not only be a lasting disgrace to this Government and the people of this country, but a blot on the world's history which all time could not efface. And I hope that we shall remit this instrument to those from whom we received it, and either give to the people of Kansas such enabling act as shall be suited to their condition and wants, or leave them to form a constitution at such time as they may choose, and transmit it to Congress with such verification that it is the embodied will of the people as shall fully authorize Congress to admit Kansas into the Union under it, on an equal footing with the original States.

ADMISSION OF KANSAS.

SPEECH OF HON. MILES TAYLOR,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 29, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. TAYLOR, of Louisiana, said:

Mr. CHAIRMAN: I present myself to the House with somewhat of unwillingness at this time, and the more so because it had not been my intention to address it, it had not been my design to take part in this discussion until within the last two days, and I have not had the opportunity even of making any notes. But, Mr. Chairman, what has fallen from some of the gentlemen who have spoken upon this subject in the latter part of the debate, and what has just fallen under my eye, which was spoken in the other end of the Capitol in the course of the debate there, have suggested to my mind some views which have a connection with the question which we are about to decide, and which I have thought it not improper for me to present, at this time, to the House, and through the House to the country. It is not my purpose to go into the argument in relation to the constitution presented to us as coming from Kansas; it is not my design to enter into the particular issues which have been brought before the House, in connection with what is now known as the "Kansas question." That question, as now presented to us, has been fully discussed by those who have preceded me, and it would be but a waste of time for me to attempt to go over it again.

My wish is to go beyond the apparent issue which we are now called upon to decide. The position of Kansas is but an incident in the progress of the great question which has agitated the Union for years, and the objection now made to the admission of Kansas is a mere pretext for the agitation of that great question. The slavery question, Mr. Chairman, is brought before us by the opponents of the admission of Kansas; and as that is the only question now really at issue, notwithstanding all of the shallow pretexts set up to conceal it, the only one which the people of the United States are truly called upon to decide, I shall refer to it, and then proceed to give utterance to my views with respect to the attitude of that question at this time, and with respect to the future which lies before us, which will soon be revealed to our view.

Mr. Chairman, this contest, of which the issue in relation to Kansas is the mere incident, dates back very far into the past. It is an agitation connected with the existence of slavery; it is true; but it is an agitation which had its origin neither in

the spirit of philanthropy or in any peculiar feeling on the subject of that institution, but in the lust for political power. It is well known to this House, as it is to the whole country, that when the Constitution of the United States was adopted, almost all the States of the Union were slaveholding States. It is well known that after the adoption of the Constitution the people of the United States were divided into parties. The first division which took place related to the exercise of political power. We had upon the one hand those in favor of State rights, and in favor of restraining the action of the General Government within the narrowest limits; we had, upon the other hand, those who favored a strong and a consolidated Government. In the issue which grew up between them, it was the fortune of the whole South to take one side of that controversy, and the agricultural portion of the North went with them. At a subsequent day, a new arrangement of parties took place, in part influenced by the relations existing between this country and Europe. When the spirit of Democracy displayed itself in France, when a new system of Government was established by her people, a portion of the people of the United States sympathized with them. Another portion felt no such sympathies, but, on the contrary, their feelings were knit to the policy pursued by the mother country, which, allied with the other Powers of Europe, was then engaged in a contest against that new-born Republic.

In the divisions that followed that new state of facts the same circumstances occurred. The masses of the southern people were Democrats. A portion of the northern people were Democrats also. But another portion—those who were engaged in commerce, those who were under English influence, those who were connected with that policy that looked forward with satisfaction to a national debt, to a funding system—took the opposite side. These contests continued; and while they went on, State after State in the northern portion of the United States got rid of slavery; and why? Because there was any spirit of philanthropy abroad? Not at all. It was then a question looked at without excitement. It was a question which produced no agitation. Slavery was got rid of in State after State because it was no longer the interest of the people of those States to maintain the institution.

While these changes were going on this country was embroiled in a foreign war. That foreign war had the effect of associating all those who were engaged in commerce—which was peculiarly affected by the war—in one body, in opposition to the measures of the General Government. The great masses of the people, resident in the country, those engaged in agricultural pursuits, took the opposite side, and constituted the masses of the Democratic party, North and South, which had inaugurated the policy of the nation which gave rise to the war, which insisted on its vigorous prosecution, and which justified it after it was followed by peace. In the early years of the Republic, the political supremacy in the nation was vested in a party which embraced within its bosom nearly the whole agricultural portion of the community. This party, it is true, extended, at all times, throughout the North and South, but its greatest strength was always in the South, because the whole South was agricultural. The opposition to this party was composed of those connected with the other great interests of the nation, who were mostly inhabitants of the northern portions of the Union. When slavery had disappeared from the most of the northern States, the fact that the strength of the Democratic party was in the agricultural South suggested to northern politicians, who were discontented at their exclusion from political power as members of a party which was inferior in numbers, the idea of laying hold of the subject of slavery as one having within itself the elements for an agitation which would, at last, alienate the Democrats of the North from those of the South.

The first occasion for the use of this new-found source of political power was furnished when Missouri presented herself for admission into the Union. When discussion grew up in reference to the propriety of admitting that Territory as a State, as a member of this great Confederacy, opposition was made on the ground that slavery

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existed within her limits, and, although that was the only ground of objection, the point on which the battle was fought, it was boldly declared, by some of the greatest men that took part against her admission in that controversy, that the real contest then was one for political power. That was the declaration made by Rufus King in the various discussions to which the admission of Missouri gave rise in Congress. And is there a man, "with discourse of reason," who does not know that that has been the real cause of every contest of the same kind with respect to our Territories since that day?

Now, Mr. Chairman, there has been a great deal said in reference to the future. It has been asserted that, in the progress of the nation, by its advances in population at the North, the South is to be overwhelmed. It has been asserted that the slave States are to be placed at disadvantage, and are hereafter to cease to have any influence in the direction of the policy of the General Government—to have any voice in the ordering of its affairs. It is attempted to be shown that that is so, by pretending that there is an antagonism between free and slave labor; and that, because of that antagonism, the slave States of the South will continue to advance at a slow pace, under the quiet influences of a peaceful, unambitious, contented industry; while the northern portions of the United States are hurrying on with the strides of a giant, who feels the first mad impulses awakened in his bosom by the dawning consciousness of his just-developed physical strength. The gentlemen who take that view—and certainly the immediate past justifies them in some degree in looking forward to such results—have gone further, and have asserted that this difference in the progress of the two portions of the United States grows out of the fact that man swells to his full proportions only where there is no slavery; that free labor is ennobling on free soil alone; and that where slavery exists, as in the South, there labor ceases to be honorable, and a deadly blight falls upon the free man who lives in its shadow.

Mr. Chairman, if we may be permitted to judge of the designs of men from their acts, as displayed by a long course of conduct in one direction, I think that I might, with great propriety, venture to assert that it is the single aim of those who are now, and have long been, at the head of the Republican organization—who direct and control all its movements, who give shape and complexion to all their schemes of party policy—to divide the people of the United States into two great sectional parties; to alienate the men of the North from the men of the South, by every art familiar to the demagogue. And why? For what purpose? I will tell you, sir. It is with the design of breaking the bonds that have hitherto holden together those men, no matter where found, who have acted together throughout the length and breadth of this mighty nation, for the purpose of carrying on the national Government with a single eye to the public good, and to the entire exclusion of all those influences which are perpetually struggling to exercise the powers of government to advance the interests of individuals or of particular classes, at the expense of the great masses of their fellow-men.

And how, sir, do these men prosecute their unhallowed enterprise? What are the means which they employ to accomplish their unholy purpose? Why, they are perpetually engaged in making the most wanton, the most malignant, assaults upon the institutions of the South, in glorifying the favored North, and holding up what they call the slow progress of the South, and contrasting it with the wonderful, the unexampled advances of the North, of late years, in population, public improvements, and wealth. And why is this? It is with the intent and design of humiliating the people of the South, by keeping the fact constantly before their eyes that they have been outstripped in the race for physical power and material wealth by their more fortunate brethren, and filling the people of the North with a lofty pride, an overweening self-glory, which alone disposes men to engage in that career of injustice and oppression towards their fellow-men, which these leaders have long been planning in secret, and which their hot haste to enjoy has now made them disclose before the time for their success had fully

ripened. And besides this, these men are also engaged in filling their greedy followers, who hunger and thirst after the spoils of office, with the expectation that they must soon expel their opponents from the high places of the Federal Government, and enter into their permanent possession; because, say they, the hostility to the South which they have already succeeded in exciting by their arts, will continue to increase in the North, so as to make any further union of the Democrats of the North with those of the South impossible. Yes, sir, and these men even go further; they do not hesitate to assert that no more slave States can come into the Union, and that this feeling of hostility to the South will necessarily pervade the populations of all of the new States which must at no distant day be admitted.

Now, for one, I take an entirely different view in regard to these matters; and I think that all experience will satisfy any one that chooses to refer to the past and to look to the future, that there is a grave error lying at the bottom of all these assertions. It is true, Mr. Chairman, that at this time the North is advancing at a wonderful rate. She is increasing in population. She is increasing in wealth in an unexampled manner. She is increasing so rapidly, that the progress of the South, great though it is, seems to be want of motion. These gentlemen say that this difference grows out of the existence of free labor on one side, and of slavery on the other. To some extent, that, undoubtedly, has a connection with the relative progress of the two portions of the United States. But that connection grows out of its accidental effect in turning aside to some degree the streams of emigration which have flowed into the country for more than half a century, and not of anything in the nature or necessary effects of slavery itself as an existing institution. It is in that way, and in that way alone, that slavery has produced any effect in preventing the growth of the South.

When we look back at the past we see that up to the period when the political societies of Europe were so much disturbed and upheaved by popular commotions that great numbers of their people were compelled to emigrate, the progress of the South in population and in material wealth was more rapid than that of the North. But after civil commotions had disturbed the whole framework of society in Europe, there grew up that feeling of uneasiness which induced multitudes to flee from scenes of strife and carnage; to flee from scenes of distress; to flee from those countries that were to become the seats of war and of civil strife. And, as a matter of course, as all these disturbances took place in a northern climate, the population thus disturbed flowed into the northern portion of the United States, because it possessed the climate congenial to them and because there those pursuits with which they were familiar were followed. Scarcely any emigration tended to the South, and the progress which the South has made has grown out of the natural increase of her people and their steady prosecution of industrial pursuits. The North has been swollen by this mighty tide which has flowed in for half a century because of the political disturbances which have agitated the Old World, and which will now continue to flow on until the populations of the two hemispheres are equalized.

But, Mr. Chairman, our northern brethren should not exult because of the glory of their present situation. It is necessary for the statesman to look to the past and the future, as well as to the present. And he fails in his duty to the public, if he limits his view to the circumstances which immediately surround him, when he is about to determine upon the proper policy of a people—upon his course of conduct—because it is not what will suit to-day, but what will suit all future time, that ought to guide him when engaged in devising and establishing on a solid foundation the policy that is to govern mighty nations like this. Now, sir, whilst the northern States are in their present situation, whilst we have an immense national domain which is still unoccupied, labor will be honorable at the North; the man who labors, and earns his bread in the sweat of his brow, will be clothed in all the dignity of his nature. But am I to be told that that state of things which now exists in the North is

to continue through the unlimited future? Mr. Chairman, the institutions of civil society which exist throughout the whole North are precisely the institutions of civil society which exist in England and France, which occupy a great portion of Europe, and pervade and control many of the nations of Asia. And what is the spectacle there presented? Wherever population is dense, wherever the soil is fully occupied, everywhere, turn your gaze where you please, you will find that capital has the mastery over labor; you will find that when those institutions operate upon freemen without let or hindrance until they have worked out and produced their final results, capital at last centers in a few hands, and it is the lot of the many to toil to swell the fortunes and minister to the enjoyments and luxuries of the few. Let us for one moment look at the position of Great Britain, and what do we see there? In the works of their great political writers who have looked at the relations between the members of the different classes of their society, what is the principle which is enunciated, and which all experience shows to lie at the foundation and to be the very basis, the substratum, of their whole social fabric? Nothing but this dreary, this dreadful, this unhappy truth, that in all crowded communities the sole recompense for labor is the means of living. In Great Britain you will find that that state of society which is founded upon institutions such as exist throughout the North, prosecuted through a series of years, when the people were in the possession and enjoyment of as much individual liberty as has ever fallen to the lot of any people that ever flourished upon this earth, has terminated in concentrating the soil in the hands of thirty thousand landholders, and has had the effect of producing a state of things in which ninety-five hundredths of the whole mass of the people that live and breathe and have their being within that mighty empire are but mere hewers of wood and drawers of water to their happier brethren who are in the possession of capital. By referring to their statistics, you will find that whenever any agitation takes place in the political world which has the effect of disturbing in the slightest degree the operations of trade, not thousands or hundreds of thousands, but millions of men are deprived of employment; and that they and their families have to suffer the pangs of hunger, and to pine and perish from want. Want in the midst of countless wealth—famine in the midst of piles and heaps of surplus food, owned and denied to their necessities by capital.

Now, sir, I have before me a statement, taken from a recent English work, giving details in relation to the history of their poor-laws; which shows that the public burden imposed upon the people of England and Wales alone, when they numbered but 9,000,000, amounted to the sum of \$20,000,000 a year for the support of their paupers. And it appears from the same work that, when their number had augmented to 11,000,000 in 1818, these contributions amounted to the enormous sum of £9,500,000, or nearly fifty million dollars; and you will find further, by reference to these fearful statistics, that in England, that seat of philanthropy—England, which has been engaged in this crusade against southern institutions—England, which has been the stimulator of our northern brethren to engage in warfare upon us—in England, with a population of about 15,000,000, in 1840 1,200,000 persons were supported by the hand of public charity; that in 1841 there were nearly 1,300,000; and that in 1842 the number had swelled to 1,500,000.

But when you turn to Ireland—unhappy Ireland!—what is the spectacle presented there? When political difficulties, when commercial difficulties disturb industry, she always suffers; but when, in addition to these causes, Nature withholds her kindly influence, and there is a partial failure of the crops, Ireland, unhappy, downtrodden Ireland, always suffers almost beyond the limits of human endurance. What, sir, has befallen Ireland within our own day? I refer the House to the details given—and they are of a character to move the heart of any man—in the work of Sir George Nichols on the history of the poor-laws of Ireland. It will be found, that because of the destitution following on the failure of

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the potato crop in 1845 and 1846, a great portion of her total population, then exceeding eight millions, were dependent on the Government for the means of escape from starvation. "In July, 1847," says this writer, "the system [of extraordinary relief] reached its highest point, and 3,020,712 persons then received separate rations, of which 2,265,534 were adults, and 755,178 were children!"

In 1848, we learn from the same writer that 2,043,000 persons were relieved from the pressure of famine; and that, in 1849, the number had increased to 2,142,766. What a sad, what an afflicting spectacle! A free people, in possession of one of the most fruitful countries that the sun shines on in his daily round, a population as industrious as any the world ever saw, and in the full enjoyment of that inestimable privilege, the unlimited right of disposing of their labor at their own will and pleasure, were subjected, during the course of more than three years, "to all the ills that flesh is heir to." Yes, sir, during the whole of that time they suffered from famine, from pestilence, engendered by want of food, from all the evils which necessarily overwhelm the toiling millions of mankind, no matter how free they are, when overtaken by circumstances like those referred to. And then, sir, they perish away from the very face of their native earth, in the presence of their usual employers, because to them has been applied the principle of that state of society—that "the recompense for labor is the means of living"—and that inexorable rule which goes along with this principle—that nothing is due from capital to the laborer but in exchange for his labor. Who can realize all this without shuddering at the mere thought of the agony which wrung the hearts of that free but suffering people? Why, sir, in that time of calamity, nearly one entire fourth of the free sons of Ireland sunk into the grave. The fearful statistics are here. The population, in 1841, amounted to 8,175,000; in 1851, the population had fallen to 6,500,000. The census commissioners, in their report on that subject—which is quoted in the work referred to—say, after stating that the number who had perished amounted to 1,622,739:—

"But this being merely the difference between the number of the people in 1841 and 1851, without making any allowance for a natural and ordinary increase of population, conveys but very inadequately the effect of the visitation of famine and pestilence."

"We find that the population of the 30th of March, 1851, would probably have numbered 9,018,739, instead of 6,522,385, and that, consequently, the loss of population, between 1841 and 1851, may be computed at the enormous amount of 2,496,414 persons."

What is the position of France? I have before me a statement contained in a work which ought to be good authority, as it was dedicated to a gentleman who was at the head of this movement which aims to strike at southern institutions, and for years the head of the British Government—Sir Robert Peel. It is a book published in 1844, and the writer of that work, which was then published in London, and is to be found in our Congressional Library, examines the condition of France.

It is stated in this work that France, at that time, contained above 34,400,000 inhabitants who were disseminated over the country; not as in England, congregated at many points in large masses. This population, exclusive of 1,855,000, who were said to be paupers, was then divided into classes, as shown in the following table, which will be found on page 91:

	Masters, &c.	Servants, Workmen.
Agriculturists.....	1,394,000	16,246,000
Tradesmen.....	1,168,000	5,812,000
Manufacturers.....	764,000	3,426,000
Total	3,326,000	26,084,000

And the writer of this work goes on to remark that—

"The result of this subdivision is that the three classes are now reduced to two. The first, composed of 3,326,000, devoting their capital, and their intelligence to the pursuit of agriculture and industry, are, in some sort, independent. The second, amounting to 26,084,000, have no other capital than their bodily strength, which they let on hire to those who compose the first. This is the working class, owing their daily bread to their daily labor, and precluded, by their poverty and their occupation, from all participation in municipal or political action. Add to them the poor, the indigent, estimated at 1,855,000, and we have a total of 27,939,000 individuals completely shut out from civic life; in one word, the French Helots."

And now let us turn to still another country which displays the workings of the ordinary institutions of civil society; when, existing in the midst of denser masses than are anywhere met with in European countries, which are in the legal enjoyment of the most unrestricted, unlimited freedom. Let us glance at China, one of the largest empires which ever existed upon the face of the earth. What is the spectacle presented there? I hold in my hand a paper which I have transcribed from the recent work of the Abbé Huc. I read his words:

"At all epochs, and in the best governed countries, there always has been, and there always will be, poor; but unquestionably there can be found in no other country such a depth of disastrous poverty as in the Celestial empire. Not a year passes in which a terrific number of persons do not perish of famine in some part or other of China; and the multitude of those who live from day to day is incalculable. Let a drought, or an inundation, or any accident whatever, occur to injure the harvest in a single province, and two thirds of the population are immediately reduced to a state of starvation. You see then forming themselves into numerous bands—perfect armies of beggars—and proceeding together, men, women, and children, to seek in the towns and villages for some little nourishment, &c. Many fall down fainting by the wayside and die before they can reach the place where they had hoped to find help. You see their bodies lying in the fields, and at the road side; and you pass without taking much notice of them, so familiar is the horrid spectacle."

"Why is it, then," it may be asked, "if communities composed entirely of free men are subjected to such terrible evils, elsewhere, by the mere workings of the institutions which characterize all civilized society, that they do not now show themselves in the northern States?" The answer, sir, is simple. The existence of a vast public domain has hitherto prevented the development of the results necessarily growing out of the social system now existing in the North. When our western wilderness is peopled, when population becomes dense within the limits of the northern portions of the United States, then, I say, the state of things which now exists in England, the state of things which exists in France, the state of things which exists in China, will spring into existence there, because it is, sooner or later, a necessary result of the existing condition of their social fabric. It grows out of an absolute, an iron necessity, entailed upon all crowded communities by the undisputed mastery of capital over labor. And I would say to my northern friends that if, instead of wasting their time in carrying on an unjust warfare against their brethren in the South, they were to direct their energies to the investigation of the causes of this state of things, and if they were to exert their ingenuity for the purpose of devising some means by which labor could be put upon a footing of equality with capital, they would be doing the world some service, and would deserve well of their fellow-men through all time. But they will not attempt to do that, as long as they are warring upon a state of society in which the dignity of labor is now maintained, and in which alone it always will be maintained.

In Europe, where all the people are nominally free, the great and broad distinction which obtains, is a distinction between those who have capital and those who have none; between the men of money, and those whose only capital is their "bone and muscle," their capacity to toil, and who are dependent for the barest means of subsistence upon the employment which is furnished to them by the men of money—those who possess capital. No matter what may be a man's worth; no matter what may be his moral qualities; if his poverty compels him to discharge menial offices, that man stands there in an inferior position. And now, let me ask my northern brethren if this feature of European society is not displaying itself among them? Is not the man engaged in the performance of menial services—is not the man who labors for his daily bread, who wins it day by day by honest toil, looked upon to-day, in every northern city, in every northern village, in every northern hamlet, as inferior to their happier and more prosperous brethren? Are they not spoken of familiarly, most familiarly, as belonging to the lower classes? I know it is so. Sir, I honor labor with my whole heart; and my bile has been deeply stirred there by the slights which I have often seen the "curled darlings" of fortune put upon their less favored brethren.

But this can never be in the frame-work of southern society. Such can never be the state of things in the frame-work of any society in which slavery exists as it exists in the southern States, where a different and an inferior race is subjected to thrall-dom. There all menial offices are performed by this inferior race. My northern brethren seem to think that labor is without honor in the South. I say it is the only portion of the United States where it receives due honor. In the South the white man's labor is made use of, and it is as successful as it is in the North. It is directed to what is necessary. White men till their fields; white men push the plow; white men work at the anvil; they build our houses, and carry on all the legitimate operations of mechanics. The white man at the South is still a white man, and belongs to the governing and superior class; and no matter what may be his poverty, he is the peer of his fellow-man. If you go beyond the confines of our southern cities, in which the same vicious state of society exists as is to be found in the northern capitals, and in all European cities and communities, you will find that our planters, the men of the greatest fortunes and the largest capitals, meet with their fellow white men, poor though they be, though their days are passed in honest toil, whether it be in the fields, or in the work-shop, in our public meetings, and in our public social entertainments, upon the footing of the most perfect equality. I speak with knowledge; I speak of scenes which have been presented to my eyes day after day in my own State, in my own neighborhood, in my own circle. In the North those men would be spoken of as persons belonging to the lower classes. At the South they are high-minded, honorable men, with as much claim to public consideration as he who lives in the midst of luxury; who wields millions.

When I look to the future, I see that the day will come when these evils which follow upon a dense population of freemen living in that state of society which exists in the western, the central, and the southern portions of Europe—in all Europe, indeed, except Russia—which exists in rich, prosperous, and powerful England, will be inflicted upon the North as the inevitable consequence of the prevalence of the principles necessarily involved in the workings of their existing social institutions. No such evils, however, can ever afflict the South so long as that domestic institution which has provoked both European and northern hostility for more than a quarter of a century shall continue to exist among her people as a part of their social organization. And why? Because that class which makes up the masses of mankind where population is dense, and whose condition of complete and perfect dependence upon the calls of capital, though the law declares them to be absolutely free, whose common and almost unchangeable destiny is so sadly yet eloquently told in the fearful sentence, "the recompense of labor is the means of living"—that class, I say, has no existence in her social system.

Wherever that necessity which knows no law reduces the masses of free men, who are subjected to the pressure and restraints of civil society in the over-crowded communities of the world, to become the hevers of wood and the drawers of water to their more prosperous brethren, they are inevitably oppressed, ground down, crushed, hopelessly, beneath the weight of the most dreary of all despotisms—that of capital. When the unhappy subjects of this despotism in free and enlightened and philanthropic England, in joyous and heroic France, in teeming China, have work, and are able to work, they can only hope to barter their daily toil for their daily bread; to exchange their present labor for present subsistence; but when there is no work for them, or they are unable to work, no matter from what cause, what then? Why, sir, they are left naked and helpless in the stern gripe of that relentless, un pitying foe, which never, for one moment, ceases to keep close upon their track—grim, remorseless, exterminating want. But it is not so with the common laborer of our social system in the South. The African, the black slave who occupies that position there, is at least free, and always will be free, from the tyranny of capital. He makes a portion of capital. It uses him, it is true; but it also nourishes and protects him, as well when there is no labor

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for him, or when he is unable to labor, as when he labors; and he is not destined to suffer from hunger, or from cold, or even liable to be deprived of the little comforts and pleasures that cheer his humble lot in life, because of the vicissitudes of trade, the uncertainty of the seasons, or deficient harvests.

But, sir, this is not all. The existence of this class, say what you will, gentlemen of the North, has the effect of ennobling and giving dignity to the laboring white man. Labor though he may, and no matter in how humble a position, he is still white. He belongs to the governing, the superior class. In law, he is not only the peer of the master of the slave, but if he possess intelligence, good manners, probity of character, he is everywhere recognized, socially, as the peer of his neighbor, whatever may be that neighbor's superiority in wealth or in the extent of his possessions. In the South, Mr. Chairman, labor does not degrade the white man, but the white man elevates labor. The same disparities in fortune exist among white men in the South as elsewhere; but they do not there give rise to the same distinctions in rank which always result from them where slavery does not exist.

And not only is the laboring white man more honored, and his labor more honorable, under our social system in the South, than elsewhere, but his labor is of a kind which exempts him, in a great degree, and will always continue to exempt him, from the fluctuations which have been, and always will continue to be, the curse of the laborer under a different social system. The species of labor which requires mere thews and sinews—physical strength, directed by the most ordinary human intelligence, is, with us, rarely performed by the white man. That is done by the inferior race, while the laboring white man is called on to perform the work that puts in requisition intellect and skill—mechanical aptitude, care, judgment, faithfulness. And as all labor of this kind is necessarily the helpmate of capital and not its subject, the demand for it is far more steady, and the laborers who supply it are comparatively free from the terrible evils which so frequently afflict all of the other classes of free laboring men.

I regret, Mr. Chairman, that I have not more time, for I would like to speak upon this subject at length. But, though I have treated it in a hurried manner, I trust that I have said enough to show our northern brethren that they are in error when they assert that our social system in the South degrades labor, and debases the laboring white man. And I trust that I have also said enough to make those who are willing to look at what the past has imposed on other countries, and to divine from that past what the future will fasten upon us, to consider dispassionately and well whether there is any reason why the statesman and philosopher should look to the North in the boundless future with that spirit of exultation which the leaders of the Republican party have been so long accustomed to display in these Halls; or whether there is room for any well-grounded apprehension that the social system of the South is less favorable to the perpetuation of well-ordered republican government, or to the progress and advancement of a great nation in everything that concerns the freedom, equality, and permanent happiness of her people.

I will now, Mr. Chairman, turn to the other subject to which I before referred, and proceed to show that the expectations of the Republican leaders, that the South is to be crushed out, that her people are to be deprived of all voice in the direction of the public policy and business of the country, because nearly all of the States which will be hereafter admitted into the Union will be hostile to her, are as unfounded as the representations to which I have already called your attention, with respect to the effects of slavery, were erroneous.

The members of that party, which is arrayed in a solid body against the South, speak as if the South were about being pushed to the wall; as if we are to lose our weight in this Republic because of this crusade against us, which has been so long preached by the brawling apostles of free soil to a portion of the freemen of the North. Why, sir, a grave Senator, at the other end of the Capitol,

announced from his place the other day that there had been a war waging for a long time between the two sections of the Union, and that the battle had been fought and won. And that honorable gentleman, after rubbing his hands together in great glee at the important announcement, seemed to look into the future as though he saw the South already in his clutch.

Mr. Chairman, when I look to the future, I see a different sight. I remember that there is only a small portion of territory still to be occupied by our people that is the peculiar domain of our northern brethren. Within a few, a very few years, the only new States presenting themselves for admission into this mighty family of nations will be States which have been established, which have grown up on the waters of the blue Pacific.

Will their people have this feeling? Will they have the institutions that will make them join our northern brethren in their warfare upon us? I believe not. I conceive, sir, that their position will be widely different from that which has been assigned to them in fancy by the Senator from New York, and by his coworkers, his partners that are to be in his approaching greatness.

Looking to the west, across the vast Pacific, Asia lies in view—Asia which furnishes from her teeming millions, those thousands upon thousands of the free poor, dogged by want and destitution, which philanthropic England and philanthropic France are now engaged in bringing from their homes, in obedience to the demands of their planters in their tropical colonies, to fill, as indentured apprentices, the places in their cane fields which had been before occupied by slaves, of which their previous philanthropy had deprived them. Yes, sir, which furnishes the coolies which, under the protection of their laws, and of their flags, are transported to the cane fields of the West Indies, of Mauritius, and wherever else there are a soil and a climate favorable to the growth of tropical productions.

From that continent mighty streams of emigration will certainly flow in upon our western Territories. And what, let me ask, must be the inevitable results of that emigration? The population thus thrown in upon them is of such a character that it cannot assimilate with the people inhabiting the United States. They are foreign to them in habits, foreign to them in their feelings, foreign to them in their religion. They are of a different race and of a different nature. If they are admitted as equals, they would soon constitute a majority of the inhabitants. And what then? Would they not proceed to carry out their own views? to adopt their own civil institutions? establish their own religions? and to set up their manners and habits and usages? Certainly they would; and if admitted as equals these strangers would soon fill those vast territories, destined, as I hope and trust at no distant day, to be great seats of American empire, and Christianity would give place to Buddhism and to the worship of the god Fo, and of the long list of other idols that figure in their heathen mythology. The ministers of the meek and lowly Jesus would give place to the bonzes, and to the varied tribes of ignorant and besotted priests, who bow down before the misshapen and monstrous images of their gods; and the civilization, refinement, and elevated philosophy of the white races of Europe and America who now people those shores, would be trodden out by the pagan barbarism of the yellow races of Asia.

And now, sir, let me ask, is there any one who is disposed, in order to gratify the sickly sentimentalities of Exeter Hall, or the fanatical and ferocious dogmas of the Tabernacle, or the fine-spun theories of those who back the Kansas-shriekers of the North; is there any one, I say, who would stand idly by and permit such a wrong to be done to all true religion and civilization? I think not. And for one, sir, I do not hesitate to believe that it is both the right and the duty of the people there to look to it in time, and apply the needful remedy. Their position will force this question upon our brethren who are in possession of the almost boundless regions beyond the Rocky Mountains. And, sir, they will be compelled, by a political necessity, to decide it in favor of the religion, the morals, the civilization, and the refinement and manners of the white race.

No, sir; our brethren there will have no choice. They must recognize the fact which the Almighty stamped upon these races when he created them inferior to the white man, and refuse to regard them as equals, or to admit them to the enjoyment of any of the political rights now freely accorded to our fellow white men who come among us to find new homes. I do not claim the spirit of prophecy, but I will venture to say this: that in my day, and before half a dozen years shall have passed by, it will have become the settled policy of the people on the Pacific slope to refuse to permit the individuals of the Asiatic races who come among them to become members of their political society; to deny to them the right to enjoy any of the political privileges or immunities accorded to citizens of the United States. There will be a discrimination against them because of their race. They will, in all likelihood, be subjected to the operation of the same system of laws which England has established in the Mauritius and Trinidad and the West India Islands, and which France is seeking to establish everywhere.

What is that condition of society? The position of the people who are the subjects of this system of policy is one of inferiority; it is one of vassalage; it is one of quasi slavery. But whatever it may be, and however philanthropic England and imperial France may expatiate upon its civil advantages and moral beauties as contrasted with slavery, one thing is certain: the people among whom it exists will have no sympathy with that feeling which has displayed itself in many portions of the North. It will be found that among these people a new spirit will be born. And that spirit, sir, will be nourished by the streams of emigration and by the tide of commerce setting in on these shores, until it has swelled and expanded itself so as to fill the whole Pacific coast. It will ascend the valleys of the western slope. It will climb the Rocky Mountains; and when it has reached its summits, and its colossal proportions and its glorious features are displayed to our gaze as it casts its first glances to the eastward, the demon of fanaticism will stand rebuked, and the fell spirits of sectional hate and civil discord will cower under its majestic presence and flee forever from our confines. Then, Mr. Chairman, and then alone, will we again become a united people.

For myself, Mr. Chairman, when I look to the future I feel persuaded that the leaders of the Republican party will be defeated in all of their deep-laid schemes; that an irresistible, an overruling necessity will soon repulse their ambitious attempts, and put a stop to this crusade against us. I feel, sir, that there is a Divinity above us, the great Disposer of human events, who

—“shapes our ends,
Rough hew them how we will.”

If we pass this crisis in safety, as I trust in God we may, what I see in the future makes me feel that we shall soon become the greatest people that the world has ever seen. We shall then be in a condition to grasp the rod of empire which lies within our reach; and then, sir, moving along the highway of greatness, this mighty people will sway the destinies of the whole civilized world. And if they themselves continue under the guidance of that wisdom and moderation which have hitherto distinguished their policy towards other nations, they will be enabled to discharge that high mission which the Almighty has, as I believe, imposed upon them, for the future good of the whole human family.

ADMISSION OF KANSAS.

SPEECH OF HON. ABRAM B. OLIN,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
March 29, 1858.

The House being in the Committee of the Whole on the state of the Union—

MR. OLIN said:

MR. CHAIRMAN: I am well aware of the embarrassment which every man must feel who rises to address the House at this stage of the discussion on this important question. No talents, however commanding; no acquirements, however extensive, would probably command the attention of

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any respectable number of the House. Were I to consult my own wishes, I would content myself with giving a silent vote on the question when it comes to be presented to this House for decision. But it is due, in part to the people whom I represent—knowing as I do that my convictions of duty in regard to this measure correspond entirely with theirs—that their views should be expressed on this floor. It is due, also, to the expression of both branches of the Legislature of my State, as contained in their resolutions introduced into this House protesting against this measure, that I should speak in regard to it. I do not suppose that I shall be able to present this question in any new or striking light, or to give the House any information on this subject which it does not already possess. In reference to any practical results to be attained by further discussion of this question, I am very much of the opinion of the editor of the Washington Union, a paper which I seldom read, but which I happened to lay hold of yesterday, and which contained the following:

"Forty set speeches in the House—forty hours of easy-reading in a deliberative body—forty lay sermons on politics in Congress! Why, it is worse than forty years in the desert, or forty days fasting in Lent, or the horrors endured by the forty thieves in their forty jars when the hot oil was poured in upon their frying bodies and souls."

Now, in most of that I concur with the editor of the Union; and there is but one affliction, in my judgment, that a man could be subjected to, which would be worse than having to listen to speeches upon this subject on this floor, and that would be if a man were condemned to read the editorial effusions of the Washington Union by the hour. [Laughter.]

The President tells us, in the remarkable message that accompanied this constitution, that there is a strange delusion existing in the country in reference to the affairs of Kansas. Now, sir, if that message contains a truthful representation of the affairs of that Territory, there is indeed a strange delusion, and that delusion exists with entire unanimity among the people whom I represent.

Sir, the plain scope and tenor of that message is, that from the time of the formation of the government of that Territory, a large portion of its inhabitants—actuated by no conceivable motive, except such as is ordinarily charged in common-law indictments, "instigated by the devil"—have been in open rebellion against the territorial government, and have been endeavoring to subvert that government. No fact, no circumstance is alluded to in the message, which is claimed to justify, palliate, or excuse resistance to the lawful government. Now, who does not know that a statement of that description is an untruthful, prejudiced, partisan, and false statement of the affairs of that Territory? Sir, there is a maxim in law, which is equally true in morals, that oftentimes the suppression of truth is equivalent to a falsehood. Who does not know, without reference to a single fact outside of this paper, that this message is not only a libel upon the people of the Territory, but a libel upon human nature itself? There never has been found—there never will be found, while human government remains but "the badge of lost innocence"—a people who have rebelled against an established government, from the mere love of rebellion. Men commit crime; the world is full of it; but they have the ordinary motives of crime. The President, however, in his view of the affairs of the Territory, has not found any motive or excuse which is claimed to palliate the conduct of that people.

Mr. Chairman, I trust I have a becoming sense of what is due to the Chief Magistrate of this Republic. When I reflect that he occupies his present proud position by the voluntary choice of the people of this Republic, I bow to their majesty, and have toward the object of their choice no other feeling than that of reverence and respect. But when I read this message, when I remember the history of the people of Kansas and their countless wrongs, when I remember under what pretenses the Missouri compromise was stricken down, when I remember the pledges that were made in his name, when I remember the delusive plea that was set up of popular sovereignty—that this was a great Democratic measure, that the people were to be left entirely free to form their own institutions and to manage their affairs in

their own way, and the promise that all the powers of this Government should be exercised, if need be, to secure those rights, when I know and see that all these pledges have been shamelessly violated—when I remember all these things, it is difficult to restrain a feeling of something like indignation at this message, and of contempt for its author; and I think that that feeling animates the breasts of a vast majority of the American people at this hour.

I do not intend to discuss the merits or demerits of the Kansas-Nebraska bill. As a question of policy originally it never received my approbation, and had I had an opportunity to vote upon it, it never would have received my assent. I am one of those who believe that Congress has power to govern the Territories of the United States, and that it can never safely dispense with the exercise of that power. It was claimed before the people that this Kansas-Nebraska bill contained a new revelation on this subject—that it embodied the great principle of popular sovereignty—that great principle that lies at the foundation of our Government, and ought to receive the sanction of the people of this country. But, sir, that principle was never contained in the Kansas-Nebraska bill. It never was designed to be put there originally, and so far as it was claimed to have been there, we charged upon its authors that we believed it to be a fraud, and an intentional fraud; and the history of the country, I think, has shown that that charge was not only made in good faith, but that it was true. So far from containing the principle of popular sovereignty, it withheld from the people the exercise of certain essential and fundamental rights, without which no popular sovereignty ever could exist, and without which there was nothing worthy the name of free government. Why, sir, we knew, the country knew, everybody knew that bill contained the machinery which, in the hands of corrupt and venal men, would enable them to control the affairs of that Territory, irrespective of the wishes of the people. What rights were withheld from them? The election of their Chief Magistrate. If they were fit to govern themselves, and to frame their own institutions, certainly they were fit to elect this officer, an officer possessed of a large and discretionary power. Not only was the election of their Chief Magistrate withheld from them, but judges were appointed for them over whom they had no control, and who were in no wise responsible to them.

I have said thus much, Mr. Chairman, in reference to the policy of that measure, because the persons opposed to the admission of Kansas into the Union under the Lecompton constitution have been charged on this floor with becoming all at once the champions of popular sovereignty.

Mr. Chairman, I propose to discuss, at some length, the power of Congress to govern the Territories of the United States. I deem this proper in reference to the manner in which the application of Kansas for admission into the Union comes before the House at the present time; and inasmuch as it is claimed by the President and his friends to be here clothed with all the sanctions and formalities of the law. They contend, indeed, that this Lecompton constitution comes before this House with strict regularity, in every step of its formation. No one, I believe, denies the power of Congress over the Territories to govern them in any way it deems proper, provided it does not exclude slavery from them, or attempt to exercise any of the powers prohibited in the Constitution of the United States, such as the establishment of religion, &c. In the recent decision of the Supreme Court of the United States, known as the Dred Scott case, the power of Congress to govern the Territories is discussed to a very considerable extent. Permit me to call the attention of the House, for a moment, to some remarks of Chief Justice Taney, to be found on pages 54 and 55 of the volume printed by the order of the Senate:

"The power to acquire territory necessarily carries with it the power to preserve and apply to the purposes for which it was acquired. The form of government to be established necessarily rested in the discretion of Congress. It was their duty to establish the one that would be best suited for the protection and security of the citizens of the United States and other inhabitants who might be authorized to take up their abode there."

I might also read in the same volume from the

opinion of Mr. Justice Campbell. They both concede the power of Congress to govern the Territories except in relation to the prohibition of slavery. I may be permitted to observe here that it is a curious fact to notice whence the Chief Justice of the Supreme Court chooses to derive the power to govern the Territories of the United States. Instead of resorting to the express language of the instrument itself, where the power is fully given in proper and apt language, as may be seen by consulting almost any elementary writer on the subject of law, he chooses to deduce or imply the power from certain other powers granted. The language is familiar to all:

"Congress shall have power to make all needful rules and regulations respecting the territory, and other property of the United States."

Now, instead of resorting to this clause as the source and origin of the power of Congress to govern the Territories, the court chooses to find that power in the right to acquire territory; and as that power is not to be found in the Constitution of the United States, and was for a long time questioned by its very founders, the court derives the right to acquire territory from the power given in the Constitution for Congress to admit new States into the Union. Now, why was this interpretation of the Constitution resorted to? If the court had contented themselves with resorting to that clause of the Constitution which grants this power, in apt and proper language, they would have been constrained to admit it to be a full and plenary power, and that it invested Congress with authority to make whatever rules and regulations respecting the territory of the United States Congress, in the exercise of its discretion, should think proper. But if the court should resort to some implied power from something else which was implied, the court could then fix the limitation upon this power, by implication, to suit themselves.

Now, would it not be a curious study for an admirer of the Virginia resolutions of 1798 to ascertain how to imply a power to govern the territory of the United States from the power to acquire territory, which power must itself be implied from the power to admit new States into the Union?—an implied power in the third degree. I think it would be an agreeable and pleasing occupation to some devotee of these Virginia resolutions of 1798 to see how this could be constitutionally and lawfully done.

If there be one historical fact undisputed in reference to the formation of the Federal Constitution, I assert that fact to be that the power to admit new States into the Union was granted in the Federal Constitution with reference to the then existing Northwest Territory, and to the territory which was held by the then existing States under the expectation of a future cession of it to the General Government. The discussion which arose upon the Louisiana purchase, calling the attention of the founders of the Federal Constitution to that subject, when all the circumstances attending the formation of the Constitution were fresh in the recollection of living men, demonstrates beyond controversy that that grant of power was not made in reference to territory to be acquired. You all know the opinion of Jefferson on that subject. Anxious as he was for the acquisition of the Louisiana territory, he resolutely insisted that it could not be lawfully acquired unless the Constitution of the United States was amended. So it is manifest, if the power to govern the territory of the United States is not to be derived from that clause of the Constitution which empowers Congress to make all needful rules and regulations respecting the territory, &c., and which clause received a practical interpretation in the first Congress assembled under it, which construction has been sanctioned for more than fifty years beyond dispute and controversy, then there is no power in Congress whatever to govern the Territories of the United States.

On the formation of the Federal Constitution certain powers were granted to the General Government, and others were reserved to the States, or the people of the States; and the exercise of certain powers was forbidden to Congress, the States, and the people. The aggregate of all these powers constitute what we call sovereignty—that is, all the powers that organized society may right-

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fully exercise for the protection and government of the members composing it. This power or sovereignty is necessarily incident to, and grows out of organized society—cannot be annihilated. Its full and free exercise may be restrained by force, or constitutional limitations.

Now, it must certainly follow that the power to legislate upon the subject of slavery must be found in Congress; or its exercise prohibited in the Constitution; or it is conferred on the States; or is among that class of undefined powers reserved to the people of the States. But the rights reserved to the people of the States by the Constitution are rights which pertain to them as citizens of a State, and only while such citizens.

The right, then, to legislate upon the subject of slavery in the Territories not being in the States or the people of the States, must necessarily be in the people of the Territory or in Congress. It cannot be in the people of the Territory, unless the people of the Territory are independent of the Federal Government. It follows, therefore, that power must be in Congress, and may be lawfully exercised, unless some provision be found in the Constitution expressly restraining that right. No such limitation is found, or claimed to be found, in that instrument. But it is attempted to insert in the Constitution an implied limitation upon the power of Congress over the subject of slavery in the Territories from considerations of public policy, and the recognition alleged to be contained in the Constitution of the right of property in slaves.

But if we were to accede to the position assumed by the Chief Justice of the Supreme Court, that the power to govern the Territories was derived from the right to acquire territory, Congress would still have the right to prohibit slavery in the Territories, for the simple reason that the prohibition or regulation of that institution is confessedly within the scope of legislation. If the power to govern at all be vested in Congress, that power is absolute, unless restrained by constitutional limitation, the existence of which is not claimed or pretended.

But it is said that the Constitution recognizes property of the master in his slave. Suppose it does. If the power to govern the Territories exists in Congress, may not Congress prohibit property being carried into the Territory? may they not prohibit a particular kind of property from being carried into the Territory? nay, may it not prohibit the citizens of the States themselves from going into the Territories?

Surely gentlemen will not say that the regulation of each and all of these subjects is not within the scope of legislation. What are the limits of legislative power? Why, in the absence of constitutional restrictions, Congress may do everything of right, and lawfully, which organized society might do. It would be, what Blackstone affirms of the British Parliament, omnipotent.

But the Supreme Court say these Territories can only be acquired for the purpose of being formed into States to be admitted into the Union, and that they cannot therefore be held and governed as colonies.

Indeed! Suppose the Federal Government had power to acquire Territories for the purpose of admitting them into the Union as States, and Congress empowered to govern them during their territorial existence, and to decide upon their admission into the Union; under such a grant of power, would not Congress be the sole judge as to the manner of governing the Territory, when and how they should be admitted into the Union? or would such a power vest authority in the Supreme Court to determine how Congress should govern them? To whom is Congress responsible for the exercise of this power? The power to acquire territory is conceded, and the power to govern it while it is held as a Territory is conceded. Where, then, is the limitation that the court can impose on the exercise of this power? Where is the discretion vested as to how long the Territory shall be held, and when it is to enter into the Union? Congress is the sole judge.

But, the court say, or rather the Chief Justice, that "the right of property in a slave is distinctly and expressly affirmed in the Constitution."

Nothing, as a matter of fact, can be further from the truth than this proposition.

The only two clauses relied on to prove this proposition are—first subdivision, section nine, article one, is:

"The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by Congress prior to the year 1808, but a tax may be imposed on each person," &c.

The second clause, where this recognition is found, is:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such labor or service may be due."

Now, in relation to the first provision this most extraordinary language is used by the Chief Justice:

"The right to traffic in it [slaves] like an ordinary article of merchandise and property, was guaranteed to the citizens of the United States, in every State that might desire it, for twenty years."

And here is to be found that provision of the Constitution of the United States which recognizes and guarantees the right of property in slaves.

Consider the full import of that word *guaranteed*! That is, to insure the title—to make certain as if with covenants—the title of the man who chooses to traffic in that merchandise.

Why, look at that provision of the Constitution. It was simply a restriction on Congress from exercising (what was confessedly a power given to Congress) for the period of twenty years the power to prohibit a traffic which the civilized world has denounced as piracy, and consigned to the gibbet the guilty wretch who engages in it. Power was given Congress to prohibit the slave trade, but in granting that power, its exercise was restrained for twenty years. And this language, by a kind of Jesuitical judicial jugglery, is tortured into an express recognition of property in slaves by the Chief Justice of the Supreme Court.

Can a grant of constitutional power, to take effect at the expiration of twenty years from the grant, authorizing Congress to inflict the extreme penalty of death on the guilty wretch who should engage in this infamous traffic, be properly, justly, and necessarily construed as a recognition of property in the articles of traffic thus prohibited, or a guarantee of title?

Let us look at the other section from which this doctrine is evolved. This section recognizes no property in man, in that sense, in which we use the word *property* when speaking of articles of merchandise. It simply recognizes the fact that *persons*, in some of the States, by the laws of such States, may be held to service; and when they escape into another State, prohibits such State from interfering to discharge such persons from service or labor, but provides they shall be delivered up on claim. It affirms nothing of the rightfulness or the contrary of the relation; but, for the sake of peace and quiet, it prevents one State from interfering with such legal relations as some other State may institute among its citizens or people.

It is conceded this provision applies as well to persons bound to service for a term of years, as to slaves. If it affirms property in slaves, it affirms property in apprentices, which is absurd. It is the same abuse and misuse of language as the honorable gentleman from Tennessee [Mr. MARSHALL] indulged when he affirmed a man had a property in his wife, his child, and his ward. It neither approves or condemns the relation; it only provides each State shall determine its propriety and legality for itself.

I have thus discussed at some length the power of Congress to govern the Territories of the United States, because, in my judgment, it was necessary, in order to understand correctly and to appreciate the position assumed by gentlemen on this floor, that the application now before us for the admission of Kansas into the Union as a State, is a legal application, and that, notwithstanding all the frauds in connection with it, in every stage of the proceeding, in consequence of its legality and formality there is something like a legal obligation resting upon this House to admit her into the Union under that constitution. I have before stated that the Supreme Court, in its discussion

of the power of Congress to govern the Territories, concedes this right to be in Congress to the fullest extent, with the qualification that I have before alluded to. I do not understand that it is denied upon this floor that the Congress of the United States has power to govern this Territory. Gentlemen who have advocated the admission of the Territory under this constitution have sought in various ways to find what, in the former history of this Government, has answered the purpose of, or been denominated, an enabling act; because it would be a bald and difficult proposition to support here, if Congress has power to govern the Territories, that the people of a Territory may at any time when they see fit to do so, assemble a convention and frame a constitution, and by that act entitle themselves to admission into the Union as one of the States of the Union. There has, therefore, been an industrious effort to find some power in the past legislation of the country in reference to this Territory that would subserve the purpose of an enabling act and authorize the formation of a constitution by this people.

The honorable gentleman from Tennessee, [Mr. SMITH,] has, with marked ingenuity, found an enabling act in the treaty made with France in the purchase of Louisiana; and that I may do the gentleman no injustice, I will read from his speech in the House upon this question. He says:

"I need not enlarge upon this, because, as I before stated, there is an enabling act for the formation of a State government for the Territory of Kansas, dated anterior to the passage of the Kansas-Nebraska bill. I know, sir, that some, who heretofore belonged to the Democratic party, are of opinion that there ought to have been an enabling act—such as the distinguished Senator from Illinois, [Mr. DOUGLASS]—but at the same time admit that an enabling act is not necessary to the formation of a constitution. Upon examination, I find that the treaty between the United States and France, of the 30th April, 1803—that treaty which is the supreme law of the land—provides: what? That Congress shall pass an enabling act? No, sir; but it provides that the people of the Territory of Kansas, which is a part of Louisiana Territory, shall be admitted into the Union as a State or States, as soon as practicable.

"The following is the article of the treaty referred to: "That the inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Now, sir, it does strike me that the honorable gentleman must have been very hard pushed, to resort to the provision of that treaty to find an enabling act that would authorize the people of the Territory of Kansas to come into this Union as an independent State whenever they chose to do so, by virtue of a compact entered into between this Government and the Government of France. Why, sir, there are a thousand answers to this proposition. If that were an enabling act, *when* were the people of the Territory authorized to form a constitution? What were to be the limits of the Territory? How large or how small were the States to be? How many inhabitants must the Territories contain, before they were entitled to come into the Union? Were all these things left in the discretion of the people in the Territories themselves? But, the gentleman undoubtedly knew, as a lawyer, that whatever the provisions of these treaty stipulations were, the compact was not between this Government and the people then in the Territory, but between this Government and the French Government. If Congress chose to violate any of the provisions of that treaty, what was the remedy of the people of that Territory? Did it lie in the courts of the United States? Did it lie anywhere? I know not how the theory of the power of governing the Territories may change in a few years. It is possible, that by-and-by the Supreme Court will issue a *mandamus* commanding Congress to admit these Territories into the Union, upon the theory that there was an enabling act in the treaty. But, suppose it to have been a compact, which it was not, with the people of the Territory, and that they could, in some sort of sense, enforce the obligations of that treaty: why every man, woman, and child in the Territory, at the time of its acquisition, had been admitted into the Union long before the formation of this territorial government.

The compact was perfectly performed in all its

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parts, and it is not the people of Orleans Territory who are now complaining in reference to the form of government to be established in Kansas. Besides, the principle has been repeatedly affirmed by the Supreme Court of the United States "that a contract made by the political department of the Government with a foreign nation, can be enforced only by the nation with which it is made, and not by the judiciary department of the Government which makes the contract." (Foster vs. Neilson, 2 Peters, 253; Garcia vs. Lee, 12 Peters, 511.)

Mr. Chairman, an ingenious and honorable gentleman from Virginia [Mr. GARNETT] has found an enabling act in the Nebraska bill; not in that portion of the act where the President has found it, but in another portion of the bill. I am not at all surprised at this; for we have so many, so various and contradictory readings of the Kansas-Nebraska bill, it is manifest that everything and anything can be found in that bill that anybody desires to find in it. I believe the gentleman from Connecticut [Mr. BISHOP] has found the whole Levitical law in it, except that portion which prohibited eating pork. The enabling act, according to the view of the honorable gentleman from Virginia, is to be found in these words:

"That the legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act."

What was the act? It was an act organizing a Territory, and creating a Legislative Assembly empowered to make such necessary rules and regulations as were proper for a Territory during its territorial existence. It was the ordinary power of legislation conferred upon the Legislature of a Territory. There is nothing about forming a constitution here contained; and how could such a power be implied, when such power would subvert the territorial government under which they professed to obtain the authority?

But the President has found this power in another clause of the Kansas bill—in the clause known as the stump speech—and which is in these words:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

On this point the President has used the following language in his special message:

"That this law recognized the right of the people of the Territory, without any enabling act from Congress, to form a State constitution, is too clear for argument. For Congress 'to leave the people of the Territory perfectly free,' in framing their constitution, 'to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States,' and then to say they shall not be permitted to proceed and frame a constitution in their own way, without an express authority from Congress, appears to be almost a contradiction in terms."

The President says this proposition is too plain for argument. Sir, there is something still plainer than this proposition; and that is, that the President has dishonestly interpolated language in that clause not to be found in the act, and which perverts its entire scope and meaning; and that without that interpolation, no man, even with talents of an angel, could make even a plausible argument for the President's proposition. It is generally conceded that the people of the Territory have the right to form their constitution. But it is said they may delegate that power, and when they do delegate that power the constitution they form is as much the act of the people as though sanctioned by a direct vote of the people.

Suppose this proposition were granted: where is the evidence that the people of Kansas ever intended to part with the right to vote for or against any constitution which might be framed? Is it found in the act of voting for a convention? or in voting for delegates to the convention? Why, that is the only practical mode of framing a constitution at all; and if this mode of framing a constitution furnishes conclusive proof that the people did part with the right to approve or disapprove of a constitution when framed, then there never can be an instance in which it is necessary to submit a constitution to a vote of the people; for if the act of calling a convention and electing delegates to it be sufficient and conclusive proof that the people not only desire a constitution to be

framed, but that they thereby give their assent to any possible frame of government the delegates choose to make, it follows, necessarily, that in no case is there any obligation, or propriety even, in submitting a constitution to the vote of a people.

Admit, for the sake of argument, that a people may give their assent to the terms of their fundamental law before it is framed, as well as afterwards—but in this case there is no evidence of such assent, unless it may be found in the act of calling a convention and voting for delegates: and I have before shown, if that proves assent in one case it proves it in all cases. That the majority of the people have the right to form their constitution, all agree; but, it is said, inasmuch as they may delegate that power to others, they are as much bound by the act of their delegate as though formed by themselves. That the maxim, "*qui facit per alium, facit per se*," applies here. This proposition will, I think, on examination, be found based on an abuse of language and a confusion of ideas. What is meant by the phrase, the people may delegate the power to frame a constitution? Is it meant that the people may consent to give to John Calhoun and company, or any other set of men, the right to draw up such a form of government as they please, and agree in advance to give their assent to such constitution, whatever it may be? If that is what is meant, the proposition thus far is a harmless one, and may be true; but we have no evidence that any such delegation of power has been made.

If it be said that the calling of a convention and the election of delegates is itself a delegation of power to frame such constitution as the convention please, then I answer that the people can never, upon that principle, form their own constitution; for if the people meet in mass convention, they must, of necessity, depute some one or more to frame the fundamental law. They cannot all do it; they can only give or withhold their assent to what is done by their agent, delegate, or committee. The legal maxim quoted, has no more application than the famous Latin maxim put in the mouth of General Jackson, by Jack Downing: "*E pluribus unum, sine qua non*." This legal maxim expresses an elementary principle in the law of agency, that when a man procures an act to be done by another person, which act affects some third person, such third person may hold him responsible who procured the act to be done, in precisely the same way and to the same extent as though the person himself did the act, instead of procuring it to be done by another. Now, where the right of no third party intervenes, this rule has no application whatever. Here was no third party to be affected at all. Strictly speaking, it is an abuse of language to call the delegates of the conventions the agents of the people. The idea of agency involves the doing of acts for a principal, affecting some third person. The relation of delegates to the people would be more accurately expressed by that of servant than agent.

I think I have shown that in no proper sense have the people of that Territory been permitted to frame their fundamental law. This is asserted by the President to be their right; and his friends and supporters on this floor ought to be stopped from disputing it.

But it has been gravely argued by an honorable gentleman, [Mr. GARNETT,] I believe from Virginia, that the constitution need not have the express consent of the people, since our Government was not a pure democracy, but a representative Government. This is that kind of logic which proves that a part is not only equal to the whole, but is the whole; which designates the entire system of our Government from a single feature of it. It is true, this Government is sometimes said to be a representative Government, and sometimes a popular Government, or a Government of the people; and this language is all sufficiently intelligible when properly used. But did it never occur to the honorable gentleman, what constitutes this Government a representative Government—a popular Government? Is it not your Constitution—your organic law—framed by the people?

Sir, the hour is past to which, by the rules of debate, we are restricted, before I have had time to touch those topics upon which I most desired to speak.

ADMISSION OF KANSAS.

SPEECH OF HON. H. BENNETT,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

March 29, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. BENNETT said:

Mr. CHAIRMAN: A select committee was ordered by the House, authorized to send for persons and papers, and instructed to inquire whether the Lecompton constitution was acceptable and satisfactory to a majority of the legal voters of Kansas; and to inquire into all the facts connected with the formation of said constitution, and the laws under which the same was originated; and into all such facts and proceedings as have transpired since the formation thereof, having relation to the question or propriety of the admission of said Territory into the Union under said constitution.

The contradictory statements of the different parties, the allegations contained in the President's Kansas message, and the charges of fraud in relation to the Lecompton constitution, all required this investigation to be made, that the whole truth should be known before Congress acted upon the admission of Kansas. For this purpose a select committee was ordered by the House. No bill was referred to it, nor was it authorized to report any measure for the action of the House. It had no legislative duty to perform. Its whole duty was to send for persons and papers, and take evidence of the facts upon the subjects of inquiry referred to it, and to report the facts and the evidence to the House for its consideration. It was strictly a committee of investigation.

The Speaker, by appointing a majority of this committee opposed to the investigation and to the resolution of the House by which it was ordered—a thing unprecedented in appointing a committee of this kind, and in violation of all sound parliamentary precedent and authority—placed an insurmountable obstacle in the way of proceeding with the investigation without some further order or action by the House. No witness has been called or examined, and no evidence desired by those in favor of the investigation has been allowed to be taken. The proceeding has unfortunately been conducted as a party question, and the majority of the committee have persistently overruled the minority in all their attempts to comply with the order of the House, and proceed with the investigation. The majority have permitted copies of a few papers to be procured, such as go to sustain their line of argument in favor of the Lecompton constitution, which were open and public, and within the reach of every member of Congress without the aid of a committee. But they have refused to take any evidence which would go to controvert their positions or allegations.

In effect, the majority of this committee, by a strict party vote, have refused to proceed and take evidence and examine witnesses, and have, by their action, overruled and disobeyed the order of the House, upon the ground that in the view they entertain the whole inquiry is immaterial; holding this constitution as a legal record complete and perfect, that no evidence could contradict or impeach, and no fraud could vitiate or destroy. This position is as unsound as the course of the majority is indefensible.

The action of a court required to investigate the facts in relation to a disputed deed, that should allow its production, but refuse all evidence to show it a forgery, or that it was obtained by fraud, no one would justify or defend. Yet, that does not state the case so strongly as it may be stated against the action of the majority of this committee; as in that case the court would not only take the evidence, but decide upon it. The position of this committee was more like that of an examiner directed to take the evidence in a cause, having no power to decide upon it, but to return it for the consideration of the court, who should set up his opinion that the court ought to act in the case without proof, and should therefore refuse to take the evidence and return only his views and opinions to the court instead of the evidence directed to be taken.

The question of the effect of the evidence was not to be decided by this committee; that would be to substitute their opinion for the judgment of the House. That question would properly arise after it was taken, and when it was considered by the House, and not before. And upon that subject there might be great differences of opinion. Each member would be entitled to judge and decide for himself, with all the facts before him. And the majority of the committee, in overruling the judgment and order of the House, and in substituting their views, have not only disobeyed its authority, but deprived every member of his right to have the facts before him, and of judging and deciding thereon for himself.

The House and the majority of said committee are directly at issue. Whether the dignity and authority of the House shall be maintained and its order enforced, or, in this manner, overruled and defeated, is a matter to be decided by the House. The duty of the minority in this respect has been performed by calling its attention to the subject, and stating the facts as an explanation and apology on their part for not proceeding with the investigation, namely, that they were prevented from doing so by the action of the majority, which, at the last meeting, after directing one of their number to make a report, adjourned the committee without day.

II. EVIDENCE TAKEN.

The majority of the committee say the only proof they deem material is documentary, "about which there can be no dispute." Had that been the opinion of the House, no investigating committee would have been ordered. The majority return an opinion that the facts to be investigated are immaterial; in other words, they are in favor of the Lecompton constitution, no matter how dishonest and fraudulent it may be, and no matter how much the people may be opposed to it. Therefore, all the evidence proposed, they say, is immaterial; yet they present quite an imposing statement in their report as a full history of this constitution. 1. The law to take the sense of the people as to calling a convention. 2. The law to call the convention. 3. The registry and apportionment. 4. The proceedings of the convention. 5. The constitution. 6. The vote as to the pretended adoption of the constitution. All these they deem material. And they say they permitted the following to be taken as immaterial: 7. The law of December 17, 1857, submitting the constitution to a fair vote. 8. The result, as certified, of that election. 9. Mr. Calhoun's statement to Senator GREEN. When this statement is examined, it will be found that no evidence has been taken, of any kind sought or contemplated.

The laws referred to as published, and the constitution as presented, all could have, and they have, in no way been proved before the committee. How these laws have been executed, or what has been done under them, is not shown. There is no proof as to the proceedings taken under the first law. It is said only a few votes were given, and that it could in no sense indicate the sentiment of the people. There is no evidence, even, which way the majority was, so far as votes were given. There is no evidence as to the number of people there are in Kansas; but the best evidence to be had would not make its whole population fifty thousand—not enough to entitle it to admission, or to a single Representative in Congress.

The proceedings under the law to elect delegates are not shown. A copy of an extract of a Kansas newspaper has been obtained, which is not evidence, and which, if admitted, only shows that the law was not complied with. The result or vote at this election is not shown. The proceedings of the convention are only shown by producing a part of a mutilated journal, called the journal of the convention, but not proved in any way. An extract from a newspaper, and part of a journal, mutilated and not proved, is the sum total of facts, or evidence of facts, obtained by this committee. The last part of the journal, that which might show something as to the adoption of the constitution, or about its submission, has been taken off. There is no proof the constitution is as adopted by the convention. It has been in suspicious hands ever since, and there should

be some evidence of its genuineness, as well as of the election of the delegates according to the law. That election was to be held after a census and registry of all the legal voters! There is no evidence this was done. What a full compliance with the order of the House! In one word, there has been no legal evidence of any fact taken before the committee. The House might as well not have ordered the committee as to have one thus appointed, and thus refusing to act.

III.—ENABLING ACT.

The Territories of the United States are under the government and control of Congress. No legal proceedings can be taken to organize a State government in a Territory, except by the authority of Congress. Any proceeding adopted in the Territory for that purpose, (without such authority,) whether originating with the Legislature or the people, can only be regarded as an unauthorized voluntary application, and is entitled to no consideration, except as an expression of the sentiments and wishes of the people. If it is clearly shown to be the expression of the will of a majority of the people, Congress may adopt it; otherwise it should be rejected.

The Territorial Legislature, as such, has no power to call a convention to form a State constitution, in order "to subvert" the territorial government. In the case of Arkansas this was so decided by the Attorney General, Mr. Butler. He said:

"To suppose that the legislative powers granted to the General Assembly include the authority to abrogate, alter, or modify, the territorial government established by the act of Congress, and of which the Assembly is a constituent part, would be manifestly absurd. Consequently, it is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to a convention to form a constitution and State government, nor to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the Governor of the Territory, would be null and void; if passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void."

In the case of Michigan, the President (then in the Senate) held the same doctrine. He said:

"No Senator will pretend that the Territorial Legislature had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

But the President and his friends insist that the organic act, in this case, conferred upon the people of Kansas the right to form their State constitution in their own way. If this were conceded, the authority was given to the people, and not to the Legislature. The authority granted to the Legislature is specified in that act, and none was given in any form to call a convention to form a State constitution. If the act authorized the people to form a State constitution, it was independent of the Legislature; and the Topeka constitution was made and adopted in a legal and regular manner.

IV.—TOPEKA CONSTITUTION.

Early in 1855, and long before the Lecompton fraud was planned, impelled by the alarming condition of the Territory, the people took proceedings to form a State constitution, to ask admission as a State, and place themselves under the protection of law. The first convention of delegates elected, met at Topeka on the 19th of September, 1855. They made no constitution, but provided for a fair election of delegates to a constitutional convention in October, 1855. And at a general election, delegates were fairly elected from the whole Territory, by a vote of two thousand seven hundred and ten, all voting who chose to vote, and the rest assenting, according to the latest Democratic creed. The delegates assembled and proceeded to form a free-State constitution—one as unobjectionable as that of any State in the Union. That convention directed the constitution to be submitted to a vote of the people for their adoption or rejection, at an election to be held on the 15th of December, 1855. At that election, it was voted upon and adopted by a vote of between two and three thousand, only forty-six votes being given against it.

As before, this election was fair, and all had an opportunity to vote, and all were therefore concluded.

This movement originated with the people. It was three times before them at elections, at the

last of which it was fairly adopted. At each of these elections a larger vote was given than was given for the Lecompton delegates. And if ever those not voting should be held as assenting and concluded, it should be so held in this instance. The people of Kansas have, then, "in their own way, and in strict accordance with the organic act, framed a constitution and State government," "which is republican in form," according to the President's own theory. This constitution framed at Topeka was, in truth and in fact, the act and deed of the people of Kansas, made by them, without any dictation, and in their own way. If no enabling act was necessary, it was strictly legal and regular. And, in any view, it was as legal and regular as the Lecompton constitution can be regarded. Besides, it was fairly submitted to, and adopted by, the people. The other never was.

As early, then, as December, 1855, there had been a State constitution not only made, but adopted by the people, and the Territory was prepared for admission as a State. If, after that time, as the President insists, "no authority existed in the Territorial Legislature which could possibly destroy its existence or change its character," then the whole of the proceedings of the Lecomptonites were irregular and void. For the law to elect the Lecompton delegates was passed by the Territorial Legislature in February, 1857, more than a year after the people of Kansas had, in their own way, made and adopted a constitution, and prepared the Territory for admission as a State.

V.—LECOMPTON CONSTITUTION.

The first proceedings for the Lecompton convention were taken, not by Congress, or by the people of Kansas, but by the so-called Territorial Legislature. This was irregular and wrong.

1. If it had been a legal Legislature it had no power to do thus. "It was an act of usurpation," according to the President.

2. This was not a legal Legislature; it was not elected by the people; it could not represent them. It was an unlawful assembly, imposed upon the people of Kansas by foreign violence and votes, as has been established by legal evidence, taken by order of the last Congress. Congress could not make this illegal assembly the real representatives of the people. It never attempted to do so, as has been erroneously assumed. The people refused to recognize it. And in the last Congress the House of Representatives denied its authority and declared all its proceedings void. The following is a copy of the preamble and first section of the act as passed by the House:

"Whereas the President of the United States transmitted to the House, by message, a printed pamphlet purporting to be the laws of the Territory of Kansas, passed at Shawnee Mission, in said Territory: and whereas unjust and unwarranted test oaths are prescribed by said laws as a qualification for voting or holding office in said Territory: and whereas the committee of investigation sent by the House to Kansas report that said Legislature was not elected by the legal voters of Kansas, but was forced upon them by non-residents, in violation of the organic act of the Territory, and having thus usurped legislative power, it enacted cruel and oppressive laws: Therefore,

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all rules or regulations purporting to be laws, or in the form of law, adopted at Shawnee Mission, in the Territory of Kansas, by a body of men claiming to be the Legislative Assembly of said Territory, and all acts and proceedings whatsoever of said Assembly, are hereby declared invalid, and of no binding force or effect."

For both reasons the law calling the convention was void. But even that law was never complied with.

3. The census and registry were never made as required.

The law under which the delegates to the Lecompton convention claimed their election, passed by this unauthorized and illegal Legislature, is said to be "a fair law." It required a census to be taken, and a registry of all the legal voters in the Territory to be made, before that election; the lists of voters to be carefully corrected by the probate judges; one copy of such corrected lists to be filed with the Governor, another with the Secretary, and copies of the voters in each election district to be printed, and generally distributed among the inhabitants; one copy to be delivered to each judge of elections, and three copies to be posted up at each place of voting. And no person was to be permitted to vote whose name did not appear on such corrected lists. After the census and registry

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were "completed," and not before, an apportionment of the delegates to be elected was to be made by the Governor and Secretary, "by dividing the whole number of legal voters in the Territory by sixty."

No such census and registry were ever made and "completed," and consequently no apportionment of delegates could legally be made under the law.

4. The census and registry never being "completed," the apportionment was made in violation of law, and the convention was illegally constituted, even if the law had been valid.

By a copy of an extract from a Kansas newspaper, directed to be obtained by a majority of the select committee, (the only evidence given of the census and registry required by the law,) it appears a census was made in fourteen counties, and a registry in eighteen counties. There being thirty-eight counties in Kansas, this left twenty-four counties in which no census was taken, and twenty counties in which no registry was made. (Often called nineteen, but in fact twenty, as now appears.) These twenty counties were wholly deprived of delegates or representation, and no one residing in them could vote.

The pro-slavery party had the whole machinery of the territorial government in their hands; and it was their duty to see this law faithfully executed. They did not do this. The registry was unfairly made as far as it went. Non-residents were registered in all the border counties, and the free-State voters, to a large extent, were designedly omitted. In the eleventh and eighteenth districts some counties were registered, and others omitted. The counties in which the pro-slavery party claimed majorities were registered, and the others omitted. This was as unfair and as much a violation of the law, as it would have been to register one party, and omit the other; indeed, that was done in effect. All the border counties, where colonizations and frauds could be practiced, and where the pro-slavery party were strongest, were registered; and those where the free-State party were strongest were omitted.

Governor Stanton said, in a recent speech, that he was "satisfied the officers did not perform their duty even in the eighteen counties in which an imperfect registry was obtained;" that, in some instances, he knew they did not do their duty. And he said he knew the officers refused to take the census, or make the registry, as required, in some instances; and that, if he had then known the facts since ascertained, he would not have made the apportionment. And he certainly ought not to have done so. The registry was fraudulent as far as it went, and it never was "completed." The apportionment and election under it were in direct violation of the very law ordering the election, and in violation of the rights of every legal voter who was disfranchised by this law, and the manner in which it was fraudulently executed. The law was thus made a means and an instrument of fraud!

No one denies that these twenty counties, by the fault of pro-slavery officers of the Territory, were deprived of the right to vote, and to be represented. But, again, it is said not to be material, as Calhoun says there were not many voters! Even the committee of fifteen agreed that his statements were no evidence, and much less could his opinions be. But who knows how many voters there were in these twenty counties, settled as rapidly as Kansas had been? No one; no reliable estimate could be made, even by an honest man. That was one reason why a registry was required. The law required a registry of all the legal voters. These partisan officers could not deprive a single county of the right to vote, and of representation, but by a direct violation of the law. But the pretense that there were but a few voters in these counties is untrue in fact. Governor Walker states that fifteen of these counties, "in which there was no registry, gave a much larger vote at the October election, even with the six-months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution." It cannot be known how many more there were who did not vote. More than half the counties were deprived of representation, and nearly half the legal voters of their right to vote—taking into account the many omitted in the eighteen registered counties, and the total omission of all in the

remaining twenty counties. Had these counties been represented, it would have controlled the result, not only as to submitting the constitution to a vote, but as to what it should be; for so well did the delegates understand the force they enacted, and how much their proceedings outraged public sentiment, that only a bare majority attended. The constitution was adopted by less than a majority of the convention, and the refusal to submit it was decided by a majority of only two of those attending, as it is said.

It is said the people prevented a registry from being taken. This is not shown. The majority refuse proof, and then resort to such allegations. It would have been disproved had evidence been taken. The pro-slavery party had the power in their hands: three thousand United States troops, "dragoons and a battery." This law did not affect the persons or property of the people. Their names only were required. In every settlement they could have been readily obtained. The law allowed an officer for each precinct. It might as well be objected that the census could only be taken in half the States because some maiden lady in one of them refused to give her age, (which her next door neighbor would readily have done;) after which all further efforts were abandoned. Those refusing, if any, were liable to penalties; those not refusing had a right to be registered. Did each voter in twenty counties refuse? Ask Calhoun. It was not pretended to be taken. It was not intended to be taken. This was only another fraud. And this silly pretense shows there is no answer to be made to it.

A copy of the census registry and apportionment, as it now appears, is annexed.

Counties.	Districts.	Population.	Voters.	Delegates.
Doniphan.....	1	4,120	1,086	7
Brown.....	2	No returns.	206	2
Nemaha.....		513	140	
Atchison.....	3	2,807	840	5
Leavenworth.....	4	5,329	1,837	12
Jefferson.....	5	No returns.	555	4
Calhoun.....	6	885	291	2
Marshall.....	7	415	206	1
Riley.....	8	No returns.	353	4
Pottawatomie.....		No returns.	205	
Johnson.....	9	890	496	3
Douglas.....	10	3,727	1,318	8
Shawnee.....	11	No returns.	283	2
Richardson.....		No returns.	No returns.	
Davis.....	12	No returns.	No returns.	3
Lykens.....		321	413	
Franklin.....	13	No returns.	No returns.	-
Four counties.....	14	No returns.	No returns.	-
Two counties.....	15	No returns.	No returns.	-
Lincoln.....	16	831	415	3
One county.....	17	No returns.	No returns.	-
Bourbon.....	18	No returns.	No returns.	4
McGee.....		No returns.	No returns.	
Allen.....	19	2,623	645	-
Dorn.....		No returns.	No returns.	
Five counties.....		No returns.	No returns.	-
		23,149	9,231	60
				=

Four counties were wholly omitted in the foregoing list. There are thirty-eight counties in all. Thirty-six counties are named in the constitution. It then gives one Senator and one Representative to the country lying west of Wise, Butler, Davis, and Hunter, not naming the counties. There are two counties west of these, Arrapahoe being one.

VI.—POPULATION INSUFFICIENT.

In fourteen counties where the census was taken there were twenty-three thousand one hundred and forty-nine inhabitants. To these counties fifty of the sixty delegates were given. At the same rate as to voters, the population in the other four registered counties would be four thousand six hundred and twenty-nine—making a total in the eighteen counties of twenty-seven thousand seven hundred and sixty-eight—not one third enough for a single Representative, which requires about ninety-three thousand five hundred. If the twenty counties not registered contain only some three thousand inhabitants, as our opponents assert, Kansas has only one third the population required for her admission as a State. And that is a good objection. If these twenty counties have twenty thousand inhabitants, the number is still too small for admission, while it is so large as to destroy all pretense of fairness in the election of delegates to the Lecompton convention. The fraud would vitiate the proceedings; and in any view the number is not much more than half enough. The time

has not arrived for the people to determine their own institutions for themselves.

VII.—REMONSTRANCE OF THE LEGISLATURE.

The Legislature recently elected, and fairly representing the people of Kansas, protest against the Lecompton constitution, as follows:

"Preamble and joint resolutions in relation to the constitution framed at Lecompton, Kansas Territory, on the 7th day of November, 1857.

"Whereas, a small minority of people living in nineteen of the thirty-eight counties of this Territory, availing themselves of a law which enabled them to obstruct and defeat a fair expression of the popular will, did, by the odious and oppressive application of the provisions and partisan machinery of said law, procure the return of the whole number of the delegates of the constitutional convention recently assembled at Lecompton; and whereas, by reason of the defective provisions of said law, in connection with the neglect and misconduct of the authorities charged with the execution of the same, the people living within the remaining nineteen counties of the Territory were not permitted to return delegates to said convention, were not recognized in its organization, or in any other sense heard or felt in its deliberations; and whereas, it is an axiom in political ethics that the people cannot be deprived of their rights by the negligence or misconduct of public officers; and whereas, a minority—to wit, twenty-eight only of the sixty members of said convention—have attempted, by an unworthy contrivance, to impose upon the whole people of this Territory a constitution without consulting their wishes, and against their will; and whereas, the members of said convention have refused to submit their action for the approval or disapproval of the voters of the Territory, and in thus acting have defied the known will of nine tenths of the voters thereof; and whereas, the action of a fragment of said convention, representing as they did a small minority of the voters of the Territory, repudiates and crushes out the distinctive principle of the Nebraska act, and violates and tramples under foot the rights and the sovereignty of the people; and whereas, from the foregoing statement of facts, it clearly appears that the people have not been left 'free to form and regulate their domestic institutions in their own way,' but, on the contrary, at every stage in the anomalous proceedings recited, they have been prevented from so doing:

"Be it therefore resolved by the Governor and Legislative Assembly of Kansas Territory, That the people of Kansas being opposed to said constitution, Congress has no rightful power under it to admit said Territory into the Union as a State, and the representatives of said people do hereby, in their name and on their behalf, solemnly protest against such admission.

"Resolved, That such action on the part of Congress would, in the judgment of the members of the Legislative Assembly, be an entire abandonment of the doctrine of non-intervention in the affairs of the Territory, and a substitution in its stead of congressional intervention in behalf of a minority engaged in a disreputable attempt to defeat the will and violate the rights of the majority.

"Resolved, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves.

"Resolved, That the Governor of this Territory be requested to forward a copy of the foregoing preamble and resolutions to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from the Territory."

These facts, thus authoritatively stated by the legal Legislature of the Territory, should be taken as indisputable, unless disproved by higher evidence, that has not been done or attempted. And these facts brand that constitution as irregular and fraudulent, and prove that the people of Kansas are opposed to it.

VIII.—PLEDGES.

In 1820, the Missouri compromise line was established by southern votes; and Kansas and all the other territory acquired of France north of that line was pledged to freedom, and slavery therein "forever prohibited."

This, like all efforts to admit slave States, was a political question, to increase and extend the unequal political power given to the owners of slave property, by the admission of new slave States, with their Senators and Representatives in Congress. The effort to make Kansas a slave State, has the same object in view. The slave States have about six million of free people. The free States about thirteen million. Yet the slave States have already more than four times the extent of territory, admitted as new States, in proportion to their population, than the free States have. The slave owners numbered, in 1850, less than three hundred and forty-seven thousand, yet they are counted, in representation, at between two and three million; and they have, by this unequal power, controlled the Government for the last sixty years. They wish to make this inequality still greater, and to make their power absolute. Nine new slave States have been added, with eighteen Senators and forty-eight Representatives in Congress. And this unequal power is held by

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them all. New free States have not been added in the same proportion. According to population, the additions made to slavery are more than four times what has been allowed to the free States in proportion to their numbers. But all this does not satisfy the slave power!

Hence, when Kansas was to be settled, they made their arrangements to reduce that to slavery. To do this, the Missouri prohibition was repealed, in 1854, against the uniform action of the Government from the day of its establishment, upon the plea that it was unconstitutional, that Congress had no power to legislate upon the subject of slavery, and the great principle that it belonged to the people was adopted. To extend slavery into free territory, the compromise of 1820 and the finality of 1850 shared the same fate; the slavery question was reopened and renewed; it was unsettled where it had been settled, and the struggle transferred to the people of the Territory to be again settled by them. They have again settled it; but their decision is now disregarded! By the terms of that act Congress and the Government were bound not to interfere, but to leave the people "perfectly free" to settle that question for themselves in their own way. The Democratic party declared that as their party creed in their Cincinnati platform. The President indorsed it. He got upon it so emphatically, he thought he was a part of it, and in his inaugural approved of the conception of Congress in applying the rule "that the will of the majority shall govern in the settlement of the question of domestic slavery in the Territories," and said "it was the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. *This sacred right of each individual must be preserved.*" How was this sacred right of each individual preserved at the election for delegates?

In his instructions to Governor Walker he said:

"The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force or fraud."

And further that

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their rights to vote for or against the instrument. And the fair expression of the popular will must not be interrupted by fraud or violence."

And in his letter to the Connecticut clergymen, he said:

"It is my imperative duty to employ the troops of the United States, should this become necessary, in defending the convention against violence while framing the constitution, and in protecting the bona fide inhabitants qualified to vote, under the provisions of this instrument, in the free exercise of the rights of suffrage, when it shall be submitted to them for approbation or rejection."

This was on the 15th August last. Up to that time it was not only their right to vote upon the constitution, but it was his imperative duty to protect them in the exercise of that right.

Governor Walker and Secretary Stanton, in their published letters and speeches, state that they pledged their honor and character to the people of Kansas, in every way, that the constitution should be submitted to them for adoption or rejection. And told them they expressed the views of the President and the whole Cabinet. They spoke to them officially as the officers of the President. Even the delegates to the convention gave pledges to see that this was done—a majority of them in writing, as it is stated. A copy of one of these is annexed as an example:

To the Democratic voters of Douglas county:

It having been stated by that Abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolutions, which were adopted by the Democratic convention which placed us in nomination, and which we fully and heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN, A. W. JONES,
W. S. WELLS, H. BUTCHER,
I. S. BOILING, JOHN M. WALLACE,
WM. T. SPICKLEY, L. A. PRATHER.

LECOMPTON, Kansas Territory, June 13, 1857.

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duty it will be to frame the constitution of the future State of Kansas, and to mold

the political institutions under which we, as a people, are to live, unless he pledges himself fully, freely, and without reservation, to use every honorable means to submit the same to every bona fide actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers in this Territory, as the majority of the voters shall decide."

All were pledged to this—the party, the President, the Governor, and the Delegates, as deeply as men could be; yet all these pledges have been deliberately and wantonly violated by this Administration.

IX.—WHY THE CONSTITUTION WAS NOT SUBMITTED.

The answer is easy, why the constitution was not submitted to the people. *Because, if it had been, it would have been rejected by a vote of more than five to one.* This was a matter of entire and absolute certainty. The refusal to submit it was a confession of its weakness. Speaking of the free-State party, the President says:

"They have ever refused to sanction or recognize any other constitution than that framed at Topeka. Had the whole Lecompton constitution been submitted to the people, the adherents of this organization would undoubtedly have voted against it."

But that would have been no harm, and no reason for refusing to submit it, even with the pro-slavery party, unless the free-State party, by voting against it, could have defeated it; and that is conceding this to be the constitution of a minority, to which the majority were known to be opposed. Rebellious people; preferring freedom to slavery! Why, indeed, submit it to them, when they were unalterably opposed to it, had predetermined not to have it, and "would doubtless have voted against it?"

Again, the President says they refused to vote for delegates to the convention, not because "there was an omission to register the comparatively few voters who were inhabitants of certain counties of Kansas," "but because they had predetermined, at all hazards, to adhere to their revolutionary organization, and defeat the establishment of any other constitution than that they had framed at Topeka." Disloyal subjects! what right had they to adhere to their own constitution and their own opinions, against United States troops and Federal dictation; against a legal minority sustained by the President! The "few voters of certain counties," were all the voters in more than half the counties of the Territory, by fraud deprived of all representation and of all right to vote! Is that maintaining the sacred right of each individual to vote? And if those not voting were free-State men, as the President assumes—and as is doubtless the fact—they composed more than three fourths of the legal voters, even in the registered counties. Here, those who could vote are censured for not voting! They expected and desired to vote upon the constitution, but that is not allowed, because they "would doubtless have voted against it," and the minority had "predetermined, at all hazards, to adhere to" the constitution they had framed at Lecompton!

The arguments used in favor of this constitution concede, or assume, that the majority of the people are opposed to it. The President does not deny this; the majority of the committee do not deny it; no honest, unprejudiced man can deny it. Is there a member of this House who will rise here in his place and say that he honestly believes a majority of the people of Kansas are in favor of this constitution? I ask for a reply. Will any one say "yes" to that inquiry? *Not one!* No one believes it; and yet you are for forcing it upon them against their will. Is that your non-intervention? Is that the "popular sovereignty" you promised them?

The argument is, one party is legal and the other illegal; that is, one party has a right to their opinions, and the other party has not; that the people in fourteen States will not like it if Kansas is not made a slave State. Was there any pledge made to them, because they voted for the President, that Kansas should be made a slave State? If not, why should they demand any interference by the President? Why should he urge the absurdity that, after a pro-slavery constitution, irrevocable as to slavery, is once firmly fixed upon the people, they can get rid of it and make it a free State much easier than they can before? A prop-

osition so repugnant to reason as to require no answer. Its statement is its refutation. Make it a slave State, beyond the power of change, but by revolution, in order to give the majority a better chance to make it a free State!

X.—ELECTION ON THE FOURTH OF JANUARY.

The refusal to submit the Lecompton constitution to the people for their adoption or rejection in violation of the organic act, of the general understanding, and of all the promises that had been made, created such a feeling of just indignation that acting Governor Stanton, in order to preserve the public peace, judged it advisable to convene the Legislature to take such action as might be deemed proper to prevent the attempted fraud from being consummated showing that he at least intended to fulfill the promises he had made. For his integrity in this respect he deserves the thanks of all good men.

In his message he advised against repealing the law calling the convention or interfering with its action, recommending simply the passage of a law submitting the constitution to a fair vote, and expressing his confident belief that if adopted, Kansas would be peaceably admitted under it; and if rejected, that Congress never would violate the rights of the people by forcing a constitution upon them against their will fairly expressed. The Legislature met and passed an act in accordance with this recommendation on the 17th December, 1857, submitting the constitution fairly to the people at an election to be held on the 4th of January last. On that day an election was held under the law, and according to law, and the vote stood, for the constitution, 162; against it, 10,226—being the largest vote ever polled at any election in Kansas, and the last election held, and the question being directly upon the Lecompton constitution. The election was fairly and peaceably conducted, and this vote stands of record as the actual and legal expression of the will of the people of Kansas against this constitution; rejecting it not only by a majority, but by a vote almost unanimous. The people have decided, and rejected the Lecompton constitution.

This election was recognized and approved by the Administration before it was held, and Governor Denver was directed to see it properly conducted "without interruption." And he did so. The election was fairly and peaceably conducted.

Secretary Cass, in his instructions dated 11th December, 1857, says:

"The Territorial Legislature doubtless convened on the 7th instant, and while it remains in session its members are entitled to be secure and free in their deliberations. Its rightful action must also be respected. Should it authorize an election by the people, for any purpose, this election should be held without interruption, no less than those authorized by the convention. While the peace of the Territory is preserved, and the freedom of elections is secured, there need be no fear of disastrous consequences."

Why should not the decision of the people of Kansas be respected? It is their right to make their own constitution; they are to live under it, and be governed by it. And that right was guaranteed to them by the organic act. But because the decision was in favor of freedom and against slavery, the Administration now disregards this election. The President objects: *First*, that he has had no "official information" of the result. *Second*, that after the doings of the convention, the Legislature had no power to order the election.

1. *As to notice.* The President, upon the principles of special pleading, adopted in the message, does not deny information, but admits it; his denial is, that it has not been "officially communicated." If it has not, it is the fault of the President's friends, who give or withhold "official information," just as he wills and directs. Calhoun, president of the bogus convention, has long been here. Why is official information improperly withheld? Are the fraudulent returns still incomplete, or secreted in so many places he has as yet been unable to gather them together? But we have an official and admitted report.

PROCLAMATION.

In accordance with the provisions of an act entitled "An act submitting the constitution framed at Lecompton under the act of the Legislative Assembly of Kansas Territory, entitled 'An act to provide for taking a census and election of delegates to a convention,'" passed February 19, A. D. 1857, the undersigned announce the following as the offi-

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cial vote of the people of Kansas Territory, on the questions as therein submitted, on the 4th day of January, 1858:

Counties.	Against the Lecompton Constitution.	For ditto, with slavery.	For ditto without slavery.
Leavenworth.....	1,997	10	3
Atchison.....	536	4	—
Doniphan.....	561	1	2
Brown.....	187	2	—
Nemaha.....	238	1	—
Marshall.....	66	—	—
Riley.....	287	7	—
Pottawatomie.....	207	2	—
Calhoun.....	249	—	—
Jefferson.....	377	1	—
Johnson.....	292	2	—
Lykens.....	358	1	—
Linn.....	510	1	3
Bourbon.....	268	55	—
Douglas.....	1,647	21	2
Franklin.....	304	—	—
Anderson.....	177	—	—
Allen.....	191	1	4
Shawnee.....	832	28	3
Coffee.....	463	—	4
Woodson.....	50	—	—
Richardson.....	177	—	1
Breckinridge.....	191	—	—
Madison.....	40	—	—
Davis.....	21	—	—
Total.....	10,326	138	24

Some precincts have not yet sent in their returns, but the above is the complete vote received to this date.

J. W. DENVER,
Secretary and Acting Governor.

C. W. BABCOCK,
President of the Council.

G. W. DEITZLER,
Speaker of House of Representatives.

January 14, 1858.

It is said if all the returns had been made, the majority against the constitution would have been over twelve thousand.

2. *As to the validity of the election.*—The act of the Legislature calling the convention did not require the constitution to be submitted to the people. Governor Geary vetoed it for this reason, and the bogus Legislature passed it by a two-third vote, over his veto. Was the fraud since attempted, then designed?

All concede that the Legislature could then have required its submission! But no one contends it could have dictated the form of the constitution. Why this difference? The right to form the constitution was delegated to the convention, the right to pass upon it belonged to the people. The delegates could not ratify their own acts. The act of the Legislature (and the President says it was an act of usurpation) only authorized them to form a constitution. That was all the authority the convention had. It had no legislative powers. The Legislature could not be affected by it—that remained the same until Kansas was admitted as a State as if no convention had been called. Yet the convention assumed legislative power, and provided that all laws not repugnant to their constitution should not be altered, amended, or repealed (they omitted to provide against the passage of a new law) until after the constitution was adopted; and that all civil and military officers should hold their offices until after that time. The convention met in September and adjourned over until after the October election, to know what kind of a Legislature might be elected; and with all the frauds practiced, it was against the pro-slavery party. Then they legislated their laws to stand and their officers to hold over, in the convention. In effect, the convention abolished the Governor and Legislature without a pretense of authority to do anything of the kind. Until it is admitted as a State Kansas must remain a Territory. The President calls it a Territory and keeps the territorial officers there. And the Governor and Legislature hold their offices until others are commissioned to act. No caucus or convention could deprive them of their offices or impair their authority.

This convention also displaced the legal officers and judges of election, and appointed John Calhoun to a dictatorship, with full power to fill these places with his own corrupt tools and agents, acting under no legal responsibility or sanction whatever, for the convention could not impose any, to conduct an election for the pretended submission, and for State officers under this constitution, so as to declare their friends elected, let the result be as it might! This election was to be held on the 21st December.

Before that time, and before the constitution was pretended to be in existence for any purpose, the Legislature provided by law for its submission to a fair vote of the people.

On the 8th of December the President said, in his annual message:

"Whether Kansas shall be a free or a slave State must eventually, under some authority, be decided by an election."

On that very same day Governor Stanton convened the Legislature of Kansas to provide for such an election. On the 17th of December the law was passed; and under it the question has been decided "by an election!"

The President also said:

"The truth is that no other authentic and satisfactory mode exists of ascertaining the will of a majority of the people of a State or Territory, on an important and exciting question, like slavery in Kansas, except by leaving it to a direct vote."

Here the only authentic and satisfactory mode has been adopted, and the will of the majority has been ascertained "by a direct vote!"

Had the Legislature calling the convention enacted it might put the constitution into operation without submitting it to the people, its authority to do so would have depended entirely upon that act of the Legislature; and that act, like any other law, might have been changed or repealed, or a submission required at any time before the constitution had been put into operation under it; and no State constitution could be put into operation until Congress admitted the Territory as a State. Attempting to do this, is called rebellion! And where there was a general dissatisfaction expressed, the Legislature should require it to be submitted to a vote, as they did. A mere law may be changed by the same power that can enact it. A further law may also be enacted.

When it is admitted the power belonged to the Legislature, and that it might have directed a submission before the convention met, it may not be denied the same power still remained, and a submission could just as legally be directed afterwards as before; and this provision, afterwards made, would be as legal as if embraced in the original act. This power had not been surrendered. The Legislature could not lose it, or the convention acquire it, by implication. The law for the submission is as valid as the law for the convention; one rests on the same authority as the other, and must have the same force and effect. The law ordering the election was, therefore, legal and valid; and the decision of the people under it, final and conclusive!

3. *As to the effect of this election.*—The past and present Administrations have constantly urged the people of Kansas to settle all their difficulties peaceably at their elections. Yet, the President now refuses to recognize that fair and peaceable mode of settlement. The professions and practice are in conflict. At one time when the Legislature was elected, an armed invasion interferes and prevents a fair election; at another, they are required to vote *viva voce*, so that frauds may be practiced to any necessary extent. And by the President's officials the people in twenty counties are disfranchised and denied the right to vote. All these fraudulent proceedings are recognized, and these are all held to be valid elections. But when a fair election has been held, the President will not hear the result, or recognize its force when heard!

He says a submission to the people is correct in principle, and he trusts will be adopted "on all future occasions." Why apply this correct principle to future occasions only? No case can ever arise where a greater necessity for it will exist. In this case it was made indispensable by the organic act.

It is not only correct in principle but it is universal in practice. There is not an existing State constitution in the Union that has not in some way been sanctioned by a vote of the people governed by it. Why should Kansas be made an exception?

Whether the law for this election was valid, as the people all believed, or invalid, as is now pretended, is, in truth, wholly immaterial, so long as the election was fairly held, and the will of the majority fairly expressed. No legal objection or legal quibble can change or alter the great fact that the people of Kansas, not only a majority, but the whole people, with almost one unanimous

voice, have repudiated, rejected, and condemned this constitution. That no man may deny or dispute. The assent of the people is as necessary as the assent of Congress to this instrument; indeed, more so; for they are to live under it and be governed by it. Congress cannot rightfully force a State into the Union against their will, and under a constitution rejected by them. This would be an arbitrary and unconstitutional exercise of power. A government thus imposed upon a people would not be republican either in form or in fact.

Had the people of Kansas all signed a remonstrance against this constitution, and sent it here, would it be any answer to say no law had been passed authorizing them to protest against it in this manner? The fact is the same, whether their wishes are or are not expressed under color of law. The voluntary expression of public sentiment is the same as if it was done under the forms of law. And here the fact cannot be denied, the people are opposed to this constitution.

XI. VOTE ON THE STATE OFFICERS ON THE FOURTH OF JANUARY.

According to the official certificate of Governor Denver and the presiding officers of the Legislature, who were present at the canvass, the free-State officers and member of Congress were all elected, the lowest majority being over three hundred. To the Senate, thirteen free-State and six pro-slavery members were elected; and to the House, twenty-nine free-State and fifteen pro-slavery members were elected. Mr. Calhoun, however, who does the heavy work in this Kansas business, has never declared the result, either as to the State officers or members of the Legislature. It is said he stated freely, in Missouri, that the entire pro-slavery State ticket was elected, and also the pro-slavery member of Congress, and that the pro-slavery party had a majority in both branches of the Legislature. And this, no doubt, will be the declared result, contrary to the true result, as certified by Governor Denver. If intended to be made otherwise, it would have been actually settled long ago, and been used as an argument in favor of the expediency of accepting the Lecompton constitution. Withholding these election returns, and refusing to declare the result, with the knowledge, and, as it must be presumed, the approval of the Administration, is one of the many things that mark the true character of this Lecompton fraud. But the secret is out at last: Calhoun, in his statement to Senator Green, says the whole free-State vote at this election was seven thousand and fifty-nine, of which six hundred and thirty-one were "illegally cast," and that the legal pro-slavery vote was six thousand five hundred and eighty-one. Deducting the six hundred and thirty-one votes which he declares illegal, and the pro-slavery party has a majority of one hundred and fifty-three!

XII.—DELAWARE CROSSING.

On the 4th January the free-State officers were elected, as I have stated, by about three hundred majority. This majority it was necessary to overcome, and to change the Legislature by having a majority in Leavenworth county. Enough votes to do this were fraudulently returned from Delaware Crossing, namely, three hundred and seventy-nine—every vote pro-slavery?

It has since been established; and Isaac Munday, one of the judges of the election at that precinct, testified that only forty-three votes were polled at that place; that the returns had been taken off, a forged return of three hundred and seventy-nine votes added, and the certificate of the judges attached; that the true returns were given to Henderson to carry to Calhoun before this forged vote was added. Calhoun denies receiving them, but the forged returns are found secreted on his premises. In this transaction Calhoun, his chief clerk, McLane, his brother-in-law, Diffendorf, and Henderson, one or all, appear to be implicated, and their testimony and statements do not agree. This appears to be a sore place; and Mr. Calhoun was forced to come out in the newspapers with a story that he, poor soul, was imposed upon! The proof of the fraud could not be disputed, and Calhoun said if Governor Denver would take the testimony of the judges of the election, he would count out this fraudulent and forged vote. Mun-

day, on his way to give his evidence, was shot. The dead tell no tales. His testimony was never taken again, as Calhoun required. He exposed the crime. Who were the criminals? The pro-slavery men say Munday shot himself, or was murdered by some free-State man! How improbable! He had no reason for suicide; he had concluded to serve God and let slavery alone. Who had anything to fear from Munday's evidence? What party might lose? what men be exposed by it? Who could have any motive of fear or of revenge, to prompt them on to such a deed? Those who had been guilty of forgery or perjury, or both, in regard to this transaction! If he was murdered, it was not by free-State men; they were glad to have him tell the truth; they wanted his evidence! It was done by some fiend of the pro-slavery faction from fear, or for revenge—another crime in the effort to make Kansas a slave State.

Delaware Crossing.

Isaac Munday, being sworn, deposes and says: I reside at Delaware Agency, Leavenworth county, Kansas Territory; was one of the judges of election at that precinct, on the election held there on the 4th of January, 1858, for officers under the Lecompton constitution; I was before this board to testify at Leavenworth city on the 26th day of January, 1858; I did not then see the poll-books of Delaware Agency precinct. I have been shown now, by the board, a roll, which purports to be the poll-books of that precinct; I find, on examination, a certificate made out upon a portion of a sheet of paper, containing the certificates of the judges of election, signed by me and the other judges; the signatures, I believe, are genuine, but the preceding seven sheets of paper, with lines drawn between two columns of names, and numbered to represent three hundred and seventy-nine names, I never saw before; the portion of paper upon which the certificates are made out appears to have been cut from the original poll-books, as made out and signed by the judges of election, and has been wafered to this list, which was never made out by us; the poll-books which I signed at the close of the election were made out upon three sheets of paper, wafered one upon the other; the heading of the original poll-books was made out upon a broader sheet of paper than this, and in an entirely different handwriting; the names on the list were in one column, and numbered differently from what they are in this; I see nothing genuine in these poll-books, except the certificate which is appended, and which has apparently been cut from the original roll; there were some names signed on the last sheet, just above the certificate; this has been cut between the certificate and the names; the paper which we used was wafered together with red wafers; these are fastened with wafers of a different color; the names of the persons who really did vote there on that day were written in a different order from what they are here; there were just forty-three votes taken in by us there, and those were all the names written on the list; on this I find three hundred and seventy-nine names, and names of men who did not vote there, and men that I never saw or heard of; I believe the whole thing is a forgery, except what appears on the last sheet, which contains the certificate, as signed by myself and the other judges; I have been shown by this board a tally-list, accompanying the poll-books, which tally-list gives to each of the Democratic candidates three hundred and seventy-nine votes; I never saw that tally-list before; the heading and the certificate which we used at the election were brought to the poll-room on the day of the election, I think, by Mr. Garrett; blank spaces were left for the name of the precinct to be written in; I think Mr. Findlay, one of the clerks, filled in the name of the precinct in the blank space in the heading and certificate; I do not know whose handwriting the original heading and certificate were made out in; I do not think it was in the handwriting of Garrett, Wilson, or any of the clerks or judges of election; I do not know where Mr. Garrett got the heading and certificate; the impression made on my mind at the time was that he had brought them up from Wyandot; something was said about making out the poll-books, and he remarked that he had brought them up all prepared; I have been shown an affidavit by this board as follows:

"Territory of Kansas, County of Leavenworth:

"The undersigned, judges and clerks of the election held for State officers and members of the State Legislature, held at the precinct known as Delaware Agency, on the 4th day of January, 1858, do hereby certify that the returns made by us of said election were correct and genuine; and that any statement made by any person as to the vote of said precinct can only be determined, as to its truth or falsity, by a reference to said returns made by us as managers and clerks of said election at said precinct."

I signed an affidavit worded as above, at Westport, Missouri, on the 18th day of January, A. D. 1858, before Samuel Salters, an acting justice of the peace for Johnson county, Kansas Territory; the affidavit was signed by myself and the other judges and clerks of the election; I heard, prior to signing the affidavit, various rumors as to there being forged returns from our precinct; the affidavit was made in Westport; was drawn up by Mr. J. H. Danforth; fearing the various reports as to there being forged returns from our precinct, and knowing that Mr. Garrett had been arrested, and that some one had been at my house to arrest me, on a charge of having something to do with it, I went to Westport for the purpose of seeing General Calhoun, who it was reported would be there; I did not find him there; Mr. Danforth was there; I met him at the post office; never saw him before that day; at the time I signed that affidavit I did not know that there were any forged returns with my signature attached; I supposed then that the genuine returns were in the hands of Calhoun, and believed that if we

made this affidavit, Calhoun would get our signatures correctly, and would correct the returns as made out by us; we left the affidavits in Danforth's possession; I sent for Grinter and Wilson to come to meet me at Westport; Garrett and Findlay were there; we went there expecting to meet Calhoun; at the time Danforth wrote the affidavit I think he had heard that there only forty-three votes polled; I mentioned at the time that perhaps it would be better to state in the affidavit the number of votes polled being forty-three; Mr. Findlay said that he thought it would be better to state that the returns as made out by us were correct; Mr. Danforth gave as his opinion that it would be the proper way, and so wrote the affidavit; the affidavit was made before Samuel Salters; I do not know where Salters or Danforth lives; Mr. Garrett told me that he had stated publicly in Lawrence and Lecompton, and had told Governor Denver, that the actual vote was but forty-three; and I supposed that Calhoun knew what the true vote was, and if we made oath that the returns as made out by us were the only evidence as to what the real vote was, it would be counted only as forty-three; I supposed that Calhoun had the correct returns, as Henderson was at our precinct when the polls closed, and suggested to take them up to Leavenworth and give them to Calhoun; I have no idea who committed the forgery of those returns.

ISAAC MUNDAY.

XIII.—VOTING BY FREE-STATE MEN.

That part of the free-State party that voted for State officers on the 4th of January, (about half the free-State men refused to vote,) have been claimed as indorsing and assenting to the Lecompton constitution. This is an error. They voted to take from their enemies, in any contingency, all pretense of authority; and they voted protesting against the Lecompton constitution. The convention nominating the free-State officers unanimously

"Resolved, That the candidate nominated by this convention, on accepting this nomination, will be considered as pledged, should the constitution be approved by Congress, to adopt and execute immediate measures for enabling the people, through a new constitutional convention, to obtain such a constitution as the majority may approve."

And the free-State officers elected (but who have not been, and will not be, declared elected) have sent to Congress their protest against admission under it, reciting how it was made, and concluding as follows:

"In view of these facts—that the Lecompton constitution was framed by a bare majority of a convention, elected by a small minority of the people of Kansas, and that the convention refused to submit the constitution thus framed to a fair vote of the people for their ratification or rejection, and that the Territorial Legislature did provide by law for its submission, under which law it was submitted and rejected by an overwhelming majority of the people; and for the sake of harmony and the integrity of the Union, we, the officers elected under said constitution, do most respectfully and earnestly pray your honorable bodies not to admit Kansas into the Union under said constitution, and thus force upon our people an organic law against their express will, and in violation of every principle of popular government.

"G. W. SMITH, Governor elect.

"W. M. ROBERTS, Lieutenant Governor elect.

"ANDREW J. MEADE, State Treasurer elect.

"J. K. GOODIN, Auditor of State elect."

These facts are stated by responsible men. They are true, and can be proved; and they are undisputed.

XIV.—SUBMISSION ON TWENTY-FIRST DECEMBER.

The pretended submission, on the 21st December, of the constitution, was a most shameless fraud. To submit a constitution to the people, allowing them to vote for it, but not to vote against it, was no submission. It was a confession that it ought to be submitted, but a refusal to submit it.

The President says the convention "did not think proper to submit the whole of this constitution to a popular vote, but they did submit the question whether Kansas should be a free or a slave State to the people." And he afterwards says that this election presented "a fair opportunity" to decide the question of slavery. It is true, the votes were to be labeled "constitution with slavery" and "constitution with no slavery;" but it is equally true, that the constitutions, in both cases established and perpetuated slavery; the one with no slavery being made unalterable and irrevocable, and in that respect even worse than the other, which did allow slaves to be emancipated upon certain terms. The President says that "Kansas is as much a slave State as Georgia or South Carolina;" and, therefore, that "slavery can never be prohibited in Kansas except by means of a constitutional provision." The constitution with no slavery declared "that the right of property in slaves now in the Territory shall in no manner be interfered with." If it is now a slave State, and the right of

property in slaves and their increase cannot be interfered with, it must remain so. Instead of a prohibition of slavery, here is a constitutional sanction. It also declared, in relation to amendments, that "no alteration shall be made to affect the rights of property in the ownership of slaves."

The other constitution was one undisguisedly establishing slavery and prohibiting its repeal, but allowing slaves, upon certain terms, to be emancipated. Here was a double fraud. First, the votes must be for the constitution, and could not be against it. Next, the votes must be for slavery, and could not be against it. If they voted for the "constitution with no slavery," that established slavery, and made it perpetual! What a "fair opportunity" was here presented! A fair opportunity to establish slavery! and to provide that it should never be abolished! and no opportunity to vote against it in any way. "Heads I win, tails you lose"—what a fair opportunity! The President regrets the people neglected to improve it. It was an insulting fraud, that a blackleg would have the grace to disown.

XV.—VOTE ON THE TWENTY-FIRST DECEMBER.

According to the official certificate of Governor Denver and the presiding officers of the Legislature, the whole vote was six thousand seven hundred and twelve for the constitution at this election. They were present at the canvass on the 14th of January. According to Calhoun, it is now six thousand seven hundred and ninety-five. When or how the eighty-three votes were added is not explained! This vote, as reported and counted, was to a great extent fraudulent.

The following is a comparison of the reported vote of four precincts, with the actual vote as proved by the judges and clerks of the elections, before the investigating committee of the Territorial Legislature:

	Reported.	Actual.
Oxford.....	1,226	42
Shawnee.....	753	115
Fort Scott.....	329	150
Kickapoo.....	1,017	385
Total.....	3,347	692

Here are frauds at four precincts of nearly three thousand of the six thousand votes returned. But this is denied and proof withheld.

The officers of the Legislature say:

"Taking into view other, but less important, frauds, we feel safe in saying, that of the whole vote polled, not over two thousand were legal votes polled by citizens of the Territory."

The real vote at this election was, in fact, about the same as at the election for delegates; that is, the actual strength of the factious pro-slavery minority, according to the best and most reliable evidence to be obtained—namely, about two thousand.

At the election on the 4th of January, when a fair vote either way was allowed, there was from ten to twelve thousand majority against this constitution. At the election on the 21st of December, the real vote was about two thousand in its favor. But at this election no one could vote against it!

XVI.—AMENDING THE CONSTITUTION.

The President insists that the majority, if they are for a free State, (as he seems to assume,) can amend this constitution at pleasure, after it is adopted; and says:

"The will of the majority is supreme and irresistible, when expressed in an orderly and lawful manner. They can make and unmake constitutions at pleasure. It would be absurd to say that they can impose fetters upon their own power which they cannot afterwards remove. If they could do this, they might tie their own hands for a hundred as well as for ten years."

His position is that the proceedings to make a constitution are irrevocable, and the question of its adoption cannot even be submitted to the people, but when once firmly fixed upon them, the will of the majority is supreme and irresistible. The very reverse is the fact. Before they are admitted under it, the will of the majority is fettered by no conditions, and should be supreme and irresistible. After it is adopted it can only be amended in a legal manner, according to its provisions, and slavery could never be prohibited.

Can a majority of the people, or even of the States, amend the Constitution of the United States in violation of its provisions? If so, the clause allowing a representation upon property to a small class of citizens against the equal rights of all other citizens might be amended, and in that way slavery might be disconnected from politics and from Congress, and from all questions as to the political power or the political ascendancy of a privileged class. It would then cease to be political, and like all other property interests, become a matter of pecuniary importance only. No longer an element of political power, it would cease to be a theme of discord and strife. That would place all the citizens of all the States upon a real and just equality, and establish an unbroken peace upon the subject of slavery. Can the provision allowing two Senators to each State, which is not amendable, be changed? If not, can slavery be abolished against the express terms of the Constitution?

The President promised the people of Kansas, through the Governor he appointed for them, that the constitution should be submitted to the people, for them to adopt or reject. That promise has been violated. Now he expresses an opinion that if the constitution establishing slavery is adopted, it can be easily amended and made a free-State constitution! The opinion is more worthless than the promise; for if in this instance he should maintain his integrity, he cannot decide this question—that will come before the pro-slavery judges of Kansas, subject to an appeal to the pro-slavery judges of the Supreme Court. The Kansas judges are the same who directed indictment against citizens of Kansas for their political opinions. The supreme judges are the same who recently, in an opinion—not a decision—(the Dred Scott case) usurped legislative powers beyond those admitted to belong to Congress, and by a kind of judicial usurpation, and judicial enactment, attempted to extend slavery beyond the limits of the States where it existed, into all the Territories of the United States. And this the President recognizes as law, when these judges had no more authority to extend slavery beyond the limits of the States where it was upheld by local law than so many other persons who never had been judges. Both courts are intensely pro-slavery, and, judging the future by the past, ready to do anything for slavery that party necessities may require. These courts would say the constitution, if once adopted, could only be amended in a legal way, and according to its provisions, and not at all as to slavery, which is made *irrepealable*. Nor could any act of Congress change this, as has been suggested. Congress can only admit or refuse to admit the State under the Constitution. The people of Kansas, up to this time, have been unable to get rid of the illegal legislation of 1855. And they never could change this pro-slavery constitution, if it should be adopted, short of revolution.

XVII.—EQUAL RIGHTS.

The rulers of this Government, the privileged political class, who represent slavery, say they must have equal rights in the Union or they will go out of it. It is just and right that the people of different States and different sections, of different occupations and pursuits, should have equal political rights, and, in proportion to their numbers, equal political power. We all agree in this great principle, upon which alone a representative government can rest. If those who complain are denied this, I will aid them to obtain it by a change of policy, or of the Constitution itself. Will they do the same? Will they consent to stand upon a real and true equality? If so, we have only to examine fairly what section, or class of States, or individuals, have had more than their equal share of political power, and correct it. This question of slavery has been made, and is, a question of political power. So says Senator Mason; so says the gentleman from Mississippi, [Mr. Davis,] and I admit it. It is this that brings it here; it is this that gives to it its bitterness; and, as they say, endangers the Union. How stands the account? Who hold the power of this Government in their hands? Who have held it in their hands for the last sixty years? Is it the Representatives of all the people of all the States equal? Have the

Representatives of the free States had it in their control? No man can say so truly. History records the fact that the owners of slave property, small in number, control this Government, and have, for the last sixty years. So said Mr. Meade in 1848; so said Mr. Clay in 1850; and so says Mr. Hammond in 1858; and the records of the Government prove it beyond dispute. It is as astonishing as it is undeniable. The free States (slave owners may well use that term in reproach and in derision) have only been free to do as their masters—the owners of slave property—directed.

The population of the free States is over thirteen millions; of the slave States, over six millions. There have been eighteen presidential elections; twelve Presidents were slaveholders, six were not, but northern men with southern sentiments. The slaveholders have held the Presidency for forty-eight years—more than two thirds of the entire period. No northern man has ever been reelected; five of the slave-owners have been. As far as the Presidency is concerned, the slave-owners have had more than their equal rights! There are over twenty millions of free people in the Union; the slave-owners numbered, in 1850, three hundred and forty-six thousand and forty-seven. According to numbers, they should have had the Presidency but a single year; they have had it over forty-eight!

Since 1809, the President *pro tempore* of the Senate has been a slaveholder, except Mr. Southard, of New Jersey, and Mr. Bright, of Indiana, for five or six years in all! And they were zealous adherents of the slave power! A single year was all they could claim upon the principle of equal rights!

Since 1820, for thirty-eight years closing with the present Congress, slave-owners have been Speakers of the House for thirty years; and free-State men for only eight years! The Speaker, by the appointment of committees, controls the legislation of the country more than any other officer of the Government, and the committees never were appointed in so unfair and partisan a manner as in the present Congress!

In the thirty-five Congresses, we have had twenty-two Speakers who were slave-owners, and twelve who were free-State men. What class of men have had more than their equal rights?

Since 1841, slave-owners have held the office of Secretary of the Navy, except two years, up to the organization of the present Cabinet; and since 1849, a slave-owner has always been Secretary of War. The free States furnish most of the shipping and seamen for the Navy, and most of the soldiers for the Army; but slave-owners command them. Who have had more, in this, than their equal rights?

Since 1789, up to the present Administration, the Secretary of State has been appointed fourteen times from slave-owners, and only eight times from free-State men. This is the first officer of the Cabinet, who has charge of the foreign relations of the country. What men have had more than their equal rights?

In the Supreme Court, five of the nine judges, including the Chief Justice, have always been slave-owners, and only four from the free States, and these must be sturdy adherents of the slave power. So that one department of the Government has been forever exclusively in the hands of slave-owners. Is this giving the other citizens their equal rights? Nearly one hundred to one of the people of this country are not slave-owners, and more than three fourths of the business of this court arises in the free States!

There is a class of the people having more political power, than any other class of citizens—namely, the slave-owners. There are three hundred and forty-six thousand and forty-seven of them, including men, women, and children. They admit and boast that they have controlled the Government for sixty years, and do now. They own three million two hundred and four thousand two hundred and eighty-seven slaves. Three fifths of them are counted; so that three hundred and forty-six thousand and forty-seven persons are counted as if they numbered in fact two million two hundred and sixty-eight thousand six hundred and nineteen in the scale of representation. These three hundred and forty-six thousand

are counted nearly two million more than they are, because they own slaves. Instead of three Representatives in Congress, they have thirty, because they own slaves. But this is not all the political power they have. They control those States. The free whites in the slave States, not owning slaves, numbering five million eight hundred and thirty-eight thousand three hundred and fifty-seven, the great body of the people, do not seem practically to have any political power. Who ever heard of any of them being President, Vice President, a Cabinet officer, a Senator, or member of Congress, or a judge of the Supreme Court, or filling any other important office under this Government? The slave-owners, by their property and political privileges, are made the ruling class in those States. They control the press, and force submission to their will by a system of terrorism and constrained public sentiment. We must add to their power the nearly six million non-slaveholders in the slave States. These three hundred and forty-six thousand slave-owners, bound together by a single interest, have therefore in their hands practically the political power of about eight million people, bond and free. Do they claim more than that for their equal rights?

We find that three hundred and forty-six thousand slaveholders have had one department of the Government in their hands absolutely—the judiciary; the executive practically, and also the legislative—all; and yet they are going out of the Union if they cannot have their equal rights.

This is no over statement. More than twenty million free people are governed by some three hundred and forty-six thousand, and have been for sixty years; and they claim more, or will go out of the Union after equal rights. All I can say is, if they were fairly out of the Union we might, after their departure, have equal rights.

They talk of an equilibrium—that is the phrase. A greater absurdity could not be imagined. How can you arrest the natural increase of over twenty million free people, and the immense immigration here, to keep pace with three fifths of your increase of slaves? for, if one increases faster than the other, your equilibrium is overthrown. You cannot do this; and, therefore, you attempt to overthrow the principle of equal rights in representation. Every departure from this is a step towards despotism. Would it not be absurd for the shoemakers in the free States (and they are more numerous than the slaveholders) to demand an equilibrium, or say they would leave the Union? or for Rhode Island to say she would dash the Union into fragments unless her relative strength in the Government was kept exactly stationary, as it was when there were but thirteen States in the Union? We should answer to all these claims: "Keep cool; you are not wronged; you have your just and equal share in the Government in proportion to your numbers;" that is, republican and democratic. So have slaveholders; and more than that, just so much more as slave representation increases it. And this they have. Whether there should be one or more slave States, their equal rights can never be destroyed. Increasing free States or decreasing slave States could never deprive a single slave State of their equal rights. It might lessen—it could never remove—the inequality and injustice that now give them absolute power in the Government.

The annexed table and extracts are added upon this subject:

EXTENT, POPULATION, AND REPRESENTATION OF THE FREE AND SLAVE STATES.

Free States.	Sq. Miles.	Population.	Sen.	Rep.
1. New York.....	46,000	3,048,325	2	33
2. Pennsylvania.....	47,000	2,258,160	2	25
3. Ohio.....	39,964	1,955,050	2	21
4. Massachusetts.....	7,250	985,450	2	11
5. Indiana.....	33,809	977,154	2	11
6. Illinois.....	55,409	846,034	2	9
7. Maine.....	35,000	581,813	2	6
8. New Jersey.....	6,851	465,509	2	5
9. Michigan.....	56,243	395,071	2	4
10. Connecticut.....	4,750	363,099	2	4
11. New Hampshire.....	8,060	317,456	2	3
12. Vermont.....	8,000	313,402	2	3
13. Wisconsin.....	53,924	304,756	2	3
14. Iowa.....	50,914	191,881	2	2
15. Rhode Island.....	1,200	143,875	2	2

Fifteen States.....454,344 13,347,035 30 142

(Omitting California.)

35TH CONG....1ST SESS.

Admission of Kansas—Mr. Bennett.

HO. OF REPS.

Slave States.	Sq. Miles.	Population.	Sen.	Rep.
1. Virginia.....	61,352	894,800	2	13
2. Kentucky.....	37,680	761,413	2	10
3. Tennessee.....	44,000	756,836	2	10
4. Missouri.....	65,037	592,004	2	7
5. North Carolina.....	45,500	553,028	2	8
6. Georgia.....	58,000	521,572	2	8
7. Alabama.....	50,722	426,514	2	7
8. Maryland.....	11,000	417,943	2	6
9. Mississippi.....	47,151	295,718	2	5
10. Louisiana.....	41,346	255,491	2	4
11. South Carolina.....	28,000	274,563	2	6
12. Arkansas.....	62,198	162,189	2	2
13. Texas.....	325,520	154,034	2	2
14. Delaware.....	2,120	71,169	2	1
15. Florida.....	59,268	47,203	2	1
Fifteen States.....	928,894	6,184,404	30	90

Population.

Fifteen free States contain.....	13,347,035
Fifteen slave States ".....	6,184,404

The fifteen free States have more than double the free white population that the fifteen slave States have.

Territory.

Fifteen slave States contain.....	928,894 square miles.
Fifteen free States ".....	454,344 " "
Difference.....	474,550

The fifteen slave States contain more than double the territory of the fifteen free States. In other words, the slave States now have about five times the extent of territory, according to population, that the free States have; including slaves and all, they have about three times the territory of the free States, according to population! Yet they would still encroach upon free territory; they still demand more for slavery.

Nine slave States have been added, containing.....	722,922 square miles.
Six free States have been added, containing.....	290,264 " "
Difference.....	432,658 " "

Maine and Vermont were formed by dividing old States, and not from added territory. While the free States have more than double the population, the slave States have gained more than double the territory, by the admission of new States. That is, the addition made (by the admission of new States) to the limits of slavery is about five times in extent to the addition made to the free States, in proportion to numbers.

The five purchased slave States of Florida, Texas, Arkansas, Louisiana, and Missouri, contain five hundred and forty-three thousand three hundred and sixty-nine square miles.

The whole fifteen free States contain four hundred and fifty-four thousand three hundred and forty-four square miles.

The territory added to the slave States by purchase is larger than all the fifteen free States by eighty-nine thousand and twenty-five square miles.

This excess is a larger territory than is contained in seven of the free States. And this was all purchased to extend slavery; while the free States admitted have been formed out of territory belonging to the United States when the Government was established, and to which the ordinance of Jefferson, and of freedom, prohibiting slavery, was applied by the fathers of the republic.

When so much has been yielded to slavery, will southern Representatives object to admitting one free State out of all the purchased territory?

The fifteen free States have thirteen million of free white inhabitants; the fifteen slave States six million; yet each have thirty Senators. True, the small States are entitled to two Senators each, as well as the larger ones; but this number of slave States, extended over a large territory, with a small population, makes the disproportioned representation of the two sections in the Senate too palpably unjust. In Senators the slave States have, by this system, kept up a representation in the proportion of two to one as against the free States.

In the House, the slave States have ninety members, representing six million of population; the free States one hundred and forty-two members, representing thirteen million. Upon the same ratio with the slave States, the free States should have one hundred and ninety-five members—a loss to them of fifty-three—in the popular branch of the Government; that in which the popular voice is to be heard and the popular will expressed.

Vermont and New Hampshire, with a population of six hundred and thirty thousand eight hundred and fifty-eight have six Representatives.

South Carolina has six, also, with only two hundred and seventy-four thousand five hundred and fifty-three; less by three hundred and fifty-six thousand two hundred and ninety-five—not one half as much.

At the ratio of South Carolina representation, these free States should have fourteen Representatives, instead of six. Is there not a wide difference in the political rights of these States? My district has a population of over one hundred thousand; the ratio of South Carolina is about forty-five thousand; that would more than double the representation of every free State.

Three congressional districts in New York contain a larger free white population than the State of South Carolina. Yet this is the State that is going to force slavery into Kansas—the one that has so often complained of the hardships of remaining one of the United States, and threatened disunion!

With over one hundred and ten thousand more slaves than white inhabitants, to be held in subjection, what a formidable force South Carolina could command to destroy the

Union! Only think, what a regiment she could muster! and think, too, what deep cause she has for revolution! More than twice the representation according to numbers! and, therefore, more than twice the political power in proportion, allowed to any free State in the Union! And this unequal representation South Carolina would retain, if twenty free States were admitted. Why, then, should she object? Florida has forty-five thousand two hundred and three white inhabitants; Delaware, seventy-one thousand one hundred and sixty-nine; both together have about the same population as the St. Lawrence and Herkimer congressional district in New York, formerly represented by Preston King; yet these two slave States have six electoral votes; this district but one. South Carolina has a less white population than a single congressional district in Iowa! yet it has eight electoral votes.

Politically, slavery is the greatest of all institutions—a foe to capital, energy, enterprise, and improvement. The very soil loses half its value, where slavery desecrates it. Yet slavery is the great political institution of this country. Politicians and office-seekers—from presidential aspirants, who promulgate their devotion from high places, down to the lowest menial in or about the public offices—are swift to do it reverence, eager rivals to be foremost in aiding its further extension and more permanent ascendancy. They vie with each other as to who shall be its most rampant and rabid advocate, and stoop the lowest to propitiate its favor. And this will continue, so long as devotion to slavery is the only passport to office. On this single ground stood all the rival candidates for the nomination at Cincinnati. Upon this, each relied for success. To them their subservience to slavery was more important than ability, honesty, or integrity. An avowed determination to extend slavery was the all-important qualification. All stood on this platform, but most prominently the nominees of the misnamed Democracy, now having but one policy, and one principle—the extension of human bondage.

The following statement, taken from the census of 1850, will show the number of slave owners in the slave States:

States.	Slaveholders in each.
Alabama.....	29,295
Arkansas.....	5,999
Delaware.....	809
Florida.....	3,520
Georgia.....	38,456
Kentucky.....	38,385
Louisiana.....	20,670
Maryland.....	16,040
Mississippi.....	23,116
Missouri.....	19,185
North Carolina.....	28,303
South Carolina.....	25,506
Tennessee.....	33,864
Texas.....	7,747
Virginia.....	53,063
Total.....	346,047

Thus it will be seen that the number of slave owners, including men, women, and children, is only about three hundred and forty-six thousand.

Slaveholders have political advantages denied to all other men; and politicians are their arrogant champions. There can be no end of slavery aggression and slavery agitation until you disconnect slavery and politics; until it is settled, and definitely settled, that slavery cannot be extended for political purposes.

Votes of eleven slaveholding States at the election in 1852, when Mr. Pierce was chosen, as contrasted with the vote of New York.

1. Arkansas.....	19,377	7. Texas.....	18,547
2. Delaware.....	12,673	8. Alabama.....	41,919
3. Florida.....	7,193	9. Louisiana.....	35,902
4. Georgia.....	51,365	10. Mississippi.....	44,424
5. Maryland.....	75,153	11. Virginia.....	129,545
6. North Carolina.....	78,861		
Aggregate vote of eleven States.....	515,159		
Vote of New York.....	522,294		

Being 7,135 votes more than all the others.

These eleven States, (Virginia included,) that gave, in 1852, a less vote than New York for President, have twenty-two Senators; New York has only two!

They have seventy-nine electoral votes for President; New York only thirty-five—not half as many! They have fifty-seven Representatives in Congress; New York but thirty-three! difference, twenty-four!

XVIII.—KANSAS MESSAGE.

A strange delusion seems to pervade the mind of the President in relation to the state of parties in Kansas. This arises from the difficulty of inducing him to realize the fact that a great majority of the people of Kansas are opposed to the policy of the Administration; are opposed to extending slavery into free territory and making Kansas a slave State. The President speaks of one of the political parties of Kansas as "enemies" of the Government, "revolutionary," and in a state of rebellion; and of the other, as "friends of the Government, loyal, and strictly regular" in all they have done! The free-State party is the illegal, and the pro-slavery party is the legal political party, according to the President. He makes no unkind allusion to the many outrages of his friends upon the people of Kansas. Against border-ruffian invasion and usurpation; against judicial corruption and oppression; against election frauds, illegal voting, and false returns; against the crimes of robbery, arson, and murder that his friends have been reg-

ularly committing for the last four years, he makes no complaint. He denounces one political party as rebels, and indorses the other as regular. This censure is as undeserved as the praise is unmerited.

He declares that the government of Kansas, (set up by border-ruffian invasion, as has been established by evidence,) which the people would otherwise have subverted, has been maintained with the troops of the United States. What an admission is here involuntarily made, that the people of Kansas have been and are now, kept in subjection to the slave power by force! Whoever before heard of the necessity of a military force to prevent the minority from taking the rule out of the hands of the majority? To force slavery into a free Territory, and upon an unwilling people, all the power of the past and present Administrations has been exerted. Every species of injustice and oppression has been connived at and encouraged; the most outrageous frauds have been sanctioned and adopted; criminal prosecutions for political opinions corruptly instituted; leading free-State men unlawfully arrested and imprisoned; crime left unpunished and criminals protected; and a standing army, in violation of law, has been and is now stationed in Kansas to force the people to submission. All this, and much more, has been done to make Kansas a slave State. And all in vain. It has only inspired an unyielding spirit of resistance in the people. It has only deepened and strengthened their love of liberty and hatred of oppression.

The issue between the President and the people of Kansas is simply this: he is determined to make Kansas a slave State in spite of the people; and they are determined it shall be a free State in spite of the President. By the law, the people of Kansas were to be left perfectly free to form and regulate their own institutions in their own way. They do not understand "non-intervention" to mean executive dictation! or "popular sovereignty" that the minority shall rule! And they never will understand it—they never will submit to it. Instead of regulating their own affairs, they are denied the right to be heard in regard to the constitution that is to be forced upon them. Their consent is not required. Their protest is not regarded. And after all these pledges and professions, slavery is to be forced upon them, against their recorded will and their earnest protestations, by the Congress of the United States and the power of the General Government!

XIX.—REBELLION.

The old charge of rebellion is made anew. In reviving this foolish and exploded false pretense the President reflects upon the Kansas judiciary. Their decision upon this question should be treated with as ready a respect, by the President at least, as an extra-judicial opinion of the Supreme Court. This question has been judicially settled. During the last Administration indictments were directed and pronounced against Governor Robinson and ninety-seven other leading free-State men, for treason and constructive treason, because they had taken steps for the admission of Kansas as a free State—this same rebellion of the people against the minority, that the President has repeated so often. The people had peaceably formed a free-State constitution, and elected officers under it, so as to put it into immediate operation, if admitted. The Lecomptonites have done the same, and a little more; for they have not only elected officers under their constitution, but have abolished the Governor and Legislature, and the officers of election—in fact, set aside the whole territorial government. As to rebellion, the President's "friends" are worse off than his enemies in Kansas. Minnesota has elected her officers: is Minnesota in rebellion? Is a Territory in rebellion by preparing for and asking admission as a State?

Indictments against the leading free-State men were directed and found, and they were arrested and imprisoned. The judges appointed by the last Administration were the willing tools in this act of tyranny and oppression—judges who issued process to destroy hotels and printing presses as nuisances, if owned by free-State men, and who discharged men arrested and indicted for murder if they belonged to the pro-slavery faction. No crime committed against a free-State man has ever been heard of as having been redressed or pun-

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ished by them. I drew articles of impeachment to present in the last Congress against one of these corrupt judges, Leecompte; but the slave power is so strong in this Government that there is no place in it where he could be fairly tried and justly punished. It would have been as idle as the complaints that Governor Geary preferred against him; and for that reason alone I abandoned it.

After a long delay and imprisonment, these ninety-eight State prisoners and Administration rebels were brought to trial before these judges—the friends and officials of the past and present Administrations. And even Leecompte and Cato were forced to acknowledge they had done nothing criminal, and the indictments were dismissed. The intended purpose was answered: while these men were imprisoned, the Leecompton fraud had been planned and prepared. After all this, for the President to call these proceedings of the free-State party rebellious, is disrespectful to the pure judiciary of Kansas—men who would go as far for slavery as the most degraded of men dare go; whose judicial action even the President does not seem to respect.

XX.—GOVERNORS OF KANSAS.

Since October, 1854, counting the Secretaries who have acted as Governors, Kansas has had seven Governors—Reeder, Shannon, Woodson, Geary, Walker, Stanton, and Denver—all appointed by President Pierce or Buchanan, within a little over three years; and all removed by them, or forced to resign, but Denver, and it is said he is soon to be removed. Both Administrations were insanely bent upon forcing slavery into Kansas—the last being (like the last state of the man who took into his council seven other spirits more wicked than himself) “worse than the first.” All these men were the party friends of the Presidents appointing them—some of them southern men; some northern men with southern sentiments. Two of them voted in Congress to repeal the Missouri compromise and open Kansas to slavery; and all were bound by their party prejudices and party feelings, to carry out the wishes of their party in Kansas. Bound, too, by every motive of interest or ambition to carry out that policy—selected by the President and removable at his will; selected as the very man in each case best fitted to aid in the great purpose of making Kansas a slave State—each of these men went to Kansas bitterly prejudiced against the free-State party, just as the President is now. Some of them were men of great ability and rare and ripe experience, who were as well qualified by their high standing and position to command respect and inspire confidence as any that could have been selected. Yet all these men have learned to respect the rights of the people of Kansas when they came to know them, however strongly prejudiced against them before. All these men have been forced to bear unwilling testimony in their favor. And when the cry of oppression has been heard from that far-off Territory, and these men have been called upon to explain why there was disturbance, and why there was complaint, they have been compelled to say the disturbances were the work of the pro-slavery party and their allies, and that the free-State men had been wronged and trampled upon. Reeder said so, and he opposed, as well as he could, Missouri invasion and dictation, and he was removed! Shannon, partisan as he was, and reckless as he was, under whose rule almost every spot in Kansas was witness to some great crime—so that it furnishes to this day its legend of horror written in blood—even he, at last, was forced to confess the same. The light of truth shone too brightly around him to be resisted, and then he was removed!

Geary appears to have desired to do justice to the people of Kansas. He said the disturbances were made by the pro-slavery party, and the free-State party had been greatly wronged. He even attempted to punish crime; he stood by and heard the dying declaration of Buffum, murdered by Hayes; and he promised to see that the murderer was punished. He caused him to be arrested, and he was indicted by a pro-slavery grand jury. Judge Leecompte discharged him. Again he was arrested and again discharged. The Governor appealed to the President to remove Judge Leecompte. It was said that he would be removed; he was not removed, but Governor Geary was!

Governor Walker went there believing in rebellion and proclaiming rebellion, until he learned it was only a paper rebellion made by the Executive to cover its own proceedings. He found the people orderly and peaceable; he found that all they asked was the rights of American freemen, to have a voice in making the government and the constitution under which they were to live. He promised this to them, for himself and for the President and the Cabinet; he pledged his honor to see that this was allowed to them; but when it was found the people would not consent to make Kansas a slave State, he was required to violate his promises and his pledge of honor; this he would not do, and he was forced to resign.

Governor Stanton had again and again pledged the Administration (and he had authority to do so) that the constitution should be submitted to a fair vote; and when the convention—that has since become a fugitive from justice—refused to do this, he called together the Legislature, who passed a law requiring its submission; and it was submitted. The election under this law established the great fact that the free-State party were, in truth, the people of Kansas. For this act of honesty and independence, Stanton was removed!

It may be said to the credit of these men, that not one of them—no man of character enough to hold the place—has ever yet been found who would do the work required at their hands. They all give their testimony against the insane folly of attempting to force slavery upon the people of Kansas. If any man will not believe their united testimony, he would not believe though a witness should rise from the dead. But if no Governor would do all the dirty work required, the man has at last been found that will. Calhoun, once president of a convention—as high an office as the president of a last year's caucus—has all the power of the Territory placed in his hands. He is as irresponsible, and his power is as irrevocable as that of the Leecompton convention—with this Administration. He hesitates at nothing. Governors are no longer needed.

It is said he dare not return to Kansas. And Stringfellow, Atchison, Buford, and their desperate compeers, have left Kansas in despair; and dream no longer that slavery can be forced upon her people. But this Administration, more desperate than they, is still insanely and pertinaciously laboring to accomplish it.

XXI.—PEACE IN KANSAS.

It is urged that admitting Kansas under the Leecompton constitution would secure “peace.” No greater mistake could be made. Instead of peace, it would be a declaration of civil war. The people of Kansas never will submit, and never should submit to such an act of oppression. “There is a point beyond which a free people cannot be driven.” Congress would then indeed force them into rebellion in defense of the inalienable right of self-government, in defense of their right to a republican government, not in name only, but in fact. Any attempt to enforce that rejected and detested constitution upon the people of Kansas would be unavailing. They would not stand alone in that struggle. Public opinion is stronger than this Administration and slavery combined. The rash attempt might plunge the country into a civil war, and deluge Kansas in blood, but it would be unsuccessful.

Congress never had a question before it fraught with more fearful consequences—one more certain to endanger the peace of the country, if it is not settled wisely and rightly. Peace cannot be secured by consummating this great wrong upon the rights of a free people. Justice to the people of Kansas can alone secure peace and tranquillity, for justice and peace go hand in hand.

Is it an evidence of peace that the House of Representatives in Kansas, by nearly a unanimous vote, passed an act making it felony, punishable with death, to attempt to put that constitution in force in Kansas, or to accept any office under it? Is it an evidence of peace, that public meetings assemble in Kansas, and resolve, without a dissenting voice, that in case Congress adopts the Leecompton constitution, the people of Kansas will put the Topeka constitution into operation, and stand by it at every hazard? Is it an evidence of peace that all reliable intelligence from

Kansas represents the people as fixed in their purpose of resistance, if the Leecompton constitution is attempted to be forced upon them? They say:

“If it is rebellion for us to insist on our right to live under our own government—a government born of the popular will, baptized in the blood of our martyrs, and indorsed by the people's votes, then we are ready for it.”

The newspapers of Kansas express the same determination:

“We know that, let come what may, no pro-slavery Legislature or officer will ever be allowed to assume the reins of power. Cost what it may, we stand to this, and will support it while a free voice is left to encourage action, or a free arm left to strike a blow!”—*Leavenworth Times*.

“There is no mistaking it—no evading it. There can be no compromise. It is either submit and be slaves, or resist and be freemen!”—*Lawrence Republican*.

An extract from a letter of L. A. Frather, Esq., will serve to indicate the state of feeling in Kansas:

“I am a Democrat, and that in the broadest sense of the term. I am also a southerner from the bosom of old Virginia, and yet so much am I opposed to the Leecompton constitution that, if Congress undertakes to force it upon us, I will fight—yes, sir, I will suffer death, rather than submit to the damnable thing; I swear, by the great Eternal, that I will resist it as long as I live; and if it is not destroyed during my life, I will disinherit my children if they will not promise to struggle against it after I am gone.”

Thus speaks one of the men nominated on the same ticket with Calhoun as a delegate to the Leecompton convention, and whose name, without his authority, was placed to the pledge signed by Calhoun and others, to submit the constitution to the people for their adoption or rejection. He did not attend the convention. Only a bare majority of the delegates elected did attend.

The following is a copy of the last resolution passed by the Kansas Legislature before its adjournment:

“Resolved by the Legislative Assembly of the Territory of Kansas, the Council concurring, That we do hereby, for the last time, solemnly protest against the admission of Kansas into the Union under the Leecompton constitution; that we hurl back with scorn the libelous charges contained in the message of the President accompanying the Leecompton constitution, to the effect that the freemen of Kansas are a lawless people; that, relying upon the justice of our cause, we do hereby, in behalf of the people we represent, solemnly pledge ourselves to each other, to our friends in Congress, and in the States, “our lives, our fortunes, and our sacred honor,” to resist the Leecompton constitution and government by force of arms, if necessary; that in this perilous hour of our history we appeal to the civilized world for the rectitude of our position, and call upon the friends of freedom everywhere to array themselves against this last act of oppression in the Kansas drama.”

“Resolved, That the Governor be requested to immediately transmit certified copies of these resolutions to the President, the Speaker of the House of Representatives and the President of the Senate of the Congress of the United States, and a copy be transmitted to our Delegate in Congress, and to both branches of Congress.”

They declared their fixed purpose to resist this rejected minority constitution by force of arms if attempted to be forced upon them. Does this look like peace, if Congress adopts the Leecompton fraud? If that is done, and attempted to be enforced, not peace but war will be the necessary and certain consequence.

ADMISSION OF KANSAS.

SPEECH OF HON. JAMES WILSON,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,
March 29, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. WILSON said:

Mr. CHAIRMAN: This debate is about to close. I therefore wish to present the reasons which have determined me, under all circumstances, to oppose the admission of Kansas into the Union under the Leecompton constitution. I also wish to present what I conceive to be the true cause of all the difficulties in that Territory, from its organization to the present period. For I do not conceive that it is contained in the mere refusal to submit to the people this constitution, to be approved, or disapproved, by a direct vote. That was a great wrong, but still not the true cause; neither do I concede that the charge of rebellion made by the President in his special message is the true cause. That charge is simply untrue. But, sir, the true cause lies far back of the Leecompton constitution—far back of the charge of rebellion. It is contained in the bill organizing the Territory—the organic act which gave it its

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existence. Here it is; and I ask that it may be read.

"That the Constitution and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void, it being the true intent and meaning of this act not to legislate slavery into any State or Territory, nor to exclude it therefrom, but to leave the people perfectly free to form their domestic institutions in their own way, subject only to the Constitution of the United States."

Here, sir, is the cause from whence has sprung all our woes. Here, the error—deep, radical, and fundamental. In what? In the repeal of the Missouri compromise; in the deliberate declaration that the previous legislation of this Government in regard to its Territories was unjust, oppressive, and unconstitutional. I did not agree to that repeal then—do not now. I did not assent to that declaration then—do not now. I thought I saw arms bristling all around the bill—I have seen it realized.

The sovereignty of Congress over the Territories—the only true and legitimate sovereignty—was discarded, and for what? For the Kansas-Nebraska bill; for the principles of that bill which has organized sectional parties, convulsed the Territory of Kansas, deceived her people, and is now here embodied in the Lecompton constitution. Sir, this principle of the Kansas-Nebraska bill

—“sent before its time

Into this breathing world, scarce half made up,”

what is it?—I have a right to ask. For its distinguished author and the Administration which came into power upon its assumed principle differ widely as to its meaning and force. I have a right to ask; for to-day, in a distant Territory, forty thousand American citizens, our own blood, and race, and lineage, are fearfully awaiting our decision of its meaning. Does it mean that thirty-one States,

“Long wandering, in wild mazes lost,”

have groped their way into this Union, in utter ignorance of the great principles of this Government—that as Territory after Territory has been organized into States, their people had no conception of their duties and rights? Does it mean that Kansas, by special favor, has had a right conferred on her, and her people never before exercised or enjoyed? Then I ask for the evidence. Is it contained in her history? Is it in the vote of McGee? Is that self-government? Is it in the returns from Johnson? Is that non-intervention? Is it in the Oxford fraud? Is that popular sovereignty? Sir, I feel “perfectly free” to say that Kansas affords no interpretation of its meaning. We must look elsewhere.

What, then, is the principle contained in the Kansas-Nebraska bill? Sir, it is “Janus” faced. The advocates of the bill gave it two constructions: one for the North, and one for the South; both of which, I shall show, have been overthrown and discarded by the Democratic party and the Federal judiciary. What is the first? It is territorial sovereignty. That is the right of the people of the Territory, acting through their Territorial Legislature, to establish or reject slavery. This was the position of Mr. DOUGLAS. That there may be no mistake, I shall read from his speech on the 3d of March, 1854:

“I will begin with the compromises of 1850. Any Senator who will take the trouble to examine our Journals will find that on the 25th of March of that year I reported, from the Committee on Territories, two bills, including the following measures: the admission of California; a territorial government for Utah; a territorial government for New Mexico; and the adjustment of the Texas boundary. These bills proposed to leave the people of Utah and New Mexico free to decide the slavery question for themselves, in the precise language of the Nebraska bill, now under discussion. A few weeks afterwards the committee of thirteen took these two bills, and put a waiver between them, and reported them back to the Senate as one bill, with some slight amendments. One of these amendments was that the TERRITORIAL LEGISLATURES SHOULD NOT LEGISLATE ON THE SUBJECT OF SLAVERY. I objected to that provision, on the ground that it SUBVERTED THE GREAT PRINCIPLE OF SELF-GOVERNMENT, upon which the bill had been originally framed by the Territorial Committee. On the first trial the Senate refused to strike it out; but subsequently did so, after full debate, in order to establish that principle as the rule of action in territorial organization.”

Such, sir, was the opinion of Mr. DOUGLAS in

1854, and may be now; and not only his, but of the Senate of the United States. Not only was the right conceded upon full debate, on the Nebraska bill, to the Territorial Legislature to legislate upon the subject of slavery, but even the attempt to deny the right was declared subversive of the principle of self-government. Now, sir, I am no advocate for territorial sovereignty. I never believed in the doctrine, and do not now. States are sovereign—not Territories. But I insist that the Democratic party shall not disown and repudiate its acknowledged principle; and, more especially, when to do so subverts the principles of self-government.

But, sir what do we find? What, but the complete abandonment of the principle of territorial sovereignty, discarded, overthrown—and by whom? By the Supreme Court of the United States, and its action indorsed by the Democratic party. So that here, as well as in Kansas, a blow was struck against the principles of self-government. Territorial sovereignty with that blow ceased to exist. Let its body pass from our sight.

But to the second—the real tangible principle of the Kansas-Nebraska bill, universally recognized by the Democratic party as the only principle contained in the bill. It is this:

1. That Congress has no power to legislate upon the subject of slavery in the Territories.

2. That the people of the Territories, acting through their Territorial Legislatures, have no power to legislate upon the subject of slavery.

3. That the Constitution establishes and protects slavery in all the Territories of the United States; and that the people can only decide upon the question of slavery when they form their constitution, and even this last right has been rendered impossible by the Federal judiciary, and virtually denied, upon this floor, by the Democratic party.

What is the effect of this policy? It is simply this: that every foot of soil belonging to the United States—that all the Territories—Kansas, Utah, New Mexico, Washington, Dakota, all, every inch, no matter where, North or South, is slave soil. That the Constitution, which you and I have been taught to believe was ordained to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, has yet another object and end, and that is to build up States of slavery and empires of oppression. Such is the doctrine of the day. I discard it; I repudiate it! Nor am I alone in the rejection and repudiation of the doctrine. The North, whose great heart has ever beat true to the Union, repudiates the doctrine; the dead and the living testify against the doctrine. Daniel Webster, sir, Daniel Webster, the defender of the Constitution, has left his opinion on this subject on record, to be read of all men. I have it here:

“Let me say, that in this general sense, there is no such thing as extending the Constitution. The Constitution is extended over the United States, and nothing else. It cannot be extended over anything except the old States and the new States that shall come in hereafter, when they do come in. There is a want of accuracy of ideas in this respect, that is quite remarkable among eminent gentlemen, and especially professional and judicial men. It seems to be taken for granted that the right of trial by jury, the *habeas corpus*, and every principle designed to protect personal liberty, is extended by force of the Constitution itself, over every new Territory. That proposition cannot be maintained at all. How do you arrive at it by any reasoning or deduction? It can only be arrived at by the loosest of all possible constructions. It is said that this must be so, else the right of *habeas corpus* would be lost. Undoubtedly these rights must be conferred by law before they can be enjoyed in a Territory.”

To the same effect, Mr. Cass, in 1854, said:

“But you cannot put your finger on the power thereby ceded to carry slaves into our new Territories. Does the Constitution give authority to interfere? No. The word slave is not to be found in that instrument.”

Again, Mr. Benton says:

“We have had some slave Territories—Missouri, Arkansas, Florida, into which that property was carried. Was it done under the Constitution? No; but under the territorial law; sanctioned, not by the Constitution, but by Congress, and governed after it got there by the territorial law. No one carried the State law with him. He left that behind, and took what he found in the Territory.”

And not only Mr. Webster, Mr. Cass, and Mr. Benton; but I hold in my hand a similar declaration, made in the Senate of the United States by one who, living, I admired above all men—dead, I still preserve and cherish as a sacred her-

itage to his memory—I mean Henry Clay. I read from his speech on the compromise bill:

“I take it for granted that what I have said will satisfy the Senate of that first truth, that slavery does not exist there (Utah and New Mexico) by law, unless slavery was carried there the moment the treaty was ratified by the two parties to the treaty, under the operation of the Constitution of the United States. Now, really I must say, that the idea ‘*eo instanti*’ upon the consummation of the treaty the Constitution of the United States spread itself over the acquired territory, and carried along with it the institution of slavery, is so irreconcilable with every comprehension or any reason which I possess, that I hardly know how to meet it.”

So spoke those distinguished statesmen; and I prefer to err, if error it be, in such company, than approve and indorse the opinion of the Federal court, which is alike repulsive to every principle of humanity and subversive of all ideas of justice.

But, let us look more closely at this doctrine. Not only does it establish slavery in all the Territories, but it goes still further: it overthrows and subverts the last vestige of popular sovereignty. Has not this been illustrated in Kansas—the schedule and the Lecompton constitution? For, if slavery goes with the Constitution into the Territories, will it not gradually, but certainly, become a part and portion of the social and political systems of the Territories? Is it not so with Kansas to-day? And if so, how can the people be free to adopt or reject slavery when they form their constitution? In no sense can the people be “perfectly free,” or free in any manner. They are called upon to decide as to an institution already established—established by the Constitution of the United States; and when they decide, what does it amount to? That slavery shall no longer exist? No! simply, that no more slaves shall be introduced into the State so to be organized. But, what of the slaves already there—carried there, as is alleged, by the Constitution of the United States? How can the decision of the people affect them? Are the slaves of the Territory still to remain slaves in the State? Is the slavery, alleged to be established by the Constitution of the United States, still to continue in the State? “Certainly!” responds the President. What say the slaveholders of the South, and those interested in its perpetuation? “Certainly! it is a vested right.” If so, it is not only absurd, but emphatically untrue, to say that the people are free to form their constitution, at any time, upon the question of slavery.

But this policy now governs and controls the country. Will it continue, and become the fixed policy? If so, then the last FREE STATE is now added to the Union.

I now come immediately to Kansas. When that Territory was organized, her people, not only by the Kansas-Nebraska bill, but by every principle of our Government and its whole system, were entitled, first, to suffrage; second, the right of representation; third, the right of legislation; and fourth, the right to frame her constitution in her own way.

I now declare that each and every one of these rights have been denied—wrested from the people of Kansas from the day of her organization to the presentation of the Lecompton constitution in this House, and up to the present hour.

Let me again state these rights: suffrage, representation, legislation, and the right to form their own constitution. These were the rights of the people of Kansas. Now for the proof that these rights have been denied.

It is an admitted fact, that with us the people are the source of all political power. How is this power to be exercised and delegated? By suffrage! Then, beyond all doubt, the highest expression of the power of a free people is in the elective franchise. It is the true, “popular sovereignty.”

Sir, in Athens, her citizens stoned to death the intruder upon the councils of her people. Deny this right, no matter how, by force or fraud, and you enslave a people. Apply this, then, to Kansas, and what is the result?

I ask, when, where, how, and at what time, and in what manner, have her people ever exercised the right of suffrage? Did they in the election for Delegate? Did they in the first election for a Territorial Legislature? Did they, in the election for members of the constitutional convention? No, sir; at neither. At the first election one thousand seven hundred and twenty-nine illegal votes were cast; at the second, four thousand

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nine hundred and eight; at the third, one half, nay, more than half of the Territory was disfranchised. So, then, the highest right of an American citizen has been denied to the people of Kansas; the right of suffrage, without which there cannot be a free government; and this, too, in a manner and by means which have dishonored the American name.

The second right, that of representation. I deny that the people of that Territory ever had, prior to 1857, delegates of their own choice and selection, the result of their own free will. Look at the delegates of the Legislature of 1855. How came they there? By the voice of the people of Kansas? By no means. I am safe when I say that their election was the result of an almost universal overthrow of the rights of actual citizens in the Territory. Sir, scarcely a member of that body held his seat except by certificates obtained by fraud. There were eighteen districts in which the people of Kansas were to elect their first Legislature. If ever there was a time when they should have been left "perfectly free to regulate their domestic institutions in their own way," it was then; but were they? Far otherwise. Armed men!—why armed? what men?—entered the Territory, and usurped the rights of the actual citizens, and by their own votes elected the members of that Legislative Assembly. Point to me, if you can, another such outrage. Look at all the other Territories, from the day of their organization to their admission into the Union, running back half a century, and there is no parallel. Thus, this right, dear to every American citizen, was violated, and the people of Kansas denied a representation.

And now I appeal to Virginia, true and loyal to liberty in the days of the Revolution; true and loyal, I trust, to the Union now—I appeal to Virginia, if such an invader should stand in such a manner upon her soil to strike down her rights and dictate her laws, if every true son would not arise, perish, or, repel from her borders her invaders?

I appeal to South Carolina, so quick and impatient of wrong, real or imagined, would she have quietly submitted to have her ancient privileges seized, and her sovereignty trampled under foot? Would she have tamely borne such a wrong? No, never! while the memories of the Revolution still linger with her people. But Kansas was weak and defenseless; her citizens few and wide apart; the shadow of Executive interference fell but to wither and prostrate her power, and to-day that power seeks to force upon her people a constitution to which a clear and undisputed majority is uncompromisingly opposed.

But the third right of an American citizen—the right of legislation, to enact, through their legally elected representatives, their own laws: have the people of Kansas had this right? No, sir! How could they, when suffrage was denied? How, when they had no choice as to the delegates? Let us look to the record. Laws, to be obeyed, must always reflect the wishes and feelings of those to be governed by them. What was the character of the laws of this Territory, passed by the usurping Legislature? I do not speak of the great body, but particularly of those in regard to slavery: what were they, and what their character? Were they just and humane? No, sir; no! It was felony to write, felony to speak, felony to publish, felony to print, and felony to circulate, anything against the institution of slavery; and not only that, but test oaths of the most repulsive character were imposed. Would you ask obedience to such laws? Would you ask a majority to submit to such enactments? Would you ask submission from the people of Kansas, when you well knew that a majority of her people were opposed to that institution? If so, you very much mistake them, for they did refuse obedience. They refused, and I rejoice that they did. They resist still, and you may go and tell your President that they will continue to resist. Ay, sir, go tell him that he may place armed soldiers in the doorways of every dwelling in Kansas; he may trample down beneath the feet of his dragoons her unoffending citizens; he may force through this House a constitution they abhor, and have rejected by ten thousand majority; he may do all this, but when he has accomplished his work, he still has not conquered nor crushed her people, nor compelled their obedience to unjust laws and

a fraudulent constitution. Something, sir, must be pardoned to the spirit of liberty.

Having thus, Representatives, shown that popular sovereignty and territorial sovereignty have been completely subverted by the Federal judiciary, and having shown in Kansas that practically the same principle of self-government and popular sovereignty has been overthrown—first, in the election of a Delegate not their own choice; second, in the election of members of the Legislature by armed men not citizens of the Territory; third, in a code of laws repulsive and not sanctioned by the popular voice, I ask your consideration of the last act of usurpation—the result of three years of mal-administration and fraud—the Lecompton constitution. What is a constitution? It is a system of fundamental rules, principles, and ordinances for the government of a State. In the State, it is the supreme law. Whence does it receive its vitality? From the source of all power—the people. Hence, the great question for us to decide is, is this the constitution of the people of Kansas? Is this their embodied supreme law? If it is, admit Kansas; if not, reject this constitution. How shall this be determined? How shall we arrive at correct conclusions? By restricting ourselves to the Lecompton convention, and its acts alone? By inquiring simply whether the assumed principles of the Kansas-Nebraska bill have been violated? By no means; but by wider investigations, if need be, embracing the whole history of the Territory. Nothing should be overlooked which would throw light upon this question. I repeat, then, is this the constitution of the people of Kansas? No! it is not of the people, nor from the people. If so, why the indignant protest of the 4th of January? Why the strange phenomenon of the people of a whole Territory rising up and uniting themselves in opposition to this measure? No, sir; the constitution is a fraud. It is the work of a minority, and a fraudulent minority at that; the offspring of force, violence, bloodshed, invasion, usurping Legislatures, illegal acts of those Legislatures, and, above all, executive oppression. Is the proof demanded? Sir, it is strewn along the pathway of Kansas.

"*Thick as autumnal leaves that strew the brooks
In Vallombrosa.*"

It is a part of her public history. That history is not "a hid in a corner." Its pages are open to all; and he is willfully blind who will not see for himself. If, then, this is not the constitution which her people wish, shall it receive the indorsement of Congress? This is the main question. Here it must be met, and here answered. This is the last tribunal. For myself, I answer, reject this constitution. Why? For the reason, first, that the Lecompton convention was an *unauthorized, illegal, and irresponsible* body. What was its foundation? The act of the Legislature of 1856. Here is the source. And what is it worth? What respect are the acts of that Legislature entitled to? None whatever. It was an illegal Legislature; it began, as I have already shown, in the overthrow of free suffrage, and ended in fraud. How, then, can validity be given to its acts? The recognition of the President cannot; the recognition of Governor Geary cannot; nor yet can that of Governor Walker; no recognition can give validity to fraud. It vitiates everything it touches, and therefore vitiates the Legislature of 1856. If the Legislature was illegal, then was also the convention. The one supports the other; the constitution rests upon the Legislature, and the Legislature upon fraud. A beautiful foundation, indeed, whereon to build the glorious fabric of a State! Indorse this constitution, and what then? You indorse the legality of the Legislature, and declare that the people of Kansas have been perfectly free to govern themselves "in their own way." I shall give no such indorsement—utter no such declaration. To me the one would be a disgrace, the other a falsehood. I prefer to speak of it with truth; and, so speaking, say that the Legislature of 1856 and the Legislature of 1855 both had their existence in the violated rights of the people of Kansas; that their laws have no validity, and are not entitled to the respect of this House or the people of that Territory. But, if the Legislature was even legal, what then? What authority had it to authorize and establish a government? Certainly not in the Kansas-Nebraska bill; that sim-

ply was the organic act of the Territory; and to assert that the authority is derived from the organic act is to assert that the Legislature can set aside, subvert, and overthrow the very act from which it derives its existence. What called into existence the Legislature of Kansas? The organic act. What powers of legislation are granted to the Legislature? Such as are conferred by the organic act, and none other; and nowhere has it conferred the power to create a new government. All the government that Kansas had or could have was the Kansas-Nebraska bill. This was the charter of her rights. No Legislature could go beyond it; neither could the people of Kansas, except by permission of Congress.

It is clear, then, that the law authorizing the constitutional convention was beyond the power of the Legislature of Kansas, and the convention itself that assembled at Lecompton was unauthorized, and the constitution amounts to nothing more than a petition—a petition for the redress of grievances. Sir, if the petitions of the people of Kansas had been respected years ago, we should not now be compelled to redress this sorest of all grievances—the Lecompton constitution. But I deny that it even amounts to a petition. Who are the petitioners? Are they the people of Kansas? Are they even the agents of the people of Kansas? No, sir; the people repudiated both the Legislature and the convention. Representatives, will you do less? But, sir, the people of Kansas did petition—petitioned through the Topeka constitution. Oppressed and broken down—disheartened and discouraged, crushed with unjust laws—within sight of their burning houses, and surrounded by a paid hireling soldiery, they met and petitioned; they sent it here, and it was rejected. I only ask the same fate for this Lecompton constitution, and I shall be content.

But I object to this constitution for another cause—that is, slavery. And what of slavery in the Lecompton constitution? Why, sir, it comes to us in its most detestable form; not bold and defiant, as if right, but shielding itself behind the forms of law, and skulking behind fraud and forgery for its protection. What further? At the very outset it announces a proposition, so untrue, and utterly at variance with justice and humanity, that had it not been preceded by the opinion of the Supreme Court, I should have come to the conclusion that all human fanaticism and refined indifference to the rights of man had found an appropriate refuge in the Lecompton convention. What is the proposition? The inviolability of property in human beings; and you and I, and all of us, have so to declare, or reject this constitution. And not only is property in a slave, and his increase forever, inviolable, but before and higher than any constitutional sanction. Approve this proposition, and what follows? Universal slavery. State lines will be no protection; State constitutions will be no shield; State rights no guard: slaves as property will be as secure in the sixteen free States as in the fifteen slave States; for it assumes that slave property is not, and cannot be made, an exception or governed by different rules than any other property I dissent wholly.

Why, sir, if slavery and the right to hold slaves are before and higher than any constitutional sanction, why not make the issue? Why evade it by claiming, wherever it can be done, "constitutional sanction?" Come, we accept the challenge. Erase from this Lecompton constitution the "constitutional sanction" of slavery, and you will disarm, to a great extent, opposition to its reception. Erase from the constitution of Arkansas, South Carolina, and other slaveholding States, the "constitutional sanction" of slavery, and you will offer a tribute to humanity. Erase from the Constitution of the United States, the "constitutional sanction" of the recapture of fugitives from service, and, sir, the conscience and the duty of the North will no longer conflict. Ah! gentlemen of the South, I advise you to cling to "constitutional sanctions," and not trust yourselves and your property upon the uncertain tenure of inviolability. Now, I hold this to be true: that slavery is merely a local institution, and that slaves are held and governed by the laws of the several States that recognize its existence. With them I and we have nothing to do. It is conceded that slavery in the States is beyond the interference of the Federal Government, or the States, or the peo-

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ple of the States which do not recognize its existence. It is conceded that they are property in those States—made so by legislation. But, sir, this State legislation cannot make them property everywhere. It is restricted; it is limited. It cannot go beyond State lines. Beyond those limits, the slave is a man, and no longer property. Such I understand to be our laws, our judicial decisions, and the rule of action in the free States, and of the civilized world; and, sir, it is too late to attempt to promulgate any other and a different doctrine. It cannot be done. The inviolability of slave property is against the universal laws of right, humanity, and justice, and cannot prevail. But slavery is in Kansas—established by this constitution; and, as far as this constitution is concerned, as firmly established as in any slave State in this Union; and now, what is demanded? Why, sir, that Kansas, under this Lecompton constitution, shall be admitted into this Union—admitted, too, against the will of her people, with slavery perpetuated in her limits, and the inviolability of slave property written in her constitution. Shall it be done? Representatives of the American people, will you tamely yield to the executive demand? Justice forbids; the people forbid: let their voice be respected. I ask, you, sir, [addressing Mr. GILMER, of North Carolina,] southern man as you are—honorable and high-minded as I know you to be—shall it be done? Does southern honor demand it? No! Do southern rights demand it? No! Then why, for even a single hour, impose upon a people, an American people, a constitution they abhor?

But, sir, there is another objection to the Lecompton constitution—the refusal of the convention to submit that instrument to the popular judgment, and more especially when it is known that a large majority of the citizens of Kansas are inflexibly opposed to it. The right of the people to form their own constitution in their own way is no new thing, and, sir, it is a right that has never been until now denied, and, what is remarkable, denied by the peculiar and exclusive friends of the Kansas-Nebraska bill. Now, sir, I for one, do not claim the right under that bill; I am no advocate of it; I deplored its passage; it destroyed the peace and harmony of the country. But I claim the right on the higher ground of the SOVEREIGNTY OF THE PEOPLE, a principle as old as the Constitution and the Union; and, sir, its grand proportions cannot be dwarfed to the narrow compass of the Kansas-Nebraska bill. I repeat, I claim it on the higher ground of the sovereignty of the people—that principle which has built up this, the freest and happiest Government on earth; until we now, as was said upon a memorable occasion, have realized the description of the edging of the buckler of Achilles:

"Now the broad shield complete the artist crowned
With his last hand, and poured the ocean round;
In living silver seemed the waves to roll,
And beat the buckler's verge, and bound the whole."

This right has never before been a debatable question. It always has been admitted. I do not mean, sir, that in every instance it has been exercised—not at all; for we have now States in the Union, republican States, admitted without their constitution having been submitted to the people. But in all these cases there was no conflict between the convention and the people. Their constitutions clearly embodied their will; hence no wrong was done by waiving the right to vote thereon. But, sir, when the Kansas-Nebraska bill passed, and when the policy of that bill became the policy of the country, nothing is more clear than the fact that by its whole intent every constitution thereafter framed should be submitted to the people for their ratification or rejection. It was the great element of the bill. And so far as Kansas is concerned, pledge after pledge has been made to that effect. The President and the Cabinet pledged themselves to a full and fair submission. Governor Walker, in his inaugural address, did the same; he went further, and declared:

"I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."

So, also, did Calhoun—John Calhoun, the dictator—to the people of Douglas county, when a candidate for delegate to the constitutional convention. But when the Lecompton convention

met, and framed the instrument now presented here, then, for the first time, it claimed to be sovereign, and, as such, independent of the people, and not responsible to their action. Let us look at this sovereignty claimed by the convention. Whence its origin? How was it derived? From a Territorial Legislature! Did that Legislature represent a sovereignty? If so, what? If not, then how could the convention claim in itself a power greater than the Legislature which called it into existence?

But again, of what was this convention composed? Delegates. Delegates to do what? To frame a constitution, not to ordain one; not to set a new government into operation, but to distribute the different powers—the legislative, the judicial, and the executive, and then unite the whole in one constitution, and refer their work to the people to approve or reject. This I conceive to be the true character of a constitutional convention.

But, sir, these delegates—how came they at Lecompton? Did they represent the sovereignty of Kansas? Let us see. I know that the President has said in his message that a large proportion of the citizens of Kansas did not think proper to register their names. I know he has said they neglected to vote at the election for delegates. I know he has said that an opportunity to do so was fairly afforded. I know he has said their refusal to avail themselves of this right could not affect the legality of the convention. This is extraordinary language; but is it true? No, sir. Now for the evidence. There were thirty-four counties from which to elect delegates to the convention. The act of the Legislature required that in each of these counties a census should be taken and the votes registered. Was it done? In nineteen counties the census was never taken. In fifteen counties there was no registry of voters. And why this failure? Was it from any act of the people? No; it was the act of partisans—partisan pro-slavery judges, partisan pro-slavery sheriffs; and therefore it was that the voters in nineteen counties—a majority of all the voters in Kansas—were disfranchised, did not cast one single vote for any delegate to the convention that framed the Lecompton constitution. Is it denied? I produce the evidence of Governor Walker:

"In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give, a solitary vote for delegates to the convention. The result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty, by law, of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last."

But it is contended that the constitution—the slavery clause—was submitted to the people. How submitted? How indorsed? Sir, the submission itself was a conspiracy against the people of Kansas; and the indorsement was worthy of the conspirators. Look at it: the constitution with slavery, the constitution without slavery. Here is a duplicity that would have delighted even Machiavelli. Vote for or vote against, and still it is the Lecompton constitution, and still it is slavery! And the voters—who were they? Oxford responded with twelve hundred and sixty-six; Shawnee with seven hundred and twenty-nine; Kickapoo—loyal, devoted, and prolific Kickapoo—with one thousand and seventeen: all fraudulent!

Sir, is not this a humiliating record? Yet upon this record and this submission, with the great fact full in his view, that, on the 4th day of January, ten thousand two hundred and twenty-six votes, one after another, were cast against the Lecompton constitution, the President urges and demands the admission of Kansas in the Union as a State.

In view of all these facts, I conceive that it was the clear duty of the convention to submit the constitution to the full and direct vote of the people. True, it would have been rejected, overwhelmingly rejected; but what of that? The people of Kansas had the right to reject it. This right is denied them; I therefore ask its rejection here—in this House! Let Congress reassert again its sovereignty over the Territory. Pass an enabling act,

just, wise, and equitable, in all of its provisions. Secure to each citizen the full and free exercise of the right of suffrage; guard all from fraud, or ascertain in any other manner the clear wish of the people; adopt, if you please, the bill of the distinguished Senator from Kentucky, and the day will not be far distant when Kansas will ask for admission into the Union, not chained and manacled, but as a free, sovereign, and independent State, with a constitution bearing the impress of the will of her own people.

Representatives of the slaveholding States, do you desire such a result? Do you wish to bring back peace and harmony, not only to Kansas, but to the whole Union? If so, no better occasion ever offered than now. If you force this constitution through the House, what advantage will you gain? Will it be slavery in Kansas? It cannot exist there! Slavery cannot be perpetuated over an unwilling people. It will be overborne, scattered to the winds, by the first free expression of the popular will. Will it be greater security of slavery in the States? Establish once this law of violence; disregard the earnest and solemn appeal of Kansas; and the day may come when the same law of violence may strike you down, disregard your rights, and even peril your homes. Will it localize this distracting question? Fatal delusion! Three years ago, to localize it you divested Congress of its sovereignty. You asserted that the people of the Territory should decide their domestic institutions for themselves. Will you now divest the people of this right, and attempt to localize slavery in the State? Do so; but you will not succeed. Slavery in Kansas cannot be localized, nor peace secured, by any such subterfuge.

Representatives of the free States, Kansas demands justice: shall it be denied? She demands that her voice may be heard, and privileges respected: shall they be refused? She demands the right to form her own constitution in her own way, and by her own people: shall it be withheld? Will you crush her to gratify the Executive? When you have done so, see to it that you are not yourselves ground to dust between the upper and nether millstone of popular condemnation!

Representatives of the North and South, of every section of this broad Confederacy, upon your decision rest the hopes and fears of an oppressed people. Let it be made. If against Kansas, I feel assured—I know—she will right her wrongs at the sacrifice of treasure, of blood, and of life! If for Kansas, then justice will be done. But, in any event, I call upon the House, each member of the House, if you would maintain the Constitution and the Union—if you would preserve and perpetuate the blessings of liberty—if you would advance the honor, the greatness, and the peace, of our common country—nay, more, if you would avert civil war—I ask, I implore, I demand, that you REJECT THIS CONSTITUTION!

LET JUSTICE BE DONE!

SPEECH OF HON. J. M. SANDIDGE,
OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. SANDIDGE said:

Mr. CHAIRMAN: I believe I may say, sir, that if there is one question more than any other upon which my constituents have been distrustful of their Representative, it has been for his great devotion to the Union. Hopeful in all things, I have ever relied upon the great heart of our people for that measure of justice and mutual forbearance necessary to preserve, in one nation, the priceless blessings bestowed upon us. Scanning the future of my country, in no political horoscope would I see an early dismemberment of these States. In this feeling, sir, the mass of my own constituents, and, I believe, the constituencies of other gentlemen from the South, have participated; and if I shall now give utterance to thoughts expressive of lessened hopes for the future, they will come from impressions painfully received, but irresistibly forced upon the mind, and are too distinct to be withheld from those who have made me the guardian of their rights. Like smoke from

some great burning, we have seen the warning evidences of growing passions on a particular subject, which, unchecked, threaten to be as destructive and quenchless as volcanic fires. It is because I do believe there is danger in the consuming course of this sentiment that I shall speak to-day; but with no vain expectation of saying aught to influence the action of this House. The danger lies not here, Mr. Chairman, but in the deep recesses of the public mind—the great fountain of power in our form of government. It is to that I would, in some sort, address myself. It has been iterated and reiterated; until thousands of honest people believe that our system of domestic servitude in the South is destructive of morals, religion, and good government, and inconsistent with the great economic principles giving prosperity to the nation. This has been assigned here by gentlemen to be a sufficient reason for opposing the admission of Kansas, or any other new State, with a pro-slavery constitution.

Now, sir, I cannot, of course, in the time allowed under our rules, discuss, if it were desirable, these questions fully; and should not have attempted to do so at all, did I not regard them to be the foundation of the whole Free-Soil Republican movement. They enter as a chief staple into nearly all the arguments we have had from the other side of the House, in opposition to the admission of Kansas under the Lecompton constitution. That no injustice may be done, I will read from a number of speeches delivered on this floor recently, as fair samples of all others from the same side on the points given. I will first refer to the speech of the honorable gentleman from New York, [Mr. BURROUGHS,] delivered on the 23d of February, the tone and temper of whose remarks indicated honest convictions. He says:

"I need not make an argument to prove that slave labor, being cheaper, crowds out the laborer who has social and domestic wants to supply, which cannot be attained at the cost of negro slave labor."

"Our northern men will not settle in a country where slavery exists. I need not make an argument to prove this. On the other hand, gentlemen cannot prove to us that southern men will not go into free territory."

Well, Mr. Chairman, many speeches have been delivered in our Federal councils, to show that slave labor was the *dearest* labor ever used; and I shall offer some evidence, published by the Government, which does not at all accord with the gentleman's theory of native emigration.

The member from New York, [Mr. MORSE,] on the 20th instant, delivered a very elaborate argument against the propriety of allowing southern men to go into any more of the Territories with their slaves. He says:

"The men of the South, in blood, lineage, and endowment, like the men of the North, are foremost in the files of time; they, with us, are the inheritors of the ages; and, of course, under any circumstances, however adverse, must collect around them much that is valuable and elevating."

I suppose we are in duty bound to be thankful for small favors—and, after the more than equivocal compliment, he says:

"But the most superficial observation shows, and statistics prove, that, though they have as fertile a soil, a more genial climate, and are under the same political institutions, yet, in their progress and prosperity, they halt far behind their sister States."

And with other disparaging remarks, adds:

"The North is at this moment the most prosperous and progressive nation in Christendom; in every element that gives the highest dignity to man, it is the most hopeful and advanced; the South, deceived and betrayed by the other principle, so malign and hostile to everything good, presents an anomaly in the history of our Anglo-American race; its soil is neglected; from its people little is added to the intellectual wealth of the world; and how distorted are some of their spiritual perceptions may be seen from the fact, that quotations are made from the Bible, on this floor, to prove that slavery accords with the law of eternal justice!"

I shall bring in some facts presently, that may serve to correct the gentleman's erroneous impressions about our being so much in the wake of northern prosperity.

As to the intellectual wealth of the country, it being rather an imponderable, impalpable substance, I am willing, if there should be any of it left, in either section, unconsumed by the present generation, that it shall be weighed in a balance by those who are to come after us.

Uncontrolled by the intellectual *finesse* so predominant among the gentleman's friends, I dare say we of the South are not sufficiently spiritual in our "perceptions" to understand that poor old

Abraham's three hundred and eighteen "trained servants, born in his house," whom he armed with the view of rescuing Lot from captivity, were mere "men in buckram;" that the angel's command to the runaway servant, Hagar, to return to her mistress, and submit herself *under her hands*, is a pure romance, on a par with what they must hold as another fable—the Almighty's holding converse with a man who held slaves "born in his house," "bought with money," and "received by gift;" who, because of obedience, received the promise that "in his seed all the nations of the earth should be blessed." Truly, sir, does it seem that our more spiritual friends of the North have discovered either that the principles and truths of the moral law are changeable, or that it is a lie of the Bible to say, as it does in many places, that man may be sold for money, transmitted by inheritance, or by gift. Holding slaves myself, through all these agencies, as did my fathers before me, it is not to be presumed, according to the gentleman's theory, that I am qualified to decide which is right, he or the Bible. So I shall say no more on that subject.

Wishing to preserve good temper in what I shall say, Mr. Chairman, I will pass over the reference of the member from Illinois, [Mr. FARNSWORTH,] on the 22d instant, to the efficacy of the southern hemp for disunion, by assuring him that he will probably, on occasion, know how to use it, when to use it, and on whom to use it. He says:

"But, Mr. Speaker, I wish to present a few facts, bearing upon the question of the relative merits of freedom and slavery, and in answer to the statements and assumptions of the gentleman which I have alluded to. I take it that if slavery is better than freedom, if slave society is better than free society, its comparative excellence will be manifest in the growth, progress, and prosperity of the slave States, and the intelligence and education of the people where slavery exists. Now, let us see what the statistics show upon this subject. Take, for example, the States of Virginia and New York."

Demolishing the old "Mother of States," as he supposes, on one tack, he takes another, and says:

"Again, sir, in 1850, there was invested in church property in New York \$21,134,207, and in Virginia the sum of only \$2,856,076. At the same time there were published in New York 428 newspapers, with an aggregate circulation of 115,353,473; while in Virginia there were but 87, with a circulation of 9,223,06. New York expends \$2,500,000 yearly for educational purposes, while Virginia expends about \$700,000."

"The natural resources of the slave States of this Union are immeasurable; and, without slavery, they would have untold wealth and greatness; but now so it is, this accursed system has shut out enterprise, has shut out the free laborer, and has spread itself like a pall over the land, with its enervating and baneful influence, like blight and mildew, wherever it falls."

"I oppose the admission of Kansas as a slave State, also, for the reason that slavery is a curse to any country, and to any people; it corrupts the morals and the manners of the people wherever it exists; it promotes poverty and ignorance; it degrades labor, and consequently banishes the free laborer from the land. You might as well prohibit, by an act of Congress, the emigration of the free laboring man of the North to that State, as to permit slavery to exist there. Slavery cramps and clogs the energies and progress of a State; retards improvements; wears out, and depreciates the value of the soil; in fine, sir, it is, in almost every conceivable light, a curse!"

Now, Mr. Chairman, I also have prepared a table to which I shall request my friends on the other side, as well as on this side of the House, to give their attention. It contains facts—not isolated and selected cases—but general facts, which will place the whole South and her institutions in a far different and better position than the assertions by our northern brothers, of her "clogged energies" and worn-out soil, and the thousand and one other disadvantages attributable by them to our institutions, would assign to her.

Before I enter upon an examination of the table to which I have alluded, I would say a few words in reply to the gentleman from Illinois, who attempted to prove the superiority of a non-slaveholding over a slaveholding State; and they will apply as well to all similar contrasts attempted by members on his side of the House. The gentleman named Virginia and New York. The selection of these two States gives good evidence of his astuteness, but I cannot say as much for his fairness. He has selected New York, because she has increased in population more rapidly than any northern State, and taken Virginia, because she has increased in population less rapidly than any southern State. In all such calculations, fairness requires that the average should be taken,

and not the opposite extremes. To show how such counts may be made to work, let us take two States, one North and one South, each standing in the same relation to the other States of its own section. New York has increased more rapidly than any northern State from 1790 to 1850, and Tennessee more rapidly than any southern State during the same period. In 1790, New York stood fifth on the list in population, and in 1850 she stood first, having advanced four steps. Tennessee, in 1790, stood sixteenth on the list, but in 1850 she had advanced to the fifth place, thus having advanced eleven steps. And if we should reverse the selection, by taking the two States standing at the foot of each division in 1790, and compare their rank in 1850, it would be seen that the northern State had fallen back fourteen steps, while the southern State advanced eleven steps.

If the gentleman had shown entire fairness, he would have told this committee and the country that, since 1790, the eight southern States, then in existence, had, in the aggregate, fallen back twenty-three points; whereas the eight northern States then in existence had receded sixty points up to 1850.

I do not pretend to say that the numbers of the people of the South have increased in as great a ratio as those of the North; but I do say that the increase of the *native* population of the South has been in quite as great a ratio as that of the North.

The population of the two sections was about equal in 1790. Now, that of the North exceeds that of the South by three million nine hundred and sixty-two thousand six hundred and sixty-four.

It is a well-known fact, which satisfactorily accounts for this increase over the South, that the foreign immigration to New York alone, has averaged about two hundred thousand a year for the past ten years. And it is also known that not more than one tenth of these immigrants settle in a southern State. And if, after the great noise made a short while ago, by northern Know Nothings, (now merged into Republicans,) against this class of their population, which alone has given them this preponderance, they shall now change the tune, in order to glorify over us of the South, why, sir, I have not the slightest objection.

I will make another remark in reference to the reason of this northern growth.

Under the old Missouri compromise, the North obtained for its special own use one million nine hundred and seventy thousand and seventy-seven square miles, but the South was confined to nine hundred and sixty-six thousand and eighty-nine square miles. There then was room for expansion at the North, which was denied to us at the South.

The gentleman from Illinois—in keeping with much more of the same kind from his side of the House—also cited, as an evidence of the greater extent of piety and of religious education, and of its intensity, and the greater number of pious people, the fact, that in New York \$21,000,000 were invested in church property, whereas poor Virginia had less than three million dollars similarly invested. Now, if the gentleman is of opinion that the extent of piety, or its intensity, or the number of pious people, is to be estimated according to the money expended in building magnificent church edifices, with stained-glass windows and velvet cushions, where hymns of praise to God are sung by proxy, then I grant his table proves that the intensity and extent of piety and religion in New York are ten times greater than in Virginia.

But one word more, in order to do justice to New York city. According to the mode by which the gentleman from Illinois estimates intensity and extent of piety, her fervor and religious devotion ought to be just ten times greater than all the South, and five times greater than the rest of the North, for she expends ten times as much money for church accommodations as the former, and five times as much as the latter. Her two hundred and nineteen thousand seats for her five hundred and fifteen thousand inhabitants cost \$9,000,000, being an average of \$41.53 to each person. I have heard it said, that in the city of New York they had two ways of going to heaven—one way for the rich man, and another for the poor man. Every one who has visited New York within a few years past has stood and admired the graceful outline, delicate sculpture, lofty spire, and gorgeous stained

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glass of that *bijou* of a church situated at the head of Broadway. There is a little anecdote connected with that church, that I recollect having read in some New York paper, not many years since. It seems that, a few years ago, there was a venerable old church, whose antiquity lent a religious awe to the devout who frequented its hallowed precincts, situated on Broadway, below Wall street. Its devotees and attendants were mostly of the poorer class of people. The more wealthy of Grace church parish—for that was the name of this venerable edifice—had moved to the more fashionable and aristocratic part of the city. But these pious, but poor people, were not left long to enjoy the Sunday instruction of their pastor. The land became valuable, and mammon wanted, and mammon got it. The edifice was sold, and the proceeds invested in the beautiful structure I have referred to. When it was completed, however, it was so beautiful that it soon became the fashionable resort, and all its seats were secured at fabulous prices by the wealthy. Its magnificent front and marble columns spoke more legibly than blazing capitals, "No poor man can enter here," and the poor of Grace church were excluded from its doors.

The trustees of this temple then decided to build a modest chapel at the side of this splendid edifice, for the exclusive use of the poor of the congregation. Now, by poor is not meant the paupers, but only the less wealthy—the tradespeople. Well, no sooner did this building for the poor begin to raise its head above the ground than its purpose was announced in the New York papers under the head of "Two roads to heaven—one for the rich, another for the poor." The rich were expected to go through the high portals of Grace church, and the poor by the little door of the side chapel. The satire was too severe, and the trustees converted the chapel for the poor into a parsonage. This conversion called for a newspaper remark, that Grace church trustees had closed even the side windows of heaven to the poor. Now, if the effect of magnificent churches be the same elsewhere as it seems to have been in New York, I am inclined to think every one will agree with me, that the fewer magnificent, expensive, luxurious churches we have, the better. In the South, "the poor have the Gospel preached to them."

I hold—and I think the gentleman from Illinois will agree with me—that the value of church property is not to be the evidence of the intensity and extent of religious feeling; but that the facilities afforded by church accommodation are only the evidences of the efforts of a State to spread the benign influences of religious instruction.

On pages 136 and 137, census 1850, it appears that the total church accommodations in the United States were 14,270,139. In the slaveholding States 5,606,995—leaving 4,057,661 persons, of all classes, without church accommodation, or rather, without a seat in church. In the North, there were 8,663,144 seats, leaving 4,868,076 persons without seats, being 806,415 more persons at the North than at the South without church seats.

Again, at the South, the value of church accommodation was only about twenty-two million dollars, being just four dollars a seat; whereas at the North, the church accommodations cost \$67,000,000—near eight dollars a seat. The fact then stands, that we have more church accommodations at the South than you have at the North, and at just half the expense for each seat; and if there is anything to our discredit in this, we are willing to bear it.

On the next day after this speech by the gentleman from Illinois—the 23d—the member from New York [Mr. POTTER] comes in with an echo of the same retarding influences of negro servitude. He says:

"These effects are no longer matter of doubt or speculation. Gentlemen may talk about the value of their annual product of cotton and sugar. What do such facts weigh against the comparison of States side by side—in wealth, in population, in schools, in general intelligence, in all the comforts and blessings of life? Weigh Virginia against Pennsylvania, Kentucky against Ohio, and the slave States which have been admitted since the formation of the Government against the free States admitted within the same time, and answer the question for yourselves. There is no chance for mistake here: for, in soil, in climate, in everything, you had the advantage; and yet, with all these, how far you have fallen behind!"

The member from Wisconsin, [Mr. POTTER,]

following suit, on the same day, says, after a sweeping charge of general corruption:

"Such are the demoralizing influences of slavery, which seeks to establish and extend its power throughout the length and breadth of this continent—a power which exhausts the life and vigor of commonwealths; destroys the prosperity of nations; corrupts the principles of parties; debases and brutalizes its victims; and drags down to its own level of barbarism all that yield to its embrace."

On the next day, the 24th—for we have been dosed with it nearly every day—the member from Indiana, [Mr. KILGORE,] to show that he was as safe on the "nigger question" as any of them, tells us:

"I was born and reared in a slave State, and I am proud of the State of my nativity, for it is one of the noblest of the old slave States of this Union. She has furnished heroes to the field, and statesmen to the council of the nation. It is the land of the lamented Clay. But, as I said, I now represent here a free interest. The State of my adoption is surrounded with everything that is calculated to endear me to free institutions. When I contrast the state of things there with what I learn of the condition of the extreme southern States, I am proud of my position. How do we stand? We have our free schools; we have our churches; we have our academies; we have our charitable institutions for the benefit of the deaf and dumb, the blind, and the insane. We have our thousands of miles of railroads, our fields teeming with abundance, our thriving towns, our flourishing cities—everything to endear us to our home. Can those gentlemen who have denounced us on this floor as Abolitionists, say as much for themselves?"

And then came the member from Massachusetts, [Mr. BUFFINGTON, I believe,] on the same day, declaring of this African servitude, that

"It is a curse upon any State where it exists; it affects all the relations of a community, internal and external; it is a blight upon moral and social progress; it affects all the material interests; it depresses the value of lands; it discourages and debases free labor; and gives the political control and social predominance to a few aristocratic proprietors of slaves; it retards and prevents the development of all the resources of a State, and is a withering blight upon its prosperity."

To cap the climax, the member from Pennsylvania, [Mr. COVODE,] on the 26th instant, thus delivers himself. Hear him:

"The friends of slavery are in the habit of pointing to the large exports of the South—they can no longer point to its large imports—as evidence of the superior wealth of that section. They export everything valuable which they produce, and import, either from Europe or from the North, everything except necessities which they consume; and this, sir, is the ground of their boasted wealth, independence, and civilization! I am amazed, sir, that a moment's reflection has not taught them the contrary. It is not clear that a country which produces only the raw materials of commerce, which only cultivates the ground, is in a condition of colonial dependence? Such sir, is the condition of the South. She produces the bulk of our exports, and yet she has never, at any period of her history, exported them. Even when a majority of the exports was made from southern ports, the trade was carried on by northern or European ships and seamen. But for some years past the South has fallen behind the North in the amount of exports. The imports have always been in northern hands. The North sends its ships to New Orleans and Charleston, transports their cotton, tobacco, sugar, and rice to Europe, and brings back return cargoes of merchandise to New York, Boston, and Philadelphia; and from these points the South is supplied with foreign or northern manufactures. Sir, the condition of the South is strictly one of colonial dependence. She produces the very staples of commerce; she has fine harbors, fine timber for ship-building; in a word, every material element of commerce; but they are of no avail. The ignorance and barbarism of slavery have doomed her to an inferior and dependent condition."

Now, Mr. Chairman, all these gentlemen have declared themselves our sincere friends, and good lovers of the Union; but not being able to divine or appreciate the reasons impelling to such *strange* ways of exhibiting regard and love, I shall not follow their example, but content myself with the old-fashioned notion that the best way of making and preserving friends, and accomplishing our purposes, is to speak in all kindness to and of each other, and be always ready to perform such friendly offices as circumstances may enable us to render.

It is said that "figures will not lie;" and I will now proceed with my principal purpose in seeking the floor to-day. But, sir, I shall contrast no one State with another, the least prosperous of one section against the most prosperous of the other section. That will do well enough for clapping on the stump, to arouse sectional animosity or party feeling. I shall put the whole North against the entire South, and then let him strike the balance who can to our disparagement. I invite my friends on both sides of the House to follow me in my statements, and to correct any errors I may make.

I have taken as authorities, the census of 1850, and the report of the Secretary of the Treasury for 1857, on commerce and navigation. I state

as an undeniable fact, that the agricultural productions of the southern States for the year 1850, show that each inhabitant, of all classes, produced \$13 30 more than each individual at the North. I state that the average agricultural productions at the South was \$58 to each person, when at the North it was only \$44 70. From the table that I have prepared, showing the products of different kinds in all the States, I read that the total agricultural productions for 1850, amounted to \$1,164,457,783—say \$1,164,000,000. And of this sum, the North produced, in round numbers, \$604,000,000, and the South \$560,000,000.

I will now continue the tables on the agricultural productions.

Total value agricultural products,	\$1,164,457,783
Total value agricultural products	
North.....	\$603,775,018
Total value of agricultural products	
South.....	\$560,682,765
Population of the United States	
23,191,876, for 1850, will give	
for average production by each	
person.....	\$50 20
Population North, 13,527,220—	
each person.....	\$44 70
Population South, 9,664,756—	
each person.....	\$58 00
Now, if we deduct from all our agricultural products the amount	
exported, to wit:.....	\$118,750,118

We will have left for home consumption..... \$1,045,707,665
Which shows that each person consumed \$45 08.
The North consumed \$609,880,612; the South consumed \$435,827,053. Hence, it appears that the North had a deficiency in 1850, of agricultural products, to the value of \$6,105,594; whereas, the South had a surplus of \$124,855,712; or each person at the North consumed thirty-eight cents worth more than he produced; whereas, at the South, each person produced \$12 90 more, than he consumed.

We will now examine the table of the products of manufactures, mines, and mechanic arts.

On page 179, Census, we find the value of all these products of the United States, deducting the value of the raw material, to be \$458,681,425.

The North produced.....	\$378,305,175
The South produced.....	80,376,250

\$458,681,425

Let us deduct the manufactures exported in 1850, which amounted to	18,196,797
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And we have left for domestic consumption.....	\$440,484,628
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Being at the rate of \$19 to each person. Now, the North consumed at that rate, \$257,017,180, and the South consumed \$183,467,448.

Thus it appears that the South had to purchase from the North \$103,091,198 of manufactures to make up her deficiencies; which she paid for out of her surplus of agricultural products, which was \$124,855,712, and then there was left to the South a surplus of \$21,764,514, for the year 1850.

I now propose to show that at the South we cultivate more land to each person, and that the cost of the land at the South is very little more than half the cost of the land at the North, and yet at the South, the produce is only nineteen cents to the acre less, in value, than at the North. (Page 169, Census.) Total, improved acres, \$113,032,614; in the southern States, \$54,986,594; in the northern States and Territories, \$54,046,020. So that at the South there are 5.68 improved acres to each inhabitant; and at the North, 4.29 each. The total value of farms, \$3,271,575,496; value in southern States, \$1,119,380,109; value in northern States and Territories, \$2,152,195,317. So that at the South, the acre costs \$20 37; but at the North, \$37 07.

Now, the agricultural products at the North were, as we have seen, \$603,775,018, being \$10 39 to each acre, and at the South \$10 20 to each acre; and at the South, there are 5.68 acres to each person; in the North, 4.29 acres to each person. Hence, at the South, it is evident that each person working land, costing \$115 82, produces \$58; but in the North, each person working land costing \$159, produces but \$44 70. Or, in other words, the agriculturist at the South can produce

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\$13 30 more than an agriculturist at the North, out of his land, though the land of the latter costs \$43 more.

I state another fact: the value of the farming utensils in the South averages more to each inhabitant than in the North. (Page 169, Census.) In the South, the value is, \$65,385,845; in the North, \$86,201,793; which is \$6 76 to each person in the South, and \$6 37 to each person in the North.

I state another fact: the value of live stock at the South averages more to each inhabitant, than in the North to each person. (Pages 171-174.) Total value of live stock, United States, \$544,180,516. Live stock South, \$253,795,330; live stock North, \$290,385,186. So there are \$26 26 to each person in the South, and \$21 46 to each person in the North.

I state another fact: the value of slaughtered animals in the South is one fourth more to each person than the value of the same product in the North to each person. (Pages 171-174.) The total value of slaughtered animals was \$111,706,925. In the South, \$54,399,298; in the North, \$57,307,627. So that, to each person in the South, there were \$5 62; to each in the North, \$4 23.

I state another fact, which I trust gentlemen will not forget. The value of the real and personal estate in the South gives a greater average to each person, slaves included, than the same kind of property in the North does to each person; the average being one fourth more in the South than in the North. (Page 190, Census.) Total value in United States, \$6,024,666,909. In the South, \$2,828,665,954. In the North, \$3,196,000,955. Showing, to each person South \$292, and to each person North \$237. But if the value of the slaves be added thereto, at a very low estimate, \$1,500,000,000 more would be given to the South; and then, her average would show \$447 to each person, including the slaves; but leaving them out, the average would give \$700 to each white person—or nearly three times as much as to each person in the North.

I now come to some statistics, which may surprise those who are accustomed to speak of the ignorance of the South, and its destitution of common school advantages. I find that in the support of schools, colleges, and academies, to each white inhabitant between the ages of five and twenty years, the southern States expend sixty cents more than the northern States on each of the persons between the same ages. The total number of whites in the South between the ages of five and twenty is 2,350,104; and the amount expended is \$6,819,808; being \$2 90 for each person. In the North the number is 4,784,869; and the amount expended is \$11,004,523; being \$2 30 for each person. (Page 143, Census.)

I do not pretend to say, education derived from books is as generally diffused amongst our people as at the North; the North has greatly the advantage in this respect, originating in the difference between the density of the principal populations in the two sections. At the North, children, crowded in cities, towns, and thickly-settled communities, can be sent to schools within reach. This is not the case with us; ours are an agricultural people, always seeking the greatest amount of "elbow room."

But if our northern friends shall think the crime and pauperism of their section, originating in the very circumstance which enables them to school their children, will more than counterbalance, in their favor, this sort of education of our people, I shall not complain. But as true intelligence does not depend altogether upon a knowledge of books, our people, though somewhat behind in this regard, for want of equal facilities, nevertheless are not inferior in knowledge or information to the northern people, because this advantage is more than compensated by that free intercourse peculiar to southern people, where social equality among the whites produces a community of ideas. To make my table complete, I feel obliged to refer to the statistics of crime and pauperism; and while I lament, with my friend from Connecticut, [Mr. Bishop,] that these statistics have too often been made a reproach to the North, yet I cannot adopt his very pleasant mode of explaining away the one and the other. The North has been credited with all the good of her crowded thoroughfares, and must be debited with the evil. The number of native paupers South, was 16,411; paupers of

foreign birth, 4,849; native paupers in the North, 50,023; paupers of foreign birth, 63,689.

The ratio of native paupers to the population at the North is double that at the South, and the very argument used by my friend from Connecticut, [Mr. Bishop,] that the decrepit and sick slaves were cared for at home by their masters, and therefore not included in the ratio of comparison, is one of the highest tributes of praise that the philanthropist can pay to this peculiar institution at the South. *It has no poor.* Yes; slavery has no poor! The aged and infirm, and the young who are stricken down by disease, suffer not the wants of poverty. They are not thrust out from their homes, taken away to the poor-house, to die among strangers. This one blessing alone, that *slavery knows no poverty*, should forever save us of the South from the uncharitable attacks of northern gentlemen.

I was about to say, Mr. Chairman, that slavery knew no crime; and I believe that, were it not for the few desperate fanatic teachers, who preach murder and arson to the deluded slave, I might truthfully say, that *slavery knew no crime.*

What do the statistics show on page 165 of the Census? Only 1,917 native criminals in the South, and 10,939 in the North, being one in 5,041, in the South, and one in 1,236, in the North. For this great preponderance of crime at the North, I am quite willing to find an excuse in the great temptations of city life, and the desperate struggles of poverty in crowded communities. At the same time that I would throw a veil over the faults of our brothers at the North, I cannot admit the plausible apology of my friend from Connecticut, for the violation of those moral laws of which he spoke. *Misdemeanors* are not entered in the list of criminal convictions, as reported in the census.

In Massachusetts there is 1 criminal to 137 of her entire population; in New York, 1 to 301; in Virginia, 1 to 13,286; in Louisiana, 1 to 1,743. But I will dismiss this subject, with the reiterated assurance to gentlemen of the North that I alluded to these statistics in no feeling of reproach to them, but felt called upon in my general tables to embrace all that is given in the census. I would to God, sir, that all the hard sayings of gentlemen in one section against the other could be blotted out and remembered no more forever. And if we would but make half the effort to conciliate, and imbue the minds of the people with that generous confidence and forbearance which seeks no advantage, which is now expended in trying to establish irreconcilable and antagonistic doctrines of division, we could look forward to a period when time itself, hoary with prolonged ages, should yet witness the happiness and prosperity of a united people in the land of our fathers.

I believe there remains but one more table to examine, and that can be found on page — of the Census, showing the number of families occupying each dwelling-house. In the New England States there are 115½ families to each 100 houses; in the middle States there are 112½ families to each 100 houses; in the southern States there are 100½ families to each 100 houses. So that fewer families are placed in one dwelling in the South than in the North. I think I have conclusively shown that, under all the heads, except that of newspapers, (which I did not examine,) and the more general diffusion of letters at the North, the South stands foremost. Her soil is not impoverished; for, we have shown that working less hands to the acre, on land costing a little more than half what it does at the North, the South produces, to each person, \$13 30 more than the land in the North does.

I now ask, wherein does slavery cramp and clog the energies and progress of States? and impoverish its soil? Is it proved by the greater relative value, to her population, of her *agricultural products*, of her *farming utensils*, of her *live stock*, of her *slaughtered animals*, of the greater value of her *real and personal estate*?

Does slavery retard the growth, progress, and prosperity of a State, and demoralize its people? If it does, I ask, if greater *church accommodations*, if *larger sums of money devoted to educational purposes*, fewer *paupers* and fewer *criminals* and more *dwellings*, according to the population, are evidences of such effects of slavery?

A few more of similar effects of slavery, and I have done. I will now take up "Commerce and Navigation for 1857," and call attention to table

seven, page 324, where it appears that the total value of exports from the United States were \$278,906,713; from northern ports, \$114,008,660; from southern ports, \$164,898,053. So that the value of exports from southern ports was nearly one half more than from the northern ports. The gold exported is not included, for the reason that its exportation is not considered in favor of the United States, but rather injurious.

Such, Mr. Chairman, is a true picture of southern industry and southern prosperity, and I hope we shall hear no more the oft-repeated tales, told for effect, to disparage us for unhallowed purposes.

I have been amused with certain remarks about the great hay crop of the North, and that it was worth more than all the crops of the South. I have in my hand a table carefully prepared, exhibiting the value of each crop in the North and in the South; and I find that the most valuable crop in the United States is the corn crop, which, for 1850, was worth \$296,000,000, of which the South produced \$174,000,000, and the North \$122,000,000. The next most valuable was wheat, value, \$100,000,000; the North produced \$73,000,000, and the South \$27,000,000. Then the cotton crop, \$98,000,000 by the South; then the hay crop, \$96,000,000; of which, \$88,000,000 was produced by the North, \$8,000,000 South. And like our "fodder crop," which with us takes the place of hay to a great extent, and is, perhaps, as valuable, though not reckoned specifically in the census, this hay crop was all consumed by our own people—not a ton being exported. I have been very anxious to see in print the speech delivered in the other wing of this Capitol some ten days ago, by the Senator from Massachusetts, [Mr. Wilson.] His extraordinary statements about the products of the country, North and South, its commerce, &c., deserved particular attention; but I have looked in vain for its appearance in the official proceedings of the Senate.

Now, Mr. Chairman, ready to implore our northern friends to unite with all of us everywhere, who desire peace and harmony in the land, I have sought to show the fallacy of the reasons assigned by all the Opposition to the claims of southern men. And I would ask, are gentlemen of the North so distrustful of themselves as not to be satisfied with having in their own hands the power to control the Government, so as to prevent our abuse of it, if intended? Must it, indeed, be made to conform in its legislative, judicial, and executive action, to the creed of a section? Gentlemen may tell me, and they do, that the North never will consent to take another slaveholding State into this Union. Be it so; let that doctrine be announced as the fixed policy of the Government, and all the armies of the world could not compel a union between northern and southern States. Far be it from me, Mr. Chairman, to threaten disunion. Disunion! sir, it is something painful to contemplate; but, at this time, apprehensions of such a catastrophe come unbidden to the mind. If I rightly understand the temper of the northern mind—and I am sure I do not misjudge that of the South—such an event is not at all improbable within a very few years. I say to our northern friends that however unanimous the people in that section may become in sustaining this Free-Soil Republican movement, there will be equal unanimity at the South in opposition. A representative of the conservatism of the South, I would not hesitate a moment to advise an immediate abandonment of the Government, should its policy be so shaped for our destruction. Let us no more be told that your people at the North will not go into countries where the negro is enslaved; and, therefore, that you are against Kansas and the Lecompton constitution; for it will be in keeping with many other declarations which I have disproved. The census book tells us that seven hundred and twenty-six thousand of the citizens living in the southern States were natives of northern States. In the free States, there were two hundred and thirty-two thousand natives of southern States.

I will now make a brief reference to Kansas. The people of that Territory were asked, through their proper functionaries, if they would have a convention to form a constitution, and they responded yea. And we all said, it is their right. Not even the Republicans of this House could say otherwise. And when, by proper action, the

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people were called upon to be registered, for protection against intruders, it was right. But some of the people in Kansas objected. We will not be registered, said they, because you who propose it are a set of swindlers. We will sanction nothing you do. And so said their friends outside of Kansas. They were urged by Government officials and ambulatory statesmen to take part in this policy of self-protection; but they still refused—"it shall not be done." So seven tenths only were numbered. The people of Kansas, whose names had been registered, were invited under a most just law to go to the polls and elect members to this convention. This was right, too. But a portion of the people of that Territory said, *we will not vote*. And again were they intreated and warned that those who stayed away must abide the action of those who should participate in the election. But many of them turned a deaf ear to this warning, and went not to the polls. The convention assembled, and proceeded to form a constitution. In harmony with our theory of government, a constitution by a convention is the embodied will of the people.

Up to this period, all Democrats were agreed. But when a constitution had been formed, and the convention acting as all similar conventions had done before, in its discretion, only chose to submit one portion of it to a vote of the people, there was for the first time a difference of opinion in our ranks. Some of those who had strenuously advocated the principles of non-intervention, were not willing for the people of Kansas to regulate their affairs in their own way. But still, there was not much complaint, as the whole people of Kansas, registered and unregistered, were invited to vote upon the only question that had disturbed the public mind, which was, whether they would have their State to be pro-slavery or free-soil; and again were the whole people urged to go to the polls and vote upon this matter. About half of them did vote—the balance stayed away; and with that vote closed all legal action of Kansas or its people upon the constitution. The duty of Congress to interfere for the compulsory submission of a constitution to the people, formed by their own agents, is too ridiculous for serious discussion. Not more so, however, than would be the assumption that this House, with its adjuncts in legislation, could *compel the people to vote*. Suppose, acting upon such a fanciful idea, Congress should remand the Leecompton constitution to the people of Kansas, and require everybody to vote; or (as has been done in some of the States) that a majority of all those entitled to vote should sanction or reject it, and the Topeka men do as they have done heretofore, *refuse to vote*, and those who voted heretofore, decline for that reason to do it again, (a not improbable occurrence); what, then, would Congress do? Or suppose a few hundred voted for, and a few hundred against that constitution: what should we do?

Sir, when the Territorial Legislature of Kansas passed, by a two-third vote, the bill prescribing the mode of election for members to the constitutional convention, which had been vetoed by Governor Geary because there was nothing in the law requiring the convention to submit its work to the vote of the people, the best possible evidence was given as to what was believed to be the power of that convention, its members being responsible only to the people. If the Territorial Legislature could control the action of the convention in one thing, it could in another; and might just as well have said that the people shall not vote, as that they *should* vote. The attempt, after all this, to *excuse* the people for not registering and not voting for members to the convention, because they *understood*, or *believed*, or were assured by Governor Walker that they would have a chance to vote down the constitution when formed, if they chose to do so, is too transparent even for humbuggery. What right had Governor Walker to speak for that convention? If he had but attended to the proper duties of his place, there would not now have been so much trouble in the land. And I trust Congress will not seek to follow an example of interference which has already been so fruitful of bitterness and contention.

This is not the first time in our history, sir, that efforts have been made to shape things, in the organization of a new State government, so as to conform to the supposed preferences of a

majority of Congress, and thus to avoid difficulties in the effort of admission into the Union. We have grown tired of tricks of that sort, and when begging has failed, are not now willing quietly to see coercion applied to effect such a purpose. During the pendency of this constitutional movement in Kansas, I have no doubt that the President had, and the people of every State in the Union had, their hopes and their preferences as to what should be done in that Territory. But this gave no right of interference, in any way whatever. When I and my constituents heard that the people of Kansas had determined to call such a convention, we rejoiced, hoping that without interference from any quarter, their affairs would be settled. We denounced, with just indignation, the assumed dictatorship of Robert J. Walker; not because he was for or against any particular policy, but because he should presume to interfere at all, in a matter having no connection with his duties as Governor. I had supposed the convention would submit the constitution to the registered voters. But whether to them, or to all the free white male inhabitants of the proper age, or to none at all, being a matter of their own, in which they had ample discretionary power, it would have been acquiesced in by me and by those I represent. This was our position in the beginning, and all the time. I was much surprised at the submission of *any part* of the constitution on the 21st of December last, to a vote of "all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for rejection or ratification." I did believe, and believe now, that if the whole constitution had been submitted to *such* a vote, the President, nor his Governor, nor all the troops, with artillery and bayonets at their disposal, could have preserved the peace in Kansas on that day. It would have been an invitation to all the North and all the South to come there and make them a constitution. An "inhabitant" may be of a day's residence.

And, sir, thousands of men would have gone there from the North, and perhaps as many more from the South; and when they should have met at the polls under such circumstances, having gone for a purpose, few men would say they were for the kind of "popular sovereignty" which would have been then vindicated. We know well what would have occurred, and in anticipation of it the convention certainly acted most wisely in circumscribing the temptations within such narrow limits.

A word more, Mr. Chairman, and I have done. I should be most reluctant to believe, nor do I believe, that the northern Democrats who may vote against the admission of Kansas into the Union, under the Senate bill—now on your table—will so vote because of the pro-slavery character of her constitution. To believe otherwise would be to abandon all hope of the existence of any party in this country sufficiently catholic and national in its principles to preserve the union of the States. The ties of Louisiana to her sister States are strong—peculiarly so to those in the great basin of the Mississippi. When it has been proposed to carry through measures whereby new States formed out of the old Louisiana purchase were expected to come into the Confederacy with domestic relations dissimilar to those of my State, I have voted for them. This I did without regard to any home institutions which might be established in the formation of State governments, because it was just and right to do it. And no stress of circumstances, so long as I retain the right to be heard in this Hall, shall deter me from voting to admit new States, rightfully applying, formed out of the Louisiana, or other more recently acquired territory, be their constitutions pro-slavery or free-soil. To be governed by any other rule of action would be subversive of all the sound and fair principles of common justice and equality recognized by the founders of our Government, destructive of all friendly relations between the people of different sections, and would jeopard the Union itself.

Satisfied with their position in the Union, and the rights enjoyed, the people of my State have never, through any Representative here, shown a misappreciation of what was due to themselves or to others, by joining in discordant threats, or notes of sectional strife. Shall we, then, be now suspected of any sinister purpose if we talk of

danger? Ready always to make common cause with the people of other States in the defense of common rights, and satisfied with their and our ability to protect such rights, under all circumstances, outside of Congress, the people of Louisiana will not *make haste* to believe that a Union which they have ever cherished with so much devotion is to be made to conform in its policy to sectional views and opinions. Will the Republicans of the North turn this love into hatred? We shall see.

As I have now but a moment of time left, Mr. Chairman, I will state that I shall append to my remarks a table of the total agricultural products of the United States, according to the census of 1850, and of the northern and southern States; also, a table of the foreign commerce of the United States, and of the nine principal ports, and their relative positions; and a comparative table of northern and southern foreign trade; upon the facts of which, with more time, I might have drawn some arguments to sustain the general views already expressed.

The waters from the Rocky Mountains and the Alleghanies, Mr. Chairman, pouring their tributary streams into the great Mississippi, have, from the sea, built up for us in Louisiana a country of surpassing richness and beauty, whose every particle of fructifying alluvion claims kindred soil upon each hill-top and valley in that great region. And it is our constant prayer to Him who has kept us in the hollow of His hand, that, as our country with the waters, so may the hearts of all people in the nation, be flooded with a Christian charity, which shall make a delta, by the accretions of brotherly love, forbearance, and good-will, to enrich their descendants to the end of time.

NOTE.—On page 176 of the Census, there is an error in the amount of slaughtered animals.—See correct amount on pages 173 and 174.

I have left out in table A, value of the agricultural products of the United States, 1850, the large item of \$173,000,000 for "live stock over one year old," estimated as the *annual* product. The *total* value of all the stock is rendered in my argument. The item of \$13,746,822, of home-made manufactures, given as belonging in *agriculture*, is also left out. To have included it, would have been to increase the excess of the South, as, on page 173 of the Census, for home manufactures, the South is credited with \$18,635,290, and the North with but \$9,858,454.

TABLE A.—Value of the Agricultural Products of the United States, 1850.

Products.	Total United States.	Northern States.	Southern States.
Corn.....	\$296,035,552	\$121,506,802	\$174,528,750
Wheat.....	100,485,944	72,575,148	27,910,796
Cotton.....	98,605,720	-	98,605,720
Hay.....	96,870,494	88,889,363	7,981,131
Oats.....	43,975,253	32,007,921	11,967,332
Butter.....	50,135,248	40,397,176	9,738,072
Potatoes.....	45,453,232	26,256,175	19,197,057
Wool.....	15,755,987	11,915,732	3,839,355
Tobacco.....	13,982,686	1,032,716	12,949,970
Cane sugar.....	12,376,850	-	12,376,850
Rye.....	7,803,847	6,916,284	887,563
Orchard products.....	7,723,186	6,342,415	1,380,771
Buckwheat.....	6,969,838	6,017,718	952,120
Peas and beans.....	5,762,436	985,396	4,777,040
Market garden.....	5,280,030	3,895,650	1,384,380
Cheese.....	5,276,795	5,207,896	68,899
Hemp.....	5,247,430	297,000	4,950,430
Rice.....	4,000,000	-	4,000,000
Barley.....	3,616,910	3,503,523	113,387
Molasses.....	2,540,179	111,129	2,429,050
Wax and honey.....	2,376,606	1,102,154	1,274,452
Clover seed.....	2,344,890	2,033,915	321,675
Maple sugar.....	1,712,671	1,608,238	104,433
Hops.....	1,223,960	1,213,177	10,783
Flaxseed.....	843,468	598,377	305,091
Grass seed.....	803,662	702,300	131,362
Flax.....	770,967	294,947	476,020
Wine.....	442,498	352,268	90,230
Silk cocoons.....	5,421	2,788	2,633
Slaughtered animals.....	111,706,925	57,307,627	54,399,298
Poultry.....	13,000,000	6,440,000	6,560,000
Eggs.....	5,000,000	2,421,875	2,578,125
Milk.....	7,000,000	4,400,000	2,600,000
Wood.....	20,000,000	15,000,000	4,900,000
Small crops.....	5,000,000	3,200,000	1,800,000
Residuum, &c.....	165,000,000	79,000,000	86,000,000
	\$1,161,457,783	\$603,775,018	\$560,682,765

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ADMISSION OF KANSAS.

SPEECH OF HON. D. S. WALBRIDGE,
OF MICHIGAN,
IN THE HOUSE OF REPRESENTATIVES,
March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. WALBRIDGE said:

Mr. CHAIRMAN: It is not my purpose, on this occasion, to enter into a discussion of the Kansas question generally. So much has been said upon the admission of Kansas as a State under the Lecompton constitution, and so varied have been the views expressed in relation to it, according to the several standpoints from which observations have been taken, that I cannot hope to interest or enlighten either this committee or the country by anything I may say; and it seems to me, sir, that the discussion of this subject, important as all concede it to be, must already pall upon the public mind, surfeited as it is with the highly seasoned intellectual food which has emanated from this Capitol during the present session.

There are, however, some incidental questions connected with the subject which, it seems to me, have not received the attention they deserve; and while on one side we arraign the border ruffians, and on the other the rebellious Abolitionists of Kansas, it may well become us to see to it that our own duty is discharged to Kansas and the country. Things have transpired here, sir, in this very Hall, and under our own observation, which, in my judgment, are quite as reprehensible as anything which has been done in Kansas, either by border ruffians or anybody else; and it is to these things that I propose, for a few moments, to call the attention of the committee. I refer to the action taken by this House on the message of the President on Kansas affairs, the organization and action of the special committee of fifteen ordered by the House, and to which that message was referred. And I desire to say here that, in whatever I may say in relation to the action of the House, its presiding officer, or the committee, I impugn the motives of no man. I must of necessity speak, and I propose to speak plainly, of the course of gentlemen in this connection; but it is not to my taste, nor in the line of my duty to talk of motives of action. I have nothing to do with motives, but it is acts, official acts, I propose to consider, and which, in my judgment, strike directly at the prerogatives and privileges of this House; and while blunders are often productive of worse consequences than actual crime, they are sometimes more excusable.

For a proper understanding of this subject, (although I doubt not that every member of this House is familiar with its history) it may be proper for me, on this occasion, to allude briefly to the action of the House upon the organization of the committee, and to the purposes for which the committee was raised.

It will be recollected, Mr. Chairman, that on the 2d day of February last, the President of the United States transmitted a message to this House. I do not propose now to discuss that message. I will only say that, in my judgment, it contains more misrepresentations of fact, and withholds more knowledge which ought to be in the possession of the President, and which ought to have been communicated to this House, and is, on the whole, a greater perversion of argument and facts than any other executive document ever communicated from the head of this nation to either House of Congress. The message in question recommends the admission of Kansas into the Union under a constitution framed for it at Lecompton. On the reading of that message in the House, the honorable gentleman from Georgia [Mr. STEPHENS] moved its reference to the Committee on Territories. It is well known that that is the legitimate reference of all such papers; that the subject belonged properly to that committee unless some good reasons were shown why a different course should be taken with it. But the House had evidently come to the conclusion, previously, to take some other course, and the gentleman from Indiana [Mr. HUGHES] was fortunate enough to get the floor, although many other members sought it at the time; and thereupon he

moved that the message be referred to a select committee of thirteen. I quote his resolution:

"Resolved, That the message of the President be referred to a select committee of thirteen, to report on the propriety and expediency of the admission of Kansas as a State into the Union."

Now, Mr. Chairman, I wish to call the attention of the committee and country to the wording of these propositions. The proposition of the gentleman from Georgia was simply a reference of the message to the Committee on Territories. The proposition of the gentleman from Indiana was a reference to a select committee, which was to report on the expediency of the admission of Kansas into the Union as a State.

Although the gentleman from Indiana had been so fortunate as to attract the attention of the Chair, the gentleman from Illinois [Mr. HARRIS] sought the floor at the same time, and subsequently asked the gentleman from Indiana to allow him to submit another resolution. The latter gentleman did not yield, but thereupon made a speech of an hour; after which the gentleman from Pennsylvania [Mr. GROW] obtained the floor, and permitted the gentleman from Illinois to offer the following proposition:

"Resolved, That the message of the President concerning the constitution framed at Lecompton, in the Territory of Kansas, by a convention of delegates thereof, and the papers accompanying the same, be referred to a select committee of thirteen to be appointed by the Speaker.

"That said committee be instructed to inquire into all the facts connected with the formation of said constitution, and the laws, if any, under which the same was originated, and whether such laws have been complied with and followed.

"Whether said constitution provides for a republican form of government, and whether there are included within the proposed boundaries of Kansas sufficient population to be entitled to a Representative in the House upon the basis now fixed by law, and whether said constitution is acceptable and satisfactory to a majority of the legal voters of Kansas.

"Also, the number of votes cast, if any, and when, in favor of a convention to form a constitution as aforesaid, and the places where they were cast, and the number cast at each place of voting and in each county in the Territory.

"The apportionment of delegates to said convention among the different counties and election districts of said Territory, and the census or registration under which the same was made, and whether the same was made in compliance with law.

"The names of the delegates to said convention, and the number of votes cast for each candidate for delegate, and the places where cast; and whether said constitution received the votes of a majority of the delegates to said convention.

"The number of votes cast in said Territory on the 21st December last for and against said constitution, and for and against any parts or features thereof, and the number so cast at each place for voting in said Territory.

"The number of votes cast in said Territory on the 4th day of January last for and against said constitution, and for and against any parts or features thereof, and the number so cast at each place of voting in said Territory.

"The number of votes cast in said Territory on the day last named for any State and legislative officers thereof, and the number so cast for each candidate for such offices, and the places where cast.

"That said committee also ascertain, as nearly as possible, what portion, if any, of the votes so cast at any of the times and places aforesaid, were fraudulent or illegal.

"Whether any portion, and, if so, what portion of the people of Kansas are in open rebellion against the laws of the country.

"And that said committee have power to send for persons and papers."

Whereupon the House adjourned.

On the 5th day of February the subject again came up for consideration. You, Mr. Chairman, will be slow to forget the scenes of that day's session. The gentleman from Indiana had moved to strike out from his proposition everything but the simple one of reference, so that it read as follows:

"That the message of the President be referred to a select committee of thirteen."

The gentleman from Illinois had modified his proposition as follows:

"That the message of the President concerning the constitution framed at Lecompton, in the Territory of Kansas, by a convention of delegates thereof, and the papers accompanying the same, be referred to a select committee of fifteen, to be appointed by the Speaker; that said committee be instructed to inquire into all the facts connected with the formation of said constitution and the laws under which the same was originated, and into all such facts and proceedings as have transpired since the formation of said constitution, having relation to the question of the propriety of the admission of said Territory into the Union under said constitution, and whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas, and that said committee have power to send for persons and papers."

Here, then, were three propositions distinctly before the House; one to refer to the Committee

Table of foreign commerce of the United States, and of the nine principal ports, and their relative positions, and a comparative table of northern and southern foreign trade.

Compiled from report of the Secretary of the Treasury, "Commerce and Navigation," 1857.

Port.	Rank of port.	Exports. (Table 7, p. 324.)	Imports. (Table 9, p. 486.)	Rank of port.	Tonnage cleared. (Table 15, p. 520.)	Rank of port.	Tonnage entered. (Table 16, p. 524.)	Rank of port.	Tonnage to France. (Table 13, p. 510.)	Rank of port.	Tonnage from France. (Table 13, p. 510.)	Rank of port.	Tonnage to Spain. (Table 13, p. 510.)	Rank of port.	Tonnage from Spain. (Table 13, p. 510.)
Ports of the U. States.															
Northern ports.	1	\$278,906,713	\$360,890,141	1	7,070,831	1	7,186,316	1	983,640	1	267,977	1	127,378	1	94,241
Southern ports.	2	114,008,660	119,707,607	2	5,503,765	2	5,852,688	2	109,600	2	71,398	2	86,736	2	37,501
New Orleans.	3	164,898,053	41,182,334	3	1,567,056	3	1,333,628	3	174,043	3	153,299	3	50,955	3	28,100
New York.	4	91,433,306	24,891,388	4	728,560	4	619,296	4	103,892	4	4,567	4	37,198	4	26,100
Boston.	5	74,538,238	222,550,307	5	1,756,441	5	2,035,649	5	107,113	5	1,377	5	1,977	5	3,580
Philadelphia.	6	20,575,987	709,919	6	1,756,441	6	1,756,441	6	33,927	6	15,521	6	20,810	6	1,711
San Francisco.	7	15,993,506	2,016,734	7	143,473	7	136,196	7	15,521	7	4,418	7	2,672	7	1,711
San Pedro de Macoris.	8	13,383,392	10,581,208	8	188,986	8	163,381	8	5,491	8	1,402	8	2,663	8	7,410
San Juan.	9	12,181,581	44,840,083	9	666,932	9	714,821	9	2,472	9	2,147	9	6,181	9	1,061
Sanchez.	10	10,670,273	779,908	10	120,820	10	108,658	10	1,748	10	1,817	10	781	10	533
Sancti Spiritus.	11	6,838,653	17,850,630	11	141,020	11	180,109	11	1,817	11	2,698	11	781	11	533
Sancti Spiritus.	12	5,745,092	849,461	12	47,475	12	12,535	12	2,697	12	2,697	12	781	12	533

Northern products exported, (No. 2, p. 52).....	\$101,056,104
Southern products exported, (No. 2, p. 52).....	177,850,609
Total exports to France, (p. 50).....	31,737,258
Cotton, tobacco, and rice, to France, (No. 3, p. 56).....	23,825,690
Total exports to Spain, (No. 1, p. 50).....	10,678,004
Cotton, tobacco, and rice, to Spain, (No. 3, p. 56).....	7,942,382
Total exports to Cuba, (No. 1, p. 50).....	9,379,582

RESULTS.

Ratio of exports from southern ports to those from northern ports.....	16 to 11=1½
Ratio of southern products to northern products exported.....	17 to 10=1 7-10ths
Ratio of southern imports to northern imports exported.....	4 to 31=¾
Ratio of southern exports to France to northern exports to France.....	23 to 8=3
Ratio of southern exports to Spain to northern exports to Spain.....	79 to 27=3
Ratio of exports from New Orleans to exports from New York.....	95 to 74=1¼
Ratio of exports from New Orleans to exports from all ports.....	91 to 278=3-10ths

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on Territories unconditionally, one to refer to a select committee of thirteen unconditionally, and one to refer to a select committee of fifteen with instructions. I wish to impress upon the committee and upon the country, that the instructions were, that they should inquire *into all the facts*, into everything connected with the formation of the Lecompton constitution, and into all the action of the people of the Territory in relation to it as well before as after its formation.

Well, sir, after an exciting session of eighteen hours, the House adjourned until the 8th, with the understanding that the votes were then to be taken upon those propositions. Upon the meeting of the House upon the 8th, the first question to be taken was upon the motion of the gentleman from Georgia, [Mr. STEPHENS,] to refer the message to the Committee on Territories. Now, sir, I have no sort of doubt that the gentleman from Indiana [Mr. HUGHES] acted in perfect good faith in offering his resolution for a select committee of thirteen; but I must be permitted to say that he had a very strange way of demonstrating it, because, on the very first vote, he voted against his own motion, and in favor of the reference proposed by the gentleman from Georgia. The motion of the gentleman from Georgia failed. The House refused to adopt it. The question then recurred upon substituting the proposition of the gentleman from Illinois [Mr. HARRIS] for that of the gentleman from Indiana, [Mr. HUGHES.] The House adopted the proposition of the gentleman from Illinois. It decided the question then and there by that vote, that it would have an investigation. That was the question voted upon, and the only difference, in fact, between the propositions. It did not vote upon the question of the reference of the President's message only, as has been stated in this House from the chair. It voted to have an investigation of Kansas affairs. If it did not want an investigation, why did it not refer the matter to the ordinary committee—the Committee on Territories? It referred it to a select committee because it knew that the Committee on Territories would not make the investigation it wanted. It was for the purpose (and for no other purpose under heaven) of getting an investigation that the special committee was ordered. And I may say here, Mr. Chairman, that after all the discussion and the struggle that had taken place upon this question in the House, after the House had adjourned for two days and every member understood, when he came to vote, what the propositions were upon which he was called to vote, the opinion of this House, expressed by the largest vote ever cast upon this floor, *ought* to have been respected. The resolution of the gentleman from Illinois was finally adopted. The committee was ordered, with the instructions which I have read to the House. Well, sir, a committee of fifteen members of this House was appointed by the Speaker, of which I happened to be one.

Now, I have a word or two to say upon the construction of that committee. I have said heretofore, and I repeat now, that I make no imputation upon the motives of anybody; but I do say here, that, in my opinion, the construction of that committee, under all the circumstances, looking to the antecedents of the men composing it, looking to their action on the adoption of the resolution ordering it, looking to their whole action upon the question, was in violation of all parliamentary rule and usage. The parliamentary law, as I understand it, requires that, in the appointment of every select committee upon any question, a majority of the committee shall be friendly to the bill or proposition referred. To refer a proposition to a committee who are utterly and totally opposed to it, is simply to strangle the whole thing. That, sir, is not the object of legislation. The object should be to investigate propositions that may be brought before the House, and see what merit there may be in them. I wish to call the attention of the committee to a single paragraph from the Manual relating to this question:

"Those who take exceptions to some particulars in the bill are to be of the committee, but none who speak directly against the body of the bill; for he that would totally destroy will not amend it, or, as it is said, the child is not to be put to a nurse that cares nothing for it."

Now, my own opinion is, that this child was not put to a nurse that cared nothing for it; but

that it was put to a nurse who had determined beforehand to strangle it.

"It is therefore a constant rule that no man is to be employed in any matter who has declared himself against it."

On this very committee were appointed a majority of men who had, from the beginning to the end, from first to last, voted and spoke and acted here and everywhere against this proposition—men who had not only voted against this identical proposition of investigation, but who had voted on all occasions, in the last Congress and in this Congress, against any investigation by this House into Kansas affairs. Is that in accordance with parliamentary usage, as laid down in the Manual? And further:

"And when any member who is against a bill hears himself named of its committee, he ought to ask to be excused."

That was the opinion of Mr. Jefferson, that no gentleman ought to take a position on a committee of investigation, to the whole of which he was opposed. Did either of these eight gentlemen ask to be excused from serving on that committee? I think if they had, the House would have excused them.

Mr. Speaker Hunter, in his valedictory address at the close of the Twenty-Sixth Congress, uses this language on this subject:

"In the committees connected with the executive department it would seem that the friends of the Administration should have the majority to propose the measures which emanate originally from their party, and for which they are mainly accountable. In committees of investigation, it is equally clear, that the Opposition, who hold the affirmative, should have the majority, and the power."

In this view, I submit, that if the assertion of the Chair be true, "that it was the President's message which was referred to the select committee," it does not help the Speaker from his dilemma, or relieve him from the imputation of partisanship in the appointment of the committee. The proposition for the select committee came from the gentleman from Illinois; and a majority of it should, under Mr. Hunter's rule, have been named from those who agree with the mover, and so says all parliamentary law; so that whether the committee were ordered to consider the message and accompanying papers, or to investigate Kansas affairs, or on any other subject, whatever it might be, it is equally true that the majority should have been named of those who favored the select committee.

Mr. Chairman, I have said all that I desire to say in reference to the formation of that committee. I have put my opinion on the subject on record; and time will not permit me to dilate on the subject. The committee was appointed with eight, out of the fifteen members, who had opposed the whole thing from the beginning to the end, and who had opposed the action of the House in ordering the committee.

Mr. Chairman, having been a member of that committee, I feel it incumbent on me to say something of its action, that the responsibilities of its failure to execute the order of the House may rest where it belongs. I, sir, wash my hands of the whole thing. And here, sir, I may be permitted to say, that in my opinion, the fact that the majority of the committee were opposed to any investigations, was no excuse or reason why they should treat the order of the House with contempt and refuse to execute it. The order of the House was imperative that the committee inquire into *all the facts* connected with the formation of the Lecompton constitution, not the "essential" facts nor the "material" facts, but *all the facts*. The House did not ask the committee to give an opinion upon the propriety of the admission of Kansas. It wanted no such opinion; it simply wanted facts on which to form its own opinion, and I hold, sir, that the committee could not discharge its duty to the House without making a full and fair investigation into *all the facts* as contemplated by the resolution of the House. Was such investigation made? Was any investigation made? I unhesitatingly answer none, literally none; and propose to examine the journal of the committee to see if that will not bear me out in the assertion. The resolution of the House required the committee to inquire into *all the facts* connected with the formation of the Lecompton constitution, and the laws under which the same was organized, which, in my opinion, made it the duty of the committee to inquire into the validity of the Legislature itself,

which passed the law providing for the convention. For if the Legislature had no legal existence, how could it make any valid or binding law. In pursuance of this idea, I offered in committee the following resolution:

"Resolved, That this committee will inquire into the law providing for a constitutional convention in the Territory of Kansas, and under which members of the convention were elected."

Under this resolution, if it had been adopted, it would have been competent to investigate all the facts connected with the election of members of the first Legislature; whether, as has often been alleged, that election was carried by fraud and violence, or whether it was a fair election and expression of the will of the people. That surely was an important inquiry to enable the House to come to a correct conclusion in the premises. If, on inquiry, the Legislature was found to be a valid one, duly elected, and competent to legislate for the Territory, had it any right to pass any such law as would provide for a government superseding and annihilating itself? This question was fully discussed in the Senate of the United States in the Michigan case, in 1835-6; on which occasion, Mr. Buchanan, then a Senator from Pennsylvania, said:

"No Senator will pretend that their Territorial Legislature had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

The same question arose on the application of Arkansas for admission, when General Jackson, with the concurrence of his Cabinet, and on the written opinion of the then Attorney General, decided that no such power existed in a Territorial Legislature; and I give you here, sir, the opinion of Attorney General Butler, as expressed on that occasion. He says:

"To suppose that the legislative powers granted to the General Assembly include the authority to abrogate, alter, or modify the territorial government established by the act of Congress, and of which the Assembly is a constituent part, would be manifestly absurd. The act of Congress, so far as is consistent with the Constitution of the United States and with the treaty by which the Territory, as a part of Louisiana, was ceded to the United States, is the supreme law of the Territory; it is paramount to the power of the Territorial Legislature, and can only be revoked or altered by the authority from which it emanated. The General Assembly and the people of the Territory are as much bound by its provisions, and as incapable of abrogating them, as the Legislatures and people of the American States are bound by, and incapable of abrogating, the Constitution of the United States. It is also a maxim of universal law, that when a particular thing is prohibited by law, all means, attempts, or contrivances to effect such thing are also prohibited. Consequently, it is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to a convention to form a constitution and State government, nor to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the Governor of the Territory, would be null and void; if passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void."

But, sir, if we admit, or if on full inquiry by the committee it had been shown, that the Legislature was a legitimate one, that it had a right to pass such a law, did it do so? and if so, was the law executed and its provisions complied with?

By the act of the Territorial Legislature of the 19th February, 1857, providing for the election of delegates to a convention to form a constitution, it is, among other things, provided, that a census of the inhabitants and a registration of the voters shall be made in each and all of the thirty-four organized counties in the Territory, naming the counties, and designating the territorial officers charged with the duty, and on the completion of which the number of delegates to the convention, sixty, were to be apportioned among the different counties in proportion to the number of voters in each. It was asserted by many persons and through various channels of communication, and finally by Governor Walker himself, in his letter to the Secretary of State, of December 13, 1857, that this condition of the law had not been complied with; that in fifteen of the thirty-four organized counties no registry of votes was made, and consequently, no apportionment of delegates could be made to those counties, neither could the voters thereof vote in any other counties for delegates. Was it not contemplated by the House, in ordering this committee, that this matter should be inquired into? Acting under my official oath and under the order of the House, I had no doubt

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upon the subject, and hence the resolution in committee. Without discussion or consideration, the resolution was laid on the table by the following vote:

"YEAS—Messrs. Stephens, Letcher, Winslow, White, Anderson, Quitman, Stevenson, and Russell—8.
"NAYS—Messrs. Harris, Morrill, Bennett, Wade, Walbridge, Adair, and Buffinton—7."

I know, Mr. Chairman, it is said, and that in high places, that there were but few voters in those disfranchised counties; and what if it were so? Is even a small minority of the people to be disfranchised by an overbearing and unscrupulous majority, and receive the approbation and justification of this House in the act? I trust not. But the assertion is denied on authority quite as good as that on which the statement is made. It was asserted before the committee, by a member, that he could and would show, if permitted by the majority to do so, that more than one third of the legal voters of Kansas were disfranchised by that census and registry, and not permitted to participate in the election of delegates to the convention. It seems to me this was a very important fact connected with the formation of the Leecompton constitution, and one into which the committee were directed to inquire.

Mr. Chairman, did that nurse care aught for the child but to strangle it?

Sir, other propositions of inquiry were made to the committee—one in the following words, as found in the printed journal of the committee:

"Mr. MORRILL submitted the following resolution:
"Resolved, That in order to comply with the order of the House under which this committee was organized, which required that we should inquire into all the facts connected with the formation of said Leecompton constitution, and the laws under which the same was originated; and also whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas, the chairman be authorized to have summoned to appear before the committee the following named persons, viz: Governor R. J. Walker, General John Calhoun, the Hon. F. P. Stanton, and John D. Henderson, to testify to all such facts as they have knowledge of, and to produce all such documents, papers, votes, and returns as have any relation to the election of delegates to the Leecompton constitutional convention, or to any election subsequently held in the Territory of Kansas."

"After discussion, the further consideration of the resolution was, on motion of Mr. STEPHENS, postponed until the next meeting by yeas and nays, as follows:

"YEAS—Messrs. Stephens, Letcher, Winslow, White, Anderson, Quitman, Stevenson, and Russell—8.
"NAYS—Messrs. Harris, Morrill, Wade, Bennett, Walbridge, Adair, and Buffinton—7."

Now, Mr. Chairman, if there were four men in the Territory of Kansas, or anywhere else, who were familiar with the transactions of that people in reference to the formation of their constitution, these were the men; and as they all happened to be in or near this city at the time, there seemed to be great propriety in calling them to testify before the committee.

Governor Walker was sent to Kansas as Governor because he was supposed to be, as he really was, the especial friend of the Administration, and a pro-slavery Democrat of the first water. Secretary Stanton was made such for similar reasons. Calhoun was the president of the convention, and charged by that body with the duty of ordering the elections under it, receiving and counting the votes, and declaring the results; and Jack Henderson was the most noted border ruffian of them all. This proposition was voted down, as will have been seen, by the same inexorable majority, and not a particle of testimony in relation to the organization of the convention was permitted to be taken. It was proposed to show—

Mr. HUGHES. I rise to a point of order. It is, that it is not in order to discuss the proceedings of a committee, nor to refer to newspaper publications of their proceedings.

The CHAIRMAN. The Chair would say to the gentleman from Indiana that it is in order to refer to any report of a committee published in a newspaper.

Mr. HUGHES. Is it in order to state what the gentleman proposed to do before that committee?

Mr. WALBRIDGE. I hope the gentleman will not take up my time.

The CHAIRMAN. The Chair would state that there is no rule which prohibits a member from referring to anything which appears in the newspapers. A publication has been made in the newspapers purporting to be a report of the committee, giving an account of the proceedings

of the committee. The Chair holds that it is in order to refer to it.

Mr. HUGHES. Is it in order for a member of a committee to refer to what took place in the committee? The gentleman was stating what he proposed to show to the committee, if he could do so.

The CHAIRMAN. It is not in order to refer to anything which took place in a committee which has not been made public.

Mr. WALBRIDGE. Certainly; and everything of which I have been speaking, and of which I propose to speak, is here published in this newspaper, and I read it from the paper.

The CHAIRMAN. The gentleman has a right to do that.

Mr. WALBRIDGE. I suppose so.

I was saying that, according to the public prints, as the thing appears in the newspapers of the day, in what appears to be a journal of the action of that committee, in what is signed by the chairman of that committee as its chairman, certifying it to be the journal of its proceedings, and which I have the best reason in the world to believe is a perfect and full journal of its proceedings, it appears that a member offered that resolution; that he desired to have the privilege of summoning the witnesses named, in order to show that more than one third of the people of that Territory have been disfranchised; disfranchised by the action of the Administration of this Government in that Territory; disfranchised by the action of the Administration officers there; and that the people had no right nor no power to participate in the election of the members of that convention.

Now, I submit whether this is not a fact properly connected with the admission of Kansas into the Union as a State? whether it is not one of the things which the committee was directed to inquire into? whether it is not one of the things which this House desired to ascertain when they ordered the committee to be raised?

Now, sir, I might go on to enumerate other positions taken before that committee, but for want of time I will allude to but one; and here I resort to my newspaper again. Various resolutions, according to this newspaper, were introduced before that committee—I think some dozen or fifteen—all looking (as I would be glad to show to the country if I had time) directly to the investigation of some important question connected with the admission of Kansas into the Union; but every single one of them was voted down by the same majority of the committee, and that majority utterly refused all investigation and examination, except such as emanated from the Government officials of that Territory. They refused to take the testimony of any man. When it was proposed to summon John Calhoun, and let him testify and swear whatever he pleased, whether true or false, the proposition was voted down. When it was proposed to summon Governor Walker, Jack Henderson, and Secretary Stanton, the majority voted down the proposition every time.

Mr. LETCHER. Will the gentleman allow me to put a question just at that point?

Mr. WALBRIDGE. Yes; right there.

Mr. LETCHER. When it was proposed to summon John Calhoun, will the gentleman say whether he did not say that he would not believe him, under oath or not under oath?

Mr. WALBRIDGE. Whether I said so, or not, it is so. I would not believe him.

Mr. LETCHER. Well, what would be the use in summoning a witness, if it is said in advance that the other side would not believe one word of his evidence?

Mr. WALBRIDGE. I took it for granted that the gentleman from Virginia [Mr. LETCHER] might believe him, and that the testimony might be of some service to him, and possibly some truth might be extracted from him on a cross-examination.

Mr. HUGHES. I wish to ask the gentleman from Michigan if he was a member of the caucus of Republican members of this House which met at an early part of the session—

Mr. WALBRIDGE. Oh! it takes the gentleman from Indiana too long to get out the question.

Mr. HUGHES. And if he was not pledged by a resolution passed by that caucus to advocate the admission of Kansas under the Topeka con-

stitution, in advance of the presentation of the Leecompton constitution to this House?

Mr. WALBRIDGE. I cannot answer all these questions—it takes too much time. I have one word more to say in regard to this matter of the credibility of John Calhoun. I said that the minority of the committee asked the privilege of calling John Calhoun before them, and putting him under oath to testify, and the gentleman from Virginia suggests that I said in the committee that I would not believe him under oath. I do not know whether I said so, but it is the truth. But further than that, I say that, under a subsequent resolution, a written statement of John Calhoun was brought before the committee, and it was ruled out by the majority of the committee, because they would not believe him. It was voted that it was not testimony before the committee at all. Now I hold that any man who will make a written statement anywhere of what purports to be facts, that is not to be believed, is not to be believed under oath, I care not who he is. Nevertheless, if we had got that man before the committee, we might have got something useful out of him. But whether we could or not, we could not get him there, nor could we get Henderson, or Governor Walker, or Secretary Stanton there, though it was notorious that they were in the city at the time. We wanted to prove the existence of all these frauds in the election of members to this convention—the very thing which had been referred to us to inquire into.

Now, sir, I said a few moments ago that I wanted to call the attention of the committee to another proposition which was made to that committee. It was in these words:

"Whereas, the Territorial Legislature of Kansas appointed a commission to investigate certain frauds said to have been perpetrated in the election held in said Territory on the 21st of October and the 4th of January last, and in the returns of said elections; and whereas, said commission are understood to have made such investigation, and to have examined many returns in relation thereto: Therefore,

"Resolved, That the chairman of this committee be, and he is hereby, instructed to procure an authenticated and duly certified copy of all the testimony taken before said commission in relation to such frauds."

Now, Mr. Chairman, in my judgment, here was a proposition which tested thoroughly, if any further tests had been required, the determination of the majority of the committee to resist all inquiries. I will here state some of the circumstances connected with these elections, and the returns of them, as they were supposed to exist at the time, and as they have since been proved to exist, and that by the very testimony which was tendered to the committee by the resolution under consideration.

The constitutional convention had appointed the 21st of December on which to hold an election at which the people of the Territory were to vote on the question of the adoption of the "constitution with slavery," or the "constitution with no slavery." It was for the constitution either way; and, in point of fact, it was the constitution with slavery either way, with only this difference: that those who should vote for the "constitution with no slavery," voted for slavery in a worse form than those who should vote for the "constitution with slavery." But that is not the question I am now discussing; and suffice it to say, that an election was ordered by John Calhoun, the president of the convention, among other places, at the precincts of Kickapoo, Delaware City, Oxford, and Shawnee. An election had also been ordered by the convention to be held on the 4th day of January, 1858, for the election of State officers and members of a State Legislature, which was also to be conducted under the auspices of the same John Calhoun. At the latter election polls were opened at the before-mentioned places, and also at a place called "Delaware Crossing," or "Delaware Agency." The commissioners appointed by the Territorial Legislature took much testimony in relation to the votes returned as cast at these places, (the very testimony, sir, called for by the resolution proposed to the committee,) and I propose to give the conclusions to which that board of commissioners came, in their own words. They say:

"From the evidence taken before them, the board state that the returns from the Delaware Agency precinct were honestly made out by the officers of the election; and subsequently three hundred and thirty-six names were forged

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upon them, by or with the knowledge of John D. Henderson; and that John Calhoun was *particeps criminis* after the fact.

"The board report that of the votes returned of the election of the 21st December, 1857, on the slavery clause of the constitution framed at Leecompton, held at the precincts of Kickapoo, Delaware, Oxford, and Shawnee, about the following numbers were illegal and fraudulent:

"At Kickapoo.....	700
Delaware City.....	145
Oxford.....	1,200
Shawnee.....	675

Total.....2,720

"And of the votes returned of the election of the 4th of January, 1858, for officers under the constitution framed at Leecompton, held at the precincts of Kickapoo, Delaware City, Delaware Agency, Oxford, and Shawnee, about the following numbers were illegal and fraudulent:

"At Kickapoo.....	600
Delaware City.....	5
Delaware Agency.....	336
Oxford.....	696
Shawnee.....	621

Total.....2,458"

Mr. Chairman, I ask, in all sincerity, can any man tell me for what purpose this committee was appointed, if not to inquire into such naked, palpable, barefaced frauds as these? Did the House mean anything when it ordered us to "inquire into all the facts connected with the formation of the Leecompton constitution," "and into all such facts and proceedings as have transpired since the formation of the said constitution, or propriety of the admission of said Territory into the Union under said constitution," or did it mean nothing? Surely, if it meant anything, it intended what is so plainly stated in the resolution of our appointment.

But, Mr. Chairman, there is another branch of inquiry embraced in the resolution of the House ordering this committee, to which I desire to call the attention of the House for a few moments. The committee were instructed to inquire whether the Leecompton constitution "was acceptable and satisfactory to a majority of the legal voters of Kansas." Was that duty discharged by the committee? I unhesitatingly answer, *no*! Did the committee refuse to discharge it? I as unhesitatingly answer, *yes*! I know the majority of the committee take the vote of December 21, and call it the expression of the voice of the people of Kansas as in favor of the constitution. In spite of the frauds proved to have been committed at that election; in spite of the positive impossibility of voting against the constitution at that election; in spite of the stubborn fact that less than three thousand legal votes were cast at that election, still the majority cling to it as the free expression of the voice of the people of Kansas.

The election of the 4th of January, ordered by the Territorial Legislature, at which the legal voters of Kansas were permitted to vote for or against the constitution—for the constitution with slavery, or for the constitution with no slavery—is ignored by the committee; and although at that election the constitution was voted down by a majority of more than ten thousand votes, is not thought by the majority as worthy of even a consideration. The solemn protest of the Territorial Legislature—the immediate and then recently elected representatives of the people of that Territory—is treated with scorn and contempt, and as unworthy of the slightest attention.

Mr. Chairman, was not this child sent to a very bad nurse?

But, sir, I cannot spend any further time in discussing these propositions made to the committee. I desire to refer briefly to the report of the majority of the committee. I find that report in the public newspapers, and take it for granted that it is the authorized report. The committee say, in the beginning of that report, that they have investigated all the essential facts connected with the formation of the Kansas constitution. Now, sir, I want to ask that committee who made them the judges of what is essential in this inquiry? Had they any authority from this House to say what was and what was not essential? Did the House ask them for their judgment or opinion on that point? Did not the House direct them to investigate and report all the facts?

Mr. QUITMAN. Does the gentleman pretend to say that the committee was bound, by the in-

structions of the House, to take testimony as to every little incident that occurred in the Territory of Kansas, no matter how utterly unnecessary, useless, and immaterial, such testimony might be considered by the committee?

Mr. WALBRIDGE. I again repeat the question, who made the majority of the committee the judge of what was essential? Where did they get the power to judge of it? Under the resolution of the House, every fact connected with the election and the formation of that constitution was to be investigated by that committee, and it was their duty to make that investigation. If they failed to do so, they are responsible to this House; and to that responsibility I now hold them. If the House is satisfied that its order has been executed, and that that committee has discharged its duty, and not treated with contempt the order of the House, then I have nothing more to say. It is not a question that interests me more than others, but it is a question that involves the dignity, the prerogatives, and the privileges of this House. If the time has come when committees of the House are to be appointed to stifle such great and important inquiries as this, then the power of the House is a mockery. It is the business of organizations of the House to execute its will in every form, and in every place, whether it be the will of the individual executing it or not. And with all due respect to the Speaker, I would say that it was the duty of the Chair to appoint a committee from members of the House who favored the investigation, not from those who were opposed to it. But the Speaker not having done so, but having appointed a committee opposed to investigation, it was the business and duty of the committee to investigate just to the extent that the House ordered it. Sir, this child was put to a nurse, in my judgment, predisposed and pre-determined to strangle it; and I trust this House and the country will hold that nurse to a just responsibility for the deed.

Mr. Chairman, there are many reasons why I cannot vote for the admission of Kansas into the Union under the Leecompton constitution, but I have barely time to call the attention of the committee at this time to one; but that one, sir, is sufficient for my justification, if I had no other. In 1820, when this country was convulsed to its very center by this slavery question; when slavery was stronger numerically and in proportion to free-State power than now, and when you desired the addition of another slave State, (Missouri,) our fathers bargained with your fathers on this basis: Your fathers said, give us Missouri now, and we will give you all the balance of the Louisiana purchase north of 36° 30'. Our fathers took the bait, trusting to southern honor to keep their faith; and they did keep it; but how long? Why, sir, while our territory was a wilderness, and worthless to freedom; but when the time came in which we wanted to occupy it, you found a flaw in the bond, a legal and technical flaw. Your fathers had no right to make the bargain, and you repudiated it. You plowed with our heifers, you used our dough-faces, and robbed us of our inheritance. On the day you did that deed you inflicted a wound upon southern honor which will rankle and fester until you or your children will curse the day you did the deed; and on that same day hundreds of thousands of true northern hearts, of all political parties and affinities, more in sorrow than in anger, struck hands in a solemn oath, by the graves of their fathers, that you should not with their consent enjoy the inheritance of which you had robbed them; and that oath they will keep to the bitter end, if need be. I have no word of complaint to make of the men who made that bargain. I know they made it for wise and what seemed to them good reasons, and, I cannot doubt, from patriotic motives. They believed it would restore peace to the country, and settle the slavery question as between the North and the South forever. And it did restore peace to the country, and union and harmony among the people for more than thirty years, until, in an evil hour, you repudiated the contract, denied the right and power of the parties to make it; and now you ask us to sanction the unholy and faithless act.

Mr. Chairman, I trust the day of compromises on this subject is past; and I firmly believe that, on the part of the people of the North, it is so;

that this great question of whether the labor of this great nation shall be performed by freemen or slaves, must now be settled, and settled for all time. It is, in my judgment, the most important and momentous question which has ever agitated the civilized world. Let it be well considered, and wisely settled.

I have no compromises to offer, or to make; and if I shall ever find it necessary, or see it proper, to vote for any measure in relation to Kansas under which, if adopted, it can by possibility be made a slave State, I shall do so, choosing the lesser and contingent, to avoid the greater and positive, evil—entering my most solemn protest against the right of any body to make Kansas a slave State; protesting against the right or power of this Government to abdicate the governments of all, or any, of the Territories, and protesting against the newly-discovered doctrine that the Constitution carries slavery into, and protects it, in all or any of the Territories of this nation.

Mr. LEIDY obtained the floor.

Mr. HUGHES. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. LEIDY. I will.

Mr. HUGHES. Mr. Chairman, I put a question to the gentleman from Michigan [Mr. WALBRIDGE] who has just taken his seat, the object of which was to show that, at the caucus of the Republican members of this House at the commencement of this session, that party unanimously pledged itself to the Philadelphia platform, which advocated the admission of Kansas under the Topeka constitution.

Mr. KUNKEL, of Pennsylvania. I rise to a question of order. Is the gentleman from Indiana in order? I thought the floor was awarded to the gentleman from Pennsylvania.

The CHAIRMAN. The floor was accorded to the gentleman from Pennsylvania, but the gentleman from Indiana appealed to the gentleman from Pennsylvania to yield it, and he did so.

Mr. GROW. He can only yield for personal explanation.

The CHAIRMAN. He cannot yield the floor if objection be made.

Mr. KUNKEL, of Pennsylvania. Well, I object.

Mr. HUGHES. I merely wish to settle a question of fact with the gentleman from Ohio, [Mr. LEITER,] by having the resolution of the Philadelphia convention read.

Mr. POTTER. I object.

Mr. JONES, of Tennessee. I suppose the gentleman from Indiana has a right to make a personal explanation with the consent of the gentleman from Pennsylvania.

The CHAIRMAN. If he desires to make a personal explanation, he has a right to do so.

Mr. JONES, of Tennessee. That is exactly what he wants to do.

The CHAIRMAN. The Chair does not understand that it is a personal explanation, as the gentleman's remarks related to what was done in the Republican caucus. The gentleman from Pennsylvania will proceed.

ADMISSION OF KANSAS.

SPEECH OF HON. PAUL LEIDY,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. LEIDY said:

Mr. CHAIRMAN: I desire, sir, to avail myself of this opportunity to offer some remarks upon the subject which has occupied so much of our attention during the present session, and it is hardly necessary for me to say, that I feel the disadvantages under which I labor, in attempting to speak upon this question, after so much has been said and written, both in this House and out of it, that we have all become weary of the theme. But inasmuch as it may be expected by those whom I have the honor to represent here, and who by reason of that relation have a right to know my views on this, as well as on every other subject in which they have and feel an interest; and

regarding it as a duty which I owe to them as well as to myself, to give some of the reasons which shall influence my vote upon this question, I shall endeavor, in the discharge of that duty, to give my views as briefly and as plainly as I can.

Before proceeding to the discussion of the question under consideration, permit me to remark that, although much of the argument here, on the one side and the other, has been confined to the slavery question, I have not yet been able to understand how the merits of that question are, in any sense, involved in this issue. By the passage of the Kansas-Nebraska act, I take it, Congress shut out from our consideration the question of domestic slavery as connected with the admission of Kansas as a State. Congress, by the passage of that act, declared that she should be entirely free to form and regulate her own domestic institutions in her own way; and when, in due time, she should be prepared, that she should be received as a State with or without slavery, as her constitution might at the time determine. However, as other gentlemen have thought proper to discuss this subject in connection with the Kansas question, I feel that I shall not be regarded as out of order if I devote a few moments to its consideration.

I am free to confess, Mr. Chairman, that all my feelings, prejudices, and principles are alike averse to the institution of domestic slavery; and when I see its advocates and defenders driven to the necessity of searching the Holy Scriptures to find a basis on which to rest the claims of this "peculiar institution," it only serves to strengthen my convictions of the correctness of these feelings and the soundness of these principles; for it is an evidence to my mind that the old foundations on which they were wont to rest this institution are giving way; and that the common arguments which the men of earlier days were accustomed to regard as sufficient and complete justification of domestic slavery have lost their power, and fail now to produce, even in the minds of those who use them, a clear conviction of their soundness; and hence they must resort to the "higher law," and endeavor to find in that a sanction of this system.

It is undoubtedly true that in the Jewish nation they had their servants, their bondmen and their bondwomen, their men-servants and their maid-servants, their servants born to them in their own house, and those taken from among the strangers that were round about them; and this system of servitude is nowhere, that I know of, condemned. But it is fair, is it honest, for those who have renounced Judaism, and who refuse to acknowledge the obligations imposed by its laws, its rites, and its ceremonies, to claim, under that system, the benefits, the rights and the privileges granted only to those who constituted that peculiar people? And if the cases of Abraham and Isaac are to be regarded as conclusive of the moral or religious character of the institution of African slavery, with equal propriety may the cases of Jacob, of David, and of Solomon be adduced to sustain the peculiar institution of Mormonism—polygamy.

Entertaining these feelings of aversion to slavery, I am, of course, opposed to its extension over new States and Territories; and would earnestly desire that in every new State, especially in the latitudes adapted to free labor, the people should, by a constitutional prohibition, exclude it from the number of their domestic institutions. I have no doubt that the interests and the prosperity, not only of the new States themselves, but of the whole country, would be thereby promoted. But, at the same time, I claim no right, as a citizen of a free State, or as a Representative, to interfere with that institution where it exists, nor to prevent the people inhabiting any other State or Territory from introducing this as one of their institutions if they desire it. I believe, sir, in the great principle that the people of every State and Territory should be left entirely free to form and regulate their domestic institutions in their own way, and when, as a Representative, I am called upon to vote on the question of the admission of any new State, I shall do so without any inquiry, as a preliminary to my voting, whether the constitution excludes or tolerates slavery; and I trust that I shall at all times, as well here as elsewhere, be found as ready and willing, by my voice, my

vote, or in any other legitimate way, to defend the rights, privileges, and institutions of the South against aggression coming from any quarter, as I would those of my own State. And I know, sir, that, on this subject, I express the sentiments of the Democracy of Pennsylvania; but gentlemen must not ask of us too much. They must be content with our willingness to sustain them in the protection of their legal and constitutional rights and privileges; they must not insist that we shall believe that slavery is right, or even beneficial; for we, as Democrats, and citizens of a free State, repudiate the doctrine that slavery is an essential element of freedom, of progress, of civilization, of refinement. We deny that this institution has any sanction in our holy religion, or that any denomination of the Christian Church has, in any age, thrown over it its sacred mantle; and being on the defensive, we content ourselves with the mere denial, until evidence shall be adduced which can challenge a reply. But while we thus differ, and honestly differ, from our southern brethren in the views upon this subject, each believing that we are right, why shall we continually strive and wrangle over this difference? Why shall we, as the Representatives of the people, spend our time in useless discussion of a question which we can never settle? Why spend our energies in contending with each other for victory, when a victory for either would be the ruin of both? Rather let us lay aside our weapons, and seek to promote peace and harmony.

Having said thus much in reference to the institution of slavery, I shall now address myself to the Kansas question. In approaching the argument of this question, I aver at the outset that I shall contend for the admission of Kansas as a State, and that upon the principle of popular sovereignty. The territorial government of Kansas was organized upon that principle. It was made the corner-stone of her political edifice when she was first raised to the dignity of a Territory, and upon those principles alone can she ask for admission to the rank of a State. If her application cannot be sustained on these principles, she ought, she must be rejected. Our first inquiry then naturally is, what are we to understand by this term popular sovereignty? I understand it to be the will of the whole people, in all matters relating to the formation and regulation of the government and laws of the State, expressed through the prescribed forms of law. In more common phraseology, it signifies the right of the people to govern themselves according to law. You will observe that this definition contemplates a law or government of some kind preëxistent to the exercise of this popular sovereignty. And hence, if it were to be applied to a state of society anterior to any governmental organization whatever, it would require some modification; but as applicable to our condition, whether territorial or State, it is sufficiently accurate, and it is unnecessary for us to take up the abstract idea, and ascertain whether or not sovereignty is alienable, divisible, capable of being delegated, and other similar questions which have been raised in the course of this discussion. We are not required because we use this term, popular sovereignty, to search after and ascertain its original or essential meaning, and then test the *modus operandi* of our Government by these principles. Our Government is established. The mode of its operation is established, and we use the term as applicable to that form of government, and that mode of operations. Whether this term is the most precise and exact which could have been selected to express the idea, is of no moment. Its meaning, I take it, is well settled and clearly understood.

How is this sovereignty expressed, or how is it exercised under our form of government? In the election of public officers by the people, popular sovereignty is exercised by the people directly through the ballot-box. This is according to the prescribed forms of law in the matter of electing public officers. Popular sovereignty, as a law-making power, is expressed through representatives chosen by the people to act for them, and in their stead. Law-making is an act of sovereign power. Law is defined as "a rule of civil conduct prescribed by the supreme power of the State," &c. This expression of popular sovereignty, or of the will of the whole people, is also in accord-

ance with prescribed forms of law. In theory, under our form of government, this sovereign, or law-making power, is vested in the people, but it can only be exercised through representatives chosen by them, and these representatives for the time being, hold the reins of sovereignty, and all their acts within the scope of legislative authority are binding upon the whole people, even if every man, woman, and child in the State are opposed to them.

Popular sovereignty in making constitutions has, by common consent and long established usage, been exercised through delegates elected by the people. These delegates derive their power directly from the people, and are amenable only to them for its proper and faithful exercise. In the matter of electing officers, voting being voluntary, and no specific number being necessary to constitute a quorum, it follows that those who vote are in law regarded as the whole, and the will of the legal majority of those who vote, whatever that may be, is to all intents the legal will of the whole people.

I have been thus particular, because I wish to show, as I proceed, that in the matter of the formation of the Lecompton constitution, all the requirements of law have been complied with, and every principle of popular sovereignty fully carried out.

We will commence with the act providing for the election of delegates to the constitutional convention, assuming, on the authority of Governor Walker and Secretary Stanton, leaving out all higher authority, that the Territorial Legislature was a legally-constituted body. The first question that arises here is, had this Legislature legal power to authorize this election? I understand the Kansas-Nebraska bill as conferring upon this Legislature all the ordinary powers of legislation. If so, then, by the usage in almost every State in the Union, they did possess this power; for there is not a State the constitution of which has been made or altered through a convention, which did not initiate the proceedings by an act of the Legislature, authorizing the election of delegates to form a convention. But as I design in this matter to permit our enemies themselves to be our judges, I shall here cite Secretary and acting Governor Stanton, in his first address to the people of Kansas, in which he says:

"The Government especially recognizes the territorial act, which provides for assembling a convention to form a constitution," &c.

Governor Walker also, in his inaugural address, speaking of this act, says that the Territorial Legislature was clothed by the act of Congress,

"In the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress."

Again, in the same address:

"But it is said that the convention is not legally called." "The Territorial Legislature is the power ordained for this purpose, by the Congress of the United States; and in opposing it you resist the authority of the Federal Government."

Here we have Governor Walker and Secretary Stanton, both officially averring the legality of this act; and this I deem sufficient to establish this point.

The next point to be settled is, was this territorial act of the Legislature fair and just in its provisions, and did it make the necessary provisions for obtaining an expression of the will of the whole people?

A reference to the act itself, a brief synopsis of which I here incorporate in and make a part of my remarks, will best and most satisfactorily answer this question. This act provides that a census and registration of all the white male persons in said Territory over the age of twenty-one years, citizens of the United States, shall be taken within a specified time. This duty is to be performed by the sheriffs of the counties. If the sheriff's office becomes vacant, inspectors are to be appointed by the judges, and in case of a vacancy in both offices, the Governor must appoint some person to perform these duties. The registration being made, lists are to be put up in the most public places in the precinct or election district, and one list furnished to the probate judge. The probate judge of each county is to hold court daily for twenty days, for the purpose of correct-

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ing these returns, during which time every voter is privileged to have his name entered upon the list if not thereon, by making application, and any other error in the registration to be corrected. When the lists are thus corrected, they are to be sent to the Governor, who is to apportion the delegates, giving to the whole Territory sixty delegates, to be equally apportioned among the several counties. Every *bona fide* inhabitant of the Territory over twenty-one years of age, who is a citizen of the United States, within the county for three months next preceding, shall be entitled to vote at this election; provided, however, that none shall vote whose names do not appear upon the lists; and severe penalties are imposed for illegal voting or hindering others from voting; also, for any fraud or illegality on the part of the officers. The State is then divided by the act into nineteen districts.

Now, sir, is not this act full and fair in all its provisions, in all its requirements? Does it not make ample provision for the exercise of the sovereign will of the people of Kansas in the selection of their delegates? Is any one who should have a right to participate in this election excluded by the law? I hold here the act itself; and if any gentleman can find in it one unjust provision, or any that will hinder a full and free expression of the will of the people, I shall be obliged to him if he will now and here point it out to me.

But here, again, sir, we have the benefit of the judgment of our opponents: Secretary Stanton, in his address before referred to, says:

"That act is regarded as presenting the only test of the qualification of voters for delegates to the convention; and all preceding repugnant restrictions are thereby repealed. In this light, the act must be allowed to have provided for a full and fair expression of the will of the people."

Governor Walker, in his inaugural address, says:

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to form a constitution and State government. The law [meaning this law] has performed its entire appropriate functions when it extends to the people the right of suffrage; but it cannot compel the performance of that duty."

Again, in the same address:

"I see in this act calling a convention no improper or unconstitutional restrictions on the right of suffrage. I see in it no test oaths, or other similar provisions, objected to in relation to previous laws."

Here, then, we are fully sustained by both Governor Walker and Secretary Stanton in affirming the justness and fairness of this law; and I do not conceive it necessary to add anything in support of their opinion, either by way of argument or authority.

Having thus, I think, fully established the validity and the fairness of the act, we next come to the registration and enumeration of the voters. We find in the act thirty-four counties named, (it is said there were thirty-eight, but I suppose the four were omitted because there were no inhabitants,) and formed into districts. A census was taken, a registration was made, and returned to the acting Governor. This registration was made by the proper officers designated by the act to perform their duties. And we are bound to presume, in the absence of all proof, or even allegation to the contrary, that the lists were duly returned to the probate judges; that they held their courts during the twenty days allowed for the correction of returns; and that the lists had been put up in public places in the several election districts, as required by law. This is a presumption of law, by which we are bound. One thing is certain as a fact, a matter of record: that in nineteen of these counties a registration was made, as appears by the returns which were made to Governor Stanton, and which he accepted and made the basis of his apportionment of delegates to the convention. These returns show in these nineteen counties nine thousand two hundred and fifty-one registered voters. You will observe here that these are the official returns corrected by the probate judges, and by them presented to acting Governor Stanton. These returns, after being examined by Mr. Stanton, and found to be in compliance with the requirements of law, were made the basis of his apportionment of the delegates to the convention. He made this apportionment, giving to the counties which had sent in returns, the whole number of delegates which the

law authorized, and disregarding the several counties from which no returns had been received. So far, I think, we have the proceedings strictly legal. I have said nothing about frauds, because up to this time no frauds had been alleged. I shall notice these frauds, however, in their proper place.

The next step is the election of delegates to the constitutional convention. This took place on the third Monday of June. Prior to this election, the Topekaites, and the free-State men generally, had resolved not to participate in the election. They had hitherto refrained from taking any part in the administration of the government, except to resist its authority, and they were determined to carry out their plans. This was a matter of public notoriety. In their newspapers, at their public meetings, in private, and in public, they expressed this determination. And much of the efforts of both Stanton and Walker were directed to this point, to prevail upon the people to attend the election and vote for delegates. The day of election came, and the delegates were elected. Only twenty-two hundred votes were polled. We are told that this election was carried by fraud. But I appeal to gentlemen to know if there is any pretense that the delegates who composed the convention did not receive a majority of the legal votes cast at that election? Did any one pretend so then? Does any one pretend now that these men were elected by illegal votes? Has it ever been asserted, here or elsewhere, that the Topeka party at that election polled more legal votes than their opponents? No such thing. They refused to attend the election. They refused to vote. They refused to participate in this exercise of popular sovereignty. And why was it? Was it because they were not registered? There were nine thousand two hundred and fifty-one voters registered in the nineteen counties, and only two thousand two hundred votes polled at that election. Where were the other seven thousand? Were they kept away from the polls through fear of violence? Where is the evidence of any offer, of any attempt, at violence? Where is the evidence that any free-State man presented himself at the polls that day whose vote was rejected for any cause, or whose right to vote was challenged? Will any gentleman here assert that these seven thousand voters were prevented from voting at that election by the other party? If there is no such evidence, if there is no such allegation, then we are again bound to presume that they did not vote because they were determined not to vote. And the facts are as I have before stated, and as was notorious at the time, that these men, by a general understanding and agreement among themselves, absented themselves from the polls, and thus refused to have any voice in the formation of their State constitution. And this, again, is fully corroborated by Governor Stanton in his last message to the Legislature at the extra session, on the 8th of December, 1857. He there says:

"That the refusal of the majority to go into the election for delegates was unfortunate is now too apparent to be denied. It [this refusal] has produced all the evils and dangers of the present critical hour. It has enabled a body of men, not actually representing the opinions of the people, though regularly and legitimately [mark the language] clothed with their authority, to prepare for them a form of government."

Upon whom does Governor Stanton charge this result? Does he, when speaking officially—when putting his language upon the record—does he then charge it upon the Leocomptonites? Does he then tell the free-State men that they were wronged, that they were fraudulently prevented from voting, that they were kept from the polls by violence? No, sir. He says to them, you, constituting the majority of the people, refused to vote at that election; you, by this refusal, have brought upon yourselves, upon the Territory of Kansas, upon your country, all the evils and dangers of this critical hour; and, in the same message, he also says:

"It thus appears that in the election of 15th June last for delegates to the convention, the great mass of the people purposely refrained from voting, and left the whole proceeding with its important consequences, to the active minority."

Now, sir, in the face of all this we shall require some strong testimony to satisfy us that the election was not legally conducted. We shall want something besides allegations. We shall want

facts, well-authenticated facts, to satisfy us that the free-State men refrained from voting at that election because they were not permitted to vote. We will not, upon mere rumor or hearsay, convict Governor Stanton of falsehood when he states that it was their own fault, their own perverseness. And if these men, the majority, did "purposely refrain from voting;" did "refuse to go into election;" did "leave the whole proceeding, with all its important consequences, to the active minority;" then, I ask, was there anything improper, was there anything illegal, was there anything fraudulent, in the fact that this active minority, who attended to their duties, carried this election? It is surprising that, with such testimony before us, we should find honorable gentlemen upon this floor coolly charging the results of this election to the frauds and the violence of the successful party; but it is still more surprising that Governor Stanton himself, after having thus put himself on the record, written down his testimony and signed it with his own hand, that he should turn around and join in this cry of frauds.

But it is alleged that the free-State men were not registered, that in a number of the counties no registry was made, and that even in those in which it was made, the free-State voters were purposely omitted. Now, the first answer to this is that the law provided the means for the correction of this wrong, so far as relates to the counties in which returns were made. There the persons not registered, or their friends, had a right to go before the probate judge and have the returns corrected, by adding such names as had been omitted, and erasing such as were fraudulent. The lists of voters were put up in the district, that every man might see whether his name and the name of his neighbor were upon it, and if not, might, within the time prescribed by law, have it placed there. He could also see if names of persons not residents of the district had been placed thereon, and by making proof of the fact require the judge to erase them. And I hold that it was his duty to do this; that it was every man's duty to know that his name was upon the proper list. I believe that it is the duty of every man to vote. The price of liberty is eternal vigilance, and the man who will negligently or perversely disfranchise himself, or allow himself to be disfranchised by others, wrongs himself, wrongs his children, wrongs his country.

Mr. Chairman, if it were even true that this inaccuracy in the registration of voters existed to the extent claimed, and that the inaccuracy was occasioned by the fraudulent intent of the officers taking the census, in order to keep these men from voting, it could not invalidate the election. And especially would this be so in this case, where ample provision was made by law for the persons thus disfranchised to protect themselves, by having the lists corrected, as I before stated. But I do not wish to rest this case upon mere legal technicalities. I wish to show that law and justice in this case go hand in hand. I want to show here that the reason why a portion of the free-State men in these counties were not registered was because they were unwilling to be so registered. And though this might be fairly presumed from the fact that they made no exertions to have it done, yet we will strengthen this presumption, and establish the fact by the testimony of Governor Stanton. In his last message, before referred to, he says:

"In consequence of this embittered feeling, and the mutual distrust naturally thereby engendered, one of the parties, constituting a large majority of the people, refrained almost entirely from any participation in the proceedings instituted under the law aforesaid. The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory."

"An unwilling people." Here is the answer to the charge of fraud. Here is the explanation of the cause of these imperfections in the census returns. The free-State men (for it will not be pretended that the Governor refers to the other party) were unwilling to be registered, and those of them who were placed upon the list were placed there against their will. This is further sustained and corroborated by the fact that those who were registered refrained from voting. I think I have now fairly disposed of the counties in which a registration was had, and will now proceed to remark upon the other counties. And first, let us

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throw out four counties which, up to this time, have no population. Then how shall we account for the failure to register the voters in the other counties? We will call Governor Stanton again to the witness stand. In his last message he says:

"The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory; while in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act, and in some there was but a small population, and no efficient organization enabling the people to secure a representation in the convention."

Now, taking Governor Stanton's statement as fact, which it no doubt is, what have we? First, say four counties were without inhabitants, and a number of the others with a very sparse population. Then we have some counties in which "the people and officers were alike averse to the proceeding;" (and these, we all know, from the current history of events, at the time were the most populous of these counties;) and of course, in these counties the officers, with the consent and approbation of the people, refused to comply with the law. The people in these counties could not complain because they were not registered. Then we have "other counties"—how many is not stated, with what population not stated—in which "the officers neglected or refused to act." In these counties there was a wrong; but what was the extent of this wrong, and to whom attributable, we are not informed; and this wrong cannot invalidate the election any more than an irregularity in some of the counties in Pennsylvania at the last election, by which those counties would have been thrown out, would have invalidated the election there for Governor and other State officers. If this irregularity existed to any great extent, sufficient to have changed the result of the election, and was really the fault of the officers and not of the people, it would present a case that would claim our consideration; for, although the legality of the election would not be affected by it, yet the justice of the demand on the part of these disfranchised persons would give them a claim. But, in the absence of all evidence to show the extent of this disfranchisement, we cannot say that the result of the election could thereby have been affected. And, taken in connection with the other facts, that this party, wherever found, were unwilling to be registered, and in some counties refused to be, and forbid the officers attempting it, I think we can reasonably conclude that the result of the election in this case was not affected by this omission; and that, in point of fact, the people therein would not have voted had they been registered. The result of the election in these counties on the 4th day of January sustains both these positions. I would here also refer to the affidavit of George Wilson, to show that in the counties of Anderson, Allen, and Franklin, where the officers were willing to do their duty, the people would not permit it to be done. In these three counties, at the election of the 4th of January, six hundred and seventy-two votes were polled against the constitution, one for the constitution with slavery, and four for the constitution without slavery; showing that these three were also free-State counties, and among the more populous.

I wish here to call attention to one particular fact connected with this part of the case. The official returns of the census and registration of voters having been made to acting Governor Stanton, he, on the 20th of May, with these returns before him, showing that only nineteen counties had been registered, makes his apportionment of delegates, giving all the delegates to these counties. One week after this, on the 27th of May, Governor Walker, in his inaugural address, says:

"The people of Kansas are invited by the highest authority known to the law to participate freely and fairly in the election of delegates."

"I see in this act no improper or unconstitutional restrictions upon the right of suffrage," &c.

Now, the Governor then knew, just as well as he now knows, that fifteen of the counties of that Territory could not vote at that election, and would not be represented in that convention; and yet, speaking to all the people of Kansas, he says you are invited to participate "freely and fairly in that election." Why does he not then even allude to

the fact that a portion of the people were, by the operation of the law and the conduct of the officers, excluded from participating? Because he then knew that these people were disfranchised by their own act and consent; because he knew, as Governor Stanton afterwards said, "they were unwilling to be registered."

We proceed now to the convention; but as it is not pretended that there was any irregularity or illegality in the action of that body that would invalidate their proceedings, I shall take it for granted that these proceedings were valid and regular. The constitution was formed by the convention, and is, leaving out of view the slavery article, as unobjectionable as such instruments are usually found to be. There are some things in it that I do not approve of, and so there are in the constitution of my own State.

I think I have now shown that the whole proceeding, thus far, has been characterized by a careful regard to the rights of the people, and a strict adherence to the requirement of law; and that in the only instance in which any cause of complaint could arise, the circumstances, in the absence of any proof to the contrary, are against the complainants.

Having now traced this constitution from its origin to its end, I ask if it has not the sanction of law? I think I have shown that the act under which the convention was elected, was valid; that it was fair and just in its provisions; that the delegates were elected by a majority of the legal votes polled; and that the defects in the registration, so far as we have any evidence, were not such as could invalidate the proceedings of the convention, and were in fact occasioned by the perverseness of the people who complain; and it is admitted that there was no irregularity in the proceedings of the convention, which could affect their legality. Have these proceedings also been conducted in accordance with the principles of popular sovereignty—the will of the whole people expressed through the prescribed forms of law? First, the act was passed by a legal Legislature. This was in accordance with the principle. The delegates were elected by a majority of the legal votes cast. This was in accordance with the principle. Those who did not vote refrained therefrom voluntarily; those who were not registered were unwilling to be registered, or to take any part in these proceedings. The action or proceedings of the convention were regular. Now, I cannot see but that in every step a due regard has been had to the means for obtaining the popular will; and, as Governor Walker remarks, "voting being voluntary, and not compulsory, those who vote can alone be considered, while those who refrain from voting must be considered as acquiescing with the majority of those who do vote."

But it is objected that the convention did not submit the constitution to a vote of the people, and, therefore, the popular will could not be expressed in accepting or rejecting it. By what law or what precedent was this convention bound to submit the constitution to a vote of the people? Was it by the organic law? It is silent upon the subject. Was it by the territorial law? It is silent upon the subject. Was it by the precedents established in the proceedings in other States? Some of these submitted their constitutions to a vote, and others did not; and there is not sufficient preponderance either way to establish a precedent. If, then, there is neither law nor established precedent, whence arises the obligation? It is said that Governor Walker, with the approbation of the national Administration, assured the people that this should be done; and hence the obligation. Now I assert that the allegation here is not true, and, that, if it were true, it could not bind the convention. But it is not true. Governor Walker never pledged himself to the people of Kansas that the constitution should be submitted to a vote of the people. He recommended it; he expressed his desire for it, his confidence that it would be so submitted; but, in every instance, accompanied with the assurance that it rested entirely with the convention. Let us see what he says upon this subject.

In his inaugural address, after urging the people, by various powerful considerations, to attend the election and vote for delegates, he says:

"Do not console yourselves with the reflection that you

may by a subsequent vote defeat the ratification of the constitution. Although most anxious to secure to you the exercise of this great constitutional right, and believing that the convention is the servant and not the master of the people, yet I have no power to dictate its proceedings."

Again, in his address of the 10th September, 1857, he says, speaking of the defective registration:

"The only remedy rests with the convention itself, by admitting, if they deem best, the constitution for ratification or rejection to a vote of the people, under such just and reasonable qualifications as they may prescribe."

Again, in the same address, he says:

"I repeat, however, the opinion always heretofore expressed, that this is a matter which belongs exclusively to the convention, over which I have no power," &c.

In other places, both he and Secretary Stanton express the same idea. Is there here the recognition of any obligation upon the convention to submit the constitution to a vote of the people? Does Governor Walker pledge himself that it shall be so submitted? So far from it, he seems exceedingly cautious lest the people should rest upon such an opinion. Hence, he says to them, do not console yourselves with this idea. It is not a safe reliance. The convention have the control of this subject. I have not. If they deem it best to submit it, they can do so; but if not, I cannot compel them to do it. I desire they shall do it. I think they ought to do it, and I believe they will; but I warn you not to trust to such an uncertainty; for, if they do not submit it to your vote, then you will be without remedy. Now, I appeal to gentlemen here to say, if this language of Governor Walker's can, by any possibility, be tortured into a pledge that the constitution should be submitted to a vote? It is alleged that the President, in his instructions to the Governor, had so declared. How did Governor Walker, then, understand these instructions? Do not the foregoing extracts show that he understood the language of his instructions on this point to be merely advisory; or rather, expressive of what the President then supposed the convention would do, without making any suggestions as to what they must do? Most clearly they do. And will gentlemen say that these are garbled extracts; that we must take the whole of his addresses together? I defy any gentleman here to find, in any of those addresses to the people of Kansas, one line, word, or syllable, that will, in the least, conflict with what I have quoted. But I will show you who takes garbled extracts, and thus gives a different meaning to the language. Governor Walker, in his letter of resignation addressed to General Cass, says, speaking of his inaugural address:

"In that inaugural I proceed further to say that the people 'may, by a subsequent vote, defeat the ratification of the constitution.'"

Here he states that he had asserted to the people that they had, or would have, this privilege; meaning, evidently, to convey the idea that he had assured them that the constitution would be submitted to them. Now, let us see what he did really say on that occasion. This is his language:

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that body."

How different the idea! Instead of a positive assertion that they should have such an opportunity, he cautions them against trusting to any such hope; that it is by no means certain that they can have that opportunity. And for that very reason they should be sure to attend the election, and secure such delegates as would express their will. I hope we shall hear no more of garbled extracts after this exhibition of garbling.

I have said nothing about the submission of the slavery article to a vote of the people. I do not deem it of any particular importance to notice the objections to the form or manner in which this article was submitted; for the reason that I do not believe the convention was bound, in law or by precedent, to submit any part of the constitution to the vote of the people; and, if they chose to submit the same, or any part of it, to a vote, it was for them to say what part, and in what manner. But, in passing, I will remark that I cannot

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see the force of the objections raised by my honorable colleague [Mr. MONTGOMERY] to this submission. First, he objects, because, in voting on the slavery article, either for or against, he says the people were compelled to vote for the constitution. Now, sir, I deny this. I aver that the constitution was not submitted to a vote; that no privilege was given to the people to vote for or against the constitution. That instrument, all except the seventh article, was withheld from the people; and the vote could not, by any possibility, be construed as a vote in favor of the constitution. True, whichever way the people voted on the seventh article, the constitution would be adopted, except that seventh article; but not by virtue of that vote, but by the action of the convention.

Now, I do not wish to be understood here as asserting that the convention acted properly in withholding the whole constitution from a vote of the people. I think they should have submitted it. I believe with the President, that these instruments should in all cases be submitted to this test; but I do not agree that there was any binding obligation upon that body to submit it, or any part of it, to such a test, and no greater obligation to submit the slavery clause than any other, except that which grew out of the state of feeling which existed in the Territory on this subject. But the honorable gentleman says the people were subjected to a test oath; they were required to swear to support the constitution, if adopted. Well, suppose they were? Is it not the duty of every citizen to support the constitution of his State? and is not this duty binding, whether he be required to take an oath to do so or not? If adopted, would not all the people of Kansas be bound to support it, and every part of it? What objection, then, to taking an oath to do that which is right and obligatory, even without an oath? But he says, in swearing to support the constitution, they were required to swear to the truth of all the averments contained therein; in other words, that every man who swears to support the constitution of his State, or of the United States, swears that all that is contained therein is true and right, and also swears that it shall not be altered, except in the manner therein provided for. This is certainly a novel doctrine, a monstrous doctrine. What! Will the honorable gentleman say here, that every man who swears to support the constitution of his State perjures himself unless he believes that all the averments contained in that instrument are true, and all the principles embodied therein are sound? Will he tell us that, because the constitution of the State of Missouri contains an averment precisely like that contained in the constitution of Kansas, declaring the right to hold property in slaves, therefore the honorable gentleman from Missouri, [Mr. BLAIR,] on the other side of this House, who is a Republican, and who, I take it, is honestly opposed to slavery because he believes it wrong, that he cannot hold an office in his own State, because he would be required to swear to support that constitution? Will he tell us that all those upon this floor who do not believe that the section in the Constitution of the United States which requires the rendition of fugitive slaves to their proper masters, or that section which gives to slaveholding States a representation on this floor for three fifths of their slaves, is not just, not correct in principle, perjured themselves when they took the oath here to support the Constitution of the United States? Or that every man who sits in a convention for the amendment or alteration of his State constitution, is perjured if he ever previously took an oath to support the constitution, unless the mode of alteration was prescribed in the constitution, and strictly adhered to in all the steps taken for its amendment. What is this oath to support the constitution? It is an oath to support and obey it as a fundamental law, not to believe it as a fundamental truth. It is an oath to support it as and while it continues to be the constitution of the State, not perpetually, nor after it has ceased to be such.

But the honorable gentleman says further that the constitution of Kansas repeals the Kansas-Nebraska bill. Is this true? How? Why, says the gentleman, this constitution declares that all laws now in force in the Territory of Kansas, which

are not repugnant to this constitution, shall continue and be of force, until altered, amended, or repealed, by a Legislature assembled under this constitution; and that thereby this convention nullified the right of legislation secured to the Territory by the Kansas-Nebraska act, after the 7th day of November, 1857; and that if Kansas is admitted with this constitution, all the laws passed by the Territorial Legislature, at the extra session, are thereby repealed. Let us examine this a moment. To what point of time does this adverb "now," used in this clause of the constitution, refer? Does it refer to the day that clause was approved in convention? Does it refer to the day when the instrument as a whole was adopted in the convention? Does it refer to the time when the people were to vote upon the slavery question? or to the time when Kansas shall be admitted by Congress, and thereby become a State? There is in this instrument itself a clause which fixes the time when the constitution shall go into effect, namely, when ratified by the vote of the people upon the slavery question as therein provided. And hence the word "now" cannot possibly mean any point of time anterior to that; and if the gentleman will refer to the dates, he will find that this event occurred on the 21st of December, after the extra session of the Territorial Legislature had adjourned; and that consequently all laws passed by that body were not only not repealed by the convention, but, according to his construction, were rendered entirely irrepealable until after the State should be organized. But I am inclined to the opinion that the construction which should be put upon this clause would fix the point of time indicated by this word "now," as the time when Kansas should be admitted and thereby become a State. I think this construction the fair one, and one that would preserve intact all the legitimate powers of the Territory while it remained a Territory, and at the same time effect the object evidently had in view by the convention, namely, the perpetuation of the territorial laws under the State organization until these laws should be altered by State authority.

Having now disposed, as I think satisfactorily, of these objections, I will next consider the vote of the 4th of January, 1858, under the act of the Territorial Legislature, for and against the constitution. At this election it is admitted, at least I admit it, that a large majority of the voters of the Territory voted against the constitution. And the question is, what is the effect of that vote? I do not, sir, deny the validity of that act authorizing the vote of the 4th of January. I admit that it was within the scope of legislative authority—that it rests upon the same authority as the act passed by the same Legislature, to determine whether a convention should be called to form a constitution. But the question here is as to its effect; and I wish to call the attention of gentlemen to the act itself. You will observe, by a reference to this act, that it does not pretend to give any legal efficacy to this vote. It authorizes a vote to be taken, but it does not go on to say, "and if, upon the summing up of all the votes cast, it shall appear that a majority of the votes cast at that election were against the constitution, then, and from thenceforth, as well the said constitution as all acts and proceedings theretofore had under the same, shall be null and void." If the Legislature had intended that this vote should have the effect of a veto upon the action of the Lecompton convention, they would undoubtedly have so expressed it in some such language as the foregoing. But they did not assume such power. They knew full well that they did not possess the power; and acting Governor Stanton, in his message, had just given it as his opinion that the convention, having acted under the previous law, it was incompetent for the Legislature to repeal the law. And if the Legislature could not do this directly, they could not authorize a vote of the people, the effect of which would be to repeal it. I have not the time to discuss this point at length; but the point to which I wish to call attention, and which I think is decisive of the question, has been sufficiently indicated—namely, the want of legislative jurisdiction over the action of the convention.

I do not wish here to be understood as, in any sense, denying the power of the people to review

the actions of the convention; but what I contend for is, that it must be done in accordance with the prescribed forms of law. And those forms would have required an act of the Legislature authorizing the election of delegates to a second convention, for the purpose of revising, altering, or amending this constitution. In this way the people can, I take it, at all times control and regulate their constitutions, as well before they have been presented to and admitted by Congress, as after; but I know of no other way prescribed by law to do it. And if now, under the present law in Kansas, (if they really have a law to that effect, about which there seems to be some dispute between the Legislature and Governor Denver;) if, under this law, the convention elected should assemble and remodel the Lecompton constitution, or make an entire new one before Kansas is admitted, and present that here in due form, either with or without having first submitted it to a vote of the people, I hold we should be bound to receive it; and if it was found to have been made in conformity with the requirements of law, giving all a full and fair opportunity to participate in the proceedings, I think we would be bound to accept it as the last expression of the sovereign will of the people; for I hold that the power of the people is not exhausted by being once exercised. Upon this point, however, I do not hereby design to commit myself. "Sufficient unto the day is the evil thereof."

I do not agree with some honorable gentlemen on this side of the House, that the vote for State and legislative officers under this constitution, on the 4th of January, by the free-State men, is an estoppel, and closes their mouths against a denial of the legality of the constitution. Under strict rules of law, I admit, it might have such effect. But I cannot admit that these rigid rules apply to this high court in such a case. I am of opinion they had a right to guard against a contingency by electing officers under the constitution, and at the same time protest that the constitution was void; so that, if it should be afterwards decided against them in this court, they would have the advantage of their election. I think they had a right, a legal and constitutional right, on that day, peaceably, at the polls, first to vote for the State and other officers under the constitution, and then immediately vote, under the provisions of the territorial law, against the constitution; and in this view I think I am sustained by the instructions of the President to Governor Denver, to see that the people were protected in their right to vote at that election. They had also a right to send the result of that vote here, just as they would have presented a petition making known their views and wishes; and then the result is with us. If we find, upon examination, that they come here with clean hands; if the grievances of which they complain are real, and are such as we can redress, it is our duty to redress them. I extend to them in this case every right and privilege which equity can claim; and if they have a case in which equity can entitle them to relief, then, in the name of all that is sacred, just, and right, give them relief. But if, upon investigation, we find that these grievances are the result of their own negligence and inaction, their own folly and crime; if we find that the law afforded them ample means of protecting themselves against these wrongs, or of redressing the wrongs after they were committed; if we find, as we do in this case, that the wrongs of which they complain are the consequence of their own willful and obstinate resistance of the law and violation of its requirements, combined with a stubborn refusal to avail themselves of its provisions; then, sir, there is no principle of equity or of justice that they can invoke. They may invoke our sympathy; they may ask for favor; but justice and equity they cannot demand.

I propose next to consider briefly the right of the people to amend the constitution. In a case growing out of the Dorr rebellion, the Supreme Court use the following language:

"No one, we believe, has ever doubted the proposition that, according to the institutions of this country, the sovereignty in every State resides in the people of the State, and that they may alter and change their form of government at their own pleasure."

Following out the idea herein expressed, the

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constitution of Kansas, in the bill of rights, declares:

"2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

Here we have it first laid down by the Supreme Court as a settled, unquestioned proposition, that the sovereignty of the State resides in the people of the State; and that, as a consequence resulting from the foregoing, this people, being sovereign, may alter and change their form of government *at their own pleasure*. Then we have, in the constitution of Kansas itself, the truth of this proposition reaffirmed and still more emphatically set forth, declaring that the people of Kansas have at all times an inalienable and indefeasible right to alter, reform, &c., their government in such manner as they may think proper—not at such times and in such manner as is prescribed in the constitution, the fundamental law of the government, but *at all times, and in any manner*. And this right is "inalienable and indefeasible;" the parties possessing it cannot part with it themselves; cannot alien it; nor can they be deprived of it by others.

Now, if this is a right inherent in the people, inalienable and indefeasible, existing at all times, then I take it that no provision whatever in the constitution could possibly affect it, or restrain its exercise. But in the constitution of Kansas no attempt is made to restrain this right; but on the contrary, it is expressly reserved, and acknowledged. The natural, or political rights of an individual or community, cannot be diverted but by express, positive law; but here seems to be a right which is above laws and constitutions; the owners cannot part with it; constitutions and laws cannot defeat it. There is, however, no attempt in this constitution to interfere with this right. It is true, there is in this instrument an article, or section, regulating amendments after the year 1864; but not amendments by the people, but by the Legislature. Will it be asked why this section relating to amendments was introduced, if not to prevent amendments in any other manner than therein expressed? I answer, the Legislature has not, except by a constitutional grant, any power over the constitution, either to make, alter, amend, or abolish; and this section was inserted for the purpose of giving to that body this power. But the grant, regulations, and restrictions contained in this section apply exclusively to the Legislature, and do not in any manner affect, limit, or restrain the rights of the people. Under this grant the Legislature may, after 1864, alter and amend the constitution as therein provided. Prior to this time no such power can be exercised by that body; for even if the power to alter and amend did not depend upon the constitutional grant, still the fixing of a day after which this power may be exercised, would, by implication, preclude the exercise of the power prior to that day. And surely, during this period which must elapse between the time of State organization and the year 1864, no exercise of the power of the people in the way of making amendments, or alterations, can conflict with any legislative powers, for no such powers exist. How is it after 1864? I do not see any difficulty even after that date. Suppose the Legislature, after 1864, refuse to amend the constitution in the manner therein prescribed, which requires a two-thirds vote; and suppose by a majority of that body a law is passed providing for the election of delegates to a convention to amend, and in this manner the constitution should be amended: would this act of the people conflict in any way with the legislative right? The Legislature refuse to act in the premises in the manner prescribed by law, and then the people, in the exercise of their original inherent power, act for themselves. I see no inconsistency, no conflict of authority.

Mr. Chairman, there are a number of other matters connected with this subject which I desired to notice, but time will not permit. The subject of frauds, on which so much stress has been placed in the discussion of this question, might properly claim a little more consideration than I have been able to give it. I can, however, merely allude to it

again. I do not pretend that there were no frauds perpetrated by the successful party in Kansas. On the contrary, I have no doubt there were frauds, gross frauds, and wrongs, perpetrated there by individuals of both parties—such frauds as must forever disgrace the parties who participated in them, and forever render them unworthy of the confidence and respect of honest men. That these frauds were not confined to either party, cannot now be denied; that a few lawless men in Kansas, aided and encouraged by men equally lawless outside of that Territory, have not only disgraced themselves, and disturbed the peace and retarded the prosperity of her people, but have agitated the whole nation, will not be controverted; and that the great mass of the people there really desire a cessation of these evils, and will gladly accept of the opportunity which a State organization will afford them, of ridding themselves of the power and influence of these "pestilent fellows," is, I believe, equally true.

Mr. Chairman, I have now presented all that time will permit, in defense of the immediate admission of Kansas as a State, under the constitution which she has presented to us. I might add many other considerations which have their influence upon my mind; but I will here briefly say, I shall vote for the admission of Kansas, because I believe that the people of that Territory, of all parties, really desire to have a State organization, as has been sufficiently indicated, not only by the direct vote upon that question, but by their applications made here for admission; because I believe that she has the requisite population, that the interests of Kansas and of the nation require it. I shall vote for its admission under the Lecompton constitution, because it is the only instrument presented here with her present application; because I believe that the proceedings, so far as we can judge, under which that constitution has been prepared and adopted, have been conducted in conformity with the requirements of law, and in such manner that the people of Kansas have had full and fair opportunity to participate "through their representatives" in its formation. And that it must be regarded as the legal expression of the will of the people; because it will place the people of Kansas in a condition to have their own Governor and other State officers, who, being elected by themselves, and from among themselves, will necessarily command more fully the confidence of the people than such officers appointed by the national Administration, and therefore subject to external influence and control, could possibly receive; which officers, coming directly from the people; and dependent upon them alone for political preferment, having all their interests, personal and political, identified with those of the people, will have the strongest possible motives for consulting their will and wishes. Because, with their State organization, with the legislative and executive officers all under their own control, and subject to their will, that will must at once become the law of the State, and will indicate itself in their legislative acts as well as in the speedy alteration of their constitution to such form as they may desire. And because, without admission, I see no prospect of an end of strife and agitation which have so long vexed and disgraced not only the people of Kansas but us as a nation. And with admission I entertain the fullest confidence that peace and harmony and prosperity will be at once restored to that divided and distracted people.

I shall vote for admission because of the consequences which will, in my opinion, inevitably result from a rejection of this application; for if we reject this application for the reasons which have been urged by the Opposition, we hold out to the future the strongest possible inducements for a recurrence of these scenes whenever any Territory is hereafter about making application for admission as a State. If we allow the perverseness, the lawlessness, the obstinacy, and rebellion of a portion of the people of Kansas, be it a minority or a majority, to constitute a ground for the rejection of the application of those who, whatever may have been their errors, their follies, or their crimes, have sustained the authority of the Government there, and in their proceedings have conformed to all the requirements of law, we offer

a reward for perverseness, lawlessness, obstinacy, and rebellion in the future. But if we, as in duty we are bound, recognize only those proceedings which have been in accordance with law; if we refuse to recognize the irregular action of the turbulent and the lawless; if, by our decision we give notice to all others in like case offending that no advantage can possibly result from such a course, that they thereby peril their most important interests, we shall present a strong motive for the future observance of law and order.

Another consequence has been suggested by some honorable gentlemen as likely to result from a refusal by Congress to admit Kansas under this constitution, namely, a dissolution of the Union. Although I have no fears of such result from any cause, and much less from such a cause; and although this is the first time that I have had the honor to address a legislative body, I cannot conclude my remarks without entering my protest against this cry of dissolution. I am aware that this is no novel project. Since the first organization of the Republic we have heard these intimations. Scarcely had the ink become dry upon the parchment on which was recorded the sacred compact, until these "prophets of woe" began their doleful predictions. Massachusetts and South Carolina, Alabama and Wisconsin, and other States, each in her turn has pronounced the doom of the Union. Vain prediction! Idle threat!

Dissolve this Union? And for what? Is the nominal freedom of a few thousand negro slaves an object so dear to the hearts of northern gentlemen that, to effect it, they will hazard the liberties of the millions of freemen both North and South? Is the extension of the domains of slavery of such paramount importance to the interest, the prosperity, and the honor of southern gentlemen, as to be purchased at the sacrifice of the priceless legacy bequeathed to them by their Washingtons, their Jeffersons, their Madisons, Monroes, and Henrys, and the long list of other worthies of whom they are so justly proud? Shall we, the sons of those great and good men who framed this glorious structure, and with such admirable skill adjusted its several parts, who laid its sure foundations deep imbedded in the principles of eternal truth, and firmly based upon that immovable rock, the right of man to self-government, who cemented it together with their hearts' best blood, and consecrated it with their devoutest prayers, who left upon its every part the impress of their lofty patriotism and their deep devotion to the principles of civil and religious liberty; shall we, their sons, for such inadequate considerations, demolish this grand edifice, and scatter its fragments to the winds? Never, never!

We, upon this floor, may talk of dissolution; but we forget that there is, behind us and above us, an irresistible power, which holds, and will forever hold, this Union firm and indissoluble—the power of the people—a people who cherish this Union in their heart of hearts; whose blood and treasure are forever pledged to its support and defense. That people will never permit this Union, sanctified by the blood of their ancestors, and hallowed by every feeling of national and individual pride and honor, to be dissevered by any ruthless hand.

Sir, this Union was formed to be perpetual; and it will live through coming time. And even but half a century hence, when this Hall shall have ceased to be the scene of our national councils and our national conflicts; when the capital of this great nation, seeking some more central point, shall have fixed its location on one of the broad prairies west of the Mississippi; when, perhaps, Kansas, now the scene of turmoil and strife, shall have become the seat and center of this empire of freedom; when fifty States shall cluster round that center, and fifty stars shall grace our still unsullied and unruined flag, our sons, then grown gray with age, will, as they read the history of these days, smile at our causeless fears, and marvel at our weakness. Mr. Chairman, I repeat it, I have no fears of a dissolution of this Union. For—

"What God in His wisdom and mercy designed,
And armed with His weapons of thunder,
Not all of earth's despots and factions combined
Have the power to conquer or sunder."

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ADMISSION OF KANSAS.

SPEECH OF HON. H. W. DAVIS,
OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. DAVIS, of Maryland, said:

Mr. CHAIRMAN: The earlier explorers in high northern latitudes were perplexed at beholding great icebergs mysteriously making their way to the north against current and wind and tide. Philosophers in the closet divined from the strange phenomenon the existence of an under current running counter to that of the surface that bore them along. The disinterested spectator, Mr. Chairman, of the course of this debate, ignorant of our history for four years, and of who now holds the helm, would find himself similarly perplexed, and perhaps he might surmise a similar solution.

That an Administration which professes to be the god-father of "popular sovereignty," should oppose the submission of a constitution to the popular vote; that an Administration which is, in name, Democratic, should propose to impose upon the majority the will of the minority; that an Administration elevated to power by the South, against the will of the North, should urge, as the shortest way to accomplish the great purpose of making Kansas a free State, her admission as a slave State; that the Administration which professes anxiety to preserve the peace of the country, should say that the shortest way to restore the broken piece is, not to remove, but to fasten, by irrevocable laws, in the form of a State constitution guarantied by the united power of the country, that hateful oligarchy upon a people whose neck was too tender to bear the weight of their territorial yoke, which Congress could at any moment alleviate; that these methods should be taken to accomplish these purposes, may well puzzle the speculator in exploring the hidden reasons that drive men thus contrary to what apparent reason—the ordinary method of guiding the Commonwealth, the ordinary propelling powers of the Government—would seem to dictate. And possibly, Mr. Chairman, he might not be very far from solving the problem if he were to assume that the question is not so much how to accomplish the pacification of Kansas, or to make legislation square with the dogma of "popular sovereignty," or to secure the right of the people to form their own domestic institutions in their own way, which we are taught to believe is a new revelation of the year of grace eighteen hundred and fifty-four—not so much any of those reasons as to prevent the Administration, which boasted itself the omnipotent pacificator, from being brought to lick the dust, now, ere the termination of the first session of its first Congress—to lick the dust before the will of that majority which it is defying in one of the Territories; before the will of that majority of the people of the United States, against which Mr. Buchanan ascended the presidential chair, and amid the irreconcilable diversities of opinion of the people who were combined to elevate Mr. Buchanan to the Presidency—but here that men and parties are brought face to face, can no longer coalesce in the policy he would have them pursue.

We are debating the recognition of an independent State.

The Administration produce a piece of parchment with a form of government written on it, and a certificate of one John Calhoun that it is the constitution adopted at Lecompton by a convention of the people of Kansas; and on this evidence the President and his friends demand the recognition of the State of Kansas.

We respectfully ask for the proof that the piece of parchment contains the will of the people of Kansas.

We are told the Territorial Legislature took, by law, the sense of the people, and two thousand six hundred and seventy voted to call a convention; that two thousand two hundred persons voted, in all, for the members of the convention; that the convention, whose journal no one here

has seen, voted the constitution; that it was not submitted to the people for their ratification; and that the vote of the 4th of January, of ten thousand against it, is of no legal relevancy to the question before us.

On this state of facts, Mr. Chairman, we are besought, on behalf of the Administration, to vote for the admission of Kansas under the Lecompton constitution for the sake of the principle involved. Sir, I confess myself the servant of principle; and I respectfully ask gentlemen, what principle they ask me to sanction?

Is it that a minority in a Territory constitute the people, and so must make their will the law over the majority? If so, I respectfully dissent from the principle.

Is it that the people of a Territory, with or without previous authority of Congress, have a legal right themselves to take the initiative, and to lay upon your table a constitution which they are entitled to demand at our hands that we shall accept? If so, then I respectfully dissent from the principle.

Is it, on the part of our southern friends, that any constitution which may be laid upon our table containing, no matter how put there, a clause sanctioning slavery, is to shut the eye to every other circumstance connected with it, and to drive us to the admission of that people as a State merely because that provision is in the constitution? If so, then I respectfully dissent from the principle.

Is it that they mean that gentlemen may look into the constitution for the purpose of seeing that slavery is there, and when they find it there, are bound to vote for the admission? If so, then the gentlemen upon the other side of the House, by exactly the same reason, may look into that constitution to see that slavery is there; and, if they think it the more logical conclusion, may vote to refuse admission upon that ground. But as I do not understand the gentlemen on the other side to admit the latter alternative as one fit to be embraced, they will indulge me in the logical consequence of not regarding the former as a proper consideration to weigh at all with me upon the question that is before the House.

That slavery is embraced in that constitution is certainly, Mr. Chairman, in my opinion, no ground at all for the rejection—no ground at all for any difficulty about admission. If put there by the will of the people, it ought not to weigh with the weight of the dust in the balance upon the question; for to allow that to be a ground of exclusion, while it would be within the legislative discretion of Congress, would be, in my judgment, unwise, tending directly to consequences that all of us are most anxious to avoid, and would exhibit an unsocial disposition in behalf of the majority which might come to such a conclusion; which, whether rightfully or wrongfully, the past history of the nation teaches us only too well will lead to nothing but disastrous civil collisions; which, in their result, if not immediately, will first undermine and then bring down in ruin the whole fabric of our liberties.

Then, if these be not the principles which ought to commend themselves to the judgment of a right-judging man, is there any other? Is it that because the Territory has proceeded under a law of a Territorial Legislature, with all the regularity and formality, as the President tells us, that any Territory has ever proceeded, we are bound to accept what they send to us, blindly and without looking beyond it? Is it the principle of this Government not only that we may stop, but that we are bound to stop, at what the Territory sends to us? Then, Mr. Chairman, I do not assent to that proposition; and it is to that proposition that I desire chiefly to draw your attention now.

Upon that question I am freer than most of the gentlemen upon either side of this House. I voted with my southern friends against the Topeka constitution, being a free constitution, formally sent here by the majority of the then inhabitants of the Territory. I am, therefore, free to raise the question whether there is legal authority at the bottom of that constitution now presented to us? They protested against the admission of California because there was no evidence that a majority of its people had assented; because there was no formality of law preceding its constitution; because there were no protections to the

ballot-box. I am, therefore, now free to ask those who did protest to join me in inquiring whether there be here legal authority; whether here the ballot-box has been protected; whether here we have the will of the people ascertained in legal form, which we not only may accept, but which we are bound to accept?

This assumes the validity of the laws of the Territorial Legislature calling the convention, and the proceedings under them in point of law; and that the legal effect of those proceedings is to clothe this parchment with all the attributes of a State constitution, and that we are not entitled to inquire who voted for or against it; how many staid from the polls, or why they did so; nor whether fraud or force has decided the result; but that the legal certificates preclude inquiry into everything beyond.

I respectfully deny the validity in point of law, and further say, that if they were as valid as if authorized by act of Congress, they could to no extent exclude the legislative discretion of Congress as to the fitness of recognizing the new State.

Mr. Chairman, in my judgment all that is necessary to the admission of a State is the concurrence of the will of the people of a Territory and of Congress. Prior to such concurrence there is no State. After that concurrence there is a State. The application of a Territory to be admitted as a State is only a petition on your table—an offer upon their part which we may accept or which we may reject at our pleasure. After that concurrence, it has been ingrafted into the living body-politic of the country, bone of our bone, flesh of our flesh, to share with us, for good or evil, to the end of time, the blessings or misfortunes of the Republic—to be severed by nothing except that external violence which shall lop off some living limb of the Republic, or that civil strife which the chief of the Republic is so rashly provoking.

Enabling acts, whether contained in the organic law of the Territory or in special acts authorizing the formation of a constitution, providing for the formalities of election, the protection of the polls, the expression of the popular will under the forms of law, are only the guarantees that Congress in its wisdom throws around the expression of the popular will. They are only methods of ascertaining that will; and when that will is ascertained, Congress has everything that is indispensable, and all the Territory can supply. The will of Congress to concur with the will of the people is expressed in the act of Congress admitting the State; and it is that concurrence, no matter how ascertained, by what forms, or with the omission of what forms, which makes the distinction, and alone makes the distinction, between a Territory of the United States and a State of the United States.

There is no such thing in our system as an incipient State—a State whose federal relations are undefined—a State of uncertain federal relations, as Mr. Calhoun once expressed himself. I respectfully submit that there is no intermediate condition between a Territory and a State; that a State whose federal relations are undefined is a State of which the Constitution of the United States knows nothing. Uncertain federal relations are no federal relations. Unless the State be in this Union, the State is out of this Union. Unless the State be bound by the Constitution, the State is independent of the Constitution. Unless the State have a right to be here represented, the State has no right to be represented anywhere. It is a State under the Constitution, or it is a State independent. If, therefore, any proceeding create a State which does not simultaneously bring it within, and make it one of, the United States, that State may as well form an alliance with the incipient confederacy of Canada and New Brunswick as enter this Confederacy. It may levy war against the United States, and you cannot punish its people for treason. It may appropriate the territory of the United States, and it is beyond your power. In a word, by the public law of the United States, all the territory within her jurisdiction is either a Territory of the United States or a State of this Union.

If, then, that be the case, we are brought at once to the question of the relation of Congress to the Territories in the formation of States. What are the respective parts belonging to the people of the

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Territory and to the Congress in the creation of a new State?

With the dogma of sovereignty I do not deal here. I leave that to the schools or to the gentlemen who meddle with metaphysical disquisitions. What sovereignty is, I shall not attempt to define. The word is not used in our laws; it is not found among the wise words of our Constitution. It is the will-of-the-wisp, which they who follow will find a treacherous guide through fens and bogs. We are not engaged with defining that "popular sovereignty" with which gentlemen on the other side have been so much plagued for the last year or two. Popular sovereignty is only a demagogue's name for the foundation principle of all our institutions. It is only a demagogue's name for the right of the people to govern themselves—not that popular sovereignty which is limited by and springs from an act of Congress; not that mushroom growth, bred in the hot-bed of political corruption as a dainty delicacy for the people's palate, under the sedulous care of my honorable friends opposite, which, now that it is grown, is found to be nothing but toad-stools, whereof the body-politic is now sick; but that right of the people to govern themselves, recognized by the fundamental law as the very corner-stone of the Republic which, in this case, the President violates and denies.

Here this day would deal in legal language; and in legal language there is such a thing as the people of the United States, of which the people of a Territory form the subjects. And there is known in the law of the United States such a thing as the right of a people of a State to form their own government. And it is assumed that every State which can form, at any time, a part of these United States, shall have emanated spontaneously from the people whose affairs it regulates, and shall have been received voluntarily into the United States by the authority of Congress.

Now, sir, what is the relation of Congress to the Territories? Have the Territories—I do not say any *natural* right, for I am not here upon philosophical dissertation—have they any legal right to initiate proceedings to form a constitution? I do not ask whether they may not come here and ask, by petition, Congress to receive them, for that does not meet the difficulties of the case; but I ask whether the people of any Territory, by their simple volition, can meet in convention and assume to themselves such legal powers as shall compel Congress to recognize them as a legal body? Certainly those gentlemen who protested against the admission of California, because there had been no preceding law, cannot maintain that proposition. Certainly gentlemen who voted against the Topeka constitution cannot maintain that proposition. Certainly the gentlemen who signed what purported to be a report of the committee of investigation of this House, cannot maintain that proposition. Certainly the President, who devoted a great part of his message to demonstrate that it is only through legal channels, by legal forms, and under legal authorities, that a constitution could be formed, cannot maintain that proposition.

Neither can we, in point of sound sense and reason, maintain it, because that assumes there is a power in the people of some portions of the Territory not derived from the Constitution of the United States—since the Constitution says nothing upon the subject, except that Congress may admit new States. And if they have any inherent power, by the same reason they have all power; in other words, we are upon revolutionary ground, and not legal ground. It is to confound a right by law under the Constitution with the natural right mentioned in the Declaration of Independence, of people to alter and change their government to suit themselves. But we are not dealing with revolutionary, but with legal rights. We live and were born under the Constitution, and to us that is the ultimate criterion of legal rights; it is our embodiment of natural right in a living, practical form of government; beyond it we recognize no natural right as a source of legal right; and he who cannot deduce his claim of right under it, has none. I submit, therefore, that by the law of the United States, the people of a Territory have no original right or authority to form a State government. No public man of position and character, of any party, has ever ventured to

maintain such a proposition distinctly. The distinguished head of the State Department has fallen into expressions which seem to imply it; he has hastened to repel the inference; but, in his haste, has involved himself and his opinions in inexplicable perplexity and mystification, whence nothing can rescue him.

Then, if there be no inherent legal right in the people of a Territory to form a State government, how is it to be accomplished? They *must* form it; Congress cannot do it for them; yet Congress is the only legal authority, the only source of law for the Territories. Where, then, does it exist? I maintain that, so far as legal authority is asserted of, or essential to, any proceeding for a convention, it must flow from Congress; because here only is any government over the Territories, in the eye of the law of the United States. The Supreme Court, which even States-rights gentlemen now-a-days regard as the ultimate arbiter upon all questions, has settled some other things besides the relation of slavery to the Territories; and among them it has settled that Congress alone governs the Territories—whether under the clause which authorizes them to make all needful rules and regulations for the territory of the United States, or under some unwritten clause implied by the strict constructionists, it is needless here to inquire. It can flow from nowhere else, because a State, in the view of the Constitution of the United States, means a body of people within a particular territory, and that territory belongs to the people of the United States; and the people who live upon a particular portion of that territory have no right to assume to themselves, without our assent, any portion of it. A State involves the idea of a certain population inhabiting and possessing a certain territory; and if the people cannot get the territory without the assent of Congress, they cannot make themselves a State without the assent of Congress, nor take any steps towards it essential to its existence, which can exclude the control of Congress. Congress, it is true, cannot make a constitution for a Territory. It can only throw around the people of a Territory a legal protection, authorize them to proceed, and give them the guarantees of law in their proceedings; but beyond that I apprehend Congress can do nothing, and excepting Congress nobody can do that. What I wish here to maintain is, that that is the fundamental principle of all the legislation of Congress upon that subject. All the history of the Republic is in its favor; it has all authority in its favor; and there is no precedent which raises even a doubt against it.

Now, sir, I ask the attention of the committee very briefly to the law—for I rose to-day to deal with the legal position of gentlemen on the other side. They have not been willing to enter the controversy with their opponents on the question of fraud in the formation of the constitution, or whether it be the fair and *bona fide* expression of the will of the people. They have insisted that these things were concealed from them by a screen of legal technicalities; and it is to tear down that screen that I now address myself.

In the absence, therefore, of any special act of Congress authorizing a convention, the *only* question is the construction of the Kansas-Nebraska act of 1854. Does that act confer on the Territorial Legislature power to call a convention to form a constitution?

There have been many States admitted into the Union, and under divers circumstances, but much the greater number of them have been admitted under the express and precedent authority of laws of Congress. And, sir, you will perceive at once—if the authority can only come from Congress to take the initiative steps—that it is immaterial whether that authority be contained in the organic act or in a special act. In either case it is our authority that they are exercising. In every instance they are our agents. In every instance they have only the authority that we give them. And, therefore, it comes exactly to the same thing, whether there was an enabling act to authorize the Territory to proceed to form a State constitution and government, or whether the authority was given under its organic act. This can never be a judicial question; but it is settled by every form of political authority. The States of Vermont, Kentucky, Maine, and Texas, have been

admitted into the Union; but not, as has been erroneously stated, without precedent legislation. If it were so, it would not affect the argument, for they were never Territories of the United States. But the assumption is historically erroneous. Vermont went through the Revolution without any defined relations to the other colonies, claiming independence at the time of the Revolution, under no colonial government; and, as a State, by its own inherent power, it acceded to and adopted the Constitution of the United States, exactly as the other States did. It is no case of the formation of a State out of a Territory of the United States. Texas was likewise an independent Republic, acknowledged by the United States, and afterwards received into the Union. Kentucky proceeded under a law of the State of Virginia, whose territory it then was, and on that authority formed its constitution, and was admitted into the Union. Maine proceeded under the authority of a law of Massachusetts, whose territory it was, and by that means formed its State government, and was admitted into the Union.

But the argument is irrelevant; for the question is not whether Congress *may*, in its discretion, recognize constitutions formed by the people *without* authority of law; but whether a Territorial Legislature was, *in point of law*, authority to legalize the election of a convention, to give the convention itself a legal existence, to vest it with legal power to bind not merely the people, but the Congress? No one denies the power of Congress to admit Tennessee and Florida; yet nobody ever asserted any legal validity in their proceedings before admission.

The language of the organic acts and the proceedings of Congress thereupon are decisive.

The Territories divide themselves into two great classes. In Ohio, Illinois, Indiana, Missouri, Mississippi, Alabama, Arkansas, Tennessee, and Michigan, the Legislatures had "power to make laws, in all cases, for the good government of the people of the said Territory, not repugnant to, or inconsistent with, the Constitution and laws of the United States."

In Wisconsin, Minnesota, Oregon, Florida, and Iowa, the power of the Legislatures was declared to extend—in the identical words of the Kansas-Nebraska act—"to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States."

Congress has construed both forms of expression by passing enabling acts for both classes. Not only for Ohio, Louisiana, Missouri, Mississippi, Alabama, Illinois, and Indiana, but also for Wisconsin, Minnesota, and Oregon, did Congress pass acts specially authorizing them to call a convention and form a State government; and, in every instance, excepting Wisconsin, these bills provided all the details of the convention, the number of delegates, its time of assembling, the modes under which the delegates should be elected. It is plain Congress thought the power "to make laws in all cases" necessarily extended it "to all rightful subjects of legislation." It is plain Congress thought neither form of expression authorized the temporary territorial government to create a convention to form a constitution which would begin to operate only after the Territorial Legislature itself had ceased. Its power to govern was confined to the Territory—a temporary contrivance for a temporary purpose—involved in all the local interests and conflicts of territorial politics—and not safely to be intrusted with the providing for a constitution. In a word, they were authorized to make laws to govern the Territory; but a law for a constitution was no law for governing a Territory at all.

The case is stronger under the Kansas act; for it reserves to Congress the power to make two or more States of Territories out of that Territory; and if Congress have the right to make two States, it is absurd to suppose it gave the Legislature power to make one State of it.

But there are cases of Territories which have spontaneously petitioned for admission under constitutions framed without an enabling act, and they are fruitful of authority.

The proceedings for the admission of Arkansas, Michigan, and Iowa—where there were no acts of Congress authorizing conventions—are decisive.

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The law admitting Arkansas declared *the boundaries of the State*. That, I suppose, establishes the fact that nobody then maintained that there was any authority in her constitution prior to her admission. The territorial limits of a State are essential to her existence; until they are defined there can be no State; after there is a State, Congress cannot determine its right of territory. On the territory depend the counties, the election districts, the judicial divisions, the apportionments of representation, the very people who are entitled to be heard on the adoption of the constitution.

If the territorial law can authorize a convention which can adopt a constitution having any legal force prior to the recognition of Congress, it must have the right to define and appropriate the territory of the State it creates; and, if it have not this power, it cannot create a State, in the eye of the law, at all; for Congress may destroy its identity by taking away a half, or two thirds, or all its territory, and give it to another State.

Congress recognized the State of Michigan upon the condition that her people should accept the boundaries Congress prescribed; and, on their acceptance only, was Michigan admitted.

Iowa was declared to be admitted as a State, in 1845, under her constitution of 1844, Congress declaring her boundaries, and requiring the assent of her people to them. But, in August, 1846, Congress prescribed by law other boundaries for Iowa; and, by that law, recognized the validity of the proceedings of the Legislature of the Territory of Iowa of the 17th of January, 1846, submitting the boundary between the Territory and Missouri to the Supreme Court; and, finally, in December, 1846, Congress declared Iowa admitted into the Union under a constitution formed in May, 1846, and with the boundaries of the law of 1846.

The case of Wisconsin is still more decisive. The territorial legislative power extended to all proper subjects of legislation; yet Congress passed an enabling act, and in it defined the boundaries of the future State, on the 6th of August, 1846. The people formed a constitution on the 16th December, 1846, and Congress admitted the State on condition the people assented to other boundaries. Instead of merely assenting to the boundaries, they formed a new constitution on the 1st of February, 1848; and, on their application, were admitted as a State with the boundaries of the enabling act, on the 29th of May, 1848.

These cases demonstrate that, whether a constitution be formed by the people, under or without an enabling act, the constitution has no force of law over either person or Territory till the final and complete admission of the State. Till her Senators and Representatives are entitled to their seats, the territorial authorities continue, the organic law is operative and supreme, the Territorial Legislature retains its legislative power, Congress can absolutely dispose of the territory, assign its limits and exercise its discretion whether to admit the people as a State or to retain them as they are. In a word, these cases display the great fact lost sight of in this controversy, that till actual and final admission as a State, the constitution is not a law; it is merely a proposition, which will become operative only when Congress recognizes the existence of the State.

With reference to Michigan, a controversy arose in the Senate which elicited some salutary opinions. We have, first of all, the statement of his Excellency, the President, then in the Senate. When Michigan was applying for recognition, the exact question arose, whether there was a legal power in the Territorial Legislature to proceed, their powers being as I have stated them. Mr. Buchanan then said:

"We have pursued this course [that is, to disregard informality] in regard to Tennessee, to Arkansas, and even to Michigan. No Senator will pretend that their Territorial Legislatures had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

This was said in the hearing of the whole Senate, that no Senator would contend that they had legal authority, and he asserted that it was an act of usurpation! And, so far as the record shows, no man rose to controvert the authority of this distinguished expositor of Democratic doctrines of that day. Well, sir, that covers the three cases

of proceedings by Territorial Legislatures without authority from Congress by special act. That destroys the whole argument which has been attempted to be founded upon them. With reference to Arkansas, I am protected by the authority of a name dear to the party which he founded. The Governor of that Territory applied to General Jackson to know whether the Territorial Legislature had any authority to pass an act for the purpose of taking the sense of the people on the subject of a State constitution. General Jackson took the opinion of his Attorney General, Mr. Butler; and the opinion of that distinguished lawyer, acquiesced in by the whole Administration, was, that there was no legal authority in the Territorial Legislature, but that it was beyond their temporary functions; that there was no authority inherent in the people, but that they were subordinate to the power of Congress, governed, as he says, under that clause of the Constitution which gives Congress power to make all needful rules and regulations for the territory of the United States. The new lights had not risen in their day. And as if no authority should be wanting, entitled to command respect with every division of the various opinions that are entertained now in this House, we have the further authority of a gentleman from whom, in many respects, it is my misfortune to have differed in political opinion, but who, in my judgment, was one of the ablest gentlemen that ever graced the councils of this country—more conservative, manly, and upright in his views and convictions and conduct than almost any man of his party; always ready to sacrifice party allegiance upon the altar of truth; always following the dictates of an independent judgment, as well in his votes as in his reasoning, and, for that reason, justly the worshiped idol of the great southern section of this country. I suppose that the strict-constructionist gentlemen of this House will not accuse me of any sympathy for dangerous dogmas from Federal quarters when I quote the authority of Mr. Calhoun:

"My opinion was, and still is, that the movement of the people of Michigan in forming for themselves a State constitution, without waiting for the assent of Congress, was revolutionary."

What does the incumbent of the Executive chair say to that now? Why were not the military forces of the United States directed—instead of guarding and protecting the Lecompton convention, to turn them out, as they were directed to turn out the Topeka convention, equally illegal or equally legal?

Mr. Calhoun proceeds to assign the reason:

"As it threw off the authority of the United States over the Territory."

That he regarded as necessarily involved in the very idea of their assuming to themselves to take the first step, in a legal form, towards the establishment of a State government.

He proceeds to say:

"And that we were left at liberty to treat the proceedings as revolutionary, and to remand her to her territorial condition—"

for doing which, with reference to Kansas, we are now threatened with the direst consequences by the gentlemen who then concurred in this opinion—

—"or to waive the irregularity."

Now all the argument of our friends on the other side is to follow the regular course, and break down the irregular course—only they have agreed to call the regular course that which Mr. Calhoun called the irregular course. He proceeds to say:

"And to recognize what was done as rightfully done—as our authority alone was concerned—my impression was that the former was the proper course; but I also thought that the act remanding her back should contain our assent, in the usual manner, for her to form a constitution, and thus leave her free to become a State."

And so a distinguished gentleman in another place [Mr. CRITTENDEN] thought, not long since, and possibly there are some here who may think like him.

Well, sir, no gentleman can rise here and cite any Administration that has ever existed in this Republic, down to the beginning of Mr. Buchanan's administration, that has ever so flagrantly violated the laws of the Republic as to recognize any proceedings of a Territorial Legislature on this subject as having authority of law. No man can name any high officer of the Government that

has ever said so, as no man can show any vote of Congress that has ever looked to such a recognition. It was, sir, the first blunder—to be followed up consecutively and logically by other blunders in law, in policy, as well as in morals—that this Administration made, when it recognized the legal authority of the Lecompton convention, assembled under the Legislature of Kansas. It was the last of the novelties which have been palmed on the country as sound law, to break the fall to which the inventors of the Kansas-Nebraska act have been staggering for the last four years.

Sir, it was new in this Administration. No member of either House of Congress, at the last Congress, thought that there was any authority in the act of 1854 for the people to proceed, or for the Territorial Legislature to proceed. That law reserved to Congress the right to divide the Territory. How, then, could it authorize the people of that Territory to form themselves into one State? Did it contemplate that the wandering rabble that was there when that law was passed had then the right? And if they had not the right, pray how and when was the construction of the law changed, so far as the legal meaning is concerned, by the accession of population?

Did President Pierce, when he requested Congress to settle the difficulties of Kansas by passing a law authorizing them to form a State constitution when they should have ninety-three thousand inhabitants, think the people of Kansas then had that authority? Did the gentleman [Mr. TOOMBS] who, in another place, during the last Congress, moved a bill authorizing them, when they should have ninety-three thousand inhabitants, to form a constitution, and providing all the detailed organization of the convention, think that without that law they had the authority then? Did this House, when it passed Mr. Dunn's bill, suppose they were doing then what the Territorial Legislature had the right already to do, although that bill postponed the exercise of the authority it conferred until their population had reached the requisite point? If they did not, then we have the concurrent opinions of all departments of the Government during the last Administration—nay, of every member of the last Congress of both sides, Democratic and Republican, as well as of all previous Administrations, of the statute-book speaking for itself no less than the reason and nature of the proceeding, against the possibility of any legal validity being imparted to the convention and its proceedings by virtue of the territorial laws; and those things of themselves ought to be sufficient, in my judgment, to settle the principle that there is no legal authority in the Territorial Legislature to proceed in the matter.

But it is perfectly clear that the law of the Legislature of Kansas itself has not been executed. It required a census to be taken in all the counties. It was not taken in half of them. It required the appointment of delegates to be made after the census was "completed" and "returned." It was made before the census was more than half taken. The law contemplated an apportionment on the basis of a completed census of the whole Territory; and, of course, till that was done, there was no authority to make any apportionment. The causes of failure are immaterial to the legal point; but they are certified officially, by the Governor and Secretary, to have been the neglect of the local officers, and not the hostility or opposition of the people. It required the apportionment to be made by the Governor and the Secretary. It was made by the Secretary alone, who was acting Governor at the time. It required counties, not having population enough for a delegate, to be attached to some district; the fourteen counties excluded from the census were not attached to any district. They therefore had neither vote nor representation, actual or constructive, in the convention. This failure to execute the law alone is fatal to every idea of legal validity in the proceedings.

If there was no legal authority in the Legislature, then I suppose that the fabric of my honorable friends on the other side tumbles about their ears. What becomes of the argument that we cannot look behind the certificates? Why, the certificates have no legal authority. What becomes of the argument that these people who staid at home authorized those who voted to vote for them?

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If there was no legal election, they were not bound by it. If there was no law requiring them to attend, staying at home was their duty. They were only not participating in an usurpation. The foundation for a presumption of the assent of those who staid at home, is, that the law required them to be at the polls. The good old law of Virginia, as my honorable friend in my eye will remember, made it a punishable offense to stay away from an election; and though there may be no law punishing it, yet it is a violation of law, and of the duty of the citizen, to stay away from an election. It is the duty of the citizen to cast his vote; and if the citizen does not cast it, he is held to authorize those who do; but that cannot be where the proceeding has no legal validity—that presumption cannot arise where it is merely a voluntary collection of a portion of the people of the Territory to signify their willingness to admit a certain form of constitution without their having any authority to bind anybody else. I suppose, then, that in that point of view, the whole argument upon the other side is in ruins. All their barriers of laws and certificates, presumptions against fact, and acquiescences extorted from protests and denials, are swept away.

We are at liberty to see that only two thousand six hundred and seventy people voted on calling a convention; that only two thousand two hundred people elected the convention; that the census shows only nine thousand two hundred and fifty-one voters, and twenty-four thousand seven hundred and eighty people in the Territory which has transformed itself into a State. And if they who hitherto insisted on confining us to legal returns and certificates now suggest the imperfections of the census and registry, I agree we may go further and see that there may be twelve thousand voters, and from thirty-seven thousand to forty-two thousand people in the Territory; but of them not three thousand voters modestly ask the powers of a State government against the votes of ten thousand, and the protest of seven thousand. Nay, sir, emancipated from every trammel, we are at liberty and bound to go further and to inquire whether there has been in this Territory such fierce collisions, such hostile passions, so much of rebellion against their regular government, such an absolute division of the people with reference to their government, so much of civil bloodshed, so much of military control, such an absence of the ordinary political virtues, of calmness, of consideration, of deliberation, as the President describes; whether an overwhelming majority of the people are opposed to the thing that is now sought to be forced or foisted upon them and devoted to another form of government. It relieves us from the fear of encountering the dangers intimated and vaguely hinted at by gentlemen upon the other side in the event of our venturing to do our duty. It leaves us free to determine whether, under all these circumstances, it is not a fair case for legislative discretion to pause and ask the people again what they say, upon "a sober, second thought," about it—to see whether the people are likely to submit or likely to resist—whether any such great good is to be accomplished by now forcing this constitution upon them, that inevitable civil war will be compensated by it.

We are told by the President that this is the shortest way to settle the agitation. Mr. Chairman, I confess myself astonished at such an opinion from a gentleman who has seen so much of public service, has so long filled distinguished positions, and also knows, or ought to know, so much of human nature. Why, what has been the difficulty in that unfortunate Territory? Was it not that their Territorial Legislature was usurped? Is not that the reason that, from the foundation of the Territory to last October, the people refused to recognize any authority under the laws emanating from that Legislature? Have they not been quieted only by the earnest efforts and warm appeals, backed by the military power, of Governor Walker? Were they not quieted alone by the assurance, which he gave them, that they should have an opportunity of expressing their opinion on the law which was to govern them? Did they not join in the October election because they had confidence in his assurances? Was it not for the first time that the people of that Territory had

ever met, face to face, in an American manner, at the common ballot-box? Was it not the first time that they had stood in any other attitude, except that of hostility, with arms in their hands and hatred in their hearts? And are we to be told by the President that the way to pacify them is, to subject them permanently to the hateful domination of the handful of men from whose hands they would have wrested the government—as the President tells us—but for the United States troops; that the whole sanctity and authority of a State government shall remove them from all the power of Congress to redress their grievances; that they shall be admitted as a State, and thereby be delivered over to the legal authorities under the constitution which they protest against, which Congress cannot repeal, and will be bound to enforce if resisted? for, if the State be admitted, Congress has then no discretion but to follow the legal line of authority, and to put down everything else as rebellion. But has not the President learned enough from the experience of the last three years to make him pause ere he pushed the country upon this dangerous experiment; or is he madly bent on a party triumph at the risk of civil war, forced on people of Anglo-Saxon blood, as the only alternative to a tame surrender of their right of self-government?

The President's policy is high treason against the right of the people to govern themselves. His apology for his conduct is insulting to the victims of his usurpation.

Is it true that the dividing line is between those who are loyal to this territorial government and those who endeavored to destroy it by force and usurpation? Then the latter have been no parties to the proceedings for a convention, yet are to be subject to the constitution.

Is it true that the territorial government would long since have been subverted had it not been protected from their assaults by the troops of the United States? Then the stronger part of the people is against the proceeding for a constitution; and it is to the weaker part the President proposes to confide the powers of State government over the stronger. Is not this to deliver the State into the hands of its enemies? or will the rebels submit when the United States withdraw their troops? or are they to guarantee the new usurpation?

Is it true that Secretary Stanton was obliged to summon the Legislature as the only means whereby the election of the 21st December could be conducted without collision and bloodshed? Then, why was Mr. Stanton dismissed for summoning them? Was it in furtherance of the same policy which then refused the people an opportunity to speak, and now that they have spoken, refuse to hear them? Or if that election could not be conducted without collision and bloodshed, because the people were subjected to an authority they defied, is it the purpose of the President to insure the collision and bloodshed Stanton avoided, by forcing on them a government which they have protested and remonstrated against, and are ready to defy and destroy? Is that the readiest method of settling the Kansas question?

Is it the truth, that up to the present moment the enemies of the enabling government adhere to their Topeka revolutionary constitution? Then they are not likely to receive the Lecompton constitution.

Is the reason the people refused to vote for delegates to the convention, that they have ever refused to sanction or recognize any other constitution than that of Topeka? Then surely they are not among those who sanction the Lecompton constitution. It is not by their will it is put over them. It was not from acquiescence they refrained from voting. Their silence is their dissent; the President tells us so. He says they would have voted against it had it been submitted. Surely, then, silence is as instructive as their voice.

Sir, in my judgment, the passage of this law is a declaration of civil war. The history of the last three years in Kansas leaves no doubt that the people will not submit to this constitution. It cannot legally be changed before 1864. I think it a fair case for disregarding the form of law, and the substance of law. If the constitutional authorities should concur in the change, peace may be preserved. I trust they will concur, and that peace will be preserved. But if they do resist the

change which the mass of the people will demand, if we now refuse to listen to their protest, then, in my judgment, the shortest remedy is the best.

Free government is a farce if men are required to submit to usurpation such as has here been perpetrated, and I fear the people of Kansas are not in a mood to assist at the farce. They will turn it into tragedy. Having heretofore resisted, we ought to suppose they will resist again. We ought to act wisely and carefully; and if we have discretion now, we will not drive this people upon revolutionary courses. Give them a mode of relief, and allow them to follow that peaceful course which they are inclined to follow, according to all reports from that Territory. Give them the opportunity of expressing their will as to the law under which they are to live; and having expressed their will—whether it be for slavery or against slavery, is, in my judgment, absolutely immaterial—allow them to come in at a proper time, with a proper population, and with reasonable boundaries and a rich dower, as one of the sister States of the Republic.

ADMISSION OF KANSAS.

SPEECH OF HON. JAMES B. CLAY,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. CLAY said:

Mr. CHAIRMAN: I have repeatedly, sir, sought to obtain the floor to make known some of my opinions; but, until now, have never been so fortunate as to succeed, because, I presume, of the fact that I would not go to the Speaker's chair to ask my name to be placed on the list there kept, having determined that if I could not get the floor from this, my seat, as a Representative in Congress, I would confine myself to my duty of voting upon all questions of importance. And now, sir, having been recognized, I am ill, quite ill, as I have been for some days; and this fact must be my excuse and my apology for doing that which, under ordinary circumstances, I disapprove, reading the greater part of the remarks I shall offer; but to-morrow is the last day allowed to this debate, and I must say now what I wish to say, or not at all.

I have desired, sir, at some time during the pendency of the question of the admission or non-admission of Kansas as a State into the Union, under the constitution made at Lecompton, to give public expression of some of my views upon the subject from my proper place in this House. It is so late, sir, in the debate that the subject seems, indeed, almost to be exhausted; the minds of members are made up, and I can hope to accomplish nothing beyond placing myself upon the record, whilst there is some doubt as to the ultimate fate of the measure. I only desire to do this that my friends at home, and the country generally, may know precisely how I stand upon the question; and it will be my purpose to express myself with that frankness and freedom which I have endeavored always to observe during my short political career.

In the first place, sir, I wish to make a personal explanation, which, perhaps, I ought to have made at the time, but which I have considered would be more apropos when I should have other occasion to address the House. In the early days of the session I had the honor to call upon the President, with other gentlemen, for the purpose of giving him information as to the state of the Democratic party upon the Kansas question, which, in my opinion, was at the time important. Of this I made no secret; and yet, in newspapers of my own country and elsewhere, I was greatly misrepresented, as having gone to tender advice and remonstrance to the Chief Magistrate. I went to the President for no such purpose. Advice or remonstrance on my part to him would have been a sort of *intervention* which my sense of propriety would have forbidden. He understood me well, or ought to have done so, as did all those who knew the facts. My sole desire was to preserve harmony and good feeling in a party with which I was acting.

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Mr. Chairman, we have now before us all the light upon the Kansas question that we can expect to have. A committee of investigation of this House was early appointed. Majority and minority have made their reports, if not to the House, at least they are before the country. The whole subject has been elaborately discussed in both Houses of Congress, and there is not a single fact bearing in the remotest degree upon it, not even the determination of Mr. Calhoun in respect to the State officers of Kansas, which is not well known.

It is impossible to disguise the fact, sir, however much gentlemen may protest against it, that at the bottom of all the difficulties about Kansas, lies that same question that has so often put the Union in peril: I mean the question of negro slavery. And it does seem to me, sir, that if we could only bring ourselves to be actuated by the same spirit of lofty patriotism that inspired the best men of all parties in those momentous periods of 1820, 1832, and 1850, we should find but little difficulty in our way.

I am perfectly aware, sir, that many gentlemen assert that the question of slavery has nothing to do with their opposition to the admission of Kansas; and I am free to admit that I believe some of the northern Democrats in opposition honestly think it has not. I believe, sir, that they only deceive and delude themselves, and that they will find it impossible to convince the country that such is not the fact. Everywhere in Kentucky, during the contests of 1856 and 1857, whilst those with whom I acted asserted that the Democratic party was a national party; that its members North as well as South were true to the Union and to the guarantees of the Constitution, especially upon the question of slavery, we were met by the response that the whole North was abolition in sentiment, and that we were only deceived by our northern friends, honest though we might be ourselves; and that at the first presentation of the question, they would desert us. How will we return to our constituents should Kansas be refused admission? They will say to us, that up to the meeting of Congress; from the time immigration, actual or forced, first began to flow into Kansas, the question of slavery, and that alone, was the prominent, absorbing, and agitating question. They will say that the northern Democrats took their position against admission before many of the matters which have since afforded pretexts had any existence; before the elections of December and January, pronounced, and perhaps justly, as full of fraud; before the conduct of Calhoun was known. No matter what questions of submissions or of enabling acts have since been raised, all, all, they will say, have been but pretexts by which gentlemen have sought to disguise from themselves and from others the bare, naked truth, that their opposition to the Lecompton constitution is because of the slavery clause. Scornfully they will point to the aspect of parties in this House. They will show how the Republican party presents itself in solid, unbroken phalanx, not a member of it hesitating or wavering for an instant; all, who answer the question frankly, declaring they will never vote for the admission of a slave State. Turning to the Democratic opposition, they will show that not a man comes from south of Mason and Dixon's line. They will see some few southern members, it is possible, untrue to the constitutional rights of the South; but they are not of the Democratic party; they are of that party so signally defeated in my own State, some of whose members openly asserted, in 1856, that they would prefer the success of Fremont to that of Mr. Buchanan; and who, upon the news of every Abolition victory over the Democrats, threw up their hats and shouted for joy; who, by their sullen opposition to the Democratic party, to say the least, laid themselves open to the charge of suffering Mr. Banks to be elected Speaker of this House.

Sir, whilst in this connection, I cannot fail to notice some passages of the very remarkable speech of the old and distinguished Senator from my State, [Mr. CRITTENDEN.] Filial, if not public duty requires that I should do so. I refer to that part of the honorable Senator's speech against the admission of Kansas in which he alludes to the compromise line of 36° 30', in the language which I read, as the creation of Mr. Clay:

"That compromise was a bond and assurance of peace. I would not have disturbed it. It was hallowed in my es-

timation by the men who had made it. It was hallowed in my apprehension by the beneficial consequences that resulted from it. It was hailed at the time it was made by the South. It produced good, and nothing but good, from that time. Often have you, sir, [addressing Mr. TOOMBS,] and I, and all of the old Whig party, triumphed in that act as one of the great achievements of our leader, Henry Clay. It was from that, among other things, that he derived the proudest of all his titles—that of the pacificator and peace-maker of his country. We ascribed to him a great instrumentality in the passage of that law, and over and over again have I claimed credit and honor for him for this act. This, for thirty years, had been my steadfast opinion. I have been growing, perhaps, during that time, a little older, and am a little less susceptible of new impressions and novel opinions. I cannot lay aside the idea that the law which made that line of division was a constitutional one. I believed so then. All people believed it. I must be permitted to remain that opinion still; to go on, at any rate, to my end with the hope that I have not been praising, and have not been claiming credit for others for violating the Constitution of their country."

Sir, this statement of Mr. CRITTENDEN is of a piece with all those misrepresentations or misconceptions of Mr. Clay which I encountered in the Ashland district, and upon which I was so often in the newspapers of the party charged with being an apostate son. Mr. Clay never was the author of the miscalled Missouri compromise, the line of 36° 30'. He expressly repudiated its authorship. He regarded it as a measure only of temporary relief, and as wholly inadequate, in 1850, to form the basis of the compromise of that day. Yet many good men of the North who were his friends, upon the mistaken idea that he was its author, arrayed themselves, after the fall of the Whig party, in opposition to the Democratic party, which had abrogated that line of 36° 30' by the passage of the Kansas-Nebraska bill. Hear, sir, what Mr. Clay himself said in reference to that matter, in 1850, in one of the last, and perhaps the greatest speech of his life:

"Sir, while I was engaged in anxious consideration upon this subject, the idea of the Missouri compromise, as it has been termed, came under my review, was considered by me and finally rejected, as in my judgment less worthy of the common acceptance of both parties of this Union than the project which I offer to your consideration."

"Mr. President, before I enter into a particular examination, however, of that Missouri compromise, I beg to be allowed to correct a great error, not merely in the Senate, but throughout the whole country, in respect to my agency in regard to the Missouri compromise, or rather the line of 36° 30', established by the agency of Congress. I do not know whether anything has excited more surprise in my mind as to the rapidity with which important historical transactions are obliterated and pass out of memory, than has the knowledge of the fact that I was everywhere considered the author of the line of 36° 30', which was established upon the occasion of the admission of Missouri into the Union."

"It would take up too much time to go over the whole of that important era in the public affairs of this country. I shall not attempt it; although I have ample materials before me, derived from a careful and particular examination of the Journals of both Houses. I will not occupy your time by going into any detailed account of the whole transaction; but I will content myself with stating that, so far from my having presented as a proposition the line of 36° 30', upon the occasion of considering whether Missouri ought to be admitted into the Union or not, it did not originate in the House of which I was a member. It originated in this body. Those who will cast their recollection back—and I am sure the honorable Senator from Missouri, [Mr. BENTON,] more correctly, perhaps, than anybody else—must bring to recollection the fact, that at the first Congress, when the proposition was made to admit Missouri—or rather to permit her to hold a convention and form a constitution, as preliminary to deciding whether she should be admitted into this Union, the bill failed by a disagreement between the two Houses; the House of Representatives insisting upon, and the Senate dissenting from, the provision contained in the ordinance of 1787; the House insisting upon the interdiction of slavery, and the Senate rejecting the proposition for the interdiction of slavery. The bill failed. It did not pass that session of Congress."

"At the next session it was renewed; and, at the time of its renewal, Maine was knocking at our door, also, to be admitted into the Union. In the House there was a majority for a restriction of the admission of slavery; in the Senate a majority was opposed to any such restriction. In the Senate, therefore, in order to carry Missouri through, a bill or provision for her admission, or rather authorizing her to determine the question of her admission, was coupled with the bill for the admission of Maine. They were connected together, and the Senate said to the House, 'you want the bill for the admission of Maine passed; you shall not have it, unless you take along with it the bill for the admission of Missouri also.' There was a majority—not a very large one, but a very firm and decided majority—in the Senate, for coupling them together. Well, the bill went through all the usual stages of disagreement, and of committees of conference; for there were two committees of conference upon the occasion before the matter was finally decided. It was finally settled to disconnect the two bills; to admit Maine separately, without any connection with Missouri, and to insert in the Missouri bill a clause—which was inserted in the Senate of the United States—a clause which was proposed by Mr. Thomas, of Illinois, in the Senate, restricting the admission of slavery north of 36° 30', and leaving the question open south of 36° 30', either to admit or not to

admit slavery. The bill was finally passed. The committees of conference of the two Houses recommended the detachment of the two bills, and the passage of the Missouri bill with the clause of 36° 30' in it. So it passed. So it went to Missouri. So, for a moment, it quieted the country. But the clause of 36° 30', I repeat, you will find, sir, if you will take the trouble to look into the Journals, was, upon three or four different occasions, offered. Mr. Thomas, acting in every instance, presented the proposition of 36° 30'; and it was finally agreed to. But I take occasion to say, that among those who agreed to that line were a majority of southern members. My friend from Alabama, in the Senate, Mr. King, Mr. Pinckney, from Maryland, and a majority of the southern Senators in this body, voted in favor of the line of 36° 30'; and a majority of the southern members in the other House, at the head of whom was Mr. Lawrence himself, voted also for that line. I have no doubt that I did also; but, as I was Speaker of the House, and as the Journal does not show which way the Speaker votes, except in cases of a tie, I am not able to tell, with certainty, how I actually did vote; but I have no earthly doubt that I voted, in common with my other southern friends, for the adoption of the line of 36° 30'."

Mark this language, sir:

"The committee of conference of the two Houses recommended the detachment of the two bills, and the passage of the Missouri bill with the clause of 36° 30' in it. So it passed. So it went to Missouri. So, for a moment, it quieted the country."

Sir, I cannot conceive how a gentleman of the great reputation of the honorable Senator from Kentucky can so soon have forgotten an historical fact, can so completely have overlooked the solemn protest of Mr. Clay, made at so recent and so momentous a period as 1850. Sir, I have great respect for the distinguished Senator; I have the kindest feelings towards him. So far as I am concerned, *requiescat in pace*.

Mr. Chairman, whilst I believe the question of slavery is the true matter of difficulty, and only real ground of opposition to the admission of Kansas, at least on the part of Republicans and those Democrats in opposition, I do not mean to discuss it. Far too much has already been said. I have regretted and deplored the extreme speeches that have been made on either side, calculated only to widen the breach between the two sections of the country, and still further to endanger the existence of that Union, which in my opinion depends now, only, upon the justice and patriotism of the North. On this subject I array myself, sir, under the banner of my old friend from Oregon, [General LANE,] and by the side of my young friend from Connecticut, [Mr. BISHOP.]

Sir, whilst I will not discuss this slavery question, I will briefly notice some of the objections made to the admission of Kansas. Whatever may have been said in the earlier part of this discussion about enabling acts and the necessity of submitting a constitution formed by a convention, for the ratification of the people, no one now believes that either the one or the other is a necessary prerequisite to the admission of a new State. It appears to me that the only proper inquiries for Congress upon a new State applying for admission into the Union of States, are: Whether it has sufficient population; whether its proposed constitution be republican in form; and whether its proposed constitution be the act and will of the people proposing to be governed by it, expressed in lawful manner. So far as Congress is concerned, these are the only requisites. Applied to Kansas, the first two of them are admitted on all hands. No one has questioned that she has a sufficient population; and although gentlemen have asserted that the clause restricting amendments of the constitution after 1864 is anti-republican, no one can seriously maintain it. It may be wrong, but it is not anti-republican. If it be, the Constitution of the United States itself is anti-republican; because that instrument, in its fifth article, provides "that no amendment made prior to 1808 shall, in any manner, affect the first and fourth clauses in the ninth section of the first article;" a provision in principle just as anti-republican as the clause in the Kansas constitution. Neither is so. Whether it were wise in the people of Kansas to insert that clause in their constitution, is not for me to determine. As a member of Congress, I have nothing whatever to do with it. It is their business to settle their organic law in their own way, provided it be republican. They have chosen to do so, and it is my opinion that we cannot interfere with it, unless we wish to assume for Congress power directly in conflict with the doctrine of "non-intervention." I have, however, no objection to

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the Senate bill, which, in this respect, neither gives nor takes away any right of the people of Kansas.

The only question, then, of all those made in the first instance is, whether the constitution presented to us is the act and will of the people of Kansas, lawfully expressed. The distinguished Senator from Illinois, the master spirit of the Opposition, without whom it could not have stood for an hour, has admitted, over and over again, that this was the only question of importance. Upon this point, sir, what evidence shall we, as members of Congress, receive? *Prima facie*, the Lecompton constitution is the will of the people of Kansas. There is nothing in the instrument itself furnishing the least proof to the contrary. In its provisions, it is similar to most of the new constitutions of the other States. The proof is clear, and beyond all doubt, that the people of the Territory proceeded, in the usual mode, to call a convention; its delegates were chosen by a fair vote of the people, who chose to vote at all, for the express purpose of framing a constitution; they proceeded regularly in the performance of their duty, and did frame the constitution under which, and which alone, Kansas now demands admission as a State. So careful were they to do nothing which the reasonable and fair men of the Territory could object to, that they did what, in my judgment, there was no obligation upon them to do—submitted the only feature of the constitution liable to objection, to a vote of the people.

I am aware, sir, that now, searching about in all directions to find pretexts to justify opposition, gentlemen have lately attacked the Legislature which summoned the convention; that it has been asserted that the convention itself represented but partially the people of the Territory. These attacks and assertions are not in my opinion sustained before us by any competent testimony. On the contrary, in the earlier part of the discussion it was on all hands admitted—and I have since heard distinguished gentlemen in the Opposition regret the admission—that the Legislature was a legal one, and that the convention properly represented the people of the Territory. It was only in the eleventh hour that anything was said about fifteen or nineteen counties being unrepresented; and in this Governor Walker has been unsustained by his own friends. The only matter of evidence strongly insisted upon, and appearing, indeed, like proof that the constitution is not the will of the people, is the vote of the 4th of January last. But, sir, in my judgment, that vote cannot properly be considered by us at all. I do not believe that the Legislature called by Mr. Stanton, competent as it may have been for other purposes, had any power to submit to a vote of the people the constitution formed by the represented sovereignty of the people, which had not chosen in its sovereign capacity to submit it. That a large portion of the people of Kansas thought so themselves is evident from the fact that the vote was all on one side. As against the constitution, if it were not their will, I believe the people of Kansas had a clear legal remedy. I believe it was in their power to have furnished Congress with competent testimony against it. I mean by petition. They have not chosen to exercise that right; and I, for one, cannot regard a one-sided party vote, directed by incompetent authority, in the light of a petition, which is a clear legal right. Sir, I do not, as a member of Congress, give any weight whatsoever to individual or newspaper charges against the Lecompton constitution. I believe there has been fraud and violence—far too much of fraud and violence on all sides; but aside from the question of policy, I do believe that the weight of testimony before us is altogether in favor of the proposed requirement that the “constitution presented was at the time of its adoption the will of the people of Kansas lawfully expressed.”

But, sir, when I come to the question of the policy of admission, a question to which the practical statesman ought always to look, I am free from all doubts. The country is heartily sick and tired of the whole Kansas question. Even the opponents of Lecompton in Kansas are sick and tired of it—they want quiet, they want peace, they want opportunity to develop the glorious country they inhabit, over most of which I have myself been, and which I know to be one of the

finest agricultural portions of America; where, indeed, in the language of the poet,

“All save the spirit of man is divine.”

“Tell me that they will be fools enough to proceed to a fratricidal war amongst themselves, about the miserable question of slavery, when they have, in fact, no slaves amongst them, and when they know they have the power to make Kansas a free State when they will. I do not believe one word of it. I have lived amongst and known frontier people half the days of my manhood, and I know them well enough to believe that if you admit Kansas at once as a State, instead of bedewing the green sod of the prairie with kindred blood, they will drive out the bad and vicious men from amongst them by the force of moral sentiment; and the country, under the genial influence of the plow, rather than the sword, will be made to bloom like a garden. If we have doubts about mere technical abstract questions, in our desire to accomplish this great good, let us not forget that we should give the benefit of those doubts to the welfare of the country; and that greater men than any of us have, in other days of this Republic, compromised, conceded—ay, even yielded, something of principle, for the good of the country and the safety of the Union.”

These, sir, I believe to be the sentiments entertained by the great mass of the people whom I have the honor to represent. They have heard, as I have heard, and as they and I have regretted to hear, much said by extreme men about a dissolution of the Union in any contingency. Against such idea, sir, I wish, for them, to enter a solemn protest. It may do well for gentlemen from the far South, with a barrier of States between them and the North, to talk about dissolution, and a northern republic and a southern republic. Sir, Kentucky, in old times, was called the dark and bloody ground. Her sons of this day do not mean that she shall ever more deserve the appellation. We are ready, and we have in every battle-field shown that we were willing, to shed our blood for the honor and the glory of the whole country.

Painted above us upon the ceiling of this gorgeous chamber, is our coat-of-arms; and its legend is, “United we stand, divided we fall.” So may it be to the end of time.

Mr. HOUSTON. If no one else wants the floor, I will move that the committee rise.

Mr. CAMPBELL. If the gentleman from Alabama will yield to me for a minute or two I desire just here, at the conclusion of the speech of the gentleman from Kentucky, [Mr. CLAY,] to read an extract from a speech delivered in the Hall of the House of Representatives, in favor of relieving Kentucky from slavery. In speaking of those who complained of the movement, the distinguished orator said:

“What would they who thus reproach us have done? If they would repress all tendencies towards liberty and ultimate emancipation, they must do more than put down the benevolent efforts of this society. They must go back to the era of our liberty and independence, and muzzle the cannon which thunders its annual joyous return. They must revive the slave trade, with all its train of atrocities.”

“They must blow out the moral lights around us, and extinguish that greatest torch of all which America presents to a benighted world, pointing the way to their rights, their liberties, and their happiness. And when they have achieved all these purposes, their work will be yet incomplete. They must penetrate the human soul, and eradicate the light of reason and the love of liberty. Then, and not till then, when universal darkness and despair prevail, can you perpetuate slavery, and repress all sympathies, and all humane and benevolent efforts among freemen, in behalf of the unhappy portion of our race who are doomed to bondage.”

“Our friends who are cursed with this greatest of human evils, deserve the kindest attention and consideration. Their property and their safety are both involved. But the liberal and candid among them will not, cannot, expect that every project to deliver our country from it is to be crushed because of a possible and ideal danger.”

The gentleman from Kentucky censures the course which northern members have seen fit to take in opposition to the extension of slavery into territory now free—into territory north of 36° 30'. The extract I have just read was the sentiments uttered in the Hall of the House of Representatives by the illustrious predecessor of that gentleman who represents the Ashland district of Kentucky. I read the speech when a boy. The distinguished man who made it taught me the very first lesson I ever learned upon this subject of slavery. His name, sir, was HENRY CLAY.

Mr. CLAY. Mr. Chairman, if I may be allowed permission, I would reply, for a moment or two, to the remarks of the gentleman from Ohio. I did not come into this House to-day, sir, for the purpose of bringing here the speeches of the gentleman from whom I am proud to have descended. The sole purpose with which I alluded to his name was to correct a misstatement, or misrepresentation, or misconstruction, whichever it may have been, of the honorable Senator from my own State, in reference to the so-called Missouri compromise line of 36° 30'. The position, sir, of Mr. Clay upon the question of negro slavery is well known, and I have no doubt that the gentleman from Ohio has correctly quoted his language. But I will tell you what you will find in the speech delivered by him upon the compromise measures of 1850. You will find that in place of that line of 36° 30', which he himself believed was no longer operative for the purpose for which it was designed, he gave us another compromise, and that was the very doctrine of non-intervention by Congress upon the subject of slavery. He, sir, in his speech in 1850, said also, as I am willing to admit, that, by his own act, he never would place slavery where slavery was not; but at the same time, and in the same speech, he said that if a new State were to present herself at the door of Congress, asking admission into the Union of States, he, for one, would never oppose her admission because she had chosen to have slavery in her constitution, for in that case slavery would be there by the will of the people themselves, and Congress would be absolved from all agency in placing it there. He believed that the people of this country were capable of self-government, and was willing that they should decide the question for themselves; and when they presented themselves to Congress asking admission with slavery, he would vote to admit them into the Union. That was the position then held. That is the position I am proud to hold, and that is the position in which I am proud to follow him. Sir, talk about the Kansas-Nebraska bill, and the doctrine of non-intervention contained in it, as though it were there to be found for the first time! You find it for the first time in 1850, a substitute, a better thing—that doctrine of non-intervention—than your line of 36° 30'; a better thing than any compromise ever made upon the subject of slavery; at least, so thought the author of the compromise of 1850, and I follow him. I speak by the record when I assert that these were his sentiments.

Mr. CAMPBELL. I had no disposition, when I rose, to enter into any discussion upon this subject. My opinions in regard to slavery are pretty well understood. I did not think the gentleman from Kentucky [Mr. CLAY] would become excited over the fact that I dared to quote from the speech of a man to whom I became attached in my early boyhood, and whose banner I followed in political struggles as long as he lived.

Mr. CLAY. If the gentleman will allow me, I will say if he thought I was excited by his referring to Mr. Clay as he did, then he must attribute it to perhaps an unfortunate manner of mine, and not in the least degree to any excitement which I felt.

Mr. CAMPBELL. I defend the principles of that departed statesman; I adopted his position that slavery ought not to be extended into free territory; and it was upon that principle that I opposed, through many days and many nights, the repeal of the Missouri compromise—a measure which, if Henry Clay did not vote for, he supported throughout the subsequent portion of his life, as one bringing peace and harmony to our then distracted country which he loved.

In the same speech from which I have read, delivered by him in 1827, he uses this language. I recite from memory:

“Could I relieve of this foul blot [slavery] the revered State which gave me birth, and the no less beloved State which adopted me as her son, I would not exchange the satisfaction I should enjoy from such a triumph, for the proudest laurels ever worn by Roman conqueror.”

It would seem not only that Henry Clay was opposed to the extension of slavery into free territory, but that he was desirous of removing the blot entirely from Virginia, where he was born, and from Kentucky, that had so highly honored him.

The gentleman has referred to the measures of 1850, and to the position which Mr. Clay took

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then. What was it? He was at the head of a committee of thirteen, appointed by the Senate, and he made an able report in regard to the territories acquired from Mexico. In it he addressed himself to the North to this effect: there is no necessity for applying a Wilmot proviso to this territory, because slavery can never go there; it was excluded by the law of Mexico; California has already adopted a constitution rejecting slavery; in all human probability Utah and New Mexico will do the same.

And following out the suggestion of that report, you may remember that Daniel Webster, in his speech of the 7th of March, so highly lauded throughout the South, said to the Senate, in substance: you ought not to ask the Wilmot proviso, because it is but a human statute applied to a territory over which nature's God has decreed through his laws of climate and soil, that slavery never can go; and why reenact His statutes?

By the compromise measures of 1850, it must be borne in mind, there was no provision for squatter sovereignty. They provided that the people of the Territories of Utah and New Mexico may, when they acquired sufficient population, decide the question of slavery for themselves, and not before they were prepared to form a State constitution. It was not contended by Mr. Clay, Mr. Webster, or by any other leading member of either branch of Congress, of any party, that while they remained in a territorial condition, slavery could enter the Territories of the United States.

Mr. Chairman, I have said all I desire to say at this time.

Mr. CLAY. I regret, and I feel it proper to express my regret, that the name of my father has been brought so frequently into this discussion.

Mr. CAMPBELL. I have referred to it with the most profound respect, and in vindication of my own position as a Representative.

Mr. CLAY. I know it; and I thank the gentleman from Ohio, and I thank all others who were his friends, for having been so. My heart has always been full of gratitude to them.

My sole reason, as I stated in the first instance, in mentioning his name at all, was because it had been mentioned in the Senate Chamber by a gentleman of great distinction, and great influence over this land, and who has been looked upon as his great friend; but who had, unintentionally perhaps, misrepresented him. I had no purpose of going into the question of squatter sovereignty and other questions, which my honorable friend from Ohio has brought up, to show, or to attempt to show, the opinions of Mr. Clay, upon any of those subjects. It was for a single and sole object that I mentioned his name at all.

Always, however, it has been my fate, since first I raised my head above the political waters, and stood out a freeman before the country, to be sought to be crushed in his name. Those attempts have failed, thank God, in my own country, and I hope always everywhere to be able to sustain the positions I have taken by his record.

I have not spoken upon any of those subjects of squatter sovereignty, &c., to which the gentleman has alluded; and I shall no longer continue a discussion upon what were or were not the opinions of Mr. Clay, which I do not think relevant to this debate on Kansas.

Mr. CAMPBELL. I have no disposition to put the gentleman from Kentucky down.

Mr. CLAY. I know it; I know it.

Mr. CAMPBELL. I merely wished to show that I preferred to follow the course of his father, rather than to follow his; that is all.

Mr. CLAY. Very well; very well. We shall see; we shall see.

ADMISSION OF KANSAS.

SPEECH OF HON. AARON HARLAN,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. HARLAN said:

Mr. CHAIRMAN: History teaches, and experience verifies the truth, that when a great fraud or wrong

is about to be committed by the Government of a country against the peace and repose of society, nothing is more common than for the party engaged in the wrong to seek to accomplish it under the name and with the pretext of restoring some lost right or liberty of the people. Weak and corrupt administrations frequently resort to these false pretenses for the purpose of perpetuating their power. When, therefore, for the purpose of expanding the institution of slavery, extending its area, increasing and rendering permanent its political power, by pulling down all obstructions in its way, which must necessarily agitate society and disturb the peace and harmony of the country, it was to be expected that those who had resolved upon this outrage should invent some plausible plea or false pretense that there was some long-lost liberty or equality of the people to be reclaimed and restored by the new policy, the repeal of the Missouri compromise was effected by using, in the act to organize the Territories of Kansas and Nebraska, these very remarkable words:

"The eighth section of the act, preparatory to the admission of Missouri into the Union, approved March 6, 1820, which, being inconsistent with the principle of non-interference by Congress with slavery in the States and Territories as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory, or exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Why not say, in direct words, that "the eighth section of the Missouri compromise act, which prohibited slavery north of 36° 30', is hereby repealed?" Why all this circuitry of language?

Why pretend that the legislation of 1850 was inconsistent with the act of 1820? Why this talk of "leaving the people perfectly free to form and regulate their domestic institutions in their own way," if it were not to conceal the wrong under the name and pretext of extending the blessings of freedom? It was with an air of triumph asked, why not extend all the rights now enjoyed by the people of the States to the people of the Territories? Why not allow this right of self-government to the few settlers of a Territory as well as to large communities and States?

The Democratic party, from the time this provision was incorporated into the law for the organization of Kansas Territory, determined to appropriate this doctrine of "popular sovereignty" to its own exclusive use and benefit. It was to be claimed as a great distinguishing principle between them and all other parties; and this was to be kept very prominently before the people.

The chief leader at the South in setting up this claim was Mr. STEPHENS, of Georgia, who, while the Kansas bill was pending in the House of Representatives, said:

"Those who hold that Congress ought to impose their arbitrary mandates upon the people of the Territories in this particular, whether the people be willing or unwilling, hold the doctrine of Lord North and his adherents in the British Parliament towards the Colonies during his administration. He and they claimed the right to govern the Colonies in all cases whatsoever, notwithstanding the want of representation."

Yes, sir, the people of the Territories must be left "perfectly free to form and regulate their domestic institutions in their own way," and those who did not subscribe to this doctrine must be charged with holding the political opinions held by Lord North and the British Government in the days of the Revolution. This was the Democratic doctrine in 1854. Two years afterwards, the Democratic national convention, held at Cincinnati, revised this doctrine of "squatter sovereignty" by one of their resolutions, which reads as follows:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

This commentary upon the original text placed an apparent limitation upon the power of the Territories; but still a "majority of the actual residents," when they came to form a constitution, could form their "domestic institutions" to suit themselves.

The President having placed himself upon this Cincinnati platform so fully that, according to his

own language, he was no longer James Buchanan, but was the Cincinnati platform, it was but reasonable to expect, at least, that this exposition of "squatter sovereignty" would be fairly and fully carried out in his administration.

In his inaugural address he said:

"It is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote."

In his instructions to Governor Walker, in speaking of the constitutional convention, and of the constitution then about to be formed by it, he says:

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."

Governor Walker proceeded to Kansas under these instructions; and, in his inaugural address to the people, among other things, he said:

"I repeat, then, as my clear conviction, that, unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."

To show that these statements were made by Governor Walker in good faith, in pursuance of his instructions, and with the knowledge not only of the President, but with the approval of all the members of his Cabinet, and with a view of presenting other facts and arguments on this subject, I beg leave to read from Governor Walker's letter of resignation the following extracts. He says:

"I accepted the appointment of Governor of Kansas on the express condition that I should advocate the submission of the constitution to the vote of the people for ratification or rejection."

"These views were clearly understood by the President and all his Cabinet. They were distinctly set forth in my letter of acceptance of this office of the 25th of March last, and reiterated in my inaugural address of the 27th of May last, as follows:

"Indeed, I cannot doubt that the convention, after having framed a State constitution, will submit it for ratification or rejection by a majority of the then actual bona fide resident settlers of Kansas."

"With these views well known to the President and Cabinet, and approved by them, I accepted the appointment of Governor of Kansas."

"In my official dispatch to you of 2d June last, a copy of that inaugural address was transmitted to you for the further information of the President and his Cabinet. No exception was ever taken to any portion of that address. On the contrary, it is distinctly admitted by the President in his message, with commendable frankness, that my instructions in favor of the submission of the constitution to the vote of the people were 'general and unqualified.' By that inaugural and subsequent addresses I was pledged to the people of Kansas to oppose, by all 'lawful means,' the adoption of any constitution which was not fairly and fully submitted to their vote for ratification or rejection. These pledges I cannot recall or violate without personal dishonor and the abandonment of fundamental principles; and, therefore, it is impossible for me to support what is called the Leecompton constitution, because it is not submitted to a vote of the people for ratification or rejection."

"I repeat, that in nineteen counties out of thirty-four, there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given or could be given for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census constituted a majority of the counties of the Territory, and these fifteen counties in which there was no registry gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Leecompton constitution on the 7th November last. If, then, sovereignty can be delegated, and conventions, as such, are sovereign, which I deny, surely it must be only in such cases as when such conventions are chosen by the people, which we have seen was not the case as regards the late Leecompton convention. It was for this, among other reasons, that in my inaugural and other addresses I insisted that the constitution should be submitted to the people by the convention, as the only means of curing this vital defect in the organization. It was, therefore, among other reasons, when, as you know, the organization of the so-called Topeka State government, and as a consequence an inevitable civil war and conflict with the troops must have ensued, these results were prevented by my assuring, not the Abolitionists, as has been erroneously stated—for my address was not to them, but the people of Kansas—that in my judgment, the constitution would be submitted fairly and freely for ratification or rejection by their vote; and that, if this was not done, I would unite with them, the people, as I now do, in lawful opposition to such a procedure."

"The President takes a different view of the subject in his message; and, from the events occurring in Kansas as well as here, it is evident that the question is passing from theories into practice, and that, as Governor of Kansas, I should be compelled to carry out new instructions, differing, on a vital question, from those received at the date of my appointment. Such instruction I could not execute con-

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Admission of Kansas—Mr. Harlan.

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sistently with my views of the Federal Constitution, of the Kansas and Nebraska bill, or with my pledges to the people of Kansas. Under these circumstances, no alternative is left me but to resign the office of Governor of the Territory of Kansas.

"No one can more deeply regret than myself this necessity; but it arises from no change of opinion on my part. On the contrary, I should have most cheerfully returned to Kansas to carry out my original instructions, and thus preserve the peace of the Territory, and finally settle the Kansas question by redeeming my pledges to the people."

As a further proof that it was the universal understanding, before and at the time of the election of the delegates to the Lecompton constitutional convention, that the constitution was to be submitted to the people; and to corroborate the evidence of Governor Walker, if it required any, I read the publication of John Calhoun and seven other candidates for the convention, in which they pledge themselves that the constitution shall be submitted. It speaks for itself, and reads as follows:

To the Democratic Voters of Douglas County:

It having been stated by that Abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolution, which was adopted by the Democratic convention which placed us in nomination, and which we fully and heartily endorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN,	A. W. JONES,
W. S. WELLS,	H. BUTCHER,
J. S. BOLLING,	JOHN M. WALLACE,
WM. T. SPIGELY,	L. A. PRATHER.

LECOMPTON, Kansas Territory, June 13, 1857.

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas, and to mold the political institutions under which we, as a people, are to live, unless he pledges himself, fully, freely, and without reservation, to use every honorable means to submit the same to every bona fide actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers of this Territory, as the majority of voters shall decide."

Under the assurances thus given by the Cincinnati platform, by the instructions of the President of the United States to Governor Walker, by the advice of his Cabinet, by the addresses of Governor Walker to the people of Kansas, by the published pledges of the candidates for the convention, the election for delegates to the Lecompton convention was held; and a majority of its delegates were found to be in favor of making Kansas a slave State! It then, for the first time, began to be whispered that the constitution would not be submitted to the people for their adoption.

To show with what indignation this suggestion was met at the South at that time, I refer to an extract from a Virginia newspaper, the Richmond Examiner, of the 14th July, 1857. This extract is as follows:

"Here is the whole question, then, from alpha to omega: Shall the constitution be submitted to the people? The Democracy of Kansas demand that it shall, and the Democracy of the Union second their demand. Mr. KERR says, nay; the ultra South clamors in chorus, nay. Well, why should not the constitution be submitted to the people? What is the objection of the ultras? Strange to say, the reason is not denied. We blush for the South that the reason is avowed. The reason alleged is, that the people of Kansas would vote down such a constitution as the clamorers would frame for them; and the effort is to thrust upon them, by a political trick and contrivance, what could not be put upon them by fair Democratic means. Such is the scheme of 'the chivalry' of the South! such the lame and impotent conclusion of all the grand airs and affectations of virtue and honor, with which 'the chivalry' have amused the country so long! A paltry fraud, a political juggle, a legal swindle, upon the people of Kansas—insisted upon, demanded, clamored for, by 'the chivalry,' *par excellence*, by the pink and pick politicians of the South.

"Our tools in the convention will frame a constitution for Kansas? It will be such as the people would repudiate; we will take care to prevent the people from voting upon it; we will juggle it through a show of mock formalities; and we will accomplish by chicanery what we could not have accomplished by straightforward, honest, Democratic practice? Such is the position of the peculiar champions of the South; such the attitude in which they are striving to place the South before the Union and before the world; such the humiliating depths of dishonor—with faith violated, pledges broken, and reputation blasted—in which they would sink the noble Democracy of the slaveholding States. The fraud is infamous enough in itself, but it is doubly so in being in violation of express pledges given by the Democracy of the Union, and participated in, in the most solemn manner, by the ultras themselves."

The above article appeared in the organ of the Administration, the Washington Union, of the

18th July, 1857, with the following indorsement, and approval by its editor:

"WILL THE SOUTH COUNTENANCE THE FRAUD?—We commend the following article from the Richmond Examiner to the earnest attention of our readers. Its statements, its reasonings, its indignant expostulations, are so eloquent and forcible that they cannot fail to impress the minds of all who read them. The more we examine this subject, the more we attend to the reasonings of others; the more we are impressed with the palpable error into which our southern friends have fallen in condemning Governor Walker and the Administration for proposing to submit the constitution of Kansas, when framed, to the people. It is a war against a principle universally acknowledged by the national Democracy to be right; it was adopted as a principle of their national platform; it was accepted, acquiesced in, and sanctioned by the southern Democracy, as well as by the Democracy of the whole country, without a dissenting voice. We fought upon it, and with every other issue connected with it we triumphed. These very southern men, aided by their spirited efforts and united voices in bringing into power a great statesman, a true friend of the South, an ardent patriot and a pure man, committed to the very principle now called in question by every act of his past life. And can it be believed, the very first moment that it is attempted to apply the principle in practice—that is, to allow the people of Kansas to adopt, by their votes, such a constitution as they may be willing to live under—many of our southern friends practically repudiate their previous acts, repudiate their resolution of the Cincinnati platform which contains the principle, and array themselves for the moment against an Administration which is only endeavoring to do its duty, and faithfully fulfill its pledges; and this, we think, is very clearly shown by the following article." (The one above read.)

In an editorial, of the same date, the editor of the Union says, in speaking of the Kansas constitution:

"If the convention shall make a constitution in the name of the people, and refuse to let their constituents pronounce upon it, we can only say that the best evidence of its authenticity is withheld."

And this was the tone of the party press here, and all over the country, until the 7th of November last, when the convention closed its labors, adopted the Lecompton constitution, refused to submit it to a vote of the people for their rejection or approval. Since that time we have had, from the organs of the Administration, and from the President of the United States, and those who profess to be his friends, all sorts of opinions, statements, and claims.

First, the convention was censured; then excuses and apologies were made; and then a complete justification for not submitting the constitution to a vote of the people; and lastly, and finally, it is claimed by the President, in a message to Congress, that the constitution was submitted to the people, in accordance and substantial compliance with his instructions to Governor Walker. When this last pretense was gravely written by the President, and read by his friends, it would not be surprising if both he and they should have exclaimed, in the celebrated language of Jack Falstaff, when caught in an unmitigated falsehood, "Lord, Lord, how this world is given to lying!"

That the constitution was submitted for adoption or rejection in substantial compliance with the provisions of the Cincinnati platform or the pledges of the President, or his instructions to Governor Walker, is wholly false; not one word of truth in it. The claim that the question of slavery or no slavery, the question of a slave or a free State, was submitted, is equally without truth—unqualifiedly false. The scandalous and contemptible mockery of submitting the shadow of the question of slavery or no slavery to the people was performed. The substance of even that single question was withheld—expressly withheld.

Why, sir, what was submitted to the people? Simply whether, in future, slaves should be imported into Kansas. The perpetuity of all the slavery then in Kansas, was provided for in the constitution in express terms, no matter which way the people voted on the question submitted.

The man who in private life would claim in his private affairs that his obligations under such circumstances, and with such compliance, were discharged, would but live to be loathed and despised as a man without honor, without truth.

The Lecompton constitution is now presented with slavery as fully recognized by it as by the constitution of any State in the Union; and the President in his message tells us "it is as much a slave State as Georgia or Alabama." That slavery exists there, either by law or by force, is emphatically true.

Such, then, is the Lecompton constitution. Is it

the constitution of the people of Kansas? Is it the work, or the act and deed of that people? Does it speak their voice or reflect their will? If it is their constitution, then let it be so treated; if it is not their constitution, then let it be treated as the work, the vile work, of the infamous scoundrels who made it. What is the evidence upon this question? Those who assert it to be the constitution of the people of Kansas rely upon a series of legal inferences and presumptions. Inferential evidence will do if no positive evidence is furnished to contradict it. The assent of the people might be presumed if they were silent; but when they do speak, we must be governed by their voice; we must know what it is; we are no longer at liberty to infer their assent; they have spoken yea or nay, and we must see and know what they have said.

Now look at the evidence. A bogus Legislature ordered the convention to be elected. At the election for delegates to the convention, by the evidence of Governor Walker above referred to, it is shown that nearly half the Territory was disfranchised. He says:

"I repeat, that in nineteen counties out of thirty-four, (the whole number in the Territory,) there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties."

Acting Governor Stanton, in his message to the Territorial Legislature, says that all the votes given at the election in June last for delegates to the Lecompton convention, only amounted to about two thousand two hundred. If they are all set down as in favor of this constitution with slavery, there were only two thousand two hundred of them, all told. At the election in October last for a Delegate to this Congress, there were two candidates; one was the slave-State candidate, the other was Mr. PARROT, the free-State candidate, and who is now a member of this House. This election was held under the laws of Congress, which all parties in the Territory recognize as valid. All parties voted, and the election was warmly contested. The majority for the free-State candidate was about five thousand.

At the election held on the 21st December, on the adoption of the Lecompton constitution the whole vote cast for the constitution, as the returns show, was only six thousand one hundred and forty-three, one half of which have since been proven to be fraudulent, and a considerable number more given by non-residents; showing the actual strength of the pro-slavery party in Kansas to be only about three thousand.

But a more conclusive vote than either of those mentioned was given on the 4th of January last, when the question of adopting or rejecting the Lecompton constitution was directly submitted to a vote of the people, and over eleven thousand votes were then cast against the constitution and against slavery. No evidence has been offered in this House to impeach the fairness of this vote.

We can, then, with perfect confidence, claim that we have positive and affirmative evidence that there is now, in truth and in fact, a majority of over eight thousand of the citizens of Kansas protesting that this is not their constitution.

There have been memorials, signed by over seven thousand residents of Kansas, sent to this Congress, remonstrating against admission under this constitution.

The Delegate on this floor, elected and sent here to represent their interest in person, remonstrates against the admission of Kansas under this constitution.

The Territorial Legislature but recently elected send here their remonstrance, and ask, what right has Congress to admit Kansas as a State into the Union against her will?

This remonstrance is in the following three resolutions:

"Resolved by the Governor and Legislative Assembly of Kansas Territory, That the people of Kansas being opposed to said constitution, Congress has no rightful power under it to admit said Territory into the Union as a State; and we, the representatives of said people, do hereby, in their name and on their behalf, solemnly protest against such admission.

"Resolved, That such action on the part of Congress would, in the judgment of the members of this Legislative Assembly, be an entire abandonment of the doctrine of non-intervention in the affairs of the Territory, and a substitution in its stead of congressional intervention in behalf of a minority engaged in a disreputable attempt to defeat the will and violate the rights of the majority."

"*Resolved*, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves."

It may well be averred that "Congress has no rightful power under it to admit said Territory into the Union as a State." And it may, with still greater propriety, be asked by what rightful power does Congress propose to force Kansas into the Union against her will? Why drown the voice of four-fifths of the people of Kansas, and do for her what she has not done for herself, and that is, to make a constitution for her and compel her to receive it? If this is to be done, let it be done under the name of congressional non-intervention. Let it be done by the Democratic party of this country; let it be done by the southern portion of that party; let it stand forth as the last and latest commentary upon the doctrine of "congressional non-intervention with slavery in the States and Territories."

Governor Hammond's views on this subject are brilliant and clearly expressed. He meets the question just as it is, and with manly courage disposes of it as becomes a modern Democrat. He says:

"If this was a minority constitution I do not know that that would be an objection to it. Constitutions are made for minorities. Perhaps minorities ought to have the right to make constitutions, for they are administered by majorities."

This may be very good Democracy, but it is not exactly Cincinnati-platform Democracy, so far as I understand it. Does the South now again propose to disregard wholly the will of the inhabitants of the Territories, and that Congress shall give not only laws to the Territories, but constitutions for the new States? Before this is done it might be well for gentlemen to look to the results of the next census, to the time when the race of dough-faces will be extinct, and when the power of legislation may be in the hands of non-slaveholding States, and when the examples now set may be followed to its utmost results. Sir, disguise it as you may, the plain simple proposition, divested of all its fraudulent robes and false pretenses, is whether Congress will usurp the power of making a constitution unalterable for seven years to come, and force Kansas into the Union under it?

Why, if this has been determined on, did you not divide Texas into four or five more States, bring up New Mexico as another, and have Nebraska and Arizona all organized as slave States with constitutions unalterable for twenty years to come, and *admit* them all together? This might be done, and not one half the evidence to prove the fraud that now stares us in the face in relation to Kansas. And could not a few more Calhouns have been found to distribute over these Territories, ready and willing to make these new States with constitutions *to order*?

Does any member of the Administration party in this House doubt what the people of Kansas would do if left to themselves "perfectly free to form and regulate their domestic institutions in their own way?" Then let him vote with us to send this question back to the people for their free choice of a constitution for themselves. Will any member of this House refuse, and for what reason will he refuse? Will it not be for the same reason that the Lecompton convention refused to submit the question to the people, and that was, that this rascality would, in that event, be defeated? The result will be left in no uncertainty. I desire to see Kansas a free State; my constituents desire it, and I am bound to use all fair means in my power to accomplish it; I will go for results regardless of words or forms. I cannot now here, by my own vote, make her a free State. I will delegate the power to her as my agent, and she will have both the power and the will to do it. She has battled with this question of slavery for four years, against border ruffians, southern cat-throats, against the oppressions and wrongs of a ruthless Administration against all odds. Her honor and her interests are all at hazard, and she has a greater and stronger interest in the question than I have. The friends of freedom there have suffered everything but martyrdom, and some have suffered even that. Then why not trust them?

A Democrat cloaked by his name and professions of bowing at all times to the people's will, and of leaving them "perfectly free to regulate

their domestic institutions in their own way," may refuse, but those who do not wear this name and the cloak which this name gives, are compelled to wear the substance and maintain the cause of popular freedom. Unfortunately for the honor of this country the history of Kansas is written and it cannot now be blotted out. Every step in its onward march, from the date of the organization of the Territory until this day, is a step marked, and that step may now be traced by a fraud, a forgery, a wrong, a robbery, a plunder, a violence, a murder, an assassination—a people ruled by oppression, overawed by bayonets; houses plundered and burnt, towns sacked, peaceable citizens driven from the Territory; the roads, rivers, and avenues leading to the Territory blocked up, emigrants turned back, and leave to enter the Territory refused; and all this done and suffered by the connivance of the past and present Administrations. The picture would not be complete without this crowning act of infamous injustice, of forcing upon them a slavery constitution, by first making the people themselves slaves.

No gentleman can shut his eyes to the great question of political power lying at the bottom of this great effort to make Kansas a slave State. Look at a few passages in the speech of Governor Hammond. He says:

"The Senator from New York says that that is about to be at an end; that you intend to take the Government from us; that it will pass from our hands. Perhaps what he says is true; it may be, but do not forget—it can never be forgotten; it is written on the brightest page of human history—that we, the slaveholders of the South, took our country in infancy, and after ruling her for sixty years out of the seventy years of her existence, we shall surrender her to you without a stain upon her honor, and boundless in prosperity, inculcable in her strength, the wonder and the admiration of the world. Time will show what you will make of her, but no time can ever diminish our glory or your responsibility."

Again, he says:

"But what guarantee have we, when you have this Government in your possession in all its departments, even if we submit quietly to what the Senator exhorts us to submit to—the concentration of slavery in its present territory, and even to the reconstruction of the Supreme Court—that you will not plunder us with tariffs, that you will not bankrupt us with internal improvements?"

Yes, sir, it is very plain that the Government must remain in the hands of the slaveholders, or if we take it we must give security for our good behavior. It may be we will give them that security; the whole sum and substance of which is, that the South shall be allowed to make as many more slave States as may be necessary, at all times, to maintain the control of the Government in the hands of the slaveholders. This is to be done regardless of population. The States must be made, population or no population. The slave States now have only one third part of the population of the nation; but their equality must be maintained in the Senate, where the slaveholders are to exercise a veto power upon the legislation of the country—a veto upon all the appointments and patronage of the country. This is modest, and most decidedly cool. We, the slaveholders, he says, have ruled you for sixty years. They who constitute one fortieth part of the population of this country shall have their power perpetuated. This may be Democracy. If it is, I know it is not so written in their platform; and were it not historically true in the past, and had it not been so often and continually claimed for the future, it might be ascribed to the ravings of a madman.

I regret to hear any anti-Lecompton Democrat complain of being read out of the party for his course on the Kansas question. It should be remembered that at no time during the last or present Administrations has any Democrat been allowed to set up his own judgment, his honor, or his conscience, against the wishes of the President or the party on Kansas affairs. Have not offenses of this kind been uniformly punished by dismissal from office and exclusion from the ranks of the party? Was it not for such offenses that the first, second, and third Governors of Kansas were removed—Reeder, Shannon, Geary, all read out of the party? Yes; it was for honorable adherence to the instructions of the President that Walker and Stanton were forced out of office. The President himself came very near being read out of the party for instructing Walker to use his influence to cause the Lecompton constitution to be submitted to a vote of the people. But the

President silenced his scruples of conscience, if he had any; obsequiously asked pardon, forced Walker and Stanton out of office, and restored himself to favor; and having done so himself, expects all others to follow the example.

Let it be remembered by the people of this country, that, while men are every day read out of their party for refusing to do its dirty work, and for honorable, manly, and independent opposition to the despotism of party desperation, there is no example of any man, high or low, being read out of his party for loathsome and sycophantic subserviency.

I have referred to the pledges of the Democratic party, as a party, to the claim set up of having inaugurated a new territorial policy far more liberal than any ever before offered to the people of this country; to the pledges and claims of its newspaper press; to the speeches of its leading men; the inaugural address of the Chief Magistrate, and to his official correspondence with Governor Walker. These pledges now all broken, trodden under foot and despised; and this proposition, (to admit as it is pretended,) but in fact, to force Kansas against her will into the Union under the Lecompton constitution, with slavery provided for and perpetuated by it, deserves to be met, not with argument, but with denunciation; and denunciation in language far more harsh and severe than the usages and proprieties of this Hall will permit. To call it a fraud, a cheat, a conspiracy against popular rights, fails to do justice to the subject or to characterize the outrage.

We have been told by at least twenty southern gentlemen here in this House of Representatives, that if we Republicans will not agree to admit Kansas into the Union under the Lecompton constitution, that, well and dearly as they always have and still do, and as the South always has loved and cherished the Union, they will feel compelled to advise the South to withdraw from the Union and defend their rights to the last extremity. Will they go home and hold another southern Hartford convention? And why is this folly to be perpetrated, and why is it threatened? For no other reason, in fact, than that the Republican Representatives, and a few of the free-State Democrats in this Hall, will not compel Kansas to come into the Union with a slavery constitution, while four fifths of her people are opposed to it. And these gentlemen constitute the choice spirits of the southern Democracy. They are the Union savers—the national men—the deadly enemies of sectionalism. They are the patriots of this country. Whether this patriotism is of that quality which has been defined to be "*the last refuge of a scoundrel*" or not, I leave the country to decide.

ADMISSION OF KANSAS.

SPEECH OF HON. W. L. UNDERWOOD,
OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,
March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. UNDERWOOD said:

Mr. CHAIRMAN: I rise to essay no effort at elocution, nor any extended observations upon the vexed question of Kansas. Contemplating that question from a point of view differing from that of most if not all others that have addressed you, entertaining in regard to it opinions that have not yet found expression, duty to myself demands that I should announce the reasons that shall control my action.

To those who know me at home I shall have no occasion to defend myself against any charge of intentional infidelity to the South and her cherished institutions. From the dawn of my humble political career until now, they have had no more devoted friend than I. Born in a slave State, having lived in one all my life, a large owner of slaves, and representing one of the largest slave districts in the Union, it would be nothing short of impossibility for me to become faithless to its real interests. I have heretofore expressed my opinions on this floor with sufficient fullness upon the subject of the relations of master and slave. I will not repeat them. It is sufficient for me to say, that I honestly regard them as the best pos-

sible relations which can exist between two dissimilar and unequal races of men thrown together upon the same territory; and that every attempt to create other relations than these, whilst the two races thus coexist, has thus far only deepened the degradation and misery of the black race. I should, therefore, instead of circumscribing slavery, be perfectly willing to see it extended, with the consent of those immediately interested, to the remotest confines of the Republic. It is not, then, because, in any possible form, I am opposed to slavery, that I am opposed to the Lecompton constitution for Kansas. Indeed, rather, it is because I am the friend and advocate of the peculiar institutions of the South that I am in part constrained to object to that constitution.

Mr. Chairman, there are new theories of government and motives of action presented by the advocates of the Lecompton constitution that cannot fail to grate harshly on southern ears: First, in order to induce our assent to the admission of Kansas under the Lecompton constitution—which constitution provides that “after the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution,” they shall proceed to do so according to certain salutary precautions and methods prescribed in the instrument—it is now contended that this fundamental provision may be disregarded, and that steps may be immediately taken to abolish it so soon as Kansas is admitted under it. The people of the United States have heretofore been taught to regard constitutions as the sacred repositories of their dearest rights; as removed, by the solemnities by which they have been inaugurated, from the flippancies of change; and as constituting the bulwarks upon which they might repose in the security of established order. But now, for the purpose of making room for this new comer, all these established theories of government are forsaken, and pass away as the baseless fabric of a dream. A new light dawns upon the political sky, and anarchy is organized. Constitutions, which were intended heretofore for the protection of minorities, lose their power. Majorities, we are told, at their pleasure, may cast them down, and riot on the rights which constitutions were intended to preserve inviolate. The distinction heretofore so well understood and recognized between a legislative act and a constitutional provision is no more, and the only step which remains to be taken, since the all-prevailing voice of mere numbers is enshrined, is to declare that this voice need not even proclaim its edicts in written laws, but has only, in the fury of the mob, to issue its mandates and execute them. Strangest to me of all this is, that this wild doctrine finds countenance with my southern friends, interested, like me, in preserving and maintaining to the last our southern rights and our southern property. Why, sir, with such governmental policy as this, not only will the general prosperity sicken—for all the interests of society must sicken with the instability of government—but the peculiar institutions of the South must die. Let me read you what is already said by a Black Republican organ, the Chicago Tribune, on this subject:

“It is now said that the act admitting Kansas into the Union, under the Lecompton constitution, will contain a clause declaring that the people of the new State may amend their constitution at any time they please, though in doing so they violate a plain and emphatic provision of the constitution itself. With this powerful overhead constitutional barrier, recognized by solemn act of Congress, we shall be disposed to abate our opposition to Lecompton and help it along; but with this express understanding, that the rule laid down for Kansas shall be applied to the Constitution of the United States; and that when a majority of the legal voters of the Republic choose to demand an amendment of the fundamental law, the mode of amendment prescribed in the Constitution shall not stand in the way of the attainment of their will.”

Mr. Chairman, I enter my solemn protest against this suicidal doctrine. Kansas, with her Lecompton constitution, brings with her no benefits to any part of our common country which would compensate a solitary State for the damning tendency of such a dogma. And if it shall be inaugurated into the political theories of the times by the present Administration, I shall preserve the proud consciousness of saying that it was by no act of mine you did it, and, therefore,

“Shake not your gory locks at me.”

But it may possibly be said (I hardly think

that any candid man will venture to say it) that this principle, touching the right of the majority to override the terms and forms of the constitution by amendments, alterations, or abrogations, in violation of those terms, is not contained in the act passed by the Senate. Mr. Chairman, it is there, and, I grieve to say, *insidiously there*. If it is to be there at all, put it in like a man. Speak it out like a freeman. Let us have no quibbling about it. But it is there plain enough. The honorable Senator [Mr. Pugh] proposed in plain, direct terms to insert it. His amendment was withdrawn by himself, because, as he said, its substance was embodied in the bill as it now stands; and it was thus withdrawn to make room for the more insidious and entrapping provisions now contained in the bill, to wit:

“That nothing in this act shall be construed to abridge or infringe any right of the people, asserted in the constitution of Kansas, at all times to alter, reform, or abolish their form of government, in such manner as they may think proper.”

Why was this clause inserted? Does anybody suppose that, if Kansas should become a State, she would thereafter be dependent on Congress for her right “to reform or abolish her form of government in such manner as she thought proper?” Certainly not. For what purpose, then, was this formal disclaimer of a power or right of Congress to do that which no one ever supposed before Congress had the power to do, asserted in this bill? It was, Mr. Chairman, a negative pregnant of most affirmative meaning. It is a direct intervention by Congress in the affairs of Kansas, in violation of your cry of non-intervention. Your President, sir, had, in a labored argument, in his Kansas message, announced the doctrine that

“A majority can make and unmake constitutions at pleasure. It would be absurd to say they can impose fetters upon their own power which they cannot afterwards remove.”

If, therefore, the provision changing the Kansas constitution after the year 1864 could, by possibility, be construed into a prohibition to make such a change previous to that period, this prohibition would be wholly unavailing. The Legislature already elected may, at its very first session, submit the question to a vote of the people, whether they will or will not have a convention to amend their constitution, and adopt all necessary means for giving effect to the popular will.”

It was necessary, therefore, to insert these provisions in the bill; but lest an outspoken expression of them should justly offend the public ear, and justly alarm the settled and conservative elements of society, they have been couched in the covert and ambiguous phrase quoted in the law. But they will not the less confidently be appealed to as the expression of the legal right, in the Abolition portion of the people of Kansas, to abolish the few remnants of slavery that exist in that devoted Territory on the instant, should Kansas be admitted under the Lecompton constitution. And then will come, sir, in the event Kansas is thus admitted into the Union with her Lecompton constitution, under the provisions of this act of admission, one of those struggles, weak and feeble, perhaps, it may be, compared with others, which I yet contemplate in her eventful history, a struggle in which her peace may be seriously jeopardized, and the rights of the slaveholder—rights which I feel it my duty here to forewarn, if I cannot forewarn—will inevitably be sacrificed.

According to the programme thus suggested by the President, and significantly and obsequiously intimated to Kansas by the Senate bill, a new constitution will be adopted prior to 1864, in disregard of the Lecompton constitution. It will abolish slavery; the slaveholders in Kansas will assert their rights under the Lecompton constitution, wrongfully overturned, in violation of the provisions for its own amendment; and I do not hesitate to declare my opinion that there is not an enlightened jurist in America but will recognize their claim. That agitation, bitterness, and strife will result, even from this comparatively minor conflict, no one can doubt; and, I ask, is it the part of statesmanship thus to legislate in blind disregard of such inevitable consequences?

Mr. Chairman, the great excellency of American liberty is, that it is the liberty of law. The President, in the principles which I have thus deduced from his Kansas message, proclaims the European idea of liberty, which is the liberty of license. The one is peaceful, the other rebellious. He attempts to fortify his specious conclusions

by a reference to those grand fundamental principles of human liberty which underlie all free governments, and which, in proper cases, are the last resorts of nations. No people so well as ours know the right of revolution, and none, thank God, in a most righteous cause, God being our helper, have asserted it so triumphantly. I trust, however, that no legislative or political necessity will ever compel any portion of our beloved country again to resort to this terrible arbitrament. And if I had no other reason for voting against the admission of Kansas under the Lecompton constitution, I should be justified in doing so in order to avoid the dread expedient approximating revolution, to which the President refers the people of Kansas, whereby to extricate themselves from the difficulty in which his policy has involved them, by a change of their constitution, regardless of the forms and methods prescribed in the constitution itself.

The second of the motives which are urged upon us is, that it is the shortest way to make Kansas a free State. The President, in his Kansas message, after correctly stating that Kansas is now a slave Territory, tells us, in this remarkable language:

“Slavery can, therefore, never be prohibited in Kansas except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if a majority of the people desire it, as by admitting it into the Union under its present constitution.”

Mr. Chairman, when I consider this opinion of the President, in connection with the means he suggests of effecting the object of making Kansas a free State, to wit: by the unauthorized alteration of her constitution in the manner I have stated, I cannot forbear the expression of my surprise at the support which his purpose and his policy receive at the hands of the South. For myself, I am free to declare that I am not anxious to pursue that path which shall most promptly admit Kansas into the Union as a free State; not that I would throw obstacles in the way of the admission of a State, whether slave or free, into the Union, when justly entitled to come in; but when I consider how rapidly the number of free States has increased and is increasing; that the safe equality that so long existed between the free and slave States has passed away, giving place to an existing preponderance in favor of the former, to be augmented by other free States pressing at our doors for admission; more than this, when I consider who are likely to come, as the Senators of Kansas, to take their places here—Lane and Robinson, perhaps reeking with bitterness and wrath against the institutions of the South, from the fierce conflicts and raids in which so long and recently they have been engaged—I confess to no indecent haste for the admission of Kansas; and the last thing, I think, that ever I shall be guilty of doing will be to dissolve the Union of these States because she is not admitted “so promptly to swell the tide of political ascendency that beats already so heavily against the South.”

In this connection, Mr. Chairman, I would invite your attention to a most singular fact—singular, indeed, it would be if it did not recur in every phase of Democratic policy and tactics. It is the rare and singular facility—I should rather call it *craft*—of the Democratic party to give to all their measures a northern and a southern aspect. In no instance have they succeeded so well, I ween, as in this. They did apprentice work in the repeal of the Missouri compromise, when they declared in the North it was a measure of freedom, and in the South that it was the unlocking of the Territories for the expansion of slavery. They did journeymen’s work in their divers interpretations of squatter sovereignty, suited to all latitudes and localities; and they are doing master work now, when this very measure of the admission of Kansas under the Lecompton constitution is advocated by the President and his northern supporters as the “promptest” manner of prohibiting slavery in that State, whilst their southern brethren are advocating it, and are ready to split the Union about it, because it recognizes slavery north of 36° 30’; albeit it shows its head there for a moment, and disappears thenceforth forever.

You are too familiar with the bold and ardent declarations of my southern friends to require me to cite instances to prove the burning zeal with

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Admission of Kansas—Mr. Underwood.

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which they contemplate and advocate admission under the Lecompton constitution. It will be more novel, and not less instructive, that I quote to you what John Van Buren, the most sagacious of the Democratic Abolitionists of the North, declares on the same subject. In his celebrated speech at Tammany Hall, he says:

"By admitting Kansas into the Union, you put her in a condition where she can cure all this evil—stop fraud, and make herself a free State; and those men from the free States who refuse this opportunity to admit Kansas with this population and their disposition to make the State free, and who would keep her out as a slave State, as she now is, until the population is thrown there to make her permanently a slave State, will have to answer to their constituents for the result they have thus produced."

And this sentiment, we are told, was received with "applause" by the vast Democratic audience assembled to hear him. Why, Mr. Chairman, John Van Buren did not announce a new Democratic policy at the North. Let me read to you from a handbill for a Democratic meeting at Mifflinsburg, Pennsylvania, September, 1856:

"Democrats! Whigs! Republicans! turn out and learn the fact that it is the Democratic party that is laboring for freedom for Kansas, the assertion of opposition orators to the contrary notwithstanding."

I could quote from Dix and other orators of this political school, but I forbear. I however affirm that the northern Democratic advocates of the Lecompton constitution all maintain this view, contending that it is another measure for freedom. Should not these bold contrasts, then, teach forbearance to our extreme southern friends? especially when they were told the other day on this floor, by one of their northern allies, that the North got the oyster whilst the South got the shell, in this division of the spoils. Are they not at least sufficient to silence the cry of "Abolitionism," which, I doubt not, is preparing to be raised throughout the South against all those who shall dare to resist this measure, so really destructive of every principle the South should hold sacred and inviolate? But, Mr. Chairman, more than this, is it not time for us to have a straightforward and honest policy? Have we not been paltered with long enough in a double sense? How much longer will the South, or the North either, suffer itself to be deluded thus with fallacious hopes, having the word of promise kept to the ear but broken to the hope? For myself, I am weary of the Janus face and the forked tongue.

I desire now, Mr. Chairman, to invite your attention to the questions: first, is the Lecompton constitution of such legal validity and force as to claim adoption from its inherent legality? and, second, if legal in form, are there not facts connected with it that render it invalid? And, first, as to its legality.

I shall not go back to inquire into the validity of the Territorial Legislatures of Kansas. I shall take them for granted, for all the purposes of my argument, however great and grating may have been the improprieties practiced in the earlier elections under the territorial law. Nevertheless, those Legislatures have been recognized, and must be considered the legislative branch of the *de facto* government of Kansas; and I shall concede to them the right to exercise all powers delegated to them by the authority which created them, to wit: the Kansas-Nebraska act. It will not be contended that the Legislature of a Territory can exercise, like the Legislature of a State, any independent, sovereign powers. The Legislature of a Territory is but the creature of the law establishing the Territory, and has no power to step beyond it. It then becomes material to inquire what powers did Congress confer upon the Kansas Legislature? The language of the act is: "That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and this act." I would venture an original argument upon the nature and extent of this qualified and limited legislative power, if argument upon it had not long ago been merged in authority, and that authority so high with those to whom I would commend it, that nothing is wanting to give it absolute command. Upon the admission of Arkansas, during the administration of President Jackson, the question arose, how far the Territorial Legislature was competent to inaugurate the preliminary measures to cast off its territorial existence, and to prepare to assume the

attitude of a State. This question was submitted to his Attorney General, Mr. Butler, who used the following language:

"To suppose that the legislative powers granted to the General Assembly include the authority to abrogate, alter, or modify the territorial government established by the act of Congress, and of which the Assembly is a constituent part, would be manifestly absurd. The act of Congress, so far as it is consistent with the Constitution of the United States, and with the treaty by which the Territory, as a part of Louisiana, was ceded to the United States, is the supreme law of the Territory; it is paramount to the power of the Territorial Legislature, and can only be revoked or altered by the authority from which it emanated. The General Assembly and the people of the Territory are as much bound by its provisions, and as incapable of abrogating them, as the Legislatures and people of the American States are bound by and incapable of abrogating the Constitution of the United States. It is also a maxim of universal law, that when a particular thing is prohibited by law, all means, attempts, or contrivances to effect such a thing, are also prohibited. Consequently, it is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to form a constitution and State government, nor to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the Governor of the Territory, would be null and void. If passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void."

This was the ground taken by the Administration of General Jackson in regard to Arkansas; and the position is an unanswerable one. Any law passed by the Territorial Legislature of Kansas—which possessed no greater authority than the Territorial Legislature of Arkansas—inaugurating a convention, is utterly null and void.

In addition to this, I present you the authority of Mr. Buchanan, the present distinguished Chief Magistrate of the United States, whose early counsels are so worthy of the consideration of his later years; and who, upon the occasion of the admission of Michigan, expressed himself in the following emphatic language:

"We ought not to apply the rigid rules of abstract political science too rigorously to such cases. It has been our practice heretofore to treat our infant Territories with parental care, and to nurse them with kindness, and when they had attained the age of manhood, to admit them into the family without requiring from them a rigid adherence to forms. The great questions to be decided are: Do they contain a sufficient population? Have they adopted a republican constitution? And are they willing to enter the Union upon the terms which we propose? If so, all the preliminary proceedings have been considered but mere forms, which we have waived in repeated instances. They are but the scaffolding of the building, which is of no further use after the edifice is complete. We have pursued this course in regard to Tennessee, to Arkansas, and even to Michigan. No Senator will pretend that their Territorial Legislatures had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

And on the same subject, Mr. Calhoun, the brightest constitutional luminary of all, used the following brief but emphatic words:

"My opinion is, and ever was, that the proceeding of the people of Michigan, in taking the first steps to form a State constitution without waiting for the assent of Congress, was revolutionary."

If these quotations fail to convince, then, so far as my Democratic auditors extend, they would not be convinced though one rose from the dead. But, to obviate these high authorities and these unanswerable arguments, it is now stated that the Kansas-Nebraska act is itself an enabling act, dispensing with all others. Unfortunately for those who affirm this, it proves too much for them. That act, it is true, "leaves the people perfectly free to form their domestic institutions in their own way, subject only to the Constitution." Prior to it the people had been restrained in this "perfect freedom" by the provisions of the Missouri compromise line, which prohibited slavery north of 36° 30' north latitude; and this provision was intended merely to apply to the condition and privileges of the people when, subsequent to the repeal of this line, they should come legally to form their domestic institutions in their own way, and was not intended to confer upon them any new powers or privileges, contrary to the consent of Congress, whereby they might at pleasure cast off their territorial allegiance. If such be not the true interpretation of this clause; if it conferred upon the people of the Territory the inherent right at any time they pleased to form a constitution and claim admission absolutely under it; how can we resist the application of those who formed the justly and universally repudiated Topeka constitution for admission under it into the Union of

these States? Their constitution is first in point of time; and it will be observed that it is not the Legislature of the Territory, but the "people of the Territory," that are left "perfectly free to form their own domestic institutions in their own way," and hence, upon this hypothesis and language of the law, you need not apply for an enabling act, even from the Territorial Legislature, because that language does not confer the power upon the Legislature, but confers it "on the people," and the high prerogative of making a constitution is not a legislative function. Besides, if the Kansas-Nebraska act enabled the Legislature of Kansas to call a constitutional convention, why did President Pierce recommend, and why did the Democratic Senate under his administration, with a singular unanimity, pass an act authorizing Kansas to call a convention?

Without pursuing this argument further, I conclude, from the high authorities cited, and from the reasons already adduced, first, that the Legislature of Kansas was not competent to commit an act of political suicide, and to subvert and overturn the very power of which they were but constituted the keepers, guardians, and preservers, by the Congress of the United States; and second, that the Kansas territorial law was in no sense an act which enabled its Legislature thus to subvert the territorial existence at its pleasure.

It follows, then, that the Lecompton constitution is not an imperative legality; that it cannot challenge and demand our implicit and unquestioning submission, because it comes accredited to us by all the regularities and forms of law. But losing these high pretensions, which are all the title that it brings, it loses all. For, unless it can be sustained upon the ground of legitimacy, it has no other foundation to sustain it.

Mr. Chairman, let it not be inferred from anything I have said that I hold it illegal or rebellious for a Territorial Legislature to institute preliminary proceedings in order to bring about the transition from a territorial to a State condition. All I wish to establish is that their proceedings bind not the Government of the United States, or render it in any sense imperative upon such Government to admit such Territory into the Union as a State, merely because the Territorial Legislature have gone regularly through the formalities it may have instituted. The power of the United States, and the duty of the United States, stand untouched and unaffected by these subordinate territorial formalities, except so far as they may address themselves to the Congress of the United States as matter of petition, deserving its favorable consideration from their inherent merit, and not from their inherent legality.

2. If the Lecompton constitution be legal in form, are there not facts connected with it that render it invalid in fact? Mr. Chairman, this field of argument has been perfectly exhausted. Let me add but a few words to what has been so much better said by so many others. And let me premise that the Congress of the United States is under no stress, or legal or political necessity, to admit new States into this Confederacy. Neither Kansas, nor any other Territory, can demand as a right, admission into this Union; although she may have formed a republican constitution, and although every man, woman, and child within her borders desired it, yet the right and the power to admit or not to admit, according to its own will or pleasure, rests alone in the Congress of the United States.

This high power and unlimited discretion is expressed in the Constitution of the United States in the simple words, "New States may be admitted by the Congress into this Union." In the exercise of this high prerogative, perhaps the most morally grand of any which our current history exhibits, the Congress has the right, and it is its duty, to look with the utmost scrutiny and caution upon every fact, circumstance, and condition which bears upon the prudence, fitness, and propriety of the permanent relations it is about to establish between the new comer into the Confederacy and the old; and if there be any time and any act which, above all others, should demand the exercise of the utmost good faith, forbearance, and honesty, it is this. I do not hesitate to declare that, if new States are to be precipitated into this Confederacy contrary to the consent of a ma-

terial portion of the old ones, and above all, with constitutions contrary to the ascertained will of a material portion of the citizens of such new State, then are the sappers and miners at work beneath the foundations of the Republic, and the enemy to its perpetuation has entered within its walls.

Mr. Chairman, if we could for a moment relieve ourselves of all party bias and excitements, we should find the facts pertaining to the Kansas question to be few and simple. A portion of its people are in favor of a constitution with slavery, another portion are in favor of a constitution without it. For years they have been waging a disreputable contest, disturbing the quiet and repose of the Union, and seeking political advantages of each other. Both of these parties have made themselves a constitution—one at Topeka, relying for its support upon your naked doctrine of popular sovereignty; the other at Lecompton, relying upon popular sovereignty indorsed by legislative intervention, without congressional sanction. The latter is much the better, I think, of the two, but both bad. Each party has endeavored, as far as possible, to ignore the other, and to refrain from a recognition of the legal validity of its acts. The free-State party believed it was outraged and trodden down by an invasion from Missouri, which gave despotic character to the Legislature, inasmuch as it was elected, not by the people of the Territory, but by alleged invaders, and hence, thereafter, it abstained from participating in elections authorized by this Legislature. Whilst the slave-State party denied the extent of the force and violence charged by their opponents, and justified themselves by the charge that emigrant aid societies had thrown upon Kansas, for the purpose of controlling its domestic institutions, a population as spurious as any introduced from adjacent States.

Thus waged the war until delegates were authorized to be chosen by the Territorial Legislature to form a constitution preparatory to the admission of Kansas into the Union. From this point onward we have a right, and it is our duty, to look, in order to ascertain what it is proper for us to do. Delegates, under the law, were to be apportioned among the thirty-four counties of the Territory according to their population, to be ascertained by a census directed to be taken. This was fair and right, and ought to have been done; but, if we may believe the very highest authorities on this subject, it was not done, and by reason of the failure, nearly one half of the counties of the Territory were denied any representation in the convention that formed the constitution under which they were to live. Hear what Governor Walker and Secretary Stanton say on this subject. Governor Walker, in his letter to General Cass, of the 15th December, 1857, says:

"In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates, based upon such census; and in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give, a solitary vote for delegates to the convention."

"In fifteen counties out of the thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention in any of these counties."

Governor Stanton, in corroboration of this statement, in his address to the people of the United States, says:

"The registration required by law had been imperfect in all the counties, and had been wholly omitted in one half of them; nor could the people of the disfranchised counties vote in any adjacent county, as has been falsely suggested."

I could multiply proofs on this subject, but it is unnecessary. These are sufficient, except to those determined not to believe. It is true that many of the free-State party refused to vote for delegates to form the constitution. They professed to believe, and perhaps did believe, they would be defrauded out of their votes by their opponents, who had complete control of all the machinery by which the elections were to be conducted; and they were unwilling, as before stated, by voting at an election authorized by what they denominated the bogus Legislature, to recognize the validity of its acts. I am not their advocate or defender. I think in all this they did wrong; and the other side were wrong in not taking the census and registration as far as practicable, to

give to all the right and unquestionable American privilege of being represented in the body which was to ordain their highest law. The free-State party in some of the counties made an attempt to elect delegates to the convention, notwithstanding the failure to take the census and registration. Their delegates were rejected. I will not dwell on these things. One fact of importance, during the progress of this election, occurred. It was the unequivocal, clear, distinct, and absolute promise of the Governor, in his own name, and in the name of the President of the United States; it was the promise of his Secretary, Mr. Stanton; it was the promise of Mr. Calhoun and many of his associates, that the constitution, when formed by the convention, should be submitted to the people for their ratification or rejection.

Governor Walker, everywhere in Kansas, pledged his honor, by the approval, as he told the people, of the President and his Cabinet, that the constitution should be submitted. Without stopping to refer to his inaugural, in which he is most emphatic on this point, I read from a speech of his, delivered at Topeka, on the 8th of June, 1857, and published in the Topeka Statesman of the 9th:

"At the next election, in October, when you elect the Territorial Legislature, you can repeal these laws; and you can also, by a majority of your own votes, adopt or reject the constitution, presented for your consideration, next fall. Can you not peaceably decide this question in the mode pointed out by act of Congress, if you, as you can and will, have a full opportunity of recording your vote? [A voice. 'How are we to get it?'] You will get it by the convention submitting the constitution to the vote of the whole people. [A voice. 'Who is to elect the convention? That is the grand question?'] Gentlemen, it is a comparatively small point by whom the constitution is submitted. Do not let us run away after shadows. The great substantial point is this: Will the whole people of Kansas next fall, by a fair election, impartially and fairly conducted by impartial judges, have an opportunity to decide for themselves what shall be their form of government, and what shall be their social institutions? I say they will; but I go a step further. [A voice. 'Have you the power?'] If I have not the power to bring it about, if the convention will not do it, I will join you in lawful opposition to their proceedings. [Cries of 'Good!'] 'Good! 'We hold you to your promise. Nothing can be asked fairer than that?'"

This, with me, is high matter of substance. Here you see a people, jealous of their rights, holding earnest question with their Governor, and receiving from him solemn answer, touching those important rights upon which we are acting now; and in consideration of his solemn pledge that the constitution should be fairly submitted to them, yielding it up indifferently to be formed by these who might be selected to do it, yet relying upon their own ultimate right to pass judgment upon it in the last resort. Shall we obtain the benefits of their non-action, without complying with the conditions upon which it was procured? Shall we, in any sense, fail to comply with the solemn assurances thus given? It will not do to say that Governor Walker had no authority to make these assurances. That he had the authority of the President there is no doubt. He states it, and it is not denied. Whether he had authority or not, the confiding people believed he had; and it would be inconsistent with all my notions of propriety and honor to take advantage of their ignorance or credulity to wring from them advantages which they at least held sacred. I cannot—I will not do it.

How the constitution was submitted, Mr. Chairman, we all know. The slavery clause was only submitted; and, strange to tell, you could not vote against the slavery clause without swearing to support the constitution with slavery. An act like that needs no comment. I am a slaveholder and a friend of slavery; but, thank God, slavery needs no instrumentality like that for its extension; and its most dangerous adversaries are those who would identify it with violations of personal propriety and honor, and especially with an outrage upon the unquestioned American right of the people, when forming a constitution, to say whether it shall exist with them or not. When the slavery clause of the constitution was submitted, some six thousand two hundred and twenty-six are reported to have voted for it, of which subsequent investigations have shown two thousand seven hundred and twenty were fraudulent; five hundred and sixty-nine votes were cast in favor of the constitution without slavery; thus leaving only two thousand nine hundred and thirty-seven votes in favor of the constitution

with slavery. So great was the excitement of the people of Kansas at the events I have thus detailed, that we are informed by Governor Stanton that they were almost on the point of civil war, which was only prevented by his convening the Legislature.

In the hope (which proved successful) of restoring peace, a law was passed taking the sense of the entire people for and against the constitution, abolishing all test oaths, and leaving all free to vote just as they pleased. The result of that election was that ten thousand two hundred and twenty-six persons voted against the constitution. The friends of the Lecompton constitution did not vote. This election was held on the 4th of January, 1858.

Mr. PEYTON. I ask my colleague whether he believes that the ten thousand two hundred and twenty-six votes cast on the 4th of January were all *bona fide* legal voters?

Mr. UNDERWOOD. I will state, in all frankness, that it is my opinion—mere guesswork, of course—that it is highly probable they were not. I will say, however, in all candor to my colleague, whose interruption is agreeable, or certainly not embarrassing to me, that there is no proof that any of that vote was fraudulent or illegal, and that all concurrent testimony agrees in proving that three-fourths, or more, of the inhabitants of Kansas are inimical to the constitution.

Mr. PEYTON. I would like to know from my colleague how he arrives at that conclusion?

Mr. UNDERWOOD. I am gratified at the opportunity of saying to my friend that I arrive at it from various sources of information—authentic sources which are open both to him and myself—and from private statements from gentlemen of the highest respectability cognizant of the facts. It is the uniform report coming to us from Kansas, that there is a decided, an unqualified, and almost unmitigated disinclination on the part of the people to accept the Lecompton constitution. I trust my friend is answered. And now I ask him whether he would force any constitution or form of government upon any people against their will?

Mr. PEYTON. I will reply to my colleague very frankly and very candidly, that I would not.

Mr. UNDERWOOD. I knew, sir, that there was a Kentucky spirit beating in my friend's bosom which would keep him from such a course.

Mr. PEYTON. Will my friend permit me to state my own position in regard to this matter?

Mr. UNDERWOOD. I hope my colleague will not exhaust too much of my time.

Mr. PEYTON. I ask him whether, in all State, county, and presidential elections, it is not well known that there are more or less improper fraudulent votes polled? That there have been fraudulent votes polled in Kansas I have but little doubt; and I have as little doubt that in any election, from the first authorizing of the convention down to the final ratification, there have been votes enough withheld to have changed the result. My colleague says that if the fraudulent votes on the ratification of the constitution were thrown out, there would be only twenty-seven hundred votes left. Well, that may be so; but then those who did not go to the polls authorized those who did to vote for them, and this left a clear majority of twenty-seven hundred votes in favor of the constitution. Now, I ask my friend if he thinks that the votes cast on the 4th of January were all legal? I say, that out of the ten thousand two hundred votes cast on that day against the Lecompton constitution, nine thousand six hundred were polled in those registered counties where the pro-slavery party had cast six thousand votes in favor of the constitution?

Mr. UNDERWOOD. In regard to the legality of that election, my friend will bear me witness that I have, at least, endeavored to establish the proposition that these elections were not of such a character as to demand of the people to come to the polls, and hence, that his position does not apply, that those who stay away from the election authorize those who go to vote for them. My friend asks me in regard to the nine thousand six hundred votes cast in the counties which had already given six thousand majority in favor of the constitution; and I ask him if he will venture to say, on his integrity as a gentleman, and a

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statesman well informed on this subject, that he believes that the Lecompton constitution is the will and voice of the majority of the people of Kansas? I speak merely of the question of numbers, not of the question of legality, because I have disposed of that.

Mr. PEYTON. I shall answer your question fairly and properly.

Mr. UNDERWOOD. I know you will.

Mr. PEYTON. The remark which I made in regard to the nine thousand six hundred votes was for the purpose of calling my colleague's attention to this fact, that out of the ten thousand two hundred and fifty votes polled on the 4th of January, nine thousand six hundred votes were polled in registered counties where six thousand votes had been polled in favor of the Lecompton constitution.

Mr. UNDERWOOD. I only asked you your opinion, whether you believe the Lecompton constitution was the will and voice of the majority of the people of Kansas, and whether the votes in its favor were fraudulent or not?

Mr. PEYTON. That is my opinion. I frankly tell you now that I do not know who has the majority. The list received is sufficient to satisfy me that the contest is a close one, and I have no idea that the anti-Lecomptonites have such an overwhelming majority as they claim.

Mr. UNDERWOOD. While my friend may thus remain in doubt, the authentic documents produced before the Congress of the United States, and which have been heretofore adverted to by many a speaker, satisfy my mind, and remove all doubt as to what the will of the people of Kansas is in respect to that constitution; and that is, that they are preëminently against the Lecompton constitution.

Thus stand the facts; and the naked question is, shall we admit Kansas into the Union at the instance and request of two thousand nine hundred and thirty-seven of her people, or shall we not admit her at the like instance and request of ten thousand two hundred and twenty-six? If figures could decide it, it seems to me easy of solution. If the sublime truths which underlie the American Republics, whereby majorities govern in their organic laws, it seems to me the question is easy of solution. But we are told that the vote on the 4th of January came too late. Too late for what? Too late to tell us what the people of Kansas willed? Certainly not.

But we are told that it was irregular and revolutionary for them to have expressed their will in any other form, or at any other time, than in the form and manner directed in the Lecompton constitution itself. That is remarkable; for it gives to the Lecompton constitution validity before it assumes to possess it—makes it the law before it is accepted by Congress; and assumes for the people of a Territory, in their colonial or dependent condition, the power, whenever they see proper, to call a convention, to make absolute laws, supplanting, by their own mere force, the preëxisting authority exercised by the Territorial Legislature established by Congress, and without the consent of Congress. But, again, is not this still more remarkable, as coming from those same Lecomptonites who contend, even after their constitution has successfully passed through all the forms of law, been ratified by the people, and approved by Congress, that immediately thereafter the people may disregard all its provisions in regard to its alteration or amendment, and change, alter, or abolish it at pleasure; and yet, before the constitution is established, while it is yet *in fieri* or the progress of establishment, that same people can do no act to arrest it.

Mr. Chairman, both these propositions cannot be true, and common sense has but little difficulty in determining which is true. I have already shown that there is no such legality in the proceedings which led to the formation of the Lecompton constitution as estops the Congress. Indeed, sir, Congress, in the admission of new States, has thus far been limited by few rules of legality, technicality, or form. It has acted upon the various cases according to the facts which attended them, ever carrying out the will of the people of the new State, however expressed or however ascertained. One thing the Congress has never done, and that is to admit a State into the Union under a consti-

tution contrary to the well-known wishes of her people. This, if ever done, will first be done in Kansas. Her people have expressed, in every form they can command, their determined opposition to the Lecompton constitution. A majority of nearly ten thousand of her people tell you not to accept it as the fundamental organic law of the State; her Legislature, by a unanimous vote, beseeches you not to do so; and even the officers elected under the Lecompton constitution itself protest against your so doing:

"We, the officers elected under said constitution, do most respectfully and earnestly pray your honorable bodies not to admit Kansas into the Union under said constitution, and thus force upon an unwilling people an organic law against their *express will*, and in violation of every principle of popular government."

Signed by the Governor, Lieutenant Governor, Secretary of State, State Treasurer, and Auditor.

Against these solemn and earnest appeals why should we seek to admit her under the Lecompton constitution? Above all, why should the South seek to admit her? What will we gain by it? Mr. Chairman, we shall gain a loss. We shall set instructions, which, being taught, may return to plague the inventors. This will inevitably be the case in regard to the new theories now inculcated for the ready overthrow of constitutions, by the unrestrained fiat of majorities. We show ourselves, perhaps, willing to extend our peculiar institution against the will of the majority of those amongst whom we would carry it, giving the majority opposed to us, should they have power, pretexts for disregarding our right and our property. But if these consequences did not follow, we gain no foothold for our slaves in Kansas, since the advocates of admission under the Lecompton constitution themselves tell the people there that they may turn slavery out as soon as you get the constitution in. I would have the South play no such paltry game. I would rejoice to have Kansas a slave State, if she could be permanently so with the consent of her people. I will not violate the general principles of free government, whereby the American people are authorized to establish their own institutions in their own way, for the paltry advantage of having Kansas forced into the Union under the Lecompton constitution as a slave State for a moment, to be scorned and kicked out instantly thereafter, and forever.

But we are told that the admission of Kansas under the Lecompton constitution will localize the slavery excitement and give peace to the country.

I believe this to be one of the profoundest delusions that ever presented itself to an intelligent mind. Leave a people free to settle their own institutions, and they cannot long remain excited. Restrain them, and it is the inevitable outbreak of the American heart, North and South and everywhere, to resist you. I believe in my conscience that to force the Lecompton constitution upon the people of Kansas against their consent, expressed in so many forms as I have shown you, will be to sound the tocsin for a wilder and deeper and far more pervading popular commotion than any you have ever known. It will not be confined to Kansas; but, rolling from its level plains, it will sweep through the northwestern prairies and the mountains of New England, until every hamlet and village and town and county will be instinct with excitement.

On the contrary, do justice to Kansas; do not to her what you would not have done to yourselves; encompass her not with nice technicalities of law; but suffer her people to speak and act their will; extend to them, in fact, what you profess to extend to all in theory—the right to regulate their domestic institutions in their own way—and, my life for it, peace will prevail from one end of our beloved country to the other.

ADMISSION OF KANSAS.

SPEECH OF HON. CHAS. B. HOARD,
OF NEW YORK,IN THE HOUSE OF REPRESENTATIVES,
March 30, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. HOARD said:

Mr. CHAIRMAN: I have sought the floor for the

purpose of presenting the free-State view of the questions now agitating the country, as I understand it, truthfully and frankly. With little preparation and less experience, I can only hope, in a desultory manner, to perform a task which I regret has not been undertaken by the ablest and most experienced member from the free States.

There is a misapprehension, or else a studied misrepresentation, of the sentiments and intentions of the free States, by those who have spoken from the slave States during this discussion; and, as I hope that no one desires to add to the present excitement by misrepresentations, I am persuaded that they do misapprehend the facts. It is our first duty to endeavor, by frank and full interchange of opinions, to ascertain wherein the real difference between us exists; and then we can agree, or differ, as men. To accomplish this, we must lay aside the tricks of politicians, the technicalities of law, and the arts of diplomacy, which appear to be out of place in adjusting difficulties between members of the same family—proprietors having a common interest in the welfare and destiny of the Government and the country. Certainly, if we could forget our party prejudices for a few days, and enter upon the discussion of the questions before us with a desire to come to some just conclusions, we could either agree upon some mode of settling present difficulties, and avoiding, in the future, such controversies, or, failing to do that, we could determine not to agree, and come to the responsibility before us deliberately and calmly. These angry debates, these imputations, threats, and recriminations, are neither pleasant nor profitable; and they do not add luster to our reputation as national legislators, or dignity to the American Congress.

It cannot be the desire of any friend of the Union that the action of Congress, on the question before the country, shall tend to aggravate present difficulties; and, therefore, a question of this character should not be made a party test, or settled by a party vote. Can the President imagine that any party has a higher interest in the welfare of the country than the people have? Why, then, not leave the Representatives free to act and vote as they please, responsible only to their constituents for the manner in which they shall discharge this high trust?

The people of the free States are opposed to slavery. There may be a few individuals in the free States that do not concur in the general sentiment; but it is nevertheless proper to say, that the people there are opposed to the institution. This opposition is not confined to any political party, to any class in society, to any sect or denomination. It pervades the whole people, and is as universal there as Christianity. The institution of slavery is looked upon as a moral, social, and political evil of great magnitude. It is discussed in its various aspects at the altar, at the fireside, at the hustings, and on the stump. We have abolished it by law; and we look upon that action as furnishing one of the strongest elements of our prosperity, and as the cause of our more rapid advancement in wealth and general improvement. We have noticed the advancement of neighboring States, apparently equal in natural advantages; and in no single instance has the State in which slavery exists kept pace with the States which are free. In schools, in churches, in libraries, in manufactures, in roads, in canals, in commerce, in domestic peace and security, in agriculture and in wealth, (upon soil where the natural advantages are equal,) the free States uniformly excel. We believe that slavery degrades labor wherever it exists; and therefore free laborers will not live in a slave State, or emigrate to a slave Territory.

The free States have already twice as much population as the slave States, and therefore require, upon every rule of equity, twice as much territory for surplus population as the slave States; and in the ordinary course of things must create free States twice as rapidly as you can under the same rules create slave States. In addition to this, the interests of all foreign emigration go with the free States, which, added to the migration of free-State men from the slave States, would probably require, on terms of perfect equity, three fourths of the territory, or three free States, to one slave State. With what propriety, then, or

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with what show of fair intention to adhere to the principle of equality of rights, can you ask to keep pace with the free States in political power, or in representation in any department of the Government? If you desire to keep a perpetual balance of power between liberty and slavery, that would be a denial of equality of popular rights, and would place northern freemen in an inferior position to southern freemen. If you expect the free States to consent to such a proposition, you will certainly be disappointed. The demand would be *offensive*, and compliance with it would be *humiliating*. The idea of a balance of power between opposite interests like liberty and slavery, to promote peace and quiet, is clearly delusive. It would perpetuate the discord which has existed ever since the slave States entered upon that policy, and it would terminate in open hostility. Formerly, you only asked to be let alone in the States—you demanded "State rights." More than this you cannot justly expect; less than this, you could not with honor submit to. Upon that ground you are impregnable; on any other, you will be overthrown.

If our opinions on the subject of slavery are wrong, we answer that your best men have been our teachers; and I beg leave here to call your attention to some of their opinions, in connection with other authorities, that you may the better understand how inbred the sentiment is, and how hopeless the effort must be to remove or change it, by any of the means thus far resorted to. It is, I know, deeply regretted by all in the free States, that this cause of difference and difficulty exists to disturb the harmony and happiness of the country; and if any of you really believe that this excitement and ill feeling is congenial to us—that we cherish, and desire to continue it—you do us great injustice. But to the testimony:

Opinions of Washington.

"I hope it will not be conceived from these observations that it is my wish to hold the unhappy people who are the subject of this letter, in slavery. I can only say, that there is not a man living who wishes more sincerely than I do, to see some plan adopted for the *abolition* of it; but there is only one proper and official method by which it can be accomplished, and that is, by the legislative authority; and this, as far as my *survivor* will go, shall not be wanting."—*Letter to Robert Norris.*

"The benevolence of your heart, my dear Marquis, is so conspicuous on all occasions, that I never wonder at fresh proofs of it; but your late purchase of an estate in the colony of Cayenne, with a view of *emancipating the slaves*, is a generous and noble proof of your humanity. Would to God a like spirit might diffuse itself generally into the mind of the people of this country! But I despair of seeing it. Some petitions were presented to the Assembly at its last session for the abolition of slavery; but they could scarcely obtain a hearing."—*Letter to La Fayette.*

"I never mean, unless some particular circumstance should compel me to it, to possess another slave by purchase, it being among my first wishes to see some plan adopted by which slavery in this country may be abolished by law."—*Letter to J. F. Mercer.*

Opinions of Jefferson.

"And with what execration should the statesman be loaded who, permitting one half of the citizens thus to trample on the rights of the other, transforms these into despotisms, and those into enemies, destroys the morals of the one part, and the love of country of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labor for another; in which he must look up the faculties of his nature, contribute, as far as depends on his individual endeavors, to the enrichment of the human race, or entail his own miserable condition on the endless generations proceeding from him." * * *

"What an incomprehensible machine is man? Who can endure toil, famine, stripes, imprisonment, and even death itself, in vindication of his own liberty, and the next moment be deaf to all those motives whose power supported him through his trial, and inflict on his fellow man a bondage, one hour of which is fraught with more misery than ages of that which he rose in rebellion to oppose? But we must wait with patience the workings of an overruling Providence, and hope that that is preparing the deliverance of these, our suffering brethren. When the measure of their tears shall be full—[Has not the Supreme Court, in declaring that these persons have no rights, filled that measure to overflowing?] when their tears shall have involved heaven itself in darkness, [what ray of hope remains to those people, since the ministers of justice have solemnly declared that they have no rights?] doubtless a God of justice will awaken to their distress, and by diffusing light and liberality among their oppressors, or, at length, by his EXTERMINATING

THUNDER, manifest his attention to things of this world."—*Notes on Virginia.*

"The sentiments breathed through the whole do honor both to the head and the heart of the writer. Mine, on the subject of the slavery of negroes, have long since been in possession of the public, and time has only served to give them stronger root. The love of justice and the love of country plead equally the cause of these people, and it is a moral reproach to us that they should have pleaded so long in vain. Nursed and educated in the daily habit of seeing the degraded condition of those unfortunate beings, but not reflecting that that degradation was very much the work of themselves and their fathers, few minds have yet doubted but that they were as legitimate subjects of property as their horses or cattle!" * * *

"I had always hoped that the younger generation, receiving their early impressions after the flame of liberty had been kindled in every breast, and had become, as it were, the vital spirit of every American, would have sympathized with oppression wherever found, and proved their love of liberty beyond their own share of it. Your solitary but welcome voice is the first which has brought this sound to my ear; yet the hour of emancipation is advancing in the march of time. The enterprise is for the young—for those who can follow it up and hear it through to its consummation. It shall have my prayers; and these are the only weapons of an old man."—*Letter to Edward Cole, Esq.*

No one can doubt that Jefferson, in the preceding opinions, referred to African slavery, however anxious men of this day are to controvert that opinion.

Opinion of Patrick Henry.

"Would any one believe that I am master of slaves, of my own purchase! I am drawn along by the general inconvenience of living here without them. I will not, I cannot justify it. However culpable my conduct, I will so far pay my debt to virtue as to own the excellence and rectitude of her precepts, and lament my want of conformity to them. I believe a time will come when an opportunity will be offered to abolish this lamentable evil. Let us transmit to our descendants, together with our slaves, a pity for their unhappy lot, and OUR ABHORRENCE FOR SLAVERY!"—*Letter to Robert Pleasants.*

Who, of Patrick Henry's descendants, have this inheritance?

Opinion of James Monroe.

"We have found that this evil [slavery] has preyed upon the very vitals of the Union; and has been prejudicial to all the States in which it has existed."—*Speech in Virginia Convention.*

Opinion of William Pinkney.

"Sir, iniquitous, and most dishonorable to Maryland, is that decay system of partial bondage which her laws have hitherto supported with a solicitude worthy of a better object, and her citizens by their practice continued.

"Founded in a disgraceful traffic, its continuance is as SHAMELESS as its origin.

"ETERNAL INFAMY awaits the abandoned miscreants whose selfish souls could ever prompt them to rob unhappy Africa of her sons, and freight them hither by thousands, to poison the fair Eden of LIBERTY with the rank weed of BONDAGE!"

"But wherefore should we confine the edge of censure to our ancestors, or those from whom they purchased? Are not we EQUALLY GUILTY? They sowed around the seeds of slavery; we cherish and sustain the growth. Yes, let it be handed down to posterity that the people of Maryland, who could fly to arms with the promptitude of Roman citizens, when the hand of oppression was lifted against themselves; who could behold their country desolated, and the citizens slaughtered; who could brave, with unshaken firmness, every calamity of war before they would submit to the smallest infringement of their rights—that this very people could yet see thousands of their fellow-creatures, within the limits of their own territory, bending beneath an unnatural yoke.

"For shame, sir: let us throw off the mask; it is a cobweb one at best, and the world will see through it. It will not do thus to talk like philosophers, and act like UNRESENTING TYRANTS; to be perpetually sermonizing, with liberty for our text, and actual oppression for our commentary! Here have emigrants from a land of tyranny found an asylum from persecution; and here, also, have those who come as rightfully free as the winds of heaven, found an eternal grace for the liberties of themselves and their posterity!"

"In the name of God, should we not attempt to wipe away this stigma! Survey the countries, sir, where the hand of freedom conducts the plowshare, and compare their produce with yours; your granaries, in this view, appear like the storehouse of emmets, though not supplied with equal industry. The cause and the effect are too obvious to escape observation."—*Speech in Maryland House of Delegates.*

Opinion of John Randolph.

"Dissipation, as well as power or prosperity, hardens the heart; but avarice deadens it to every feeling but the thirst for riches. Avarice alone could have produced the slave trade. Avarice alone can drive, and does drive, this infernal traffic, and the wretched victims of it, like so many post-horses, whipped to death in a mail coach. Ambition has its cover-sluts in the pride, pomp, and circumstance of glorious war; but where are the trophies of avarice? The handcuff, the manacle, and blood-stained cowhide!"—*Southern Literary Messenger.*

"Virginia is so impoverished by the system of slavery, that the tables will sooner or later be turned, and the slaves will advertise for runaway masters."

"Sir, I neither envy the head nor the heart of that man from the North who rises here to defend slavery upon principle."—*Rebuke of Edward Everett in Congress.*

"I give to my slaves their freedom, to which my conscience tells me they are justly entitled. It has a long time been a matter of the deepest regret to me that the circum-

stances under which I inherited them, and the obstacles thrown in the way by the laws of the land, have prevented my emancipating them in my lifetime, which it is my full intention to do, in case I can accomplish it."—*Randolph's Will.*

Opinion of Thomas J. Randolph.

"The gentleman has appealed to the Christian religion in justification of slavery. I would ask him upon what part of those pure doctrines does he rely; to which of those sublime precepts does he advert to sustain his position? Is it that which teaches justice, charity, and good-will to all, or is it that which teaches 'that you do unto others as you would they should do unto you?'"—*Speech in the Virginia Legislature.*

Opinion of Governor Randolph, of Virginia.

"We have been far outstripped by States to whom nature has been far less bountiful. It is painful to consider what might have been, under other circumstances, the amount of general wealth in Virginia."—*Address to the Legislature of Virginia, 1820.*

Opinion of Mr. Brodnax.

"That slavery in Virginia is an evil, it would be more than idle for any human being to doubt or deny. It is a mildew which has blighted every region it has touched from the creation of the world. Illustrations from the history of other countries, and other times, might be instructive; but we have evidence nearer at home, in the short histories of the different States of this great Confederacy, which are impressive in their admonitions and conclusive in their character."—*Speech in the Virginia Legislature, 1832.*

Opinion of Mr. Custis.

"The prosperity and aggrandizement of a State is to be seen in its increase of inhabitants, and consequent progress in industry and wealth. Of the vast tide of emigration which now rushes like a cataract to the West, not even a trickling rivulet winds its way to the ancient dominion. Of the multitude of foreigners who daily seek an asylum and home in the empire of liberty, how many turn their steps to the region of the slave? None. No, not one. There is a malaria in the atmosphere of these regions which the new comer shuns, as poisonous to his views and habits. See the wide ruin which the avarice of our ancestral Government has produced in the South, as witnessed in a sparse population of freemen, deserted habitations, and fields without culture. Strange to tell, even the wolf, driven back long since by the approach of man, now returns, after a lapse of a hundred years, to howl over the desolations of slavery."

Opinion of Mr. Faulkner.

"I am gratified to perceive that no gentleman has yet risen in this Hall the avowed advocate of slavery. If there be one who concurs with the gentleman from Brunswick [Mr. Gholson] in the harmless character of this institution, let me request him to compare the condition of the slaveholding portion of this Commonwealth—barren, desolate, and seared as it were by the avenging hand of Heaven, with the descriptions which we have of this same country from those who first broke its virgin soil. To what is this change ascribable? Alone to the withering and blasting effects of slavery. If this does not satisfy him, let me request him to extend his travels to the northern States of this Union, and beg him to contrast the happiness and contentment which prevail throughout the country; the busy and cheerful sound of industry; the rapid and swelling growth of their population; the means and institutions of education; their skill and proficiency in the useful arts; their enterprise and public spirit; the monuments of their manufacturing and commercial industry; and above all, their devoted attachment to the Government from which they derive their protection; with the division, discontent, indolence, and poverty of the southern country."

Such were the opinions of some of the wisest, purest, and most experienced southern statesmen and patriots, whose disciples we profess to be, on the subject of slavery. I had collected, for insertion here, numerous other extracts, of similar tenor, from other southern gentlemen, which time and space both seem to forbid. I had also collected numerous texts from the Bible in support of the free-State sentiment, in reply to quotations that have been made here to support slavery; but I will content myself with simple reference to them. Leviticus, xxiv., 22. Deuteronomy, xxiii., 15, 16. Psalms, ix., 18; x., 2; xii., 5, 6; lxxii., 4. Isaiah, iii., 15; v., 20; lviii., 6. Proverbs, iii., 3; xiv., 31; xxii., 22, 23. Jeremiah, xxxiv., 16, 17. Matthew, vii., 12. Luke, x., 36, 37. Acts, xvii., 26. Hebrews, xiii., 3. Galatians, v., 14, 15. Ephesians, vi., 9. 1 Timothy, vi., 10. Revelations, xiii., 10.

The foregoing statements, opinions, and authorities, have fully convinced us of the correctness of our ideas as to the character and influences of slavery, and of our course in abolishing it. If you have turned a deaf ear to these teachings and warnings of our Washingtons, our Jeffersons, our Henrys, our Franklins, our Monroes, our Pinkneys, our Randolphs, our Clays, our Faulkners, and many others who spoke in like manner, and still prefer to remain in your bonds, whilst we have profited by their teachings, and present to you continually the living evidence of the wisdom of those patriots, we can only regret your determination, and hope that time will work out a change of opinion. Virginia had a posi-

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tion in advance of any of the States that are free, with a better soil and climate, and yet she has lagged behind in the march of prosperity. To what influence can you attribute your relative decadence, but to slavery? To our action upon that subject we attribute our greater prosperity. It was consistent with the doctrines of our Declaration of Independence. Heaven smiled upon us, and we have pursued our prosperous way rejoicing.

Now, with these opinions of the blighting effects of slavery upon the material prosperity of any State or Territory which maintains it, and especially in a climate where free white labor seeks employment, and our conviction of its moral and social wrong, can you expect us to approve of its extension—nay, to aid such extension, by our votes and action? Can an evil be extended into our Territories, and the majority not be morally responsible for action or inaction? If you believe us sincere in our opposition to slavery, then can you respect us if we do not on all proper occasions, maintain that opposition? Change places with us, and would you be more tolerant than we have been? If you believed of slavery, as we do, that it blights the land that is touched by it; that it retards development and civilization; that it is an evil and a wrong; then would you consent to its extension where you had the constitutional power to prevent it?

With regard to slavery in the States, we have no difficulty; and the slave-States need entertain no fears of any free-State interference. There never was any danger of any such intervention. The citizens of the free-States, with few and unimportant exceptions, can find in the Constitution sufficient authority to relieve them from any responsibility for slavery in the States. We regret the infatuation with which you cling to the incubus that prevents your advancement, because we desire your highest prosperity; but we have no desire to intermeddle with your prerogatives.

But, in the Territories, the case is, in our opinion, entirely different. The Territories being the common property of the States, must necessarily be under the rightful control of Congress, unless the power is delegated by it to some other authority. It is known of all men that such was the common opinion of all sections and parties until very recently, and that the Government long practiced upon it with the concurrence of all the departments, and without any protest from any State in the Union. We are loyal to the Constitution as we understand it; and we certainly do understand it as it was understood and practiced upon by all the early Presidents and statesmen, including many who participated in making the Constitution. The contradictory opinions of statesmen, and of the Supreme Court, are all of late date, and have an unquestionable partisan (if not sectional) origin and character. That they may be considered just and correct by the South, which desired them beforehand, I can well imagine; but at the same time they carry no conviction to the free States.

If the opinion of the court had preceded the political necessity which seemed to demand it, and had been given upon a case requiring that point to be decided, instead of being volunteered, (just at a time when party necessity required it,) then the free States, if they could not have concurred in the opinion, might have respected the court. This is one of the very worst features of the whole question, because, when the court ceases to be respected by the people, it is thenceforth powerless for good as well as for evil. To aid a political party, they have thrown their official reputation into the party scales, where it has not the weight of a feather, and thereby lost the confidence and respect of a large proportion of the people.

Plausible and satisfactory as that opinion of the court is to you, can you reasonably expect us, under the circumstances, to regard it with favor, or treat it with respect? It is opposed to long-established ideas, which the same court, with all other departments of the Government, have practiced upon ever since our national existence. The opinion was not concurred in by the whole court; and, as it was not called for by the case presented, it is certainly obnoxious to the suspicion that the judges forgot their judicial dignity and duty in a desire to contribute the weight of

their opinion to the settlement of a troublesome question.

Your speakers here always characterize slavery as an institution of negro labor and servitude only. Can you defend its other features, or explain why the slave States do not endeavor to correct the evils that are connected with it, that wound so deeply our sympathies? As "negroes of pure African blood, whose ancestors were brought here and sold as slaves," are the only persons whom the Supreme Court, in their opinion, have decided to have no rights that white men are bound to respect, pray tell us where you find authority to say that certain females, who are advertised as having blue eyes, light, straight hair, and fair complexions, have no rights that white men are bound to respect? Or, if you admit that such persons have rights, what are they, and why do not your Christian societies and your laws protect them? Can you justify the practice of treating such persons as you would an African of pure blood? Have you made any efforts, or expressed any desire to regard their rights as superior to the rights of persons of pure African blood?

You have told us often in debate—and the same declaration is commonly used in defense of slavery—that slavery is a boon to the negro, and that our sympathies are entirely misdirected. In answering this, we ask you to explain to us why, then, you grant a slave his freedom as a reward for extraordinary services? Is this the way that you testify your gratitude? If you believed that slavery was a boon to the African, would you take it from him under pretense of granting him a favor? Pretending to testify your gratitude, would you give these unfortunate persons a scorpion instead of a fish? nay, would you give them a scorpion in exchange for a fish? How often do we read of slaveholders, in making their last will and testament, when the vanities of time and the realities of eternity are presented to them, granting freedom to their slaves, with expressions of regret that they had ever held them? This is a strange commentary upon the sincerity of such as hold that slavery is a boon. If slaveholders believed that slavery was really a boon, they would devote their property—if they desired to testify their interest in the welfare of the negro—to bringing them from Africa to be *blessed with servitude*! Has any charitable southern done this? This suggests another defense of African slavery, urged mainly by professing Christians: that it is one of God's appointed means of Christianizing the heathen. This appears very plausible; but, I desire to inquire, how many *Christian* generations of an individual *heathen* ought to be held in bondage to compensate for Christianizing their ancestor?

A few years ago your public men, your Christians, and your press, spoke of this institution as an evil, for the introduction of which you were not responsible, and which you desired to remove, as soon as some judicious and practicable method of doing so could be suggested, and matured. But now you defend it as the core of your heart, the apple of your eye, the very foundation, (in your own expressive language, the "*mud-sill*") of your political and social existence! But whilst to you this institution has of late become the object of so much solicitude, the theme of so much moral, religious, and patriotic devotion; experience, which we regard as the best of teachers, has been impressing more and more indelibly upon our mind, the wisdom of the early patriots in their efforts to limit and circumscribe it; and also the propriety and justice of the following impressive language of the immortal Jefferson, whose teachings, as a lamp to our path, have always served to guide republicans in the way of political duty:

"There must doubtless be an unhappy influence on the manners of our people, produced by the existence of slavery among us. The whole commerce between the master and slave is a perpetual exercise of the most boisterous passions; the most unremitting despotism on the one part, and degrading submission on the other. Our children see this, and learn to imitate it. The man must be prodigal, who can retain his manners and morals undepraved by such circumstances."—*Notes on Virginia*.

Sir, what a commentary upon the institution of slavery is furnished in the above extract; and what a painful proof of its correctness is furnished

in the broken and shivered, yet still illustrious, Senator, who, believing that vengeance belongeth to the Lord, who would repay it, has not returned evil for evil!

Much has been said this session about Kansas, and many seem to think that in the settlement of that question is centered the destiny not only of parties, but of the country. I do not desire to detract from the importance of questions connected with the admission of Kansas, but I do say that that is not the great question before the country, nor can its settlement, in the manner recommended by the Administration, possibly produce that peace to the country which all patriots so devoutly pray for. Nay, sir, it would not only fail to produce peace, but it certainly would be a sword drawn against peace.

This whole Kansas question is one of a series of acts all tending to the same end, and which, when taken as a whole, are of sufficient magnitude to engage the attention of Congress and the country, not for a few weeks only, but for months, and years even, if thereby we can come to a just conclusion, and an amicable adjustment of difficulties.

Step by step the country has been, for many years, approaching the present point of acknowledged danger, and each one (as in this instance) has been urged upon us as the one that would bring to us our long-lost but ardently desired public quiet. Thus far, however, each step taken in that hope, instead of producing the promised quiet, has only served as an apology for the next, still less satisfactory demand. Whatever might have been the result of the longer continuance of the Missouri compromise, we know not; but this we do know, that the present Kansas controversy, with its long and aggravating story of frauds and wrongs, has grown out of the act repealing that compromise. It had been kept for more than a third of a century, and its only remaining effect, in favor of the free States, was confined to the Kansas and Nebraska Territories. If let alone, in a very few years its influence in their favor would have ceased by its own limitation, and just the same practical result would have followed in Kansas and Nebraska, as all now concede, must follow the triumph of the popular will in those Territories. This result was foreseen and acknowledged by southern statesmen who supported that measure.

What then, thus far, has been the fruit of that act which was to settle all controversy in Congress about slavery? Nothing but a wider and wilder alienation of feeling between the two sections of the country, growing out of the new feature involving the right of the people to govern themselves, which has been developed in the Kansas struggle; leaving slavery in the Territory just where it would have been had the Missouri compromise remained in force. We have found out, to be sure, how, when the Congress commits to the people of the Territories the right to govern themselves, the Executive can use the Army and the judiciary, in addition to his other powers, to oppress and subjugate them. We have found out that, when Congress abdicates its power in behalf of the people, a faithless President can seize it with the grasp of a despot, and wield it with the heart of a tyrant. We have weighed the strength, and measured the will and the power, of the contending interests. We have learned that the compromise was useless to us; you have found its repeal to be ashes to you.

But this measure was alleged to be necessary to secure perfect tranquility, and complete the circle of compromises of 1850, which, it was then discovered, were quite incompatible with the old one of 1820. Its repeal was to secure perfect peace, and "save the Union"—objects of great importance then—which the compromise measures of 1850 had not quite accomplished. Now, no one here can have forgotten that the compromises of 1850 were also inaugurated and passed to "save the Union," restore peace to the country, and put forever at rest the slavery agitation; great measures which the annexation of Texas, and the acquisition of Mexican territory, had unexpectedly failed to complete.

This brings us to a very interesting inquiry about the object of the annexation of Texas. The agitation which grew out of questions connected with the admission of Missouri in 1820 had sub-

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sided. The compromise line of 36° 30' as the line north of which slavery should not exist, established by the South against the North, (I speak of the sections as a whole,) settled the question of slavery in all the territory then owned by the Government. There was trifling agitation on the general subject of slavery, and some impatience was felt by religious societies at the tardiness of their southern brethren in urging upon their people the sinful nature of the institution. But this was always confined to a few persons in the free States, known there as Abolitionists, and never having political power sufficient to disturb the most sensitive southern nerves. All parties in the free States were then, as they are now, and have at all times been, the firm and consistent advocates of the political right of the States in which slavery exists, to continue or abolish it as and when they please.

Without the acquisition, then, of new territories, or the abrogation of the ordinance of 1787 or the compromise of 1820, it must be apparent that no ailment for slavery excitement existed, except that of a moral nature, which exists in all the slave States, as well as in the free States, and which we have no political power to restrain.

Now, who sought the annexation of Texas, and for what purpose was it desired? This was the beginning of the present agitation, which has increased in volume and bitterness from that time till this. That was the first act of the series, without which there could have been no sectional excitement, because the slavery question was settled in all the Territories by laws which were regarded as irrevocable by all parties.

I shall be able to show that Texas was annexed for the purpose, and with the avowed intention on the part of Mr. Calhoun, who was then Secretary of State, of strengthening and aggrandizing the slave States. And the act of annexation was done in a manner calculated to produce a war with Mexico, which it was known must result in the acquisition of more territory.

I extract the following from the official correspondence between Mr. Calhoun, Secretary of State for the United States, and the British Minister, Mr. Crampton, as germane to this subject—(Senate Ex. Doc., 1843-44, vol. 5, No. 341, pages 50-51:)

Mr. Calhoun's Letter, April 18, 1844.

"It is with still deeper concern the President [Mr. Tyler] regards the avowal of Lord Aberdeen, of the desire of Great Britain to get slavery abolished in Texas, and, as he infers, is endeavoring, through her diplomacy, to accomplish it, by making the abolition of slavery one of the conditions on which Mexico should acknowledge her independence."

"Under this conviction, it is felt to be the imperative duty of the Federal Government, the common representative and protector of the States of the Union, to adopt, in self-defense, the most effectual measures to defeat it."

"The geographical position of Texas would expose the weakest, and most vulnerable portion of our frontier to invasions, and place in the power of Great Britain the most efficient means of effecting in the neighboring States of the Union what she avows to be her desire to do in all countries where slavery exists."

"Acting in obedience to this obligation, on which our Federal system of Government rests, the President directs me to inform you that a treaty has been concluded between the United States and Texas, for the annexation of the latter to the former, as a part of its territory, which will be submitted without delay to the Senate for its approval. This step has been taken as the most effectual, if not the only means of guarding against the threatened danger, and securing their permanent peace and welfare."

Letter from same to same, dated April 27, 1844, page 66.

"It was not possible for the President to hear with indifference, the avowal of a policy so hostile in its character, and dangerous in its tendency to the domestic institutions of so many of the States of this Union, and to the safety and prosperity of the whole."

"The measure [the annexation of Texas] was adopted with the mutual consent, and for the mutual and permanent welfare of the two countries interested. It was made necessary, in order to preserve domestic institutions placed under the guarantee of their respective constitutions, and deemed essential to their safety and prosperity."

In this connexion, I will also read an extract from the Mobile Mercantile Advertiser of about 1836, (date is not given, but the extract was published in the East in 1837:)

"The South wishes to have Texas admitted into the Union for two reasons: first, to equalize the South with the North; and, secondly, as a convenient and safe place calculated, from its peculiarly good soil and salubrious climate, for a slave population. Interest and political safety both alike prompt the action, and enforce the argument. The South contends that preservation and justice to themselves call for that aid to be rendered to them which would be given by the acquisition of Texas. They are not safe without it; THEY ARE NOT BALANCED WITH THE FREE STATES."

A balance of power appears to have been a ruling idea with the slave States for the last fifteen or twenty years.

The foregoing facts settle, beyond any question, the following propositions: that the agitation about slavery in the States could not have seriously disturbed the quiet of the country; that no agitation could have grown out of that question in the Territories then belonging to the Government, because it was all provided for by laws that were then regarded as permanent; that no such controversy could have existed without the acquisition of new territory; and that the South, and not the North, desired the annexation of Texas, and the acquisition of Mexican territory. The South, in carrying out the policy avowed by Mr. Calhoun for promoting southern interests, has brought this contest upon the country, and she must bear the responsibility and abide the consequences.

Having thus traced back this sectional agitation which now "crops out" in Kansas to its origin in the acquisition of territory by southern action to strengthen and aggrandize the slave power, and having shown the foundation, extent, and sincerity of the anti-slavery sentiment of the free States, I come to speak of the misapprehension, or misrepresentation, by the South of the true ground of difficulty between the two sections. Slavery, although it is connected with the controversy, is not really the cause of our present difficulty. The contest is now fully shown to be broader, deeper, and infinitely higher than the abstract question of negro slavery. The entire discussion during this session of Congress on the part of the South, so far as I have listened or read, has been predicated upon the idea that the only opposition to the Kansas policy of the Administration was based upon enmity to the institution of slavery. Nothing could be more fallacious. Can the South be so infatuated as to believe that Governor Wise, Governor Walker, Secretary Stanton, Senators Bell, Crittenden, and Douglas, and twenty or thirty Representatives in the House, who, but a few days since, were acting with the Democracy—can they really believe that all these, and scores of thousands of Democrats who cast their votes for Mr. Buchanan at the last election, have suddenly become the enemies of the Democratic party on account of its support of slavery? I tell you nay, sir. But the opposition to that party has grown out of the course which it has resorted to, and the means which it has put in requisition to carry the country from its high position as a liberty-loving and liberty-defending Republic, as established by our revolutionary fathers, to a PRO-SLAVERY OLIGARCHY! Since this last excitement commenced, an organized, disciplined, and politic minority has undertaken to wrest the government from the possession of the MAJORITY, for the purpose of elevating a sectional institution which is at war with the rights, the dignity, and the material interests of that MAJORITY. Here, sir, lies the grave error.

The path of minorities to power is always boisterous, and beset with dangers. The commotion attending the progress of events, in such transfer of power, will be fierce, and the danger imminent, when the rights of a free, intelligent, and chivalrous people are thus attacked. Since this excitement commenced, this minority has been governing the majority in this country by political STRATEGY.

It is this startling truth, breaking upon the public mind, that is alarming, arousing, and uniting the people for the reassertion of popular rights! And neither party, nor patronage, nor courts, nor technicalities, nor stratagems, will divert or deter them from their high purpose.

With the facts before us, we cannot imagine why it is that the South are constantly charging the North as the authors of the excitement, when the free States have resisted the measures upon which the contest is based. You habitually charge the free States with bad faith; but the charge always rests upon some speciality or technicality, like their refusal to vote in Kansas. "All that are in favor of Brigham Young for Governor, and will support polygamy, will say, ay. All that are opposed to Brigham Young, and will support polygamy, will say, no." Suppose the people of Utah had the right to elect their Governor, and should present the question as above, so that no one

could vote for or against Governor until he voted in favor of polygamy: would you call that a fair election of Governor? How, then, can you call it a fair submission, even of the question of slavery, in Kansas?

As far back as 1844, when it was determined that the Democratic party should be transformed into a pro-slavery agency, the national convention of that party adopted an anti-republican rule of party government, giving to the minority the control of the nomination of candidates for President and Vice President. Without the establishment of such minority rules, Mr. Van Buren, whose friends numbered a respectable majority in that convention, would have been nominated, and the Texas scheme for the aggrandizement of the slave power, would have failed. From that time to this, the tendency of that party to sectionalism has been constant; its strength in the slave States steadily increasing; and its decadence in the free States equally steady and uniform.

There is another bit of history connected with this Texas question which I must mention in passing. I find, in Benton's Thirty Years' View, vol. 2, p. 584, the following:

"Mr. Gilmer then explained to his friend the purpose for which this letter had been written and sent to General Jackson, and the use that was intended to be made of his answer, (if favorable to the design of the authors,) which use was this: it was to be produced in the nominating convention to overthrow Mr. Van Buren and give Mr. Calhoun the nomination, both of whom were to be interrogated beforehand; and it was well known what the answer would be—Calhoun for, and Van Buren against, IMMEDIATE ANNEXATION—and Jackson's answer coinciding with Calhoun's, would turn the scale in his favor and blow Van Buren sky-high."

Mr. Van Buren, sure enough, was blown "sky-high;" but Mr. Calhoun got no higher than Secretary of State.

It was supposed, nearly up to the time for the assembling of the Democratic national convention for 1844, that Martin Van Buren would be the Democratic nominee against Mr. Clay, who was to be, and was, the opposing candidate. Both of these gentlemen were interrogated upon the question of the annexation of Texas, and both stood upon the ground that General Jackson had previously occupied in relation to the same question, namely, that it would be unjust toward Mexico to annex a portion of territory which she claimed, (war then existed between Texas and Mexico,) without her consent.

Under General Jackson's administration it was good Democracy to keep national faith with a sister Republic. But when Texas was to be acquired for the purpose before stated, presto! Democracy consists in the disregard of national faith, and demands annexation, in spite of Mexico, and with war into the bargain. What constituted true Democracy in General Jackson was, therefore, heresy in Mr. Van Buren, and caused his defeat as presidential candidate. The "luck" was so sudden, too, sir, that even one who had been Commander-in-Chief could not change front quick enough to save himself.

In these days we have just a parallel case. The Senator from Illinois, but yesterday, was at the head of the Democracy, as the author of popular sovereignty. To-day, for holding the same doctrine, the Democracy cry out—"Crucify him!"

Mr. Jefferson taught that Democracy was a principle by which all political measures should be tried and judged. But modern Democracy sets up executive measures, as the test of political fidelity, and requires principles to be held in respectful abeyance. No familiarity with Democratic principles can guide aright, nor any fidelity to them keep any one in the way of modern party duty.

A great majority of the electors in the free States are interested in the rights of labor. They are Republicans—yes, Democrats—in habit and sentiment, intelligent, honest, but confiding almost to a fault. The grave political wrongs which have brought the present perils upon the country could not have been done in any party name less respected than the Democracy. It was a "time-honored," almost a sacred name. Beelzebub, not in his own hateful name, it is said, but as an angel of light, practices continually his plan against the welfare and happiness of mankind. So in this case, faithless pretenders, in the name of Democ-

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racy, have crucified Democracy! Under no other name could the people have been so enthralled, and their rights so betrayed.

The true Democratic party listened to the petitions of the people, and protected their rights; but this false Democracy has only leaden ears for their petitions, and calls the attempt to assert their rights rebellion, and crushes them out with the American Army! The true Democracy was economical of the people's money; but this false Democracy is profligate, beyond example; and depends for success upon sectional favor, and the corrupting power of its enormous patronage. The true Democracy was content with the constitutional distribution of governmental powers; but this false Democracy seeks to concentrate all such powers in the chief Executive. The true Democracy held that official fidelity consisted in a faithful and honest discharge of the duties of office; but this false Democracy demands craven submission to the will of the Executive. The true Democracy held that the Representative should obey the will of his constituents; but this false Democracy calls it *heresy* if he disregards the Executive behest. The true Democracy inculcated the high duty of representative fidelity; but this false Democracy, with filthy bribes seeks the itching palm, and attacks with fierce denunciations, every independent spirit.

Fidelity to the interests of the people is a just rule by which to test public officers of every grade, and I propose to examine the policy of the late Administration by that rule.

Washington, in his Farewell Address, says:

"I have already intimated to you the danger of parties in the State, with particular reference to the founding of them upon geographical discriminations.

"This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all Governments; but in those of the popular form, is seen in its greatest rankness, and is truly their worst enemy.

"The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissensions, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism."

"It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms. There is an opinion that parties in free countries are useful checks upon the administration of the Government, and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of a popular character, in governments purely elective, it is a spirit not to be encouraged."

"A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume."

It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the power of all the departments in one, and thus to create, whatever the form of government, a real despotism."

The policy of the present and preceding Administrations, from 1844, more than any previous ones, of whatever shade of political opinion, has been in conflict with the above advice of Washington; and at this present time we experience the bitter consequences in rancorous party prejudice, under the blind influence of which men appear to mistake their party for their country. Committed to the purposes of the minority, and regardless of popular interests, the modern Democracy has become, beyond comparison, extravagant and corrupt in the use of the public money.

The true Democracy can always be found by the standard of economy. It has always been one of its important characteristics, and in former days was one of its proudest boasts. I have taken the pains to collect some statistics of expenditures, which, when presented to the public, will I think go far to enlighten the people as to the true character of this professed Democracy.

The annexed table exhibits the expenses of the Government, for all purposes exclusive of public debt, foreign intercourse, pensions, and Indian department, for the several years therein stated, and also the population at several periods. The accounts, "civil list" and "miscellaneous," include sums expended for political purposes, and therefore an examination of those tables will be

most instructive. I have not had the opportunity to examine the items which constitute either account, but presume they are the same class as have always been placed to these same accounts.

Table of expenditures, excluding "Foreign Inter-course," "Pensions," "Indian Department," and "Public Debt."

Date.	Population.	Aggregate.	Civil list.	Miscellaneous.
1800....	5,305,925	6,951,919	748,688	193,636
1810....	7,239,814	4,968,345	703,994	315,783
1820....	9,654,596	9,557,034	1,948,310	1,090,341
1826....	11,546,555	10,599,557	1,256,745	1,110,713
1831....	12,856,020	10,949,906	1,579,724	1,363,624
1834....	14,561,332	13,815,615	2,060,601	2,082,565
1837....	-	-	2,357,035	2,932,428
1840....	17,069,453	18,521,284	2,736,769	2,575,351
1843-44	-	-	2,454,958	2,554,146
1844-45	-	-	2,369,652	2,839,470
1845-46	-	-	2,532,232	3,769,758
1846-47	21,293,003	42,298,067	2,570,338	3,910,190
1847-48	-	-	2,647,892	2,555,455
1848-49	-	-	2,865,196	3,111,140
1849-50	-	-	3,027,454	7,025,450
1850-51	23,191,876	31,694,486	3,481,219	8,146,577
1851-52	-	-	3,439,923	9,867,936
1852-53	-	-	4,265,861	12,246,335
1853-54	-	-	4,621,493	13,461,450
1854-55	-	-	6,350,875	16,738,442
1855-56	-	-	6,452,256	15,260,475
1856-57	28,406,974	55,368,582	7,611,547	18,946,189

It cannot require argument to prove that the ordinary expenses of Government ought not to increase as rapidly as population. But there is another consideration that should be borne in mind, viz: that the increase in the expenses for "civil list" and "miscellaneous" should advance at a uniform rate, or nearly so; and it is impossible to imagine how, with an honest and economical administration of Government, the rate of increase could vary much. These items are not affected by war or peace, and therefore with a prudent management of public business, must keep steadily along. But what are the facts in the case? The increase of population averages about thirty-three per cent. in ten years. Now, from 1837 to 1847, whilst our population increased thirty-three per cent., our expenses for "miscellaneous" items increased forty per cent. From 1847 to 1857, the increase of population was, as before, thirty-three per cent.; but mark, the increase in miscellaneous expenses was more than four hundred and seventy-five per cent.!

The miscellaneous expenses for the single year ending 30th June, 1857, exceeds, by more than two million dollars, the same expenses during General Jackson's two terms, making eight years. The expenditures for this item of miscellaneous during Pierce's four years were \$64,646,556. This, it must be remembered, is exclusive of Army and Navy, and the civil list. This, too, is the account to which the money is charged that is used for carrying elections and paying off party favorites. Is it strange, when we calculate this enormous expenditure, that the Democratic party is so powerful and self-sustaining? Will not \$64,000,000 spent in four years furnish a cement strong enough to hold such a patriotic and national party together? Is any one astonished, after knowing the amount of money expended, at the boldness with which that party asserts its ability to hold the powers of Government? This \$64,500,000 spent by Pierce in four years was necessary to pass the Kansas-Nebraska bill, and to carry the election of Mr. Buchanan.

To get some idea of its magnitude, imagine that it exceeds the whole amount spent for "miscellaneous" account by the Government in forty-eight years, namely, from 1792 to 1840. It will be remembered that in 1826 there was great excitement about the profligacy of Mr. Adams's administration, and afterwards a good deal about Mr. Van Buren's administration. But the forty-eight years above named include all the Administrations to the end of Van Buren's. Mr. Pierce said in his inaugural:

"In the administration of domestic affairs you expect a devoted integrity to the public service, and an observance of rigid economy in all departments, so marked as never justly to be questioned. If this reasonable expectation be not realized, I frankly confess that one of your leading hopes is doomed to disappointment, and that my efforts in a very important particular must result in a humiliating failure."

And then for commentary on that text spent more money under the head of miscellaneous, (that is,

sundries—things that it is not easy to name,) in four years, than all the Presidents down to 1846. In a single year of his term he spent for miscellanies almost twice as much as Mr. Van Buren spent during his whole term.

Since the transfer of the Democracy in 1844 to Mr. Calhoun's sectional minority policy, which is only thirteen years, the miscellaneous expenses have exceeded the amount charged to the same account from 1789 up to that date, by the enormous sum of \$48,000,000. Yes, sir, during the last thirteen years our miscellaneous expenses—which, in the days of republican economy, were comparatively unimportant, certainly not alarming—have amounted, in the aggregate, to the startling sum of more than one hundred and seventeen million dollars! whilst, for the whole fifty-five previous years, down to the close of 1844, the aggregate was less than sixty-five millions. This exhibits modern Democratic economy! The advance in profligacy would be expected to keep pace with the advance towards sectionalism, and the decadence of Democracy; and just so is the fact.

Under Mr. Polk's administration, at the inception of which sectionalism was inaugurated, the miscellaneous expenses in four years were a fraction over thirteen millions. Under Mr. Fillmore's, (which, though classed politically as Whig, was fully committed to the ruling southern policy,) these expenses reached, in four years, more than thirty-seven millions! And under Mr. Pierce's Democratic (?) four years, they swelled to the monstrous sum of over sixty-four millions! As popular support began to be withheld, the public money must be used to maintain waning power. Mr. Polk's first year's expenses were between three and four millions; Mr. Fillmore's first year between seven and eight millions; and Mr. Pierce's first year between thirteen and fourteen millions! Mr. Fillmore's last year was five millions greater than his first; and Mr. Pierce's last year was more than five millions greater than his first. Would to God that I could now inform you the amount of Mr. Buchanan's last year, but "time forbids."

It will be observed, if the table is examined, that, down to 1840, the expenses for "Army," "Navy," "civil list," and "miscellaneous," averaged about one dollar for each inhabitant. It was a trifle more in 1840; but, for the year 1847, the expenses were \$21,000,000 more than the population, being just about double what the previous average had been. And in 1857, the last year of Democratic economy, the expenses for the same accounts had swelled to the alarming sum of \$58,000,000! or \$30,000,000 more than the population!

I have neither time nor inclination to pursue the details of this painful evidence of political degeneracy and corruption further.

I believe that the Pierce-Buchanan Administrations have no parallel in the history of this country, in the boldness with which they have attempted to strike down the rights of the people. The press has been muzzled by the public money and official patronage. Public officers have been turned out, not because they did not support the Administration, but because they would not be active and efficient party tools. The purity of the ballot-box has been corrupted by the use of public money; offices have been distributed with the view of carrying executive measures through Congress, thereby corrupting the representative system; and to finish the aggravating picture, the Executive is now using the whole power of the Government under the false pretense of restoring peace to the country, to complete, in one of the Territories of the Union, the subjugation of American citizens!

ADMISSION OF KANSAS.

SPEECH OF HON. J. W. STEVENSON,
OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,
March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. STEVENSON said:

Mr. CHAIRMAN: I congratulate you and the country that this bitter, protracted, and exciting struggle

gle, which has occupied so much of our time, to the almost entire exclusion of other important public business, is about to terminate. Before the setting of to-morrow's sun, this great question, momentous in its results of weal or woe, will have been decided.

In advocating the immediate admission of Kansas under the Lecompton constitution, I shall speak with the frankness and freedom which the subject deserves. I hope to do so, however, with entire respect to the opponents of this measure on the other side of this Hall, and especially without reflection upon the motives of those Democratic Representatives who have deemed themselves constrained to separate on this measure from four fifths of their political brethren on this floor.

It will be my purpose to show that the immediate admission of Kansas under the Lecompton constitution, is demanded, not less by a strict observance of the true principles of representative government, than by a sacred regard to that equality and sovereignty of the States, which constitute the strongest bond of our Union.

What, Mr. Chairman, are the facts of this application? In 1850, when for the sake of peace, it was proposed to extend the Missouri line; as adopted in 1820 and applied to the Louisiana purchase, to the territory which had then been but recently acquired from Mexico, it was indignantly refused by the anti-slavery Representatives of the North, and their united votes stand recorded against the proposition. The nascent spirit of abolitionism was then too strong and potent to be hemmed in by any geographical line, and from the sectional agitation which ensued, it was apparent that the Missouri compromise line could not be extended. The fires of sectional discord waxed so warm as to threaten destruction to the Union. The stormy debate which then ensued, and the gloom which hung like a dark pall over the whole country, will always be regarded as a prominent crisis in the history of this Republic. The compromise measures closed that fearful struggle, and in lieu of the extension of a geographical line, there was substituted the more harmonious principle that the question of slavery was to be withdrawn from Congress, and the people of the Territories left free to regulate their domestic institutions in their own way. Whatever may have been the opinion and action of leading men in particular localities, the settlement of this sectional controversy by the compromises of 1850 was generally acquiesced in and approved by the conservative and patriotic men of all parties throughout the length and breadth of our land. In 1854, the Kansas-Nebraska act was passed; and acting on the principle of non-intervention which marked the compromises of 1850, this Missouri line was declared inoperative and void, non-intervention was again reaffirmed, and the Congress of the United States declared—

"The true intent and meaning of that act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way."

A territorial government was formed, and very shortly after its organization a Territorial Legislature was elected. In July, 1855, this Legislature submitted to the people of Kansas the question of whether they would call a convention to frame a State government, preparatory to admission into the Union. The election was held, and by almost a unanimous vote the people decided in favor of a convention. In pursuance of this vote the Territorial Legislature, on the 19th February, 1857, passed their convention act. This was just and fair in all its provisions. It was passed by legal authority, and was the result of the popular vote demanding its passage. It provided for the election of delegates, the taking of the census, and registry of voters. It afforded equal opportunities to all in the election of delegates. It allowed a month for the correction of registry returns, and denounced heavy penalties against fraudulent and illegal voting, and protected the elective franchise by the strongest provisions. It is proper here to mention, that this act of the Territorial Legislature was vetoed by Governor Geary, because it did not provide for a submission of the constitution to the people. The Legislature passed it by a two-thirds vote over his head, utterly repudi-

ating the necessity of a submission of the constitution, or any part thereof, to the people, unless the convention deemed proper to do so.

An election for delegates took place. The convention met and adopted a constitution. The convention submitted to the people of the Territory the question of slavery or no slavery, and on the 21st December, 1857, this vote resulted as follows: constitution with slavery, six thousand two hundred and twenty-six; constitution without slavery, five hundred and sixty-nine. Since the assembling of Congress a vote has been taken for members of the State organization ordained by this constitution, and these officers were elected by the largest vote ever cast in the Territory. It is true that Governor Stanton convened the Territorial Legislature which met after the convention, and that this Legislature attempted to usurp the power of directing a vote on the constitution, upon the 4th of January, 1858, the day on which the State elections under the State constitution had been held. It is also true that a large vote was cast against the constitution on the 4th of January, as ordered by the Territorial Legislature of Kansas, and which it will hereafter be attempted to be shown was clearly null and void.

Kansas now presents her constitution, and is knocking at our doors for admission into this holy sisterhood of States! In the earlier, and I was going to say, better days of the Republic, an admission that the constitution of Kansas was republican, and that the Territory contained the requisite population would be all that would have been required to have added another State to our confederated Union. When we behold the strife and discord that this application has produced, after the development and growth of our free and noble institutions, planted more than eighty years ago by our patriot sires on this continent, and who wrote their pledges for their maintenance in revolutionary blood, and sealed them with their lives, it almost sickens the heart to think

"That centuries should reap
No mellow harvest."

I propose briefly to answer some of the objections made against the passage of this bill. What are they? It is claimed that an enabling act was necessary before the people of a Territory can form a State government with a view to admission in the Union. This was one of the strong points made by the distinguished Senator from Illinois, in his celebrated speech on the 9th December. In support of his position, he cited the admission of Arkansas, and the arguments of Mr. Buchanan and other distinguished gentlemen of that day, in favor of the necessity of enabling acts. Whatever conservative men of all parties might have at one period thought of the regularity of enabling acts as a prerequisite for admission, it is too late in the day now to insist upon their necessity. Against the arguments of northern and southern men, in former times, in favor of these enabling acts as a *sine qua non* to admission, we point to the precedents and past history of the Government. A large majority of the new States have come in without enabling acts. The settled practice of the Government has been against their necessity, and the honest opinion of distinguished men has been forced to yield to precedent. The distinguished Senator from Illinois, himself, disregarded the want of an enabling act in the admission of several of the free States, in which the South was compelled to acquiesce. The authority of the Territorial Legislature to call this convention was acquiesced in by Governor Walker, Secretary Stanton, and the people of the Territory themselves; ay, sir, by no one more fully than by the distinguished Illinois Senator himself, in his Springfield speech, delivered but a short period before the Kansas convention assembled! I understand, however, that the Senator from Illinois has now abandoned most of the positions of his speech delivered upon the 9th December, and that he announces himself as "ready to waive all irregularity and vote for admission, if he was satisfied the Lecompton constitution was the act and deed of the people of Kansas, and embodied their will." Such I understood to be his position, as stated by him in reply to an inquiry by the distinguished Senator from South Carolina, during the debate in the other wing of the Capitol, but a few days since. If any other authority were wanted that

an enabling act is unnecessary, it could be furnished in the opinion of Mr. Justice McLean, of the Supreme Court of the United States, who (in the case of *Scott vs. Johnson*, 5 Howard, 380) says:

"Michigan was an organized Territory of the United States. Its Governors, judges, and all other territorial officers were in the discharge of their various functions. The sovereignty of the Union extended to it. Under these circumstances, the people of Michigan assembled by delegates in convention, and adopted a constitution, and under it elected members of both branches of their Legislature, Governor, judges, and organized the State government. No serious objection need be made, in my judgment, to the assembling of the people in convention to form a constitution, although it is the more regular and customary mode to proceed under the sanction of an act of Congress."

It is a notable fact, too, and I commend it to the attention of the Republicans, who have heaped such opprobrium upon a majority of the Supreme Court for their opinion in the *Dred Scott* case, (where the entire court held that they had jurisdiction,) that, in the case of *Scott vs. Johnson*, the entire court, save Mr. Justice McLean, held they had no jurisdiction, yet he, notwithstanding, delivered his opinion on the merits without the slightest suspicion from any quarter upon his spotless escutcheon as a judge or a man. The case further shows that an act of incorporation passed by the Legislature of Michigan before its admission into the Union was held valid by the court of last resort in that State. It is urged, however, as a valid objection against the Lecompton convention, that a large number of counties were unrepresented in consequence of the want of a registry; and, therefore, that the convention was not a fair representative of the popular will. It has been abundantly shown that these counties contained but a small population, and many of them scarcely a solitary vote. Some of them were attached to adjacent counties for civil and military purposes.

I have already referred to the provisions of the law making just provision for a full, free, and fair expression of opinion in the convention. Why were not its provisions carried out? Why a failure to register in these unrepresented counties? Let Governor Stanton give the reply:

"It is not my purpose to reply to your statement of facts; I cannot do so from any personal knowledge enabling me either to admit or deny them. I may say, however, I have heard statements quite as authentic as your own, and in some instances from members of your own party, (Republicans,) to the effect that your political friends have very generally, indeed almost universally, refused to participate in the pending proceedings for registering the names of the legal voters. In some instances they have given fictitious names, and in numerous others they refused to give any names at all. You cannot deny that your party have heretofore resolved not to take part in the registration, and it appears to me that, without indulging ungenerous suspicions of the integrity of officers, you might well attribute any errors and omissions of the sheriffs to the existence of this well known and controlling fact."

It is here apparent that faction prevented the registry, and that the people who were not represented did not desire and would not have voted in the choice of representatives to this convention, if the registry had been complete. Mr. Chairman, if there had been any portion of the people of that Territory who had felt themselves disfranchised—who found themselves deprived of the right of suffrage—can it be conceived that they would not have sought a corrective of such abuses at the hands of the convention? Where are their petitions setting out these grievances, and detailing these wrongs? Where is the remonstrance of a solitary county, that they had been denied a voice in that convention? Where is the demand for the correction of the apportionment made by Governor Stanton, with a full knowledge that there had been no registry in the counties enumerated? Where is the complaint from a solitary being in that ill-fated Territory that the convention was illegally assembled, and asking the returns to be scrutinized? The convention was alone authorized to judge of the returns and qualifications of its members. It had the power to apply the corrective; and, in the absence of any appeal to its interposition, we are justified in believing that no portion of the people felt themselves aggrieved or desired to vote for representatives. It will scarcely be argued that this small body of recusant factionists, by refusing to be registered, and by preventing, through force, a proper execution of the registry law, could stop a popular movement having for its object the establishment of a State gov-

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ernment. It is apparent that there is nothing in this objection.

It is warmly insisted on that the Lecompton constitution was not submitted to the people as a whole for their ratification, and therefore it is not the act of the people. This argument, if it proves anything, proves too much. It upturns the whole system of representative government; it limits the circle of free institutions; it denies to the people of a State or Territory the right to select agents to make a constitution for them without their subsequent approval. If the right does not exist to select representatives, then it follows that the people must act themselves. Where they cannot be collected to deliberate and act in the formation of a constitution and laws, their popular government must end. If the people cannot select agents to make constitutions, and agree to abide by their action without a submission, how is it that the State laws are valid without a submission? This, Mr. Chairman, is a new phase of popular sovereignty. I acknowledge the people to be the source of all power, and that every free government must rest for its support on the consent of the governed. But how is this power to be exercised? Are constitutions and laws to be enacted in mass meetings? Is sovereignty to be carried about the streets, and are the popular masses to act *per capita*? I had supposed it was "that marvelous felicity of our representative system," under the operation of prescribed forms of law, that entitled ours to be justly styled the model Republic of the world. I had been taught by Mr. Madison (the father of the Federal Constitution) to believe that the effect of representative government is

"To refine and enlarge the public views by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to public good than if pronounced by the people themselves, convened for the purpose."

Mr. Chairman, it would not be difficult to show that one of the advantages in the scheme of representation in a Republic, as contradistinguished from a pure democracy of numbers, consists in its power to control a faction. I refer to the tenth number of the Federalist, where Mr. Madison, in defense of the Federal Constitution, goes fully into this argument.

It does not pertain to Congress to inquire why the whole of this Kansas constitution was not submitted? While as individuals we might all desire, and, perhaps as members of that convention, should all vote for the submission of that entire constitution to the people, it was the sole right of the Lecompton convention to judge of the propriety of a submission or non-submission of the constitution in whole, or in part, to the people for ratification. The validity of the instrument could not be impaired by a failure to have submitted any part of it to the popular vote. The people, through their Legislature, had, in the convention act, a perfect right to have required the constitution to be submitted, and the act was, as we have already shown, vetoed by Governor Geary, because it did not contain a provision for its submission to the people. The act was passed by a two-thirds vote of the Legislature over his veto, and thus became a law.

Popular sovereignty was then, as it would clearly appear, against a submission of this constitution to the people; for it can hardly be supposed that two thirds of the Legislature misrepresented the popular will.

Mr. Stanton himself clearly recognized the right of the people, through chosen delegates, to adopt a constitution, and seems to regard it as optional with the convention what part of the constitution should be submitted to popular vote. Hear him when he says:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view of making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that, in order to avoid all pretexts for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for

submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of the actual bona fide residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference be thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress, without delay, as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn."

Here Mr. Stanton clearly thought that the only question necessary to be submitted was the slavery question, and "that great distracting question" was submitted to the popular vote. Mr. Chairman, the people may have acted wisely and well in refusing to fetter the convention with an absolute submission. The history of Kansas has been thus far a bloody and disgraceful drama. Faction showed its brazen front upon the inception of the territorial government. The Kansas-Nebraska act had scarcely received the President's signature before an organized effort was inaugurated to sow discord in Kansas. Hear Mr. Douglass, in his report to the Senate, as chairman of the committee to investigate these outbreaks. He says:

"The passage of the Kansas-Nebraska act was strenuously resisted by all persons who thought it a less evil to deprive the people of new States and Territories of the right of State equality and self-government than to allow them to decide the slavery question for themselves, as every State of the Union had done, and must retain the undeniable right to do, so long as the Constitution of the United States shall to be maintained as the supreme law of the land. Finding opposition to the principles of the act unavailing in the halls of Congress and under the forms of the Constitution, combinations were immediately entered into in some portions of the Union to control the political destinies, and form and regulate the domestic institutions of those Territories and future States through the machinery of emigrant aid societies. In order to give consistency and efficiency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the Legislature of the State of Massachusetts. When a powerful corporation, with a capital of \$5,000,000, invested in houses and lands, in merchandise and mills, in cannon and rifles, in powder and lead, in all the implements of arts, agriculture, and war, and employing a corresponding number of men, all under the management and control of non-resident directors and stockholders, who are authorized by their charter to vote by proxy to the extent of fifty votes each, enters a distant and sparsely settled Territory with the fixed purpose of wielding all its power to control the domestic institutions and political destinies of the Territory, it becomes a question of fearful import how far the operations of the company are compatible with the rights and liberties of the people. Whatever may be the extent or limit of congressional authority over Territories, it is clear that no individual State has the right to pass any law or authorize any act concerning or affecting the Territories, which it might not enact in reference to any other State. It is a well-settled principle of constitutional law in this country that while all the States in the Union are united in one for certain purposes, yet each State, in respect to everything which affects its domestic policy and internal concerns, stands in the relation of a foreign Power to every other State. Hence, no State has a right to pass any law, or do or authorize any act with a view to influence or change the domestic policy of any other State or Territory of the Union, more than it would with reference to France or England, or any other foreign State with which we are at peace. Indeed, every State of this Union is under higher obligations to observe a friendly forbearance and generous comity towards each other member of the Confederacy than the laws of nations can impose on foreign States."

"If our obligations, arising under the law of nations, are so imperative as to make it our duty to enact neutrality laws, and to exert the whole power and authority of the executive branch of the Government, including the Army and Navy, to enforce them in restraining our citizens from interfering with the internal concerns of foreign States, can the obligations of each State and Territory of this Union be less imperative, under the Federal Constitution, to observe an entire neutrality in respect to the domestic institutions of the several States and Territories?"

These commotions continued. The excitement increased until insurrection, rebellion, and revolution stalked boldly throughout the Territory. Hear Governor Walker again, when he says:

"The professed object is to protect the polls at the election, in August, of the new insurgent Topeka State Legislature. The object of taking the names of all who refuse enrollment is to terrify the free-State conservatives into submission. This is proved by recent atrocities committed on such men by Topekaists. The speedy location of large bodies of regular troops here, with two batteries, is necessary; the Lawrence insurgents await the development of this new revolutionary military organization."

"You are aware that General Lane commanded the military expedition which made an incursion into this Territory last year, and that the officers of the staff are all leading agitators for the overthrow of the territorial government. The object of this last requisition is believed to be to mark for persecution and oppression all those persons, and especially free-State Democrats, who refuse to unite in this military organization. The purpose is universally regarded to be to establish a reign of terror."

"A few weeks since one of these conservative Democrats, who had committed no other offense than permitting

the use of his name as a candidate for the constitutional convention, was abused and injured in the most shocking manner, and the most revolting atrocities were committed upon his wife by some of the insurrectionary party."

"It will be perceived that this military organization embraces the whole Territory, being arranged into four divisions and eight brigades." "I am well satisfied that a large portion of the insurrectionary party in this Territory do not desire a peaceful settlement of this question, but wish it to remain open, in order to agitate the country for years to come."

"August 18. The insurgent military organization under General Lane is still progressing. Arms are being supplied and his troops drilled for action. We are threatened with the seizure of the polls, at various points, by these insurgent forces. When it is remembered that the Topeka party claim to outnumber their opponents at least ten to one, the pretext for assembling these forces to protect the polls is evidently most fallacious."

But notwithstanding all factious opposition, the convention did submit the great and only distracting question of slavery to the popular vote.

Mr. Chairman, the responsibility of the submission of the constitution was wholly with the convention. It cannot be inquired into by Congress; and we have no right to intervene between the constituency of Kansas and their delegates to that constitutional convention.

It is claimed, however, that as a large majority of the people of Kansas did not vote on the 21st December when the constitution was submitted to the people under the authority of the convention, and the vote on the 4th January shows a very large majority against the constitution, Congress should desist and not force this constitution on the people against so large an expression of the popular will.

Mr. Chairman, this argument is more specious than solid. It rests on a radical mistake in the theory of our system of representative government. I argue that the popular will should govern, and that no government can be forced upon the people against their consent. But how is this will to be collected and ascertained? By popular outbreaks and tumultuous assemblies? No, sir; but by regular forms prescribed by law. The people begin the work of representative government by limitations on their own power not less than by restrictions on their agents. They limit themselves in their power of selection of representatives by requiring certain qualifications of age, residence, &c. Suffrage, which is the delegation of authority from each sovereign citizen of a community to his representative agent, is the foundation stone of our representative system. It is the channel through which power emanates from the masses. Suffrage itself is restricted and regulated by law. It is through prescribed forms of law that this inestimable right is guarded from force, fraud, and violence. It is by forms of law that this right is restricted to the time, place, manner, and mode of exercise therein prescribed. When all have spoken who are entitled to speak, their collected will under legal forms are certified to that power entitled by legal enactment to receive such certificate. Such return must be conclusive as the authentic and legally-prescribed mode of ascertaining the will of the people. Were it not so, the barriers placed by the people around their own institutions as a protection against faction, impulse, or fanaticism, would become mere ropes of sand, and we should be always in a state of anarchy.

Now, Mr. Chairman, what right had the Territorial Legislature to direct a vote on the 4th of January? By what warrant of authority do they interpose between a convention called to frame a constitution and its constituency? The convention had directed a vote to be taken on the 21st of December upon the slavery clause of that constitution. They had ordained a State government by regular legal process. They had ordered an election of State officers under this constitution, to take place on the 4th of January; and the people, by a large vote for these officers, had acquiesced in this State government. I have already cited the case of Scott vs. Jones, (5 Howard, page 380,) to show that an act of the Legislature of Michigan, passed before her admission into the Union, was declared valid. The organic law of Kansas, upon its admission into the Union, would be of course treated as valid from its creation, and all the prior acts of the convention, or acts of the State Legislature under it, even before admission, would reach back to the period of their adoption. If the Lecompton convention be deemed a valid

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their recorded votes stated the fact that their constituents are unanimously against a State government, and in favor of a territorial organization? Do you not expect and require they shall sustain this Government, and become a part of it? If not, let us require their delegates to retire from this convention, apply to Congress for a territorial government, and exclude them from the State boundary. Gentlemen affect to believe that in taking a large extent of territory not represented here, and from which no opposition to our action has become known to us, we are doing a great act of injustice to that people, when, at the same moment, we have the direct protest against a State government of a portion of the territory here represented."

Mr. Chairman, I might go on and multiply extracts from those California debates, to show the irregularities and wrongs upon popular rights there perpetrated. Yes, sir, this immense boundary was included, by political legerdemain, and a government put over thousands who had never heard of this convention, merely to bring in this immense area of freedom, and shut it out from southern men. Sir, in the very early stages of the convention, eight out of thirty-six delegates voted and protested against a State government. Mr. Carillo said, (Debates, page 22:)

"He represented one of the most respectable communities in California, and he did not believe it to be the interest of his constituents that a State government should be formed. At the same time, as a great majority of this convention appeared to be in favor of a State government, he proposed that the country be divided by running a line west from San Luis Obispo, so that all north of that line might have a State government, and all south thereof a territorial government. He and his colleagues were under instructions to vote for a territorial government."

Yet, Mr. Chairman, California was brought in as a free State. Where then was the great solicitude for popular sovereignty of which we have heard so much in this debate? Why slept the ire of the opponents of Kansas, who then went for a free State under such irregularities and outrages? In vain did the South protest against so gross an injustice to her rights. California was brought in.

But gentlemen say that the constitution of California was submitted and ratified by the people. How ratified? It received some twelve thousand out of sixty-odd thousand votes, half of whom had never heard of the proclamation of General Riley, the convention, or the constitution! Yet gentlemen can take California, but reject Kansas because a few hundred people were not registered and represented in the Kansas convention; and when that failure was attributable, as has been abundantly shown, to faction. They can see California brought in over law, order, regularity, or precedent, with immense boundaries, included for the purpose of excluding slavery, and perpetuating the power of the North; and yet, when Kansas asks for admission, southern men who rejoiced over the admission of California are horrified at the want of an enabling act for Kansas, and at certain frauds alleged to have been committed at their elections in that Territory.

Mr. Chairman, no man entertains a higher personal regard than I do for the distinguished gentleman [Mr. CRITTENDEN] who in part represents the sovereignty of Kentucky in the other wing of this Capitol. He has been the recipient, for many long years, of the most distinguished honors which his native State could bestow, and his name prominently appears on the brightest pages of her history. Sir, that Senator is my personal friend. I heard him the other day, "more in sorrow than in anger," announce his purpose of ranging himself on this question with the anti-slavery hosts in this mighty hour of trial, when Kentucky and her southern sisters lie bound and helpless—their sovereignty and equality about to be crushed under the insatiate Juggernaut of abolitionism. Sir, that distinguished Senator was in the Cabinet of General Taylor, when the mighty injustice was done of dedicating the whole Pacific coast to freedom, in direct contravention of the rights of a large portion of the people of California, and under a protest from many of them against so gross a wrong! He was then for compromise. He rejoiced with his native State that patriotic counsels ruled the hour, and that the efforts of the great Commoner, backed by patriots from every section, had been successful in withdrawing from Congress the question of slavery, by leaving that question to be determined by the people themselves, and thereby becoming a second time prominent in preserving the bonds of our Union.

But now, when Kansas comes with a republi-

can constitution, regularly ordained, through all the regular forms of law, because there is the semblance of slavery upon her brow, her request for admission is met with the slogan cry from the Republican ranks, "no more slave States." When the Senate Chamber is made to ring with the haughty and defiant notes of the Senator from New York, [Mr. SEWARD,] that the controversy can "only be settled by the simple and direct admission of three new States as free States, without qualification, condition, reservation, or compromise, and by the abandonment of all further attempts to extend slavery under the Federal Constitution;" and ere the sound of these threatenings has died away, our Kentucky Senator deemed it proper to announce his regret at the repeal of the Missouri line—which he had looked on always as a measure of peace—and that he must still be allowed to entertain the opinion that it was constitutional, in despite of the decision of the Supreme Court against its validity.

Sir, the personal honor and high bearing of that distinguished Senator is above and beyond assault. Far be it from me to say anything unkind, or to impugn in the slightest degree the honest dictates of his judgment. He will pardon me, however, for asserting, on this floor, that these sentiments of his will find, in my judgment, no response in the hearts of a large majority of the people of Kentucky. Kentucky has played a prominent part in all the compromises which promised peace to the country and stability to the Union. The South has always adhered in good faith to every compromise. It was the North that has repudiated them. They refused to accede to the extension of the Missouri line to our Pacific possessions, and northern men have boasted that it was against the sentiment of the North that the Missouri line was ever adopted. A different principle was adopted by the compromise measures of 1850, which was itself a *quasi* repeal of the Missouri line; and when that principle came to be applied practically to Kansas, the North, for the first time, showed its respect for the Missouri restriction. We are now tauntingly told that slavery must find no foothold in any territory of this Government.

Mr. Chairman, no peans need be sung in behalf of Kentucky's devotion to the Union. From principle and from interest, she will cling to it as the noblest achievement for civil and religious liberty the world has ever seen. That Commonwealth knows no standard for the measurement of its value. But, sir, with the doctrines now advanced, the time for compromises of the Constitution have passed. Kentucky looks alone to the Constitution for safety. The day has already arrived when, behind its bulwarks, the true friends of the Union can intrench themselves for safety. Kentucky proves her devotion to the Union by the unanimity with which a large majority of her people, of all parties, are standing by the gallant Chief Magistrate of this nation, in his earnest and patriotic desires to preserve the guarantees of that Constitution by bringing Kansas in. Kentucky abhors sectionalism, and greets all with fellowship, from any portion of the Confederacy, who are willing to stand by the bond of that Union, and perform its requirements. She desires slavery to be forced upon nobody; but when a State presents herself with a requisite population, and a republican, though pro-slavery constitution, asking for admission; when patriots from the North and West are facing the storms of an angry fanaticism, bleeding at every pore, and periling their political existence in supporting the President in his noble efforts to extend to it a guaranteed right of admission, Kentucky insists that Kansas shall not be excluded upon flimsy pretexts, which have been disregarded over and over again, in the admission of free States.

Let not such a precedent be added to the powerful majority now held by the North. Do not permit fanaticism to justify itself, in its destructive warfare upon the Constitution, by citing this example, in support of further and still more alarming aggressions. Let Kansas be admitted. Localize this excitement by permitting the people of that Territory to settle these difficulties for themselves. Disarm the jealousy of our southern brethren, who have proclaimed that the rejection of Kansas would afford cause for a separation

from the Union; and, by such united patriotic action, nerve the arms, and encourage the hearts, of that national organization of patriots of every party in every portion of the Union, upon whose strength and continuance rest the hopes of thirty million freemen.

Why keep open this strife? Why, by a refusal to settle this question, shall we afford to the enemies of the Democratic organization the weapons with which to weaken, if not destroy its nationality? If the majority in Kansas be as large as it is claimed, they will readily apply the corrective to all the alleged grievances. The period at which they have a right to change their government is a judicial question, with which Congress has no right to interfere. No free people yet, with a Legislative majority in accordance with the popular will, have ever yet failed to make the government represent that opinion. If wrongs have been committed, let the remedy be applied at the proper place, in the proper time, and by the proper parties. I deny to Congress any such power of interference in the affairs of a State. Admit Kansas, and the corrective for every injury will soon follow.

Mr. Chairman, the bitter strife which has resounded through this Hall for the past three months, betokens nothing of good to the perpetuity of free Government. For what purpose, and to what end, are these cruciminations and recriminations between representative brethren from the several sections of a great, glorious, and happy country? Their continued repetition must tend to weaken, rather than unite, the bonds of our holy fellowship. I was surprised to see in the printed speech of the gentleman from Pennsylvania, [Mr. MORRIS,] a total perversion of the position of the distinguished Senator from Missouri, [Mr. GREEN,] on the power of the people of Kansas to change their constitution. I will not believe that this perversion was intentional; still, the speech of the gentleman from Pennsylvania is scattered broadcast through the length and breadth of the land, with an utter misstatement of Mr. GREEN's true position. Though wholly unintentional, the injury is not thereby diminished.

The gentleman from Pennsylvania, after combatting the position in the President's Kansas message, that the people of that Territory have a right to change their constitution, proceeds to say that the President's position is repudiated by the Senator from Missouri in the report for the admission of Kansas which he made in the Senate, and in support of this alleged repudiation the gentleman from Pennsylvania quotes the report, as follows:

"However grievous its provisions may prove to be, they cannot change without resorting to revolution until the year 1864."

This quotation would seem to support the text of the gentleman's speech, but the fact is not so. An examination of Mr. GREEN's report will show that this quotation does him the amplest injustice, and wholly misrepresents his true position. It will be seen that the quotation from the report of Mr. GREEN, as set out in the speech of the gentleman from Pennsylvania, begins in the middle of a sentence, and thereby makes Mr. GREEN deny the right of the people to change their constitution until 1864, when, if the whole paragraph, and a few succeeding ones had been quoted, it would have shown that the Senator from Missouri was, in that portion of the report from which the quotation was taken, supporting the view of the President. I propose to make this manifest by the following quotation from the report itself, as follows:

"Many generous persons, who are quite indisposed to countenance the violence and contumacy of the Abolitionists sent into Kansas for the purpose of excluding therefrom all persons not pleasing to them and their abettors, urge that something might be done to lessen the hardships that will fall upon them in the event of the admission of Kansas into the Union with the constitution made at Leecompton; that, although it is true the Abolitionists violently opposed registration, would not vote at elections, held sham elections on days subsequent to those appointed by law, and even refused to vote against the establishment of slavery, at a time when they professed to believe their doing so would have excluded it, and thus have peacefully settled the question to their own satisfaction, yet they consider it would be too severe to compel such contumacious citizens, even though it is their own fault, to live under a constitution which, however grievous its provisions may prove, they cannot change without resorting to revolution, until the year 1864."

It will be seen that it is the last two lines of the

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above paragraph that were quoted by the gentleman from Pennsylvania. It was not Mr. GREEN's argument, but that of "many generous persons." Mr. GREEN gives two answers to the paragraph quoted, as follows:

"To such, without resorting to the ready answer that Congress has no power to modify or alter a State constitution, and has expressly stipulated that the people of Kansas *shall be permitted to form their own institutions*, subject only to the Constitution of the United States, two replies may be given. The first one is this: the clause complained of in the Lecompton constitution, in this connection, is in these words:

He then proceeds to give the provision in the Lecompton constitution, and says:

"That this provision is not objectionable to the Abolitionists, *in fact*, and is now urged by them and their friends *only for popular effect*, is proved by the overwhelming fact that the Abolitionists of Kansas inserted in their 'Topeka constitution' the following more objectionable provision:

"Amendments to the Constitution.—Article xvi.

"SECTION 1. All propositions for amendments to the constitution shall be made by the General Assembly.

"SEC. 2. A concurrence of two thirds of the members elected to each House shall be necessary, after which such proposed amendments shall be entered upon the journals with the yeas and nays; and the Secretary of State shall cause the same to be published in at least one newspaper in each county in the State where a newspaper is published, for at least six months preceding the next election for Senators or Representatives, when such proposed amendment shall be again referred to the Legislature elected next succeeding said publication. If passed by the second Legislature by a majority of two thirds of the members elected to each House, such amendments shall be republished, as aforesaid, for at least six months prior to the next general election, at which election such proposed amendments shall be submitted to the people for their approval or rejection; and if the majority of the electors voting at such election shall adopt such amendments, the same shall become a part of the constitution.

"SEC. 3. When more than one amendment is submitted at the same time, they shall be so submitted as to enable the electors to vote upon each amendment separately.

"SEC. 4. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be, by the General Assembly, made before the year 1865, nor more than once in five years thereafter."

And then Mr. GREEN proceeds as follows:

"The second reply is this: suppose the grievance *real*, and that it *ought* to be redressed, it is unnecessary for Congress to unlawfully interfere for that purpose, inasmuch as the Lecompton convention has provided a full, lawful, and perfect remedy for every conceivable grievance, and placed that remedy in the unrestricted hands of a majority of the people, by inserting in the constitution of Kansas the following distinct and unequivocal recognition of power:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

"The Abolitionists of Kansas have thus far sought power by methods unknown to the law and by violence, and not through the peaceful agency of the ballot-box. Claiming to have a majority of the voters of the Territory, and therefore able to elect Legislatures and conventions, they yet ask Congress to wrongfully do for them what they may, at legal times and legal places, rightfully do for themselves, that is, change or abolish their constitution."

Thus it will be seen how an erroneous quotation, however unintentional, may do injustice to a gentleman's position, and how easily, by a true quotation of all the text, the argument of the gentleman from Pennsylvania [Mr. MORRIS] is answered. By such arguments and quotations from his own manuscript the fate of the Senator from Missouri might be made to resemble that of Zadis in Voltaire's tale. A fragment of paper was found containing these verses, in his own hand-writing:

"By crimes of deepest dye
He's of the throne possessed;
'Gainst peace and liberty
An enemy professed;"

and these lines were construed into a seditious and traitorous libel against the reigning Prince. But as they were leading poor Zadis to execution, a parrot flew to the place with another fragment, which saved his life; for it exactly fitted the former, and on it were written other words, which entirely changed the complexion of the supposed libel. The whole read thus:

"By crimes of deepest dye we've seen the earth made hell;
He's of the throne possessed who all these powers can quell;
'Gainst peace and liberty love only wages war—
An enemy professed, and one we well may fear."

This effort to condemn the Senator from Missouri out of his own mouth, as opposing the President's view, signally failed. Thousands, however, throughout the land, who read the speech of the gentleman from Pennsylvania, will go to their graves believing that the President, and the mem-

ber on Territories who made the majority report, are in direct antagonism on the question of a power in the people of Kansas to change their constitution.

ADMISSION OF KANSAS.

SPEECH OF HON. JOHN A. GILMER, OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,
March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GILMER said:

Mr. CHAIRMAN: I have been an attentive listener to the arguments on this Lecompton question for three months. Whilst some of the speeches have been calm and considerate, I feel constrained to say that by far the larger number have been violent and extremely sectional, tending directly to weaken the respect which the North and the South should have for each other, and which is essential to the safety of the Union itself. I have heard and read speeches delivered both in this House, and in the other end of this Capitol, by gentlemen from the North and from the South, the true spirit and meaning of which is *disunion*.

True, most, if not all, profess to love the Union and the Constitution. Their speeches are filled with expressions of high veneration for the Constitution of our fathers. They indulge in patriotic strains. Their addresses are robed in the most beautiful habiliments, overflowing with professions and assurances most imposing. The spirit of *disunion* is, however, the core. It is presented, and perusal and handling secured, as you would an *asp* in a casket of beautiful flowers. The design is evidently to infuse the poisonous spirit of *disunion* where, for it, there could be no reception, were proper labels attached. Professions of patriotism are uttered in loud and eloquent tones, for peace and harmony, whilst the evident drift is to exasperate and make wider the breach.

With pain and regret am I forced to the belief there are gentlemen on this floor who, while they oppose the admission of Kansas with the Lecompton constitution, do really desire the bill to pass for the sake of certain consequences, disastrous to the peace and harmony of the country, which they expect to grow out of it.

On the other hand, I fear that, among other gentlemen advocating this measure, there are some whose regret is that the Lecompton constitution, and the manner of securing its presentation here, were not more odious to the people of Kansas and the free States, so that their ultimate object might be the sooner secured by a bloody conflict of northern and southern arms on the plains of Kansas, and, in case of a failure in this, such bitter sectional excitement shall certainly ensue as to produce a fusion of all political parties in the free States, combined as a purely sectional party, against a similar fusion of all parties in the slave States, by which *disunion* is made certain in the end. These speeches I will not particularize. They have unfortunately gone forth to the country—those of the North to be read in the South, that they there may have samples of how northern people hate and despise southern men, and those of the South to be read in the North that they may know how they are scorned and detested by the citizens of the South.

The designs and purposes of both sides, it is to be feared, are the same—to arouse, drill, and prepare for strife the minds of a great people now happy, with bright prospects for the future; and who, by their united energies in advancing the industrial and literary pursuits of the whole country, are doing much more for the true happiness and prosperity of us all.

Without intending to be offensive or personal, I must be permitted to say, I envy not the man who can look on our country as it is, and, with composure, anticipate its condition when *severed and divided*. The man who can contemplate that terrible day, when, by reason of civil war, our beautiful and growing cities, towns, and villages shall be consumed by fire; our manufactories razed to the ground; our commerce broken up; our lovely fields and gardens made the foraging

grounds for ribaldrous soldiery; all international trade and communication cut off; all municipal and family peace destroyed; our sons dragged from their homes, amid the sighs and tears of affectionate mothers and sisters, to the bloody fields of civil strife; and all this growing out of a question as to how, when, or in what manner forty thousand people, ONLY, in Kansas shall settle for themselves their own domestic affairs; or, rather, how they shall *soonest* get clear of a few slaves—and get two "Free-Soil" Senators and one Representative in Congress; I say, such a man has no feeling in common with me, and none, I trust, with the great body of the honest yeomanry of this country, of all sections.

We have our troubles, I admit. We have had sectional troubles of a similar kind before. We have had, as now, *disunion* threatened, but thanks to the good sense of the people, they have never yet inclined to take the prescriptions of those who boastingly decline to sing peans to the Union?

England, from whom we derive our nature and many of the free principles of which we boast, had her troubles. She has had her dissensions—her white and red roses; her land has been tinged with blood in civil strife; and once the head of her King was brought to the block—but her people were attached to their Government and their constitution. The storm passed away. The political atmosphere again became pure and healthful; and the Government was maintained and improved. And it is my honest conviction that there is too much good sense in the people of these United States to be led away with the idea of *disunion*, on account of any difficulties growing out of this question, surrounded by such peculiar circumstances. I predict they will not, unless misled and deceived. But, figuratively speaking, they will bring to the block the political heads of all who shall insist on any such remedy for such complaint.

Mr. Chairman, it is not to be disguised that our southern people are anxious about appearances for the future. They see the free States, in number and in representation, already in the majority in both Houses of Congress, and this majority soon to be largely increased; that while the South falls into this minority, they have witnessed, for the last few years, among many people of the free States, an increasing spirit of bitter hostility to the South and her institutions. But let us, like statesmen, be calm, briefly trace the history of this thing, and inquire why it is. Though by the census, the actual figures show that the natural increase of population in the slave States has been equal to the natural native increase of the free States, yet the free States have excelled us in the settlement of new Territories and raising up new States.

In the first place, we of the southern States have been, and now are, the advocates of free trade, and many for direct taxes. We have opposed the policy of discrimination in favor of our own domestic industry in the old States, in regulating and raising revenue, and no more than enough to defray the expenses of the Government economically administered.

To this policy we have made in substance, successful opposition—thereby in a good degree cutting off much of the inducement that would have retained the industrious and energetic population in the old States, who, in consequence, have moved to the Territories, there settled, made new and free States, and became producers instead of consumers of the earth's productions.

In the second place, a majority of southern politicians have uniformly favored the policy of inviting, alluring, persuading, and, in fact, hiring emigrants—not only the citizens of the States, but of the whole world—to move and settle in our Territories. Homesteads, by way of preëmtions, in the Territories, are offered to all the world. The language of the whole policy is in substance "come ye all the earth and settle in our Territories; here you can become citizens, and without waiting to be naturalized, according to the laws of the Union, you can vote and hold office;" the result of which has been to run from the old States (slave and free) into the Territories, much of their population, and particularly that portion, though young, industrious, and worthy, who have, or take but little interest in the institutions of the South; and

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besides, we find growing out of this, that hundreds of thousands of foreigners are flocking to us every year; that foreign paupers are by thousands and thousands being set upon our shores. In fact, I find from the best official statements, that the number of foreign emigrants that came to this country from June 1, 1850, to December 31, 1851, was five hundred and fifty-eight thousand; for the year 1852, three hundred and seventy-five thousand; for the year 1853, three hundred and sixty-eight thousand; for the year 1854, nearly the same. The war in the East diminished the number, but I venture the prediction that between the years 1850 and 1860 there will have come to this country foreigners enough to place in each of twenty new States more population than is now in the Territory of Kansas. These foreigners make their way mainly to the Territories, or crowd into the free States, occasioning increased emigration from them.

These facts being undeniable, I submit, how important it is for our southern politicians to turn their attention to them! While the people of the North were willing to dispense with and check this immense immigration among them, for reasons of a social character, to diminish their taxes, prosecutions, and the inmates of their poor-houses, jails, and penitentiaries, I respectfully ask, why should not the South, to a man, for reasons as well understood as expressed, have joined in this great movement? and if in the first movements and organizations any rules were adopted too strict or too stringent to be generally enforced, or too severe on the honest immigrant, to have given their potent aid and influence in modifying the same, so as to have carried most useful results to our beloved South? But it has been their pleasure to pursue a different course, and the results thereof have, in no small degree, contributed to the embarrassing circumstances that now seem to gather around us and swallow up our influence in the national council. The argument has been, "settle and populate the Territories," forgetting the fact that in the last seventy-five years our population has increased from three to some twenty-seven millions, *ninefold*, and if the same ratio of increase shall obtain for the next seventy-five years, the result will be nine times twenty-seven millions, showing how important these Territories may be (sold at reasonable prices paid into the Treasury) for the homes of our own posterity, and of honest worthy foreigners, who come to us as they did in former days, from a love of our free Government, and who are willing to settle among us, sure of being protected in all their rights of religion and property, and who are willing to wait until they have understood and become familiar with our people and their institutions before claiming the right to participate in their government.

These suggestions I have made to southern gentlemen here, and throughout the slave States, that on reflection they may determine whether they have not been remiss in failing to come to the aid of a cause quite material to southern influence and southern interests.

I was very much entertained, Mr. Chairman, by the speech of the gentleman from Louisiana, [Mr. SANDIDGE,] and, if I had time, I should like to incorporate at least half of it in mine, to show, in addition to the millions that have already come, how many more millions of paupers are to come under our present system of inviting them to come here.

But, Mr. Chairman, what is it that we have been discussing here for the last ninety days? This discussion has been either intentionally or accidentally conducted so as to bring out the extreme sectional views of gentlemen from the South and from the North. It is only within the last eight or ten days that any conservative man has been permitted to address the House on this agitated question. It is said that this is a question whether any more slave States shall come into this Union, and speech after speech is made and sent to the South to tell the southern people that we are solemnly debating in the House of Representatives the naked question whether any more slave States shall come into the Union.

Why, Mr. Chairman, if that were true, if that were the only question here, it might have been settled within twenty-four hours after this debate commenced. If that were the only question, I

take it that all our American friends would vote for it; every man from the South would vote for it; I know that our Douglas Democrats would vote for it; and I am inclined to think that the Free-Soil wing of the Democracy—these Buffalo platform men—could be got to vote for it, with a Green amendment. That is my opinion.

But, Mr. Chairman, is that the question? On what has this debate arisen? On the special message of the President. Does he say that whether there shall be any more slave States is the question? No, sir; that message, as I understand it, means these two things—and it means nothing more and nothing less—to the South, "come in Lecompton," and to northern gentlemen, "it is the surest and readiest way, and the only certain way, in which you can confiscate southern property and get clear of negroes in Kansas." I have listened to gentlemen here professing great regard for the interests of the South, and, while all of them have been eloquent on the first part of the picture, they have all, save and except a gentleman from the chivalrous State of South Carolina, passed over that portion as tenderly as sucking doves. [Laughter.] I will read from the President's message, in order that there may be no mistake about it:

"As a question of expediency, after the right has been maintained, it may be wise to reflect upon the benefits to Kansas and the whole country, which would result from its immediate admission into the Union, as well as the disasters which may follow its rejection. Domestic peace will be the happy consequence of its admission: and that fine Territory, which has hitherto been torn by dissensions, will rapidly increase in population and wealth, and speedily realize the blessings and the comforts which follow in the train of agricultural and mechanical industry. The people will then be sovereign, and can regulate their own affairs in their own way. If a majority of them desire to abolish domestic slavery within the State, there is no other possible mode by which this can be effected so speedily as by prompt admission. The will of the majority is supreme and irresistible, when expressed in an orderly and lawful manner. They can make and unmake constitutions at pleasure. It would be absurd to say that they can impose fetters upon their own power which they cannot afterwards remove. If they could do this, they might tie their own hands for a hundred as well as for ten years. These are fundamental principles of American freedom, and are recognized, I believe, in some form or other, by every State constitution; and if Congress, in the act of admission, should think proper to recognize them, I can perceive no objection to such a course. This has been done emphatically in the constitution of Kansas. It declares in the bill of rights, that 'all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper.' The great State of New York is at this moment governed under a constitution framed and established in direct opposition to the mode prescribed by the previous constitution. If, therefore, the provision changing the Kansas constitution after the year 1864, could by possibility be construed into a prohibition to make a change previous to that period, this prohibition would be wholly unavailing. The Legislature already elected may, at its very first session, submit the question to a vote of the people, whether they will or will not have a convention to amend their constitution, and adopt all necessary means for giving effect to the popular will."

"It has been solemnly adjudged, by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States. Kansas is, therefore, at this moment, as much a slave State as Georgia or South Carolina. Without this, the equality of the sovereign States composing the Union would be violated, and the use and enjoyment of a Territory, acquired by the common treasure of all the States, would be closed against the people and the property of nearly half the members of the Confederacy."

And then he concludes with this very cheering doctrine for southern men and southern interests:

"Slavery can, therefore, never be prohibited in Kansas, except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if a majority of the people desire it, as by admitting it into the Union under its present constitution."

The President points out the way in advance. He stimulates the Free-Soilers in Kansas to dislike the constitution. He requests this prompt means of getting slavery out of Kansas to be recognized in the bill of admission.

Here is the message. I submit it to the chairman, to the committee, and to southern men—suppose, that instead of having the name of James Buchanan attached to it, it had had the name of the distinguished gentleman from Ohio, JOSHUA R. GIBBINGS at the end of it, I ask, if that name had been attached, whether it would not have been an entirely different case? We would pronounce it a rank abolition document. And yet, sir, our southern friends come up here and talk

about associating with Abolitionists, and of hugging abolition doctrines as a sweet morsel! Why, Mr. Chairman, the whole thing in that message is, "*in with Kansas—out with slavery in Kansas*," and identically the same thing is in the Senate bill, that the South is called upon to rally as one man to the support of. I have asked many of our Lecompton friends if this Green amendment, which they have got in the bill, speaks the language of this message? Some say no, others say it does; and there is another class who give the answer the girl gave to her mother, when asked, if a certain gentleman was courting her; she replied, "it is a sorter so, and a sorter not so, and rather more a sorter so than a sorter not so." [Laughter.] Now, that amendment is a very little thing—only a few lines. There is not much of it, but I tell you I never read it over but it reminds me very much of the boy who was scolded for not making the potato hills on a wet morning large enough. "Well, dad," said he, "it is a fact that they are small, but I tell you they have got a darned sight of dirt in them." [Laughter.] Sir, if this is a pill gilded over to make it acceptable to some Green men, southern men ought to be ashamed of it. I know that this peculiar policy is practiced in our little electioneering scuffles in our country, and I suppose everywhere else, but I never supposed it ought to obtain in the Congress of our nation. Once when I charged a friend of mine with having said some foolish things in a speech which he had made, and told him that I thought he had hurt our cause, he said: "Ah, Gilmer, you do not know the folks as well as I do. A great many people are like a nest of young birds; if you tap the side of the tree, they'll open their mouths, and swallow the worm down." [Laughter.]

Southern men supposed that we had got something by the Dred Scott decision. I, for one, as a southern man, thought we had obtained something; I thought that we had got upon safe ground; that we had perfect equality in the Territories; that we could go there with our institutions and our property, and be just as safe there as the men who go there from any other section with any other species of property. But if this is the meaning, if this is the result of the Dred Scott decision, then those of us who go into the Territories with our slave property, have to run two chances—first that the people may exclude us when they come to form their constitution, and if they do not run us out at first, then whenever the majority of the people desire it, they may run us and our negroes out. And this is the doctrine upon which the South is to stand; this is the doctrine, mark you, which Alabama and other States are to go out of the Union on, if they cannot get. It is not from any objection to the constitution of Kansas, that I, as a southern man, oppose her admission. I would be pleased that we could fairly and properly get slavery permanently in Kansas. But I object to this doctrine, that we can be protected in our property while in partnership during the territorial state, but the moment we become an incorporation—a State—every man that owns joint stock is instantly liable by constitutional provision to have his property confiscated. And this is the doctrine which we have been told here, month after month, and day after day, that every southern man must stand upon; otherwise he is an Abolitionist and opposed to the interests of the South!

Mr. Chairman, what is the question which has agitated the country for the last four years? It is one that has taken up the entire attention of Congress. We have been figuring about it until, I believe, not only the country but the Government itself is upon the verge of bankruptcy. This question commenced with two faces—one for the Free-Soil Democrats of the North, and one for the South; and the same, identical double face is in this bill, and I will detain the committee only for a moment, while I refer them to some history of it. We had our troubles some years ago growing out of the discussion of the compromise measures. In January, 1851, the venerable fathers of the land, Whigs and Democrats, gathered together, with Henry Clay at their head, and drew up a pledge to the country that from and after that day their influence would be exerted against every man for office, State or Federal, who would refuse to stand upon the platform of the adjustment measures of

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1850. The people rallied to that standard. The Democratic convention met in Baltimore in 1852; the Whig convention met at the same place, and they both bowed down at the same altar of peace upon this agitating question. They reaffirmed in substance what Mr. Fillmore said in December, 1851—that this compromise of 1850 should be a finality, and there should be no more agitation of the slavery question in or out of Congress. To that both of the leading parties were pledged to the country. They put their candidates upon that platform. General Pierce was elected. He was installed. Unfortunately, however, he, in a short time, made some injudicious appointments—he turned out the true Democrats of the North, men who I am proud to find standing in the same ranks they did then. Van Buren, Dix, Cochrane & Co., the Buffalo platform men, were then coming in, and the party was about to break up. Something had to be done. The Administration was going down. A prescription had to be made. It was given; and on the principle that you prescribe to one choked with a turnip—get him to swallow a pumpkin, and it would relieve him. [Laughter.] They went upon this Cincinnati platform. I am not going to detain the committee to show how our friends viewed it in the South. That is well known. I desire to show how the matter stands with the Administration, to show what the Democratic Free-Soilers said before, afterwards, and all the time. A few months before the Cincinnati convention met, a distinguished Free-Soiler wrote to the North. Mr. Hubbard, Mr. Woodbury, and all these noisy men of the Buffalo convention, began to give evidence that they wanted to return to their friends. Here is one. I give it as a fair specimen of their letters and speeches. It is the letter of Hon. C. C. Cambreleng to William H. Ludlow, Esq., dated Huntington, December 8, 1855:

"MY DEAR SIR: Even southern men in Kansas acknowledge that it will inevitably be a free State. THIS IS THE LAST STRUGGLE FOR SLAVERY; for the half dozen Territories remaining are already free, and will remain so."

"There would not have been half the trouble about Kansas, but for Atchison's struggle to get back into the Senate. As the question now stands, there ought to be no difficulty whatever in uniting the Democratic party for the principle of the Nebraska and Kansas bill—squatter sovereignty—whatever its origin, gives us every Territory belonging to the United States; and all we have now to insist upon is, that it shall be honestly enforced; that Kansas shall have fair play. Practically, there is no difference worth quarreling about."

"It appears to me to be perfectly absurd for us to be grumbling about 'squatter sovereignty' at the present time, when squatter sovereignty will make free every inch of territory now belonging to the United States."

"After the acquisition of California, with the prospect of the addition of more Mexican territory, when General Cass proposed the doctrine of non-intervention, it was an important question, as it might have led to the introduction of many slave States; but after the South had been completely convinced by California's declaration in favor of freedom, we had no reason to object to the doctrine of non-intervention, or squatter sovereignty. We have now, besides Kansas and Nebraska, New Mexico, Utah, Minnesota, Oregon, and Washington, making seven Territories, which will give us seven free States. Some think the fate of Kansas doubtful; but the invasion of the Missouri routes, independent of natural causes, will make it a free State. These borderers came over first to vote for pro-slavery men; the second time to vote against them in the location of the capital; and the third time to make a blunder under Shannon, plunder the people, and drink whisky."

"Under such circumstances I cannot conceive what we can possibly gain by resisting a principle which has hitherto excluded slavery from our Territories."

"The slaveholders will not get Kansas, and they are now deprived of the pretext of going into the Territories south of 36° 30', under that compromise. They generally opposed non intervention on that ground, and contended for carrying the compromise line to the Pacific ocean. It is certainly not for our interest now to have that compromise line restored. Why the South should have voted for its repeal is a question for themselves to settle. They all, at the time, admitted that Kansas would never be a slave State. I hope our friends will meet the issue boldly, and leave the question of State organization to the people of the Territory, who have the natural and best right to decide for themselves."

"Let the squatters settle—but insist that that principle of the Nebraska act shall be honestly carried out; that the squatters shall have fair play, and shall not be controlled by invaders from Missouri, or any military power whatever. As to more slave States, there are none in prospect; and it is useless to embarrass ourselves by anticipating questions which may or may not arise."

Now, sir, these two wings are standing to-day exactly where they stood before. Tell me, if you please, why these men you are hugging to your bosom on the other side, stand with you? these men who were, and now are, rank Free-Soilers?

Tell us why the Green amendment is admitted? Which would you rather have for your bed-fellows? I tell you the difference is very much like the slave's reply when asked whether Jim and Mose were not very much alike. He said, "Yes, very much alike, indeed; and particularly Mose." [Laughter.] It is not so much, I fear, that they care about getting negroes into Kansas, or getting them out. It is not any principle of this kind. It is, I apprehend, a mere contrivance by which jobbing has been carried on in this country to keep certain men in power. In fact this whole management and shuffling reminds me of what occurred in one of our North Carolina towns some years ago. A silly fellow declared himself a candidate for town constable. The boys had a circular printed for him. It was printed on both sides like this—with Lecompton on one side, and Green upon the other. On one side he addressed himself to the debtors: "Fellow-citizens, vote for me, and if I am elected constable, I will never force you to payment, even at any extremity." On the other side was an address to the creditors: "If you will come up and vote for me, and I shall be elected, I promise, upon my honor, I will have your money paid, in every instance, at the drop of a hat."

Mr. Chairman, I am not disposed to detain this committee with a review of the decision of the Supreme Court in the Dred Scott case. All I have to say is this: that my views upon the constitutionality of the Missouri compromise were known long before that decision was made; and I thought that the compromise was not in accordance with the spirit of the Constitution. Although my opinion inclines to that of the Supreme Court, and did before the decision was made, yet, from the length of time it had been a compromise, I was disposed to look upon it as a compromise which had better be abided by. As in the case of two neighbors whose boundary line is in dispute—a boundary which can only be settled by the provisions of a deed; and no agreement they might make by parol would change the line fixed by the deed, any more than any agreement between two sections of the country by Congress could be changed. But when the neighbors have established a line by parol agreement, staked and chopped it off, and have lived in peace, harmony, and prosperity under it for more than thirty years, if they should come to me and ask my advice whether they should break up this old landmark—now the true line being ascertained by the deed—and go back to their rights according to law, I should say, as a man, a neighbor, and as a Christian, also, that they had better let the old landmarks stand, and abide by them, and by no means revive old disputes and quarrels. So with the case of this Missouri compromise. I do not believe the South is going to gain anything by its repeal, and I firmly believe that the only reward the South will ever get from its repeal will be to her injury, and anything but an advantage to her true interests.

But it is said that the only way to pacify the country is to admit no amendments to this bill; that it cannot be bettered; that in no way can it be improved; that it has got to be passed in the shape in which it is presented, even though a proposition should be presented, which, if carried out, would more effectually pacify and quiet the country, and settle the whole question. Why, say they, it would be intervention. Now, let me detain the committee a moment, to show how ridiculous that idea is. What is this thing of non-intervention? Why, is it intervention to leave the people of a Territory perfectly free and untrammelled to settle this, with all other questions, in their own way, fairly and properly, subject only to the Constitution of the United States?

Now, sir, do we consider it any intervention, in the case of a trial by jury, after the verdict is announced, to set the same aside, and grant a new trial upon affidavits which clearly prove and satisfy the judge that the verdict was obtained by fraud, by perjury, by deception, or by any malpractices? Is it any intervention for an honest and conscientious judge, after being satisfied of the facts by reliable affidavits, to say that he doubted whether the verdict had been fairly obtained, and in the exercise of the discretion which is vested in him, decided to grant a new trial, in order

that justice might be done? Is that an interference with the right of trial by jury? And suppose a jury is empaneled to settle the question, and they come back to the judge, and one of the jury gets up and says the verdict is so and so, and another says it is not so, and the judge tells them, "gentlemen, you had better retire, get together again and consult, and agree upon your verdict, and, when you come in, it will be recorded;" is that any interference? I wanted to show how ridiculous this idea is. Is that intervention? What are GREEN's and PUGH's amendments? Let our northern anti-slavery men, of all parties, understand that the President of the United States has given a true construction to the Dred Scott decision, and you will never have any more fuss about this matter from them. The President says it means that when the people of any State see proper to get together in a legal way, to get up a convention sanctioned by law, a mere majority vote of their assembly *Free-Soil*, they may form a constitution and the negroes will all slope. That is giving the Abolitionists a new cue, and one which will run out the institution of my beloved section from all the Territories, certainly, and endanger it in many of the States.

Mr. Chairman, I desire to look upon this question without reference to any section, or how it will affect any body other than the general good and peace of the whole country. If no other plan can be devised and agreed on, I may feel myself constrained to vote for the measure, being urged by southern friends and sectional pressure. And if I do, the Green amendment stricken out, it will not be (and I say it here) a measure which my sound judgment can approve as the better plan. If I could, I would put the whole responsibility upon the Democracy, where it belongs; for I do believe if they would relax a little, and honestly set their heads to work with our southern friends and other conservative men in this House, this whole matter might be put upon a footing entirely satisfactory to the South, to the East, to the West, to the North; satisfactory to the people of Kansas, and without any compromise of any principle, substantially in the manner indicated by me heretofore.

I must say that when I hear it asserted here and everywhere, and the proofs strongly tending to show, that the government of Kansas was, in the first instance, ruthlessly snatched from the people, unconstitutional test oaths applied, by which the minority, who by fraud obtained the control of the government, and by which the majority were kept from participating in the government; when I am told, and the proof tends that way, that not more than one half of the counties of the Territory were permitted to be represented in the convention, I doubt the propriety of supporting the constitution framed thus. I dissent from the idea that a majority of the counties of any State can make a constitution that is binding on the minority of counties who did not have a chance to be represented in the convention. Why have you more judges than one? It is not simply for the sake of numbers, but that there may be conference, argument, interchange of views. We may be to-day all inclined one way, and to-morrow a greater and better mind than any of us, representing but one district, may make a suggestion sufficient to change the opinion of the whole Congress. We know that the election of the 4th of January was recognized by the Secretary of State, who gave instructions that that very election should be fairly held, and the votes fairly and impartially taken; that vote turns out to be over ten thousand against the constitution. We are told, too, and assured, that the Legislature of the Territory, representing the will of the people, are unanimously protesting against this thing; and we are also told that the whole constitution rests on fraud, deception, and violence. And permit me to say further, as a southern man, that, when I see my southern friends on the special committee in this matter declining to obey the instructions of the House, and shrinking from inquiry, it leaves the suspicion stronger on my mind that these reports are true. I hope that they are not. I hope that the deeds perpetrated there have not been so horrible as they have been represented; but when I see chivalrous gentlemen, from my own section of the Union, turning their back upon an investigation,

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and saying that we had better not look into these things, I take it for granted there is more in these assertions than I before supposed. But, sir, this special committee was directed to do another thing. That was, to tell us whether this Territory had within its confines ninety-three thousand inhabitants. Now, I ask every man here, on what figures, and on what evidence, he can satisfy his mind that there are ninety-three thousand in Kansas? What was the last census?

Mr. SHERMAN, of Ohio. Twenty-three thousand.

Mr. GILMER. How long ago was that?

Mr. SHERMAN, of Ohio. Last June.

Mr. GILMER. Then where, I appeal to southern men, do you get the requisite ninety-three thousand population? But they come forward and say that the Republicans wanted to have Kansas admitted under the Topeka constitution, and therefore they are estopped. And they also say that at the last Congress our Democratic friends undertook to pass an enabling act, and therefore they are estopped. Well, that may apply to the Republicans, and may get them out of court. It may very well apply to our Democratic southern friends, and turn them out of court. But what are they going to do with the poor Americans? We say that the Republicans were mistaken, and that that was only a movement of intemperate zeal. We want to know what the facts are. I venture to say that there are not four individuals there to every single voter. The experience of this country shows that in a Territory where there are but few females, and few old or very young persons, the voters are in the ratio of not more than one to every three or four. Well, now, take the ten thousand voters, and multiply that figure by three, and you have but thirty thousand of population there. Multiply it by four, and you have but forty thousand. Multiply it by five, and you have but fifty thousand. Multiply it by six—what we all know is far beyond the ratio—and you have only got sixty thousand. And yet here are southern gentlemen—men who want to protect the equality of southern representation in Congress—coming forward here in hot haste, and denouncing as an Abolitionist every man who will not consent to allow the thirty or forty thousand quarreling people of Kansas to come in as a State, and to send here two Jim Lanes and somebody else like them to vote in the Congress of the United States; and that all for southern interest!

That, mark you, is advancing the great interests of the South! I know where is not a man here who can say that he has evidence that there is a population of ninety-three thousand people in the Territory of Kansas. The fact is not so; and the fact that our southern friends, having the control of the special committee, declined to inquire into that important point, proves that it is not so.

But, Mr. Chairman, permit me to say, in conclusion, that we are not left in the dark and without precedents as to the proper course to be pursued in a difficulty of this kind. Kentucky, after several attempts, was admitted into the Union, and allowed to frame her constitution subsequently, in her own way. So, I believe now that Kansas should be allowed to come into the Union, and that she should be allowed to settle this question and frame a constitution for herself. Do this, and Kansas will be satisfied, the House will be satisfied, and the whole Union will be satisfied.

ADMISSION OF KANSAS.

SPEECH OF HON. W. P. MILES,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. MILES obtained the floor.

Mr. HOUSTON. I ask my friend from South Carolina to suspend until the Black Republicans have finished congratulating the gentleman from North Carolina. [Mr. GILMER.]

Mr. MILES. Mr. Chairman, in rising to speak on the subject of Kansas, I feel embarrassed by two difficulties, either of which might well be sufficient to deter me from addressing a legislative as-

sembly. The first is, that the subject has been so long and thoroughly discussed in all its aspects and bearings—every fact, argument, and illustration pertaining to it has been so completely exhausted—that it seems next to impossible to say anything which has not already been said, and better said than I can hope to do it. The second is, that I feel—as every honorable member upon this floor must feel—that nothing which may be now adduced in debate can possibly change a single vote. The issue has been made up. The position of every one of us is fixed and determined. It merely remains to put the decision of this House formally upon record. But though this be so, still, on a great and important public question, involving momentous issues to the country at large, and grave as well as nice constitutional points, it is natural, as well as proper, that the Representatives of every constituency should desire to express their views, and record their convictions.

The question of the admission of Kansas into this Confederacy of States is a mixed question of expediency and of principle. Were we governed simply by considerations of expediency, it might well be doubted whether the condition of things in that unhappy Territory—the sparsity and character of her population, the general instability and uncertainty of her internal affairs, the violence, recklessness, and lawlessness which have long prevailed in her borders, to so great a degree as to tempt the most casual looker-on to exclaim, “Here discord reigns supreme!”—ought not to induce us, as the Representatives of civilized and dignified States, to turn from her application with disgust, and decline, at least for a season, to receive her into the bosom of the Federal family as a sister and an equal. Sir, I do not hesitate to say that the history of Kansas, since its erection into a Territory, has been revolting and humiliating—revolting, because exhibiting so many scenes of outrage against the civilization of the age in which we live; humiliating, because showing with how much difficulty a people who boast of their aptitude for, and experience in, self-government, can plant a colony on their very borders inaugurated upon that great principle.

We are prone to think that our race, and particularly our own people, have but to come together into a community, and straightway law and order and political system spring into existence from the masses who are supposed to be familiarized, saturated with them, like perfect crystals from the fluid which holds them in solution. The experiment in Kansas might well inspire a doubt of the truth of the belief which we have so fondly cherished, and somewhat shake our faith in what we have been wont to consider an irrefutable dogma. Greece spread her civilization through her colonies as readily as the gardener multiplies some cherished tree from twigs cut from the parent stem. It was but to find some spot of soil where the off-shoot might be planted, and lo! it took root, gathered and compelled unto itself its fitting nutriment, and budded and blossomed, and bore fruit, and in turn became the parent of like children. But in Kansas our cutting of popular government has not flourished—it is sickly and wilted. The perfect and shining crystal of constitutional liberty has not been formed. The waters have long seethed and bubbled. Various political alchemists have stirred them with their potent rods in vain. The last that moved the pool and dived into its depths, retired from it in disgust, covered with slime, but holding in his triumphant hand a nondescript sediment, which he has been protesting ever since is the *true salt of popular sovereignty*! I propose, before I get through, to analyze this Walker residuum, and see whether it be indeed the true substance wherewith the great rites of popular self-government are celebrated on the high altar of popular liberty!

But though as a matter of expediency under ordinary circumstances and in quiet times, it might well be questioned whether a Territory in the condition of Kansas was fit to come into our Confederacy as an equal and sovereign State, with a right to vote money from the common purse, and assist in the great council of senatorial ambassadors in shaping and annulling treaties; still, on the other consideration, namely, of principle, it does seem to me that there are cogent reasons for her

speedy admission. The real question involved in the admission of Kansas is, “shall another slave State, as such, be admitted into this Union?” That is the issue now before us. It is not a complicated one. Slavery expansion and slavery contraction—we of the South naturally, earnestly desire the former; the Black Republicans, not so naturally, but quite as eagerly, desire the latter. Constitutional men of the North admit the right of the South to expansion. The lines of battle must be joined on the great issue presented. Neither special pleading nor microscopic political morality, which would ignore the great issue while it picks out flaws in a comparatively minor one, can conceal the fact which stares us all, which stares the whole country in the face, that the present struggle is to determine the question whether a State whose constitution recognizes slavery as a part of its social organization can ever again be allowed to enter the Confederacy. It is the opposition to slavery which lies at the bottom of the opposition to the admission of Kansas. My friend from Indiana [Mr. ENGLISH] shakes his head in dissent. But he must allow me to differ from him. I believe the anti-slavery sentiment at home unconsciously influences many members upon this floor, who themselves are not opposed to the admission of more slave States into the Confederacy. This, sir, is my honest conviction.

Look at the history of the admission of California, which my friend from Kentucky, [Mr. STEVENSON,] who preceded me on our side of the House, has so clearly and thoroughly traced out. Why was she so easily admitted, with a constitution so irregularly formed, so little expressing the will of the people of that Territory as to be a far greater “fraud” and “deception” than the Opposition can possibly paint the Lecompton constitution to be? Simply and solely because her constitution did not recognize slavery. I know that there are northern Democrats, I know that there are southern Americans, who vehemently deny that that is the issue now before us. I believe that there are some of them who conscientiously think that it is not. But with all due deference, I must say that they are taking a very narrow view when they make the question turn on any smaller pivot. The mind of the whole country has been long distracted by this slavery agitation. It has entered into every political question; and it is impossible to disguise the fact that it constitutes the very pith and substance of the contest in which we are engaged.

Sir, we have heard much about the “stupendous frauds” in Kansas. It is the burden of the song of the Opposition. From the holy horror which has been evinced in speaking of them, we might imagine that such things as frauds at the polls were utterly unknown in the existing States of the Confederacy; as if Kansas stood solitary and alone in this particular in her bad eminence. It would indeed be a matter of which, as a people, we might be justly proud were this so. But I ask any candid man on this floor if frauds quite as gross as those alleged to have been committed in Kansas do not habitually take place at every election in many parts of the country? Have we forgotten the recent election scenes in Baltimore, where, according to the testimony of many of her own most respectable citizens, hundreds of voters were practically disfranchised by violence and arms? Were there any scenes in Kansas comparable with them? Yet here we sit quietly, day by day, with honorable members who, in the judgment of large numbers of their constituents, have been forced into this great council of the States by frauds and outrages, compared with which the famous matter of the “Delaware Crossing” must hide its diminished head. How is it in all your large cities? Are there not, at every election, frauds glaring and innumerable? How many honorable gentlemen upon this floor are there who can say that there never have been election tricks, frauds, and false votes in their own districts? I imagine, sir, very few. It may be humiliating to confess it, but is not such the truth? The buying and selling of votes is, unfortunately, too common wherever men are found able to buy and willing to sell. However much we may deplore such a condition of things, however much we may discountenance and denounce it, it would seem to be an evil inseparable from universal suf-

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frage. Not only so, sir; but inseparable from the exercise of suffrage, so far as the experience of any government has hitherto shown.

How is it in England? The rotten borough system has, indeed, been swept away by the reform bill. The people at large have a far more potential voice in the choice of their legislators (who are their true rulers) now than in the time of Pitt and Fox and Burke and Sheridan. I will not pause to inquire whether they have, in consequence, more able, wise, and philosophical statesmen in their national Parliament. But, sir, what is the *modus operandi* of many a parliamentary canvass? Is it not notorious that money is freely used; that in some cases regular contractors have undertaken to return honorable members to particular seats in Parliament? Is it not notorious that "to stand for the county"—to contest a seat in the county—requires the outlay of large sums of money; sometimes to the amount of ten, twenty, thirty, even fifty thousand pounds? Are we to be told that the frauds in Kansas, then, are so "unparalleled," "stupendous," "unprecedented," that they shock the moral sense of freemen all over the civilized world, and that we must gather the raiment of our national purity closely around us and not allow our brethren in this new Territory to touch the hem of our garment, lest we be defiled in the eyes of the nations? It has been recently told me, that not long ago, at an election held in one of our northern cities, justly considered one of the brightest centers of intelligence and refinement, banners were openly displayed with this inscription, for the guidance of the popular sovereignty, upon their folds, "Vote early and vote often!" Is it not pharisaical for us to be affecting such scruples about irregularities in a frontier settlement, where the restraints of law and (what is more powerful than law) public opinion cannot reasonably be supposed to operate as forcibly as in long-settled and more civilized communities? I hope, sir, I shall not be understood as standing forward as the apologist for, much less the defender of, the frauds alleged and the abuses complained of. No one would go further, I believe, than myself, to purify the elective franchise, and make the ballot-box, which is the true exponent and only safeguard of popular liberty, the fair and unmistakable interpreter of the popular will. But I am not willing, with sanctimonious expressions of horror utterly disproportioned to the merits of the case, to decide against my own people—to join issue with my own party—in a tremendous contest involving principles, in comparison with which, the casual excesses which may have been committed in a wild and border Territory shrink into insignificance. Besides, sir, without either defending or apologizing for such excesses, (supposing them to have been committed,) may not something fairly and honestly be said in extenuation of them?

Much has been said about the "border-ruffians;" the vials of wrath of the Free-Soil presses have been emptied upon their heads; they have been arraigned before the bar of public opinion, and every effort made to cover them with infamy. Who were the border-ruffians? Men living in the adjacent slave State of Missouri, who naturally looked upon the virgin soil of Kansas as in some sort their peculiar heritage; who, so soon as it was erected into a Territory, passed into it with their negroes for the purpose of tilling the soil and making the earth yield its increase to the labor of their hands. They did not, perhaps, in every case, immediately become settlers, but, separated as they were from their homes merely by an intervening river, contented themselves with marking out such tracts of land as suited their purposes, with the intent to return, and there set up their household gods. But while thus engaged in taking actual possession, or preparing to do so, what do they behold? Band after band of armed emigrants from the distant Atlantic cities of the North—equipped and sent out by abolition emigrant aid societies—are poured into the promised land, with the avowed object of wresting it from the detested southron and slaveholder. They come—many of them the scum and refuse of the large cities—with Sharpe's rifles in their hands, and hatred and defiance in their hearts, openly declaring that their intention is forever to exclude the southerner from any share in the new Territory. They come, paid for the job by con-

tributions from half-crazy women and political parsons and fanatical zealots, and insolently endeavor to forestall the Missourian in the occupation of lands to which he had already set up something of a claim. They come with the settled and offensively announced purpose of driving back southern civilization, and checking the natural and legitimate spread of the wave of southern expansion. Had it not been for this forced influx of a northern anti-slavery population, there can be no doubt that western Missouri would speedily and surely have overspread into the eastern portion of Kansas, (the only portion of any agricultural value,) and firmly established, in due process of time, the institutions of the neighboring and parent State.

Now, sir, was it not natural that the Missourians should resent this violent attempt to oust them from the wished-for Territory? Is it strange that they should take up the glove of defiance, and meet the invaders who came for the purpose of overturning their institutions with the same weapons which they themselves so ostentatiously paraded? They did so. They met, checked, and foiled them. Forthwith arose shrieks from "bleeding Kansas;" which a thousand pulpits, a thousand abolition presses, have in every tone of the gamut, been reechoing ever since. Then Missouri called upon her sister southern States to come to her assistance. She besought them to meet this practical issue for the strengthening of the institution upon which their whole social polity, prosperity, and strength are based. She urged them to send out settlers with their slaves if possible; or if the latter could not be spared, still to send out southern men to take legal possession of the disputed Territory, and hold it as a vantage ground for the South. Unhappily the South did not respond to these appeals as she should have done, and as I believe she would have done had she duly realized the importance of the issue involved. She ought to have sent out man for man and dollar for dollar in opposition to those sent out by the northern associations. Had she done so, Kansas would have been ours forever, beyond dispute. Her climate and soil are quite as well adapted to slave labor as those of Missouri, which, in these particulars, she very closely resembles. She would have been a wall of defense to this latter State on the one hand, and have tended on the other to restore the equilibrium of power between the slave and free States which is so rapidly being destroyed.

But, sir, to return to the consideration of the subject of the "frauds," and the objection based thereon, that the constitution of Kansas with which she applies for admission into the Union is not the expression of the will of her people. I have said, in general terms, that I thought undue stress was laid upon the fact (granting, for the sake of argument, that it be a fact) that at some of the elections there have been tricks, irregularities, and deceptions. When two great parties, in an excited contest, are straining every nerve to defeat each other, it must almost inevitably follow that such things will be. They spring from the innate frailties and passions of human nature. They are not, as we have seen, confined to lawless communities, nor exclusively indicative of them. But, in point of fact, so far as the election frauds in Kansas are concerned, I firmly believe that both parties there are equally implicated in them. If the conscience of General Calhoun, which, like Mohammed's coffin, in traditional story, has so long hung suspended between heaven and earth—between the truth, as he must have known it, and his hopes of a seat in the other wing of the Capitol—has at length "purged" the return by rejecting the vote of the Delaware Crossing, why, we may ask, has he not purged the Leavenworth city vote? How comes this vote in the recent election to be so much larger than on two former occasions, when the contest was fully as keen and spirited?

But, sir, I did not intend and do not intend to go into the wretched and petty details of the Kansas elections. They have been held up before us, by both sides in the course of this debate, and twisted and turned in every imaginable and unimaginable way. We have been treated to them *ad nauseam*. We have been surfeited with them. I, for one, am heartily sick and tired of them, and

wish to see or hear of them no more. To a plain, candid, sensible mind, this whole branch of the subject lies in a nutshell. The higher law, anti-slavery, anti-constitutional party in Kansas have long set all law at defiance, openly unfurled the banner of treason and revolution, mocked at the authority of the President and of Congress, refused to enroll themselves on the registers intended to guard against frauds at the polls, refused to vote, and still persistently clinging to that off-spring of fraud and villainy, the so-called Topeka constitution, will listen to no plan of conciliation or pacification. They would not hear even the voice of Walker, the charmer, though he charmed (as he thought) never so wisely. To all legitimate rule, to all duly constituted authority, they cry, "Away with it! Away with it!" They still desire to have "Jim Lane"—the Barabbas!

On the other side, we have a party who recognize the Constitution and the binding obligation of the laws; who, in strict compliance with law, have formed a constitution (closely copied from the best models of the older States) which they hold up in their hands and present as their credentials while they knock for admission into the family of States.

Between these parties we must decide. Men of the South, you cannot hesitate between your own people and friends, and their bitter, uncompromising foes. Constitution-loving men of the North, who have stanchly stood by the South on the firm rock of the Constitution, while the mad waves of fanaticism have so often raged in vain at your feet, will you desert us now? I again repeat, that the question of frauds is a minor one; one, the testimony concerning which is so contradictory that we have, and can have, no reliable data upon which to come to a conclusion. I contend that these frauds have certainly not been confined to one party; that, moreover, the lawless, factious spirit of the Free-Soil party, and their open rebellion against all constituted authority, may be justly considered a fair set-off against the frauds alleged to have been committed by the other side; and that the true issue is between the rebellious, anti-constitutional Free-Soil party, with the Topeka constitution, and the constitutional party, with the Leecompton constitution, who have complied with all the requirements of law, and who have on their side all the sanctions and forms of law.

A great deal has been said, Mr. Chairman, on the subject of popular sovereignty as bearing on the question of the obligation of the convention to have submitted the constitution framed by them to the popular vote. It has been urged that no constitution is valid without such submission; and this, in view of the pregnant fact that usage as established in the case of a large number of the existing States of the Confederacy, is entirely against such an opinion. But it is contended the acquiescence of the people in such cases has been equivalent to a formal indorsement. In one sense this is true. The acquiescence of a people in any law marks their approval of it, but its binding effect is not derived from such acquiescence. If the law be unconstitutional, it can be set aside by judicial process in the mode provided by every constitution for testing the validity of legislative enactments. And this, though it be ever so popular and acceptable to the people. And so, on the other hand, a law which is not acceptable to the people may be changed by their legal representatives in a legal mode. But, in both cases, the law is valid and complete until set aside constitutionally, or legally repealed.

If this be true of a legislative enactment, a mere creature of the constitution and subject to it, then, *a priori*, the constitution itself—the fundamental, organic law, which is a law unto itself, supreme and having nothing higher than itself—must, from the moment of its adoption (just as in the case of a legislative enactment) be absolutely operative and binding until altered or abolished in the only legitimate and constitutional mode—that prescribed by itself. If it be not operative from the moment of adoption, when does its operative force commence in the cases alluded to, where the people, it is contended, give it its binding force and sanction by their acquiescence? How long are we to wait for the evidence of this assent? If this be

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the necessary seal which can alone authenticate it and stamp it as the organic law, what is its status, what its power to give life and consistency to the body-politic, pending the affix of the broad seal of the popular will? Sir, it is either a constitution from the moment of its formation, from the first day of its birth, or it is waste paper—a still-born child, into whose nostrils the popular *aura* can never subsequently breathe the breath of life. It cannot, by any force of imagination, be supposed to be floating *in nubibus* for some indefinite time, until called down to earth and made a real, living thing. I look, sir, upon a convention as the only practicable mode in which the sovereignty of a popular, representative government can exert and manifest itself. I say the only practicable mode; for, doubtless, were it practicable for the entire mass of the people to meet together, then you would have sovereignty itself which resides in the people. But as it is the very essence of popular government to act through representation, so also from absolutely physical necessity sovereignty, like all other powers, must, for *practical purposes*, be delegated and exercised through representatives.

To talk about sovereignty being "indivisible," "a unit," &c., is, in my judgment, mere metaphysical jargon. It is pure philosophical abstraction. As a philosophical abstraction, it is true, sovereignty is an undivided whole, it cannot be parceled out, or cut into parts; it is the life-giving power, spirit, soul, which quickens and informs the whole political organization. But it can only be known by its attributes and their exercise, and practically can only exhibit itself through agents, just as the life of a man can only exhibit itself by some external manifestations. It is undoubtedly one of the highest prerogatives of sovereignty to form and mold the constitution of the government, and to change and overthrow it at pleasure. But in the exercise of this unquestioned and inalienable right, it can surely impose restrictions upon itself. If this be not so, then a constitution is a mere empty nullity—a shifting vapor without substance or reality. A constitution is not simply an enumeration of rights and distribution of powers, but a system of checks. It is not the mere embodiment of the will and desires of a numerical majority of the people who meet in convention through their delegates to frame it. One of its highest and most sacred objects must always be to protect the minority; to set up barriers for the weak against the strong; to guard the majority itself against its own tyranny and excesses. A constitution which does not do this, is unworthy of a free people. It can never be relied upon to secure the blessings of "life, liberty, and the pursuit of happiness" which the wise founders of the greatest written Constitution which the world has ever seen, have declared to be inalienable.

I have heard, sir, with surprise and amazement, the light and almost flippant manner in which many honorable gentlemen upon this floor have spoken of changing and annulling constitutions, at any time and upon the least provocation, by a popular vote. Nothing but the fact that the tide of party feeling is running so high that its hoarse roar drowns for the time the quiet voice of reason, can account for the rash and hasty expressions of opinion to which I allude. Do those who contend so broadly for the right of the people, at any time, without restriction, to change their fundamental organic law at the instance of every temporary whim or caprice, realize the momentous consequences which may flow from such a dogma? What safeguard have the rights of property, always in the hands of the minority, if this doctrine be true? What is to prevent the masses, inflamed by the artful appeals of demagogues, from breaking down the barriers which hedge in property and capital and establishing a community of goods—inaugurating agrarianism? Beware, gentlemen of the North—especially you who live in large cities where millions are concentrated in the hands of a few, and where a hungry-eyed mob are ever scowling at the luxury which tempts while it mocks them; beware how you teach the laboring class, outnumbering your millionaires thousands to one, so dangerous a lesson. What you "teach them they may practice, and it shall go hard with you but they will better your instructions."

I have faith, sir, in the honest instincts and just

intentions—the desire to do right—of the great mass of the people. If I had not, I would despair of the experiment of self-government which we have instituted upon a scale, and to an extent never before attempted. But if we desire that great experiment to succeed—if we do not wish to run into anarchy and popular despotism, if we would not become a reproach and warning to the nations—let us not flatter the people into believing that they can do no wrong, that they can put no bridle upon momentary starts of impulse and passion, and that they can at any time shatter the whole fabric of society at a single blow. No, sir! He is the true friend of the people—the real, constitution-loving, law-abiding people, in their sober second thought, will recognize him as their friend—who warns them against themselves, points out to them the danger which may arise from sudden accessions of popular frenzy, and urges them, in their calm moments, to put up something securely on the shelf in the inner adyta of the temple of liberty, against the gloomy day when the storms of faction and of anarchy may threaten to ravage the land. But it may be asked, "Have not the people the right to abolish their constitution, to sweep every vestige of it away; to tear down, if it seems meet to them, their entire political fabric, and erect on its ruins any—the most fantastic structure—under which it may please them to live?" Yes, they have this ultimate right—the right of revolution; the right to resolve themselves into the primordial elements of society; and form, without any restrictions, a new social compact. But it is a dangerous state of transition through which to pass—one too often marked by blood and fire. It should be extreme and dire necessity alone which would tempt them to pass to the blue heights beyond—fancy-painted too often—through a flood filled with swift whirlpools and treacherous quicksands. Still there are times when it must be tried—though successfully only then when cool heads and great hearts lead on, cautiously feeling and sounding the way.

Sir, I have been trained in a school that looks upon constitutions as sacred things, not to be irreverently handled or lightly changed, and, I repeat, I have been surprised at the little respect or regard which many gentlemen here seem to entertain for them. That a constitution, duly formed by the chosen delegates of the people, is, so soon as formed, and without submission to a popular vote, (especially where no such submission is required by the act calling the convention,) the supreme law of the land, I firmly believe. That this constitution cannot be amended, save in the precise form and mode prescribed by itself, I believe as firmly. That the constitution of Kansas, with which she now applies for admission into this Union, was duly formed by the chosen delegates of the people, with the strictest observance of the forms of law, has, again and again, been demonstrated. That it does embody the will of that portion of the people who were willing to conform with the requirements of law and erect themselves into a State, there can be no doubt. That the only portion of it which involved any vexed question was, by the convention which formed it, fairly submitted to the entire body of the people, is equally certain. That because any—however large a portion—of the people refuse to take part in the formation of the constitution, or refuse to vote upon the feature in it which involves the whole question which has so long distracted the Territory, that therefore Congress ought not to listen to, or treat with, those who have steadily and legally endeavored to form a State and enter our Confederacy, is an argument as unreasonable as the spirit which prompts it is factious. That the provision of the constitution which prescribes the vote of the Legislature necessary to call a convention for the purpose of amending the constitution subsequent to 1864, does, by necessary and inevitable implication, prevent a call of a convention by *any vote* prior to that period, is too plain to admit of cavil. The argument that because the provision says that *after* 1864 a convention can only be called in a certain specified mode and by a certain proportional vote, that, therefore, *previous* to that time it may be called in any mode, and by a bare majority, is, with all due deference to those who use it, in my judgment a species of special pleading little short of puerile.

Believing, sir, then, as I do, that the constitution of Kansas cannot be changed prior to 1864, I have been opposed to any proviso in the bill of admission which might seem to countenance in any degree the contrary supposition. And although it is contended that the proviso which has been inserted in the Senate bill does not imply such a supposition—expresses in fact no opinion on the subject—and is intended to put on record that Congress refuses to express any opinion, still, to every one of plain judgment it must be obvious that the very best way of avoiding an expression of opinion is to say nothing. But we all know very well that the words of the proviso have been inserted with a distinct purpose. The object was to gain the votes of northern Democrats by giving them a clause upon which they might hang their own conclusions; upon which they might go before their constituents and say: "It is true we advocated the admission of Kansas under the Le-compton constitution, which instrument, on the face of it, prohibits any amendment of itself (in other words, the abolition of slavery) for a certain specified number of years; but then we have taken care to have inserted in the bill of admission a proviso which, if it means anything, implies at least a hint to the people of Kansas (one which they will not be so foolish as to neglect) that if they desire to change their constitution tomorrow the assembled wisdom of the country considers it an open question which they can decide as they please without let, scruple, or hindrance." Is not that, sir, the plain history of the origin of the proviso? And is not the use to be made of it that which I have indicated?

Sir, what are we of the South to say to our constituents who are weary of compromises and concessions of all kinds; who desire to meet the question squarely as to whether the South shall be allowed to expand, and to bring into the Union more slave territory as a necessary increment to her waning power? We can only say, sir, that the proviso is merely a neutral-tinted phrase—words only of surplussage—intended as a sop to Cerberus, a tub to the northern whale. I dislike neutral-tinted phrases and soft, unmeaning platitudes. I prefer plain, direct language, which "he who runs may read," and signposts and directions so clear that the "wayfaring man, though a fool, may not err therein." I do not think it ingenuous, to say the least, in making a bargain or agreement, to use words which I understand in one sense and the opposite party in another. The issue presented to the country should have been the simple, naked question, "Shall Kansas be admitted with a constitution recognizing slavery?" With the right of the people of Kansas to change or abolish their constitution Congress has nothing to do; and to say *anything at all on the subject* is an interference uncalled for and unwarrantable. I was opposed to the insertion in the Senate bill of any proviso, and did, in conjunction with other southern State-rights men, protest against it, and I have reason to believe that our protest had some effect in modifying the proviso and making it less objectionable.

But now a caucus of the national Democratic members of this House has taken up the subject of still further modifying the proviso, so as to make it more palatable to hesitating northern Democrats, and Heaven only knows what they will make of it! For one, sir, I am becoming sick and disgusted with the whole matter. Since Calhoun, by his last coup of political legerdemain, has thrown the Legislature of Kansas into the hands of the Free-Soilers, I feel, as a southern man, comparative indifference to the fate of the bill. If Kansas is forthwith to become a free State, and send Free-Soil Senators and a Free-Soil Representative to Congress, what does the South gain by her admission? We are but striving to conquer a barren victory; we are contending for a withered crown, whose faded leaves will crumble in our grasp. In a more forcible and practical manner, the honorable member from Connecticut, [Mr. Bishop,] who spoke on our side the other day in advocacy of the admission of Kansas, expressed it, when he said, "the North will get the oyster and the South the shell."

But, sir, the issue has been made, the battle joined; and though it be on an abstract principle

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which does not at present promise to result in any practical advantage to us, I am willing to stand by the guns and fight it out. There is at least one aspect of the question which makes it worth while for the South to press the Kansas bill through, even with the proviso alluded to, though in itself objectionable. It is this: if, even with a universal belief at the North that Kansas will speedily become a free State, and with a clause in the bill of admission *intended to be employed at the North* as an intimation that Congress does not think that there is any particular difficulty in the way of making it so, Kansas should still be rejected by northern votes, it will at least have the effect of opening the eyes of the southern people to the startling fact that they have no hope in the future of maintaining their equality in the Union. It will compel them to ponder the question whether they will choose subjugation or resistance, colonial vassalage or separate independence.

Mr. Chairman, I am no alarmist. I do not believe that, in this commercial age, in which "the jingling of the guinea helps the hurt which honor feels," revolutions can be lightly effected, or that they are apt to be effected upon merely abstract questions. The provocation to revolution is cumulative. Each step in itself may be a small and sometimes almost imperceptible advance, but it leads on steadily to the end. The concatenation of causes may not always seem to have a logical sequence and connection; but the fact, which actually puts in motion the popular will, carries with it a weight and momentum compounded from the whole train which preceded it. The South may not dissolve the Union on the rejection of Kansas; but such rejection would, assuredly, sever still another of the cords—rapidly becoming fewer—which the course of events has been snapping one by one. It is impossible for the most casual observer to have failed to see that the South has been becoming more and more alienated from her ancient attachment to the Union; more and more familiarized with the idea of dissolution; more and more reconciled to the necessity of, perhaps at no distant day, severing the copartnership, and commencing business on her own account. This may be considered a mean and homely mode of expression in alluding to so grave a movement; but it is a practical one, and the American people are preëminently practical—we of the South not so much so as our brethren of the North, but still sufficiently so to feel that when a Government, so far from advancing the material prosperity of a large proportion of the governed, tends rather to check and retard it; so far from strengthening and maintaining their constitutional rights, is tending steadily to weaken and subvert them, it is then the part of wisdom, as well as true patriotism, to weigh well the advantages and disadvantages of such Government with a view, if necessary, of reconstructing or abolishing it. And the South has been for some time weighing the advantages and disadvantages of the present Confederacy. She has seen the strength and security and dignity which it gave us among the older nations of the world during our infancy as States. She has not been insensible to the sentiment of expanded patriotism which a common heritage of revolutionary glory so naturally inspired. She has cherished a pride in our common flag; and wherever it has waved in sight of a foe, on land or sea, her arm has contributed to its successes, and her blood been shed in its defense. In the halls of national legislation, in the cabinet, in the executive chair, she has illustrated the history of our common country, and contributed in no small measure to develop its resources at home, and advance its dignity and reputation abroad. There is scarcely a bright page in that history on which the names of some of her sons do not stand in living letters of light. The South has been truly and devotedly attached to the Union, but she cannot worship it with blind devotion and superstitious attachment. In its practical operation, the Union has benefited the North at the expense of the South. Heavy protective tariffs have built up the labor of the North, fostered her industry, and furthered the accumulation of immense amounts of capital within her borders. What pecuniary benefit has the South derived from Federal legislation? As a purely agricultural people, her obvious policy is free trade—the least restriction possible upon

the exchange of her raw products for the manufactures of the world. And yet such has been the preponderance of power against her, that in spite of her most urgent appeals and energetic remonstrances, she has always failed to have justice rendered her. Her interests have been uniformly disregarded when those of the North stood in conflict.

But I merely glance at this chapter of her grievances. It is not my purpose, nor is this the occasion, to open it up. It has been the theme which has often provoked the ablest legislative ability of her sons, and elicited their most cogent efforts of reasoning, and effective exhibitions of eloquence. South Carolina, through her Calhoun and McDuffie, has put on record many a powerful protest against the iniquitous tariff system which has so long enriched the North at the expense of the South. But the South, though at times restive and impatient, has borne all this; has submitted to an unequal and onerous taxation, which has swelled the Federal Treasury only that its overflow might fall into the lap of the North, (for it cannot be denied that nine tenths of the Federal expenditures have inured to the benefit of the North;) has submitted to see the rich spoils of wealth and place and power elude her grasp, and to behold them clutched by her stronger sisters. But when the question arises whether she will consent to occupy an inferior and degraded position in the Confederacy; to have a ban set upon her social institutions, which constitute the essential foundations of her prosperity, the very life-blood of her existence; to be excluded from further acquisition of territory, and hemmed within her present limits, while her co-States, already in a preponderance, are rapidly expanding and acquiring supreme and uncontrollable power, she would indeed be wanting in decent self-respect, would exhibit a suicidal apathy, were she not gravely to consider whether she can safely and honorably continue to live under a Government which is being perverted into an engine for her destruction. That the anti-slavery sentiment at the North is yearly increasing, no observant man, it seems to me, can doubt. The Abolition party in the presidential election of 1840 polled 7,000 votes; in 1852 it gave John P. Hale, its candidate, 157,296 votes; in 1856 Fremont received 1,341,812 votes. True, it may be said that all the votes cast for Fremont were not Abolition votes; but they were all undoubtedly votes opposed to any further extension of southern institutions.

But I need not go into any sketch of the progress of the slavery agitation in proof of the fact that the position of the South is becoming more and more critical every year. The northern man who affirms that the opposition to slavery is not deeper, more bitter and intense at this moment than it has ever been at any previous period, is either utterly blind or absolutely dishonest. The southern man who fails to warn his people that the political heavens are full of fearful portents; that the air is heavy with thunder-clouds; and that the mutterings of the coming storm may be distinctly heard, is either asleep upon his post, or a traitor to his section. In view of this condition of things, Mr. Chairman, can anything be more natural than that the South should begin to look about her; to count up her resources; to estimate her strength; to measure her capacity for taking care of herself, and of assuming, if driven out of this Confederacy, an independent position among the nations? Can she be reasonably blamed for doing so? And yet, whenever she looks this last contingency—certainly not an improbable one—calmly and boldly in the face, and begins to discuss it in its great and leading aspects, her ears are forthwith stunned with the cry of "treason!" "treason!" and the august and mighty shade of the Father of his Country is invoked to rebuke such an evidence of disloyalty to this "glorious Union." Sir, Washington, with his great, wise heart, and cautious judgment, and conservative nature, felt no compunctions at throwing off his allegiance to his King, and subverting a Government which oppressed his country. He, like all true patriots, loved his people more dearly—prized more highly their happiness and prosperity—than the mere form of government under which he had been reared, and which he had been taught to revere.

Revolution, sir, as I have elsewhere said in the

course of my remarks, is a serious thing, a terrible thing. But to noble natures there are things more serious and terrible than revolutions. Tyranny and injustice are worse. The slow, undermining process by which the high spirit of a free people is sapped, their strength destroyed, their faith in themselves crushed out, their enterprise checked, their progress paralyzed, is far more appalling to the true statesman and patriot than the temporary, though critical, fever of revolution.

My honored colleague in the Senate [Mr. HAMMOND] has called forth many denunciatory comments upon his noble southern speech, recently delivered in his seat, because he has boldly considered in it the question of southern independence, and contrasted the relative resources and condition of the North and the South, in the event of a separation. Sir, the argument was as unanswerable as it was timely. Such views and considerations must address themselves forcibly to both sections of the Confederacy. They must make practical, reflecting men at the North pause and hesitate before they compel a disruption of a connection, the advantages of which are so greatly on their side. And they must make practical, reflecting men at the South, feel that they have a power and strength within themselves which ought to make them, in very shame, refuse to submit any longer to aggression. I desire to call attention to the following relative statement of the export of the free and slave States, as speaking volumes in itself as to the capacity of the South to stand alone and compete for (what is in this age the pabulum of nations) the commerce of the world. If it is true, as political economists teach us, that the wealth of a people consists in what they furnish to the markets of the world—in other words, the excess of their production over their consumption—then surely the South is rich; and riches again, in this age, are strength.

The total exports of produce and manufactures of the United States for the year ending 30th June, 1857, were \$328,985,065. The six New England States (with a population of three millions) exported \$30,887,853. The other eight free-labor States (with a population of ten millions) exported \$142,963,068. The slave States (with a population of six and a half millions) exported \$165,030,558. Of this amount, \$131,575,859 is the value of the cotton exported; \$20,662,772 the value of the tobacco; and \$2,290,400 the value of the rice. These three staples alone amount to \$154,429,031, nearly one half of the entire exports of the country. The slave labor produce exported from free ports very largely exceeds the free labor produce exported from slave ports. As an illustration, take the fact that the whole value of western produce, (not all, by the way, the result of free labor,) pork, lard, wheat, flour, corn, &c., exported from New Orleans during the period under consideration, falls short of \$9,000,000; while the slave labor produce, in the shape of cotton, tobacco, and rice, exported from New York during the same period, amounts to nearly \$13,500,000. Besides, in making such a comparison as we are instituting, we ought to take into consideration the exports from the free-labor ports of articles manufactured from slave-labor products. There was the export of over \$6,000,000 manufactured cotton goods; \$1,500,000 tobacco and snuff; nearly \$270,000 refined sugar; \$1,250,000 spirits from molasses; making an aggregate of over \$9,000,000 of exports of manufactures dependent solely upon slave labor.

But, sir, I do not care to dwell on arguments of this kind. They have been often and elaborately set forth by far abler hands than mine. They are important and valuable; but it is not on a question of dollars and cents that the South would dissolve the Union. The history of long weary years of unjust and unequal legislation has sufficiently proved that point. But when it shall be proved to the South not only that the scepter has forever departed from her; that she can never, concurrently with the North, rule the common country, but that she must forever occupy an inferior and subordinate position; that she can never expand, never occupy her just share of the common territory; that her institutions and civilization are at the mercy of a sectional majority which tolerates them only to the end that her people, as

"hewers of wood and drawers of water," may minister to its prosperity—then, I believe, she will imitate the example of our revolutionary sires, and take her destinies into her own hands.

The South is often accused of an over-sensitiveness on the subject of slavery—of being morbidly irritable upon it. And, sir, would it be strange if she were so? Is she not perpetually taunted, reviled, sneered at, by hundreds of northern presses, northern pulpits, and northern orators? Is she not held up to ridicule and contempt, to scorn and execration, in every conceivable mode and on every possible occasion? But when a southern man, with a natural, and one would think pardonable, indignation, resents and repels with warmth these unjustifiable attacks, he is requested to "keep cool;" not to be "excited;" and dubbed "a fire-eater" if he cannot practice the injunction of philosophical equanimity! I come here as a new member, just initiated into public life, and what are some of the first things I hear on this very floor? I hear a man venerable in years, one of the oldest members of this House, one who has sat here year after year, and heard the calumnies against the South exposed and refuted—I hear him, upon whose hoary head the snows of many winters rest, and which should have softened his asperity and filled his heart with kindness and benevolence—I hear him, a man known to be tottering upon the brink of the grave, denounce his southern brethren with a bitterness and vehemence that seemed almost to be intended as an incentive to servile insurrection, and to fire the midnight torch of the incendiary. He tells us that the slave of the South has no protection; that his owner may scourge him to death with impunity. Sir, he ought to have known that this is not true. It was only this morning that one of my colleagues [Mr. BONHAM] mentioned to me casually in conversation, that he had himself, while State solicitor, convicted two men of the murder of their slaves, for which they had suffered the extreme penalty of the law.

Mr. GIDDINGS. Will the gentleman permit me for a moment?

Mr. MILES. If I have misstated the gentleman, and he desires to correct me, I will; otherwise, not.

Mr. GIDDINGS. I most respectfully ask the gentleman from South Carolina if he intends to deny the assertion which I made in regard to the safety of slaves? If he does, let him point it out, and I will convict him by their own record.

Mr. MILES. Do I understand the gentleman to say that there is no protection for the slave in the South?

Mr. GIDDINGS. I understood the gentleman to deny the liability of a slave to be slain by his master. If the gentleman does deny that, I ask him to state it definitely.

Mr. MILES. I definitely and emphatically deny that with us a master can slay a slave with impunity. The fact I just stated is a complete answer on that point. But, Mr. Chairman, my time has almost expired, and I cannot yield further. Besides, sir, nothing that I can say could touch the gentleman's conscience or reach his reason. I was contending, sir, that in this great sectional contest—in this, as I believe, irreconcilable quarrel—it was natural that the South should be sensitive. Her honor is involved; and he who does not feel that the honor of States should be as jealously guarded as that of individuals, shows no more sagacity as a statesman than he exhibits ardor as a patriot. The great dramatist, who sounded all the depths of human nature, gives utterance to a sentiment as wise as it is noble when he makes Hamlet say—

"Rightly to be great
Is, not to stir without great argument,
But greatly to find quarrel in a straw
When honor 's at the stake."

Let the South then set her house in order, collect her strength, prepare for whatever fate has in store for her in the future, with faith in herself, and calm self-confidence. She is strong; let her be wise. She has many interests, not antagonistic; let her unite and harmonize them. She has untold resources; let her develop them. Let her cultivate fraternal union within her borders. Let past dissensions among her sons be forgotten. Let them ignore petty issues and stand shoulder

to shoulder in her defense. With distracted counsels, she is at the mercy of her enemies. With a united people, she will be invincible. Possessing within herself every element of greatness, prosperity, and strength, with an immense territory and fertile soil, producing a staple which shapes, in no small degree, the commerce of the world, which the world can never again do without, and which it is scarcely possible that any other portion of the globe can ever successfully compete with her in producing; with such a relation between capital and labor as gives the best assurance of political conservatism and social stability, she is prepared to fulfill her mission and occupy a foremost place among the Powers of the earth. She may do this in the Union if allowed her due expansion and development. If necessity compels her, she can and will do it independent and alone.

AN APPEAL TO PATRIOTS.

SPEECH OF HON. A. BURLINGAME, OF MASSACHUSETTS, IN THE HOUSE OF REPRESENTATIVES, March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. BURLINGAME said:

Mr. CHAIRMAN: It has been shown, in the great debate which we have had, that the people of Kansas never authorized the Lecompton constitution; that they never made it; that they never ratified it; that it does not reflect their will. It has been shown that the first Legislature was a fraud; that the second was a fraud; that test oaths and gag laws were put upon the people, so that they could not vote; that then they were held responsible for the crimes of those who did; that when they were persuaded to vote, they were cheated; that when nobody voted, returns were made as if from populous regions. It has been shown that the honesty of the officers of the Government, who tried to stay the hand of these frauds, was considered an offense by the Government. It has been shown that the people have been menaced in their property and their lives; that armies were sent there to vote them down, or to shoot them down, and without authority of law. It has appeared that the men who did these things were held dear by the Government, and that they are its officers to-day. It has been shown that, through all this time, that devoted people has held itself in such an attitude as to win not only the respect of the people of the United States, but the respect of the officers of the Government who have been sent, from time to time, to persuade or to subdue them to the policy of the Government.

But, Mr. Chairman, it is not my purpose here to-day to go over the history of Kansas affairs; that has been done, as the gentleman from South Carolina [Mr. MILES] has just now well said, sufficiently. Every fact has been stated; every principle has been argued. Day by day we have urged our cause with all the zeal of men who know they are right. Every fact has been met on the other side by some daring and insolent assumption; every argument with scornful sneers which no man can answer. When we have offered to prove facts, the will of the people of the United States, as reflected by the Representatives upon this floor, has been baffled by parliamentary tactics. Yes, you who belong to the party that went behind the great seal of New Jersey, as my eloquent friend from Indiana [Mr. COLFAX] very truly said, you who go behind the certificates of the Governors of Ohio and Maryland, when the interests of a whole people are at stake and fraud is charged, you say you cannot go behind the record; you say that you are estopped; you say "it is so nominated in the bond;" you refuse to investigate, and propose speedily to force upon the people of Kansas a constitution never made by them. Yes, you who say, with us, that the people are the source of power; you, who say that power should flow forth from the people into practical government on the line of their desires; you, who shouted your great radical rule of Democracy in the ears of the country—Buchanan at your head—to be this: that inasmuch as the people are sovereign, inasmuch as that sovereignty cannot be alienated by

them in such a manner that it cannot be resumed when the safety of the people shall require it, therefore it is for them to determine at what time and in what manner they will change their fundamental law; that was your radical rule of Democracy. It is now pronounced Dorrism by the Democracy on this floor. You planted your rule in opposition to the rule of the other great school of the country; which rule was stated most clearly by Mr. Webster, in the great Rhode Island case, to be this: he said that the will of the majority must govern; that it was as potent as the will of the Czar of Muscovy, when it was legally ascertained. But how will you ascertain it? said he; it must be ascertained by some rule prescribed by previous law. That rule, the fierce Democracy denounced as the rule of tyranny.

Well, sir, here we have a case where even the requirements of that rule have been met by the people of Kansas. Their will was collected legally, by a legal Legislature; and it appears that their will, by ten thousand majority, is against your Lecompton constitution; and yet, in the face of that declaration, you come forward as a party, and propose to force that constitution, in defiance of your own rule of Democracy, in defiance of the Federal rule, upon that people; ay, sir, worse than that—you declare, through the lips of your boldest and ablest leader, through the lips of the distinguished Senator from Georgia, [Mr. TOOMBS,] through the lips of men upon this floor, through the lips of the gentleman who has but just taken his seat, if I understood him, that it involves a question of union or disunion. I agree with the gentleman from South Carolina, [Mr. MILES,] who said that we might as well meet this question now. I, for my part, am ready to meet it now. I accept the issue which is tendered. I accept it the more eagerly in the presence of this menace. A Representative of the people would be craven, did he shrink from his duty in the presence of such a threat as that. What, you dissolve this Union because you cannot have your own wild will? You dissolve this Union because the Lecompton constitution, born of fraud and violence, is legally voted down in this House! Has your nationality no better quality than that? How will you do it? Who is to do it? Whose hand is ready to strike the first blow? Where is your army chest? Where your battalions to cope with the people of this country? You cannot do it. It would be wrong to do it. It would not be legal. It would not be safe to do it. I tell you, that on the banks of the Santee it would require no Federal Army to subdue rebellion.

The descendants of Sumter and of Marion, as their fathers struck down the Tory spirit in the brave days of old, would quell the spirit of rebellion to-day. We have heard this threat before. We have deemed it but the idle vaunt of idle men; but it comes now with an emphasis and an authority that it never had before. We find the fire-eater giving his will as the law of the great Democratic party. He has the right to rule it, from his courage and his activity.

I say it comes with new emphasis when the leader of the Democratic party gets up in the Senate of the United States, and with deliberation—not acting on an impulse—declares, and I heard him, that this Union is a myth; that he has calculated its value; that the people of Kentucky love it "not wisely, but too well;" and that this Lecompton constitution involves the safety of the Union; and when the gallant Senator from Tennessee [Mr. BELL] accepted the issue, when he restated these points, the distinguished Senator from Georgia bowed his assent, and I saw him; and no member of the Democratic party in the Senate protested against that doctrine. I say, when such men express such sentiments, the time has arrived when the national men of the country should unite to rebuke such sentiments and vote them down here, and vote them down elsewhere. These are the men, are they, to taunt the loyal old State of Massachusetts with having legislated herself out of the Union, because she has declared, that of two given offices it is incompatible for one of her citizens to hold both of them? She has a right to pass such a law. No court has decided it to be unconstitutional. When the court shall so decide, Massachusetts, with her accustomed obedience to law, will submit. She simply says this: "if you

desire to carry men 'back to old Virginia—to old Virginia's shore'—you must do it with your officers, and not with hers." That is all. But I am not here to-day to defend her; I am not here to plead for her. She denies the jurisdiction of this House. She is not responsible to it for her local legislation. I stand here upon the great doctrine, which I believe in, that the will of the majority, constitutionally expressed, must stand until it shall be constitutionally reversed; and so, so far as the threat which has been made is concerned, I—disdaining to argue in its presence—stand here, before the people of this great country, and trample that threat of disunion scornfully and defiantly down under my feet.

Why have you brought this sectional question here? Why do you seek to force a constitution upon a people whom you know abhor it? What are you to gain by it? Did not the gentleman from South Carolina [Mr. MILES] very truly say that it would be a barren victory—that it would wither in your grasp? And he said, speaking more fully in the interests of the South than most of you, that he did not care now much about the passage of the Lecompton constitution. What are you to gain? Is your dogma, that there can be property in man, borne in the bosom of that constitution, recommended by such a course more warmly to the hearts of the American people? Will you more easily persuade them, at some future time, to be more willing to admit States from other Territories, where the system may be more congenial to the climate? Will not the people say, and with truth, that this system, which requires such means as these to strengthen and sustain itself, is dangerous to the peace and prosperity of the Republic? Will they not hate your system, because of your conduct in this case? What! will two Senators from that State, who must be fugitives from the State that they will pretend to represent—will that State, held down, as the gentleman from South Carolina said he would hold it until 1864—compensate for the ill feeling you have created? Will they compensate you for the alienation of the people which will take place? Will they compensate you for your party dismembered, broken, and lost? The gentleman from South Carolina [Mr. MILES] gave us statistics of the last election. It is true, that with the suspicion that you would do this thing, we swept the North, and the East, and the West, with, as he says, more than one million three hundred thousand votes. We swept the great and populous States of the country with the mighty ten-wave of the people's enthusiasm. We brought down the victory into the very shadow of your malign system. If we did it then, what will now be your fate at the polls, when you go back to an indignant and betrayed constituency? You can no longer say you are for free Kansas; *we will nail you to the record*. You cannot say any longer that you are in favor of the great doctrine of popular sovereignty; *we will nail you to the record*. You cannot say any longer that we are mere freedom-shriekers, because there shall stand side by side with us the great chief of Democracy, the distinguished author of the Kansas-Nebraska bill, and he will tell you that you have betrayed your constituents.

We will summon clouds of witnesses from all the winds of heaven. We will summon them from the South, the East, and the West. We shall summon the gallant Wise, of Virginia, who desires that the State shall be slave, but who is too honest to cheat the people. We shall summon Walker, who has aided in bringing in a new empire to strengthen the South. We shall summon Stanton, and Forney, and Bancroft, and a host of others; and, above all, we shall summon those gallant Senators from Kentucky and Tennessee, the acts of whose lives, for a quarter of a century, shine along the annals of their country. We will call upon them, and they will tell you you have betrayed the people; that you are forcing upon the people of Kansas a constitution conceived in fraud and violence. And how are you to meet those charges? How are you to answer to a great and indignant people—for they will question you as with a tongue of fire? They will go back beyond your proceedings here; they will question you as to the doings and purposes of the Administration; they will ask you why you did not adhere to the doctrine of popular sovereignty;

why, after you had maintained that the people of a Territory could exclude slavery, you changed around, and said they could do it when they formed a State; and why it is that your popular sovereignty has vanished away into the Hibernian suggestion of the President, that the quickest way to make Kansas a free State is first to make it a slave State? They will ask you why you have substituted the dogmas of Calhoun for the doctrines of Jefferson? They will ask you how it is that the President of the United States, after having, in 1819 and 1847, held that Congress had power over the Territories, in 1857 expressed his amazing surprise that anybody should have ever held that doctrine? They will desire to know why it is that there was a complicity between him and the Supreme Court of the United States, by which, upon yonder steps of the Capitol, he was enabled to foreshadow what they afterwards announced as an opinion? They will ask you why it was that that court, wearing the ermine of a Jay, a Marshall, and a Story, when there was no case before the court calling for it, went beyond the line of their duty, and published political opinions? They will ask you why the Army of the United States have shot down American citizens in the streets of Washington, and why it was held in *terror* over the people of Kansas so long? And they will ask you, doughfaces of the North, why you sat still in your seats, and allowed men to call your constituents, because they toiled, mud-sills and slaves? You will have to answer all these things. You cannot do it, and we shall beat you like a threshing-floor. We shall hereafter have a majority in this House. We shall strengthen ourselves in the Senate, and we are to-day filling all the land with the portents of your general doom in 1860. And I say, in the presence of this state of things, that our first duty to God and our country is to devote ourselves to the political destruction of doughfaces who say one thing at home, and come here to vote another; and who fawn and tremble, and fall down, in the presence of the Administration. No wonder that you, southern men, call us slaves, judging us from these specimens of the people. But I tell you they do not represent the fire and flint of the grim and grizzly North. They are but our waiters on Providence, our Maccyophants; they are our Uriah Heeps; they belong with Dante's selfish men, of whom he said, heaven would not have them, and hell rejected them. I tell you, southern men, I am ready to strike hands with fire-eaters, and exterminate the race. It is becoming extinct. Look in their faces for the last time; they are fading away—fading away. Oh! for an artist to take their features, to transmit them to a curious and scornful posterity. Do it quickly, for the places which now know them shall soon know them no more forever.

I think it is the first duty of Republicans to extinguish the doughfaces; but I hold it also their duty to bear testimony as to the manner in which the Douglas men—and they will pardon me for giving them the name of their gallant and gifted leader—to bear testimony to the manner in which they have borne themselves. They have kept the faith; they have adhered to the doctrine of popular sovereignty; they have voted it in this House, and they have not fawned and trembled in the presence of a dominating Administration—in the presence of that great tyranny which holds the Government in its thrall at Washington. They have given flash for flash to every indignant look; and when a gentleman from Virginia, the other day, tauntingly told them that certain language which they used upon the floor of this House was the language of rebellion, they shouted out, through the lips of the gentleman from Indiana, [Mr. DAVIS], "it was the language of freemen." I say that it is due to them that we should say that they have borne the brunt of the battle; and that they, whether from New York, Pennsylvania, or Illinois, have kept the whiteness of their souls, and have made a record which has lain in light; and if my voice can have any weight with the young men of the country where those men dwell, I should say to them, stand by these men with all your young enthusiasm; stand by them without distinction of party; they may not agree exactly with you; but they have stood the test here, where brave men falter and fall. Let them teach

this tyrannical Administration that, if it is strong, the people are stronger behind it. Thus I would speak to the young men of the country. I differ in some points with those men, and I do not wish to complicate them. I pay also the high tribute of my admiration to that band of men who have been reposing outside of the boundaries of the great parties of the country as a patriotic corps of reserve, for the purpose, I suppose, of saving the Union, when it is endangered. When they saw this sectional issue made, standing, as they did, in a position to look fairly on between the parties, they saw who made it, and they instantly took sides, and, in the language of Mr. BELL, in his reply to Mr. TOOMBS, they accepted the issue of disunion. They accepted it; and when, sir, they saw that Lecompton was synonymous with "fraud, with forgery, with perjury, with ballot-box stuffing," then they trampled it with their high manly honesty under their feet. They have taken it in charge to preserve the ballot-box pure and open to American citizens.

Sir, it was a proud day to me, when I heard the speech of the venerable Senator from Kentucky, [Mr. CRITTENDEN.] The melody of his voice, and his patriotic accent, still sound in my ears. I was glad to hear him denounce fraud; I was glad to hear him stand for the truth. As I listened, it seemed to me that the spirit of the Kentucky Commoner had come back again to visit his old place in the Senate. It seemed to me as if his spirit was hovering there, looking, as in days of old, after the interests of the Union. At that moment, the heart of Massachusetts beat responsive once again to that of grand old Kentucky; and I longed to have the day come again, when there should be such feelings as in the olden time, when the Bay State bore the name of Henry Clay on her banners over her hills and through her valleys, everywhere to victory, and with an affection equal to the affection of Kentucky herself.

I also felt proud to hear the speech of the distinguished Senator from Tennessee, [Mr. BELL.] I was glad to hear their conferees on this floor, Messrs. UNDERWOOD of Kentucky, GILMER of North Carolina, RICAUD and HARRIS, of Maryland, and DAVIS, with his surpassing eloquence, worthy of the best days of Pinkney and of Wirt; and I also express my gratitude to Mr. MARSHALL of Kentucky, who has labored so long to secure this union of patriotic men. I owe it to these men, and to myself, to say that I do not agree with them on the subject of slavery, and I know that they do not agree with me. Neither do I agree with the Douglas men; I take what I think is a higher position. I hold to the power of Congress over the Territories; they do not. But while I oppose the Lecompton constitution for one reason, and while the Douglas Democrats oppose it for another, the South Americans may oppose it for still another. God knows we have all cause of war against it, and against the Administration. And we have come together here as a unit, not by any preconceived, not by any trade among leaders, but by the spontaneous convictions of our own honest minds. I trust that this may be an omen of what may happen in the future. As to what may happen, it is not for me to prophesy. Let time and chance determine. We come together, not in a spirit of compromise, because we compromise nothing, but in a spirit of patriotism. And, acting in that spirit, I, for one, am prepared to sustain the substitute offered by the distinguished Senator from Kentucky. After first voting to reject the bill, I will vote for that substitute, not because I would vote for it as an original measure; I will vote for it because I think that it will make Kansas a free State. The Administration says it is a slave Territory to-day—the Lecompton constitution makes it a slave State. I feel that the Lecompton constitution, without this substitute, would pass in its naked form, and that Kansas would be a slave State under it; and if I forego this opportunity to make it a free State, the opportunity will be lost forever. And how could I meet my constituents, and say that, because I desired to appear consistent, I would not vote for that substitute, and give the people of Kansas one more chance for freedom. If there were only one chance in a hundred, I would do it. But it is not a chance; it is a certainty. Doughfaces will undoubtedly feel very sad about my vote, and complain that I

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am not consistent. That word "consistency" is a coward's word. It is the refuge of selfishness and timidity. I will do right to-day, and let yesterday take care of itself. That word "consistency" is what has lured many a noble man to ruin. It has stopped all generous reform. When I am ready to adopt it, and to depart from practicability, I will join the immovable civilization of China, and take the false doctrines of Confucius for my guide, with their backward-looking thoughts.

These are my reasons, these are the reasons that animate my associates among the Republicans. And I tell you, the common enemy, fairly and openly, that our cause is just, and our union is perfect. We Republicans will place to-morrow our united vote upon the record in favor of the substitute. Our great chieftain here, [Mr. GRIDGINS,] with his white hairs, who has stood for twenty years the great champion of Liberty, we will bear with affection to the record—to this determination he has come, after much thought. At last, he felt that his principles required him so to vote, and, obeying the impulses of an honest and patriotic and not fanatical heart, he points the way of duty and victory. The member from South Carolina, [Mr. MILES,] if he knew him better, would find his heart to be a loving one; and I will tell that member that his interests and the interests of South Carolina are safer to-day in the hands of that good old man, than they are in the hands of the most malignant of doughfaces. I say our Union is perfect. We will put our votes on record to-morrow in favor of the substitute, not as a choice of evils, but because it is the good thing to do; it is the only thing for honest men to do, if we wish to have Kansas a free State.

Mr. Chairman, a great many thoughts suggest themselves to my mind, to which I would like to give utterance. I am told that my time is about to expire, and therefore will not prolong my remarks to greater length. I say, for our party, that we are ready. We seek no postponement of the question. All that men could do, we have done. We have argued the question; we have implored; we have voted; we have done everything to secure our triumph; we have been baffled by parliamentary tactics; we have been sometimes betrayed. The President has given way; the Senate has given way; but, thank God, the tribunes of the people, standing here in this House, have not yet betrayed their trust. They stand firm, and my high hope is—I do not know why, looking to our past conflicts here, I should have it—that on the great to-morrow, when the sun shall sink behind the hills of our own loved Virginia, this Lecompton constitution will be defeated, Kansas will be saved, and the whole country repose in good will, and peace dwell in all our borders.

ADMISSION OF KANSAS.

SPEECH OF HON. F. K. ZOLLICOFFER,
OF TENNESSEE,IN THE HOUSE OF REPRESENTATIVES,
March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. ZOLLICOFFER said:

Mr. CHAIRMAN: Upon this Kansas question I had intended silently to cast a vote for the admission of the new State, without troubling the committee with the particular reasons controlling my action; but, finding that I am compelled to separate on this question from some of my most respected political friends, and perceiving that among the friends of the bill, as well as its opponents, there has been a great diversity of opinion upon different points of the argument, I have concluded that it may be better for me to state the facts and reasons which have had most weight in determining my vote, that none may misunderstand them.

I must say that it is with much regret that I find my political friends divided on this important question, and with regret that I find some of the friends of the bill giving it support upon premises that I have no sympathies with. This, however, seems to be counterbalanced by the fact that the

bill is opposed for almost all sorts of conflicting reasons.

I will endeavor to present my own view of the question. Kansas is before us asking for admission into the Union, with a constitution regularly adopted in accordance with the principles guaranteed in the Kansas-Nebraska bill—a constitution republican in form, and adopted by her people under all the sanctions and formalities of law. The question has been raised, is this constitution in accordance with the will of the people? If the will of the people is to be ascertained by the popular vote cast at the regular legal elections, it certainly embodies the will of the people of Kansas. And if we are not to regard the expressed will of the people at the ballot-box, where all are free to vote, I am unable to discover where else we are to find a test—a reliable test, by which safely to determine what is the popular will. We are entirely at sea, if this is not a test. If not now, neither would it be a test if you were to submit it to another vote. How can you have a reliable test, if, when the people come up to the ballot-box and fairly cast their suffrages, and none are restrained, as I will presently endeavor to show was the case in this instance, we are to be told that this shall not be regarded as an indication of the sentiment of the people? If, then, the constitution is republican, if it has been legitimately adopted, and if it contains no provision plainly in conflict with the Constitution of the United States, it does seem to me that it is the privilege of the new State to ask for admission, and that it is our duty to receive it into the Union, without looking further into the instrument itself to see whether its provisions are in all respects just such as we would have made them.

In acting upon the question of admitting a State in the Union, Congress should not receive or reject the State upon the mere ground of like or dislike of provisions in the constitution. Another State might never be admitted if this were the rule. But were I permitted to decide this question upon what I find in the constitution, I must frankly say that I find in this instrument that which highly commends it to my regard. I find at the very foundation of it the great American principle that none but citizens of the United States shall be permitted to vote in the elections, or otherwise control the political destinies of the State. For this, and for other provisions, American in their character, incorporated in it, I heartily return to its framers my sincerest thanks. My belief is, however, that if the provisions I refer to were not to be found there, other things being right, it would be my duty to vote for the admission of the new State. I find in it another striking feature—and it is that upon which almost the whole question, unfortunately, is made to turn—the recognition of the institution of African slavery. There can be little doubt that it is on this account that a violent and relentless war has been waged upon it by a majority of its opponents. The great mass of those who oppose the admission of Kansas into the Union, oppose it because it comes with a proslavery constitution.

Many of them have, indeed, gone so far as to pledge themselves never to vote for the admission of another slave State into the Union. What a spirit is this! in a Union of States such as ours, formed originally between slave States and free, and in which they are still of nearly equal numbers.

That I should sympathize with such feelings, or in any way coöperate with those who enter the contest animated by so deadly a spirit of hostility to the people of fifteen States of the Union, will not for a moment be expected by any who know me.

By a brief recurrence to historical facts, I will now endeavor to show what I regard as the main point—that this constitution is certainly the result of the deliberate action of the people of Kansas, regularly passing through the various stages of legal action to its final adoption.

In 1854, Congress passed the Kansas-Nebraska act, organizing a temporary territorial government for Kansas, in which it was declared that "the legislative power" of the Territory "shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act." Among the

"rightful subjects of legislation" alluded to, was doubtless that of proposing, at the proper time, for taking the sense of the people of the Territory upon the question of adopting a State constitution. This is apparent from the nineteenth section of the act, which, after declaring the territorial government to be "temporary" in its character, looks to the future admission of Kansas into the Union as a State, expressly providing that, "when admitted as a State, or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time." We have heard much said lately about the necessity for an "enabling act;" this is a modern necessity that I attach very little consequence to. I see no more necessity for enabling acts now than there was in the earlier days of the Republic, when they were unknown and unrequired. But if one is now thought to be needed, here is an enabling act; and I quote the language of the organic act to show palpable authority to the Territorial Legislature for taking the initiatory step in preparing for a constitution, and for admission into the Union as a State. The legislative power of the Territory extended to "all rightful subjects of legislation," consistent with the Constitution of the United States and the provisions of the organic act. The legislative step, submitting to the people the question as to whether they would frame a State constitution, was not only consistent with the Constitution of the United States, and the provisions of the organic act, but was expressly warranted in this nineteenth section, which defined the "temporary" character of the territorial government, and looked forward to the formation of "a State, or States."

In accordance, therefore, with this recognition of its right and duty, the Territorial Legislature, in July, 1855, passed an act providing that a poll should be opened for taking the sense of the people upon the expediency of calling a convention to frame a State constitution. This vote was directed to be taken at the general election, to come off in October, 1856. Thus they gave ample time to consider this question. When the day came, the people voted; they voted without interruption. I have never heard that there was fraud charged in taking that vote; and a very large majority of the people determined that they would change the form of their government, and for that purpose call a convention to adopt a constitution. At a subsequent session of the Legislature, in February, 1857, some months after this result had been ascertained, an act was passed providing for taking a census of the people, for making a registry of the voters, and for the election of delegates to the convention. This was all regular. The census and registry were taken, except in certain counties, where it was resisted and prevented by the violence of the Free-Soil party; and when the day appointed for the election of delegates came, which was the third Monday in June, 1857, the delegates were chosen by popular vote, and on the first Monday of September they assembled in convention, and, after due deliberation, adopted the constitution which is now before us. I know of no fraud charged in connection with this election, or with this result; except that the very anti-slavery extremists, who prevented a full census and registry, now have the effrontery to complain of the failure to take a full census and registry.

There was one great and only question which had divided the people of the Territory. Every gentleman knows, whatever may be his position upon this issue, that there was but one great question dividing the people, and that was the question of slavery. The convention had inserted in the constitution a slavery clause; but as it was doubtful whether a majority of the people preferred that the State should be a slaveholding State, they very properly submitted that question, and that question only, to the popular vote.

I maintain that in no other way could the sense of the people have been so clearly ascertained upon this most exciting question. There were doubtless some minor questions upon which the people differed in opinion; but if they had complicated this question with other and minor issues, there would have been great uncertainty as to what the sense of the people was upon the question of sla-

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very; I think therefore they pursued the proper course. This vote was appointed to be taken on the 21st of December, 1857, and was legally cast; when it was found that a very decided majority of the voters had recorded their votes in favor of retaining the slavery clause in the constitution. Thus the whole work was finished, and the constitution was adopted.

It is said that the convention ought to have submitted the whole constitution to a popular vote. It appears to me that this was not at all necessary. The people had already twice voted—once upon calling a convention, and secondly upon the election of delegates to form the constitution—in which they had a fair opportunity of electing, and did elect, delegates reflecting and embodying their will. They had the right to instruct those delegates, had they seen proper, to frame a constitution and submit it to them for ratification. But they did not see proper so to do. On the contrary, the delegates were expressly instructed to “frame a constitution and State government” “for admission into the Union,” without a word as to submitting it to the people. This was well understood at the time the delegates were elected; and this mode was adopted upon the well-established theory that the people can as legitimately make a constitution through their delegates, clothed with full power to carry out their will, as by a direct vote of the whole people. Such mode had been pursued in the adoption of the first Constitution of more than one half of the States of the Union. It was the republican mode, and that which is most compatible, perhaps, with the common usages in a representative government. Whether it is the better mode or not, unquestionably it is one of the most stereotyped processes known to the institutions of our country.

Indeed, in the organic act of Kansas, Congress had pledged itself to leave the people “perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.” If they have chosen a way of their own satisfactory to themselves—the instrument being republican and not violative of the Constitution of the United States—what right have persons, outside of the Territory, to object to it? What right has Congress to interpose, and prescribe to the people of a State a mode different from that they themselves select for forming for themselves a State constitution? What right to say to the people of Kansas, “True, you have adopted a constitution under the full sanctions of the organic law, without violating either the principles of that act or the Constitution of the United States; but you have not proceeded in the mode we think preferable, and therefore we say to you, your work shall be done over again.” It is conceded that this representative mode, adopted in Kansas, has been pursued in a majority of the States without complaint—and who can doubt that but for slavery in this case, this objection would not now be heard.”

It is argued that a large number of people did not vote either upon the question of calling a convention, upon the election of delegates, or in the decision of the question as to whether it should be a free-soil or a slaveholding State; and that, therefore, this constitution does not embody the will of the people. The fact cannot well be doubted that those who did not vote were mainly a mass of German and native anti-slavery extremists—many of them aliens—followers of Lane, and adherents to the revolutionary Topeka constitution, who, from the beginning, have counseled resistance to the government established by authority of the United States, even, to use their own language, “to the bloody issue.” If there were those who were entitled to vote, and did not vote, it is certainly because they refused to vote; denying, as they did, the validity of the territorial laws, and openly resisting the authority of the established government. I propose, in this connection, to give some glimpses of history throwing light upon the uniform conduct of such men as refused to vote; and I appeal to gentlemen if, after contemplating such facts, they can conscientiously feel that they are in the line of their duty in standing by this body of law-breakers against the whole mass of law-abiding citizens of Kansas.

Senator DOUGLAS, who now opposes the Lecompton constitution on the ground that it does

not embody the will of the whole people, himself traced, in able reports in the Senate, in 1856, step by step, the disorderly movements of these law-violating men down to the adoption of the revolutionary constitution at Topeka, and their traitorous resolves that they “owe no allegiance” to the Territorial Legislature—that the territorial “laws have no binding force” upon them—that “every freeman among us is at full liberty, consistently with his obligation as a citizen, and a man, to defy and resist them (the territorial laws) if he choose so to do”—that “we will endure and submit to these laws no longer than the best interests of the Territory require, as the least of two evils, and will resist them to the bloody issue as soon as we ascertain that peaceable remedies shall fail, and forcible resistance shall furnish any reasonable prospect of success—and that, in the mean time, we recommend to our friends throughout the Territory the organization and discipline of volunteer companies, and the procurement and preparation of arms.”

Mr. DOUGLAS then informs us that “those who were opposed to allowing the people of the Territory, preparatory to their admission into the Union as a State, to decide the slavery question for themselves,” “finding opposition to the principles of the [Kansas-Nebraska] act unavailing in the Halls of Congress,” resorted to “the machinery of emigrant aid societies.” “The plan adopted,” he adds, “was to make it the interest of a large body of men who sympathized with them in the objects of the corporation, to proceed to Kansas, and acquire whatever residence, and do whatever acts might be found necessary to enable them to vote at the elections, and through the ballot-box, if possible, to gain control over the legislation of the Territory.” “When the emigrants,” said he, “who had been sent out by the Massachusetts Emigrant Aid Company and their affiliated societies, passed through the State of Missouri in large numbers, on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that State, created apprehensions that the object of the company was to abolitionize Kansas, as a means of prosecuting a relentless warfare upon the institutions of slavery within the limits of Missouri.” These men entered Kansas in large numbers, followed by pro-slavery men, who came in to settle or counteract this Abolition influence; and, says Mr. DOUGLAS, “disputes, quarrels, violence, and bloodshed might have been expected as the natural and inevitable consequences.” At the first election held in the Territory, in November, 1854, for a Delegate in Congress, the pro-slavery men were triumphant. Whereupon the emigrant aid men loudly complained that the Missourians had invaded the Territory and controlled the elections. But, says Mr. DOUGLAS, this charge was made “in the absence of all proof and probable truth.” In March, 1855, the elections were held for members of the Legislature, when the pro-slavery men again succeeded in electing a large majority. Frauds were again loudly alleged by the emigrant aid, or Abolition party; but Mr. DOUGLAS tells us that Governor Reeder “having adjudged them to have been duly elected, accordingly granted them certificates of election,” &c.

Soon after this, Governor Reeder was removed; and Mr. DOUGLAS notes the fact that “a few days after Governor Reeder dissolved his official relations with the Legislature,” the incipient step was taken in the Topeka movement to form a revolutionary State government. He shows that their first open declaration was that “the people of Kansas Territory have been, since its settlement, and now are, without any law-making power.” He traces them through their various steps of attempted revolution, shows that they had organized a secret military legion, had pledged themselves to “make Kansas a free State,” were backed by “a powerful corporation, with a capital of \$5,000,000 invested in houses and lands, in merchandise and mills, in cannon and rifles, in powder and lead;” and that they decided on “repudiating the laws and overthrowing the territorial government in defiance of the authority of Congress.” It will be well remembered what noisy boasts they made of the efficacy of their Sharpe’s rifles. Such are the men who have failed

to vote in the elections determining the constitution with which Kansas applies for admission into the Union; and I have chosen to draw these facts from the statements of one whom the opposition to admission will hardly question. Many of those men, I learn, are foreigners—Germans and others—who have not been naturalized, who are not entitled to vote, and who know as little of the principles of our constitutions as they do of the virtues of law and order. But they were not the less noisy followers of Lane and Topeka. This revolutionary Topeka movement has been kept up until within the last few weeks. On the eve of the lawful election of delegates to the Lecompton convention, it came near producing civil war; and Governor Walker hastened a dispatch to the State Department, announcing that “the most alarming movement proceeds from the assembling, on the 9th of June, of the so-called Topeka Legislature, with a view to the enactment of an entire code of laws,” and predicting that such a result “would lead to inevitable and disastrous collisions.” Soon after the election of delegates to the convention, we find Governor Walker writing to General Harney to send him a *regiment of dragoons* to put down a rebellion at Lawrence, “involving an open defiance of the laws, and the establishment of an insurgent government in that city.” The next day, the Governor informs the Secretary of State that this was “the beginning of a plan to organize insurrection throughout the Territory.”

A few days after, it was found, says Governor Walker, that General Lane was organizing, under the sanction of the Topeka convention, “the whole so-called free-State party into volunteers,” and “taking the names of all who refused enrollment,” with a view “to terrify the free-State conservatives into submission,” as is “proved by recent atrocities committed on such men by Topeka-ites.” Again, just on the eve of the assembling of the convention at Lecompton to frame a State constitution, Governor Walker informed the State Department that “General Lane and his staff everywhere deny the authority of the territorial laws, and counsel a total disregard of these enactments.” And again, immediately before the vote was to be taken to determine whether the constitution should recognize or ignore slavery, acting Governor Stanton wrote to the Secretary of State that he “had become satisfied that the election ordered by the convention could not be conducted without collision and bloodshed.”

Thus it is apparent that a regular system of disorder, rebellion, and terror was attempted to be kept up during the whole time the constitution was in the process of adoption. Those turbulent men would not vote themselves, and endeavored to deter others from voting. What guarantee, then, have we that they would now vote, if forty opportunities were given them? I, for one, confess that I do not feel the slightest disposition so to humor such men. The fact should be borne in mind that the Lecompton constitution is the work of those who have ever been true to the properly constituted authorities of the Government, while those who have stood aloof have all the time endeavored to resist the law by force and violence. Is such a fact of no moment?

But, say the opponents of the bill, “frauds” have been perpetrated in accomplishing the adoption of this constitution. I think this is a mistake. I do not see that the charge has been sustained by evidence entitled to respect. Gentlemen should not blend with the constitution frauds in elections having no connection with the constitution. The charge in this case is based upon the bare assertion of partisans of the law-violating faction in Kansas, and there is an absence of proof to sustain the assertion. Two men, Messrs. Babcock and Deitzler, who had no official connection with the returns, and who offer no proof of what they allege, state that there were spurious votes given on the 21st of December, when the question was taken upon the slavery clause. And thereupon the outcry is raised that there were frauds. It is well known that even if what they say was true, still a large majority of the legal votes at that election were cast in favor of retaining the slavery clause. But I cannot permit my judgment to be influenced by this unsupported statement of Messrs. Babcock and Deitzler; there is strong circumstantial evidence against it, in the fact that

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the pro-slavery vote on that occasion was actually smaller than it was a few days after in the election of State officers. In the elections last fall, for a Territorial Legislature, there is evidence of fraud; and there appears to have been fraud, to some extent, in the election on the 4th of January. But these elections, it must be remembered, had no connection whatever with the adoption of the constitution; and in the latter case, particularly, there is reason to believe that the frauds are as likely to have been committed on one side as on the other.

It is curious to observe how ready certain gentlemen are to believe any charge of fraud against the law-abiding men of the Territory, and how slow they are to see that the law-resisting, revolutionary men, who have committed so many outrages, have ever winked at fraud. Why, sir, this cry of "fraud" was commenced by the anti-slavery men here in Congress on the passage of the Kansas-Nebraska bill, and it has been kept up ever since. That bill was itself called a fraud. When the first Territorial Legislature was elected, it, too, was declared to be a fraud, though no proof was ever offered to show it; and Governor Reeder himself even certified to the correctness of the returns. Indeed, the census taken at the time shows that there was a large majority of southern voters in the Territory, and no necessity for fraud on the part of the pro-slavery men.

Mr. Chairman, I call attention to the fact, that at that point of time there was a majority of southern men there by the official census of the Territory.

Mr. BLAIR. I ask the gentleman how he ascertains that?

Mr. ZOLLICOFFER. I understand it from a passage in the report of the Republican investigating committee at the last Congress. It quotes the census taken a month before the election.

Mr. BLAIR. That there was a majority of pro-slavery men there?

Mr. ZOLLICOFFER. That there was a majority of southern men there.

Mr. BLAIR. Well, that is a very different affair.

Mr. ZOLLICOFFER. I think there are very few men from the South such as the member from Missouri.

Mr. BLAIR. That is a matter of opinion.

Mr. ZOLLICOFFER. Then, if it is a matter of opinion, you need not have interrupted me.

When the congressional Delegate was elected, when the second Territorial Legislature were elected—in short, in all elections, except those held without authority of law, or under the Topeka constitution, this cry of "fraud" has been kept up, until there are really honest and good men who have had their minds misled with the belief that the constitution was carried by frauds. I think there is no evidence of this that ought for a moment to shake our conclusions upon this question.

The assumption that the vote on the 4th of January, taken under a so-called law of the Territorial Legislature, upon the ratification of the constitution, is evidence that a majority of the people are opposed to the constitution, is quite erroneous. That law was itself a nullity, and the Legislature that enacted it had no authority whatever to intermeddle with the constitution. The election was conducted alone by the Free-Soil party, and we have no guarantee that a large number of the reputed ten thousand votes cast were not spurious. A comparison of the number of votes cast with those cast at the same precincts, at other elections, strongly indicates this. There is reason to suppose that many of those voters were Germans, who are not citizens of the United States. I have heard it said that there are fifteen hundred or two thousand German aliens there, who are not entitled to vote, but who are among the most noisy of the men that follow Lane, and sustain the Topeka movements of those who are disturbing the peace of the Territory, and endeavoring to run honest men out of it. But the constitution had already been adopted, and the whole work finished, before this vote was taken. Every step had been regularly taken. The sense of the people had been ascertained, by ballot, in favor of a convention; the convention had been called and the delegates had been elected by the people, with

instructions to make a constitution; these delegates had accordingly made a constitution. The only question which had produced division had been submitted to a popular vote, and settled according to law; and the time, and all the circumstances, had transpired, when, according to the letter of the instrument itself, "this constitution shall take effect and be in force." How, then, could a Territorial Legislature subsequently interpose a process to annul the constitution? If that Legislature could do so, so could those which may come after it; which assumption places the Legislature at all times above the sovereign power, which is competent to make and unmake constitutions. Such an assumption would at any time place it in the power of the Legislature to deprive the people of a constitution by a mere accidental legislative majority; and, if put in force in the State governments, would soon render our durable written constitutions as changeable and uncertain as the statutory laws.

It has been objected that, in the final vote upon the constitution, on the 21st of December, the voters were required to swear that they would support the constitution, when adopted. This, it is said, was a great hardship upon the free-State men. I do not so understand it, if they were really law-abiding men. They were then themselves deciding the question, by their votes, whether it was to be a free or a slave State. If they held a majority, they could make it a free State, and cheerfully support it. If they had not a majority, and it were made a slave State against their votes, still, in justice, they should have been willing to support it. It was at least as hard upon one side as upon the other. As to Lane's men, who had so violently resisted all government but that inaugurated at Topeka, it was but just that they, too, if they voted upon the constitution, should be required to swear to support it when adopted. Their past conduct had made this eminently proper.

Complaint is also made that the schedule to the constitution provides that all who are in office shall hold their offices, and all laws in existence shall continue in existence, until changed by laws enacted under the State constitution. Yet such a provision as this is almost universally incorporated in the several States, on the adoption of a new constitution; and it is wisely done to guard against any derangement, incident to a fundamental change of government.

The truth is, that when gentlemen say they will never vote for the admission of another slave State into the Union, they do but lay bare that leading sentiment which prompts a majority of those who oppose this bill. They are wholly unwilling to give to the institutions of the South a fair and equal chance in the Territories which belong in common to all. When the South agreed, in 1820, to the drawing the line of 36° 30' for the sake of peace and compromise, the North did not become satisfied; but the very next year, by a majority of her Representatives, voted to violate it. From that day to this, there has never been an instance in which a slave State has asked for admission into the Union, whether north or south of that line, in which northern men have not opposed it on account of slavery regardless of that compromise—a compromise that prohibited slavery north of 36° 30', and gave no security for its establishment south of that line. The North was unwilling to extend that line to the Pacific, or to give the South any respite from the struggle to restrict slavery south of the line where it has been established. Hence, in 1850, southern men began to ask themselves, is this fair? Then it was that Henry Clay said in the Senate: "I put it to gentlemen of the South, are they prepared to be satisfied with the line of 36° 30', interdicting slavery north of that line, and giving them no security for the admission of slavery south of that line?"

Mr. Clay stated that, in considering a plan of compromise in 1850, "the idea of the Missouri compromise, as it has been termed, came under my [his] review, was considered by me, [him,] and finally rejected." And he added:

"It was high time that the wounds which the Wilmot proviso had inflicted should be healed up and closed; and that to avoid in all future time the agitation which must be produced by the conflict of opinion on the slavery question, the true principle which ought to regulate the action of Congress in forming territorial governments for each newly-

acquired domain is to refrain from all legislation on the subject in the territory acquired, so long as it retains the territorial form of government."

This "true principle" having been applied, and the anti-slavery restriction line having been removed in 1854, those northern men who had been unwilling to give the South peace while that line was established as a compromise, suddenly discovered that they were greatly outraged by its repeal. They have kept up the agitation ever since. With or without a compromise line, under any and all circumstances, they have never been willing, and will never be willing, to admit new slave States into the Union.

Mr. Chairman, I confess that my sympathies have been strongly with the gallant men in Kansas, who, under an almost overwhelming combination of adverse circumstances, have bravely maintained the rights, and stood by the institutions of the South. When the unconstitutional restriction line was broken down, its adherents said it should do the South no good; for the North had the population and the power to make Kansas a free State, and immediately they began to put their emigrant aid societies into requisition. Many of the friends of the Kansas bill said there was no chance for, or they had no hope of, establishing slavery in Kansas. Politicians and newspapers all through the South, particularly those opposed to the bill, have ever since held such language on this subject as was calculated to teach the people of the South to believe that there was no hope for establishing slavery there. During all this time, too, the free-State men have been boastfully claiming a majority in Kansas. But during all this same time, and against all these adverse circumstances, the pro-slavery men in Kansas have been bravely standing their ground, and most frequently carrying the elections. But what might they not have accomplished had not hundreds and thousands of the southern people been deterred by such unreliable statements, prophecies, and boasts, from moving into the Territory with their slaves, for fear they would be emancipated or run off by the Abolitionists? My strong belief is, that but for the teachings which have been more or less successfully impressed upon the southern mind that there was no chance to establish slavery in Kansas, the question would long since have been practically settled, and Kansas would by this time have been a slave State in the Union. If admitted with the present pro-slavery constitution, why should she not continue to be a slave State? I, for one, feel that the chances are about equally suspended in the balance, and I cannot, will not, vote against her admission.

ADMISSION OF KANSAS.

SPEECH OF HON. M. J. PARROTT,

OF KANSAS,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. PARROTT said:

Mr. CHAIRMAN: I need not apologize for venturing to avail myself of the indulgence of the committee to submit what I have to say respecting the affairs of Kansas. If any apology were necessary, I might find it in the fact that a Delegate from a distant Territory [Mr. LANE, of Oregon] has seen fit to go beyond his own sphere of action, and assail my constituents, in order to promote the welfare of his own. This is the short road to Executive favor. I refrain from characterizing that speech as it deserves, only because I cannot do so consistently with the proprieties of the place. In undertaking to present the case of Kansas, I shall not pursue that intangible, impalpable, and somewhat protean political quantity, called "popular sovereignty," through the intricate mazes of theoretical inquiry, but shall rather seek to unfold its practical workings as developed in the chosen theater of its operations, in the trials of some years. The standpoint from which my views of this subject are taken is not identical with that occupied by any other person on either side of this Chamber. I belong to no political organization recognized here. I have no

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party to serve, and none to fear, in treading this ground. Sectional parties alone exist in Kansas. No others could exist, because the great paramount issue, framed and submitted to the people for their decision by Congress, in the passage of the organic act, was a sectional question—the question of slavery. Sharing in this struggle, I have striven with my whole heart and all my strength for the supremacy of that class of domestic institutions which experience has demonstrated to be best calculated to foster, ameliorate, enlarge, and improve the condition of the free white laboring men of the country, and thereby to strengthen the stability of republican institutions, of which this great interest is, in my opinion, the main stay. Although chosen as a representative by those who favor this system of government, subsequent developments have greatly enlarged the number of those for whom I claim to speak.

The sectional issue which has heretofore obtained, is swallowed up in a still greater issue, precipitated upon us, and upon the whole country, by the presentation here of the Lecompton constitution. When I stand here in my place to plead for the inherent right of the people of Kansas to frame their fundamental law, I may claim, without exaggeration, to speak for the whole people of Kansas, irrespective of their party predilections.

The Kansas act guaranteed to extend to all who should settle under its provisions certain definitive political privileges, as well for their protection as for their guidance, whilst the country should remain in a state of pupillage. This act was characterized by a declaration of the doctrine of non-intervention by Congress with the subject of slavery in the Territories, "leaving the people thereof perfectly free to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States."

It will appear by an analysis of this general declaration, as found in the details of the bill, that the people were to have the right of representation in this branch of Congress, the uninterrupted choice of a local Legislature, and the supervision of their local and municipal affairs. The Constitution of the United States was extended, in terms, over the Territory, as indeed it would have been without words to that effect—thus beyond doubt securing to citizens the added privileges flowing from that instrument, of a higher and more inviolable kind than those conferred by simple statute law.

These rights, combined, made up the aggregate or sum of political power pledged to the people of the Territory. No one will deny that these were promised, or that the faith of the country was pledged for the fulfillment of them. Yet do they stand to-day recorded on your statute-book, and plighted pledges of the nation, broken, disregarded, dishonored, but not disclaimed. These popular rights and privileges, in support of which the honor of the nation was concerned, have been all, without exception, without the authority of law, but in defiance of it, even without the apology of provocation, wantonly and continually violated.

Voiceless in this House, and borne down by a usurped Legislature within its borders, the Territory has languished under a dreary despotism, imposed by foreign domination, and maintained by the direct intervention of the military arm of the Government. All lawful resistance, as well as all appeals for redress, have been stigmatized by epithets alike *odious* and *untrue*.

Without rights of any kind, we have been without remedy for wrongs, however flagrant. A most merciless and persecuting warfare has been carried on against us. The hard earnings of our industry have been swept away from us by the hand of robbery; our homes filled with fear by the ceaseless oppression of ruffians invested with the color of law; our lives at times seriously imperiled, alternately by the periodical incursions of a foreign foe, or the no less remorseless process of judicial proscription.

The many have been ruled by the few. The invaders dominated the inhabitants. Those who should have had all the political power have had none; and those who should have had none have had *all*. With occasional intervals of quiet, but

for the most part through scenes of violence, bloodshed, and war, this state of things has gone on until it has culminated in the Lecompton constitution; and upon this, they who have supported this scheme now make a stand, demanding a reinforcement of power wherewith to prolong, and, if possible, to make permanent, the vassalage of the people. Of this constitution I have to say, that it was vicious in its origin, that the convention which framed it was fraudulently constituted, and that the plan of its pretended submission was fallacious, and contrived as a cheat by which to circumvent the people. In support of this view, in the first place let me recur briefly to some antecedent events in our history, because I submit that no comprehensive, intelligent view of this question can be arrived at without keeping constantly in sight the relation which this particular measure sustains to the precedent legislation of the Territory. There never has been any territorial government in Kansas. The organic act failed to secure one, for two reasons: first, the intrusion of non-resident voters; and, second, the improper intervention of Federal power.

Prior in point of time to the passage of this law, but in anticipation of it, a secret political society was organized in the western counties of the State of Missouri. The object of this society was to forestall the domestic institutions of the yet unborn Territory by unfair means. Through the mischievous machinations of this association, working by means of secret signs, oaths, and rituals, a most formidable power was concentrated and disciplined for the destruction of popular rights in the Territory, on the first available occasion, by the exercise of physical force. An occasion soon occurred. A census of the inhabitants and voters, preliminary to the election of the first Legislative Assembly, as a basis upon which to apportion representation, having been completed and returned to the Governor in the spring of 1855, that officer, after regulating the details, such as defining the districts, appointing judges, &c., fixed the election for the 30th of March, 1855. Every intelligent man in the country knows what took place in Kansas on the 30th day of March, 1855. I shall not repeat details that are familiar. I only say this—that the secret society unloosed its folds on that day, and poured its emissaries into the Territory, with the avowed design of bearing down the real population, and taking possession of the polls. Every precinct in the Territory but one was carried by the invading horde. In this manner and by such means was the right of the people to choose their own local Assembly wrested from them, and the power incident thereto lodged in the hands of irresponsible invaders.

Being now securely entrenched behind the awful powers thus usurped from the people to whom they rightfully belonged, the invaders met in the month of July, and proceeded to enact their guilty designs into the forms of law. Whatever else may be said of these laws, it cannot be denied that they are well adapted to promote the object for which they were designed. That object, of course, was the retention of the ill-gotten power of the 30th of March in the hands of its then possessors. To that end, it was becoming that they should seek to destroy all the great aids by which public opinion is generated and expressed. They buried the ballot-box beneath infamous or impossible conditions; invidious test oaths were skillfully contrived, by means of which the elector should either be thrust as a recusant from the polls, or be debauched or demoralized by the act of submission to the test. Freedom of speech was stifled; the ball and chain, the collar and the lock, the halter and the scaffold, were prescribed penalties for the violation of that salutary provision of despotism, that none shall call in question the title of the "powers that be." The press muzzled and the people gagged, the far-reaching influences of literature were next assailed.

The *imprimatur* of the usurping Assembly was made a condition precedent to the circulation of any printed matter of a political kind. The lessons bequeathed by the fathers, as well as the best approved doctrines of our Democratic cotemporaries, were alike cut short in this procrustean bed. The Assembly trampled down the prescriptive rights of the people to municipal officers of their own election, and imposed upon them creatures

of the invading class, with a prohibition of popular election for two years. In short, they stretched across the whole field of popular rights, as Congress had defined it, a net-work of perfidious legislation, with which to ensnare and finally enslave their adversaries. Now, let me inquire what the people, thus outraged and despoiled of their rights, had to say to this business? On the 5th day of September, shortly after the adjournment of the bogus Assembly, a convention was held at Big Springs. It was the first public assemblage of the real citizens of the Territory, to consider the aspect of public affairs. After reciting the facts as they transpired in respect to the manner of the election of the Legislature, they repudiated its enactments, and declared themselves released from any obligation to acknowledge or respect its assumed authority. An issue was thus made up on the validity of this legislation. Those who maintained the legislation were now reinforced, in this behalf, by a new and powerful ally—the President of the United States. Already within the spell of that fatuity which hurried him rapidly downward through every gradation of sentiment, until, from the pride of the nation, he became its shame and reproach, he struck out boldly with the military arm of the Government in behalf of this great wrong. Instructions were given to the territorial executive to enforce the laws. They were rapidly reduced to practice, and a state of war supervened.

In the month of December, twelve hundred men recruited in the State of Missouri, in response to the call of the Governor, appeared in Kansas, and were enrolled as Kansas militia. They were led against a village of the interior, the nucleus of the New England settlement, on the specious plea that its inhabitants were hostile to the pretended laws. For some time, this infuriate force invested the devoted town and ravaged the adjacent country. On this occasion the first innocent blood was spilled. The first victim fell by the hand of a Federal office-holder, then, as he is now, a recipient of the confidence as well as the patronage of the Administration. The power of the President was interposed, after he had been indicted, to shield him from any accountability for this dreadful crime. Amid the gloomy forebodings of this excitement, we entered on the year 1856. The coordinate branches of the local Government vied with the Executive in prostituting their functions in this unholy cause. The most powerful branch—the one more powerful than all the rest beside, the subtlest engine always and everywhere, when prostituted to base purposes, that can be brought to bear against the liberties of civil society—I mean the judiciary—was particularly conspicuous in its infamous zeal. The chief justice had, in fact, already violated propriety as well as his oath of office, by deciding, in advance of any case, in favor of the validity of the laws.

Now, he ruled that a refusal to acknowledge the binding character of the local legislation was *treason* against the United States. This judicial solecism was practically applied. Grand juries, packed for the purpose by the United States marshal, flooded the country with indictments. Scarcely an honest man escaped. The process of the court went forth to arrest the multiplied offenders. New mobs, levied from foreign States, cruised about the Territory, under color of the United States marshal's *posse comitatus*, destroying printing-presses, burning hotels, sacking towns and villages—in short, in a general career of rapine and robbery, in the name of law and order, as defined by the chief justice, whose edicts they enforced, and by whom they were in their turn upheld in the commission of incalculable villainy. One instance, which fell under my observation, I will give, as an illustration of the infinite inhumanity, the varied and outrageous cruelty, commonly practiced under the pretext of serving writs, as well as of the writs themselves.

A charge of treason was trumped up against two men. They were forthwith seized by a deputy marshal and his *posse*, their limbs loaded with heavy iron chains, and themselves dragged, literally dragged, along the earth a distance of more than fifty miles. Bail was declined, and they were committed to prison. Term followed term, yet no indictment was found. After many months of weary confinement, sick and impoverished, they

were reluctantly discharged, no one appearing to prosecute them. This instance will serve to show that the process of the court was a mere pretext to get possession of the persons whose influence the Government had reason to fear. The President of the United States cheered on this diabolical business, with special proclamations, with money, with arms, and with men. The surveyor-general's office, under the auspices of Calhoun, was used as a recruiting station, and the Government funds to pay the recruits. A system of espionage was instituted in the post offices, the mails habitually ransacked, and offensive matter not unfrequently pillaged and published. Batteries of cannon on the banks of the Missouri river, the ordinary route to the Territory, effectually closed it to emigration. The route through Nebraska, the only practicable one left, was guarded by squadrons of dragoons. Trains of emigrants, irrespective of their character or intentions, were stopped, and both persons and property seized and detained. Meantime, a rendezvous was opened at Oxford—since so prolific of election returns—to recruit a militia force from Missouri, with which to desolate the obnoxious settlements of the Territory, while in this enfeebled condition, beyond the hope of recovery. This army, when, after several weeks, it took up the line of march for the interior, numbered twenty-seven hundred men, well armed, and fortified with eight pieces of cannon belonging to the State of Missouri.

About this time, August, 1856, the most frightful scene of all our history occurred—the sack of Leavenworth. A mob, under the lead of a Federal office-holder, (he is still one,) assisted in the command by other persons, who have since, by virtue of their services on this occasion, been rewarded with lucrative places under the present Administration, took possession of the city. Innocent men were butchered by daylight in the open streets, women and children were forced, at the point of the bayonet, to fly from their homes; larger numbers of citizens were constrained to leave the country in order to save their lives; the stores, warehouses, and private dwellings of the city were forced open, and their valuable contents distributed among this ruffian band. Some persons, with their families, sought shelter in a United States garrison, close at hand. They were shortly ordered away. It may be well imagined with what feelings of mortification this little band of sufferers turned away from the flag of their country, ample indeed to protect an American citizen from indignity in any part of the world, save his own. The whole country was infested with roving bands of ruffians. Manifold and most foul murders were committed. Long afterwards the bodies of missing men were found unburied where they fell. This desperate condition of things forced the rural population to abandon their homes, and seek safety in fortified camps. The industrial interests of the country paralyzed, want became wide-spread. I have not time to note particularly the many affecting and deplorable incidents that mark this reign of terror. It was protracted through many months, abated somewhat to meet the exigencies of a pending presidential election, but renewing itself with more or less fury, after that motive for modified action had passed away.

These occurrences, which I have rapidly glanced at, make up what the President, in his annual message, is pleased to style "the alarming condition of Kansas at the time of my (his) inauguration." Twelve months have rolled by since he ascended the seat of power, and what is the condition of Kansas now? How have we profited by the change? Have we less of the corrupt and profligate crew of Federal officials, whose presence has so long cursed the country? Not only do the old offenders remain, but new appointments have been made, if possible, more insulting, intolerable, and outrageous than the preceding ones. No other test of fitness has been sought for or applied, save a clear complicity with the crimes that have characterized the career of the Administration party in the Territory. Most of these appointees are in this city to-day, fugitives from the aroused vengeance of the people, hiding here in the shadow of the White House. One of these appointees, at the time of his appointment, stood indicted for murder and other heinous crimes. This fact was

notorious; the President knew it. The appointment was made, and then the law officer of the President promptly stepped forward and entered a "*nolle prosequi*" on the bill. Thus, a second time, was interposed the hand of authority to save a criminal from the consequences of his crime. Has the army been withdrawn? It is well known, that under this, as under the last Administration, it has been used to support all the reckless and desperate schemes of the pro-slavery party. Did not its bugle sound the charge of ruffians on the ballot-box in the elections of December and January last? It will hardly be denied. And the judges, whose fame for corruption has passed into a proverb—where are they?

Still on the bench, to darken and degrade the highest offices of human intellect; to fulminate decrees inspired by passion, and shock the conscience of Christendom by an open prostitution of the law, punishing the innocent, but screening the guilty. Such is the alarming condition of things now, not less than a twelvemonth ago. Nor this alone. In this twelvemonth, an intermediate work of most fearful augury has begun. The Lecompton constitution has been framed. The President sends it here, as the *finale* of the Kansas troubles. It will be observed that I do not present that constitution, although I am the organ of that people upon this floor. That blow at their rights cannot be stricken through me. On the other hand, in the course of my duty, I have had occasion, from time to time, to lay before this House much pertinent testimony against it; protests from the people by their conventions; protests from the people by their Legislature, indicating the indignant and almost unanimous disapproval of it by those who are falsely said to have framed it, and for whose benefit it is with still greater falsity said to be intended. The law to which this instrument is referable was enacted in February of 1857. The Legislature in which it originated consisted of a Council, chosen on the 30th March, 1855, still holding over, and a House of Representatives, chosen in October, 1856, under the operation of the test oaths. I shall be told that Congress has pronounced this Legislature valid, and their laws binding. It may be so. This assumption is in fact the groundwork of all the assaults against the cause of popular rights in the Territory. But I deny that such action on the part of Congress can estop the people of Kansas from pleading the facts of the case.

Congress cannot change truth into falsehood, nor falsehood into truth. These qualities are inherent in the essence of things; they are indestructible, unchangeable, and eternal. The people of Kansas will maintain, doggedly if you please, the truth of their history, though every Congress, for a century to come, should vainly seek to falsify it by short-sighted attempts to enact right into wrong.

The usurpation of the 30th March, 1855, is a persistent truth. It cannot be forgotten; it must not be ignored. It taints with its pestilential touch every subsequent act of the territorial government, from the day on which it was seized to the day when the last ballot-box was stuffed, and the last return forged to complete a simulated showing in behalf of this Lecompton constitution.

Although I deny that the conditions of valid law are to be found in these enactments, or that they were entitled to more attention than the people, from motives of convenience or policy, might choose to render them, yet, for the sake of this discussion, I am willing to yield what gentlemen on the other side claim on this point. From it let them defend this constitution if they can.

I assert, in the first place, that the Legislature contemplated the commission of a gross fraud when it passed the act to provide for the convention. The evidence of this is apparent from reading the law itself.

The first section provides that it shall be the duty of the sheriffs of the several counties of the Territory, and they are hereby required, between the 1st day of March and the 1st day of April, 1857, to make an enumeration of all the free white male inhabitants, citizens of the United States, over twenty-one years of age, and all other white persons, actually resident in their several counties, &c.

Section two provides, that in case of a vacancy

in the office of sheriff, these duties shall be performed by the judge of probate, &c.

The third section provides that it shall be the duty of this officer to file in the office of probate judge, on or before the 10th of April, a full and complete list of all the qualified voters in their respective counties on the first of April, 1857, which list shall exhibit, in a fair and legible hand, the names of all such qualified voters.

Section seven provides for an apportionment on the basis of this returned list.

Section eight provides that no person shall vote unless his name appear on the corrected list.

The nineteenth section districts the Territory as follows: Doniphan county shall constitute the first election district; Brown and Nemaha, the second; Atchinson, the third; Leavenworth, the fourth; Jefferson, the fifth; Calhoun, the sixth; Marshall, the seventh; Riley, the eighth; Johnson, the ninth; Douglas, the tenth; Shawnee, Richardson, and Davis, the eleventh; Lykins, the twelfth; Franklin, the thirteenth; Weller, Breckinridge, Wise, and Madison, the fourteenth; Butler and Coffey, the fifteenth; Linn, the sixteenth; Anderson, the seventeenth; Bourbon, McGee, Donn, and Allen, the eighteenth; Woodson, Wilson, Godfrey, Greenwood, and Hunter, the nineteenth.

Four other counties—to wit: Clay, Dickenson, Washington, and Pottawatomie—are not so much as mentioned in the law. What I wish to call particular attention to is the fact, conclusive of fraud by the Legislature, that fourteen of the counties thus enumerated were without any county organization, and of course without a sheriff or probate judge; and therefore destitute of the only machinery provided by law for taking the census and registration. This appears to have been done deliberately, as no provision is anywhere made for such a thing as an unorganized county. Fifteen counties were thus wholly excluded by the Legislature from any possible participation in this proceeding. In addition to this, it appeared, on the returns being made, that in the counties of Anderson, Franklin, and Breckinridge, (organized counties,) the officers had failed to take a census and registration. Here, then, we have fourteen counties named in the act, but with no provision whatever for a census and registration, and four counties not named at all, and of course excluded, making in all eighteen counties deliberately disfranchised by the Legislature. To this is to be added the three counties in which the officers were delinquent, and the aggregate of disfranchised counties amounts to twenty-one—that is, more than half the whole number into which the Territory is divided.

This plain statement must settle this point—it cannot be further controverted. In order, however, to diminish the force of this objection, it is said that but few people were living in these counties; not enough, as the argument runs, to have materially influenced the result. Let us see whether this is true, in point of fact. In the election of October last, the aggregate vote of this disfranchised district, under a law prescribing a six months' previous residence, amounted to nearly three thousand. Now, it will be observed, that every one who was entitled to vote in October would have been a voter at the election of delegates to the convention, if his name had been registered. So far, then, from the voting population of those counties having been insignificant, it is quite certain, on the other hand, that, if this vote had been polled, as we are bound to presume it would have been, if an opportunity had been afforded, it was of sufficient strength to have changed the complexion of the convention. If we take into consideration the fact that three quarters and more of this vote was cast in October, on an issue involving this very Lecompton constitution, against that instrument, as I shall presently show, it may be reasonably inferred that the exclusion of it made the political complexion of the constitutional convention what it was—pro-slavery.

In regard to the other counties in which the census and registration were pretended to be performed, I have only to say that there was well-grounded complaint. The registration was partial, imperfect, and to some extent fraudulent. The aggregate of registered votes was nine thou

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sand and upwards. The election was held in June, uninterruptedly, so far as I have heard. The convention received less than two thousand votes. But the question is frequently put, why did you not vote? For two reasons: first, we considered the whole scheme to be a conspiracy, with which it was dangerous to be complicated; and, secondly, we relied on the distinct and emphatic pledge of the President, given through Governor Walker, that we should be protected in our reserved right of voting for or against the instrument, when it should pass from the hands of the convention. A large majority of the people, beyond doubt, were lulled into indifference or deluded into inaction by this pledge of the President, authoritatively rendered them.

The convention organized in September, but adjourned to await the issue of the October election. For the first time in the history of the country, both parties met at the polls, after a long yet peaceful canvass, in the full enjoyment of the right of suffrage. The result undeniably indicated public opinion. The free-State party bore off the victory by five thousand majority. No issue of the canvass was more widely discussed and better understood than that which pertained to this convention. The so-called Democratic party indorsed it, and their candidate for Congress openly declared that he would, if elected, advocate the admission of the State under it, whether it was submitted to the people or not. On the other hand, the free-State party, through their Representative, declared the convention to be a fraud to the bottom, from which nothing could originate that deserved their respect; and that the constitution, if submitted to the action of the people, should be trampled down; and if not submitted to the people, they had the pledge of the President that Congress should reject it, or at least his influence to that end. This popular monition was not thrown away on the convention itself. When they met again, it was under the protection of the United States Army. Henceforth its sessions were thus protected. On the 7th of November, the convention finished its work and adjourned. The constitution they had framed was not submitted to a vote of the people for approval or rejection—nor was any substantive part of it thus submitted. A proposition relative to the future importation of slaves was submitted; but the disposition of that, whatever it might be, could in no manner affect the status of the negro under the future State government. Slavery was thoroughly tingrafted in the instrument. For these reasons, the people despise and abhor this constitution.

This fact cannot be doubted. It was proven by the election in October last; it was demonstrated by the joint resolutions of the representatives of the people assembled in the Territorial Legislature, which I have had the honor to present to this House, and which now stand on your records; it was demonstrated last, and best of all, by a specific vote to that effect on the 4th of January last, under a law of the Legislature, when more than ten thousand votes were given against it. On the other hand, the Lecompton party has, with characteristic recklessness, perpetrated the most gigantic frauds on the ballot-box, in order to fabricate a showing of popularity for their scheme. At the pretended submission of the constitution, in December, there were for the constitution with slavery six thousand one hundred and forty-three votes; for the constitution without slavery, five hundred and sixty votes—in all, about seven thousand, of which a majority of five thousand five hundred was in favor of the slavery proposition.

Mr. UNDERWOOD. I desire to obtain from the gentleman a statement of fact to which my attention was particularly called, in the course of my remarks yesterday. The gentleman has referred to the vote of ten thousand majority given by the anti-Lecomptonites at the election on the 4th of January. I wish the gentleman to give us the benefit of his knowledge as to the fraudulency or the fairness of that particular vote. How many, if any, of that vote have been ascertained subsequently to the vote to be fraudulent? I should be glad to ascertain the fact as to the genuineness of that vote.

Mr. PARROTT. I shall be very happy to furnish the gentleman from Kentucky with all the information which I have on the subject. I have

not heard any person in the Territory, and I do not now recollect that I have heard any person here, charge that any of these votes were fraudulent. I remember having been present when a discrepancy was supposed to have been discovered between the vote cast in the city of Leavenworth in October, and the vote cast in January. I refer to a discussion on this point in the Senate Chamber. The discrepancy is easily accounted for. No person could vote in October, except such as had previously resided six months in the Territory; while the qualification in January was, if I am not mistaken, merely a *bona fide* residence at the time. That sufficiently accounts for the discrepancy; for between the 1st of April, 1857, and the 4th of January, 1858, I should say (speaking without a precise knowledge, however) that the voting population had almost doubled itself. I may say, therefore, that I do not know, nor do I believe, that any portion of that vote was fraudulent.

Mr. PEYTON. Will the gentleman allow me to ask him a question?

Mr. PARROTT. Certainly, with pleasure.

Mr. PEYTON. I see, from the minority report made in the Senate by Mr. DOUGLAS, that in the eighteen counties registered there were nine thousand six hundred votes polled against the constitution on the 4th of January; that the census showed nine thousand two hundred and fifty votes on the 21st of December. The pro-slavery party polled six thousand seven hundred votes for the constitution. So that the vote polled against the constitution on the 4th of January was four or five hundred more than the whole number of registered voters. Now, I want to know if these six thousand seven hundred voters, who voted for the Lecompton constitution on the 21st December, turned round and voted against the constitution on the 4th of January, or are there sixteen or seventeen thousand voters in those counties?

Mr. PARROTT. I would say to my friend from Kentucky, that I am coming to that point. Undoubtedly, there are not so many voters in the registered counties. A commission, appointed by the Legislature of Kansas, composed of most reliable men, have had this subject under investigation. It appears from their report, based on the testimony of the judges and clerks of some of the election precincts, that, of the six thousand votes and upwards cast in December, nearly one half were fraudulent. These fraudulent votes, too, were discovered mainly at three precincts. Of the votes cast, or pretended to be cast, on the 21st December, nearly one half—three thousand and twelve—were obtained at the precincts of Oxford, Shawnee, and Kickapoo, in this proportion: Oxford, one thousand two hundred and sixty-six; Shawnee, seven hundred and twenty-nine; and Kickapoo, one thousand and seventeen. A recent census of these precincts shows the whole number of white inhabitants in Oxford to be forty-seven; in Shawnee, one hundred; and in Kickapoo, not to exceed three hundred. It is safe, therefore, to say that, of the whole number of votes cast, or pretended to be cast, on the 21st December, not over two thousand were polled by actual citizens of the Territory. This will account for the apparent surplus as to the registered vote.

I may be allowed to say further, in this connection, that the very valuable labor of the commission to which I have adverted discloses the precise manner, in some instances, in which this vote was gotten up. It was forged. The names of those who committed the crime are in the evidence. No candid man who reads that testimony can have a doubt left in his mind of the unscrupulous character of these elections.

What is said of the election of the 21st of December is also applicable to the election of the 4th of January. By such flagrant frauds as these, the impression was sought to be made upon the country that there was popular support given to this constitution in the Territory.

Mr. PEYTON. In the election of State officers, how did it happen that they polled only four thousand votes in the same counties where they polled nine thousand six hundred votes against the constitution?

Mr. PARROTT. The gentleman is in error as to the number of votes polled for State officers.

It was over six thousand, I believe—less by several thousand, certainly, than the vote against the constitution. This is explained in this way: the regular convention of the free-State party decided not to contest the election. Some gentlemen, dissatisfied with this policy, or the manner of the decision, or both, took the responsibility of putting a ticket in the field. It was generally denominated "the bolter's ticket." I mention this fact to show that it did not secure the united vote of the anti-Lecompton men, and hence fell below the vote cast against the constitution on the same occasion.

I have gone far enough into this matter to show that this constitution, so far from having any support among the people, is in fact abhorred and repudiated by them. It is branded with the ineffaceable badges of fraud in its inception, progress, and consummation.

Now, I appeal to you, representatives of the people, to know whether, with the evidences of fraud standing thick upon it, you can give it the sanction of your support? If you do, you will force the State into the Union against her wishes; and such a union, without harmony or affection, will breed immedicable distempers in the body-politic.

You may pass this constitution, but I respectfully submit that it is beyond even your power to make a government under it.

It is but repeating an axiom of our political theory, to say that there can be no government without the consent of the people. Yes; you may pass this constitution, but the people who are thus perfidiously betrayed will never allow it to stand between them and the inestimable rights which they have been taught to defend at every sacrifice, not excepting that of life itself. Can you expect that American citizens will tamely submit to such a despotic measure?

"At one of the last councils which Charles held, a remarkable scene took place. The charter of Massachusetts had been forfeited. A question arose, how for the future the colony should be governed. The general opinion of the board was, that the whole power, legislative as well as executive, should abide in the Crown. Halifax took the opposite side, and argued with great energy against absolute monarchy, and in favor of representative government. It was vain, he said, to think that a population sprung from the English stock, and animated by English feelings, would long bear to be deprived of English institutions. Life, he exclaimed, would not be worth having, in a country where liberty and property were at the mercy of a despotic master."

Substantially, that question is reproduced here to-day, after the lapse of two centuries, touching the government of a distant dependency of the United States—not now in the Cabinet of a tottering King, but in the Council House of the American people, long accustomed to vaunt themselves the freest on the globe. Life, indeed, I may say, with that eminent English statesman, in this country, is not worth having, where liberty is at the mercy of one despotic master, though that master be the President of the United States. Where the voluntary principle of Government ends, there should revolution begin—not the right of revolution only, for that is inherent, but the exercise of that right. Such a case may be made by the business before us, presenting the alternative of revolution or a submission to the inextinguishable shame which the passage of this measure will entail upon us and our children after us.

Better, far better, would it be, in my opinion, that the sunny slopes of our magnificent mediterranean Territory should be stricken with the waste of the desert, or smoke with the blood of our people, than that they should blossom, fructify, and yield their increase to the hand of servile labor, whether white or black. Knowing something of the great spirit of that people, steeled as it has been to suffering by years of patient fortitude, I declare my confident conviction, in this presence, that they cannot be dragged into a tame compliance with this great wrong.

"Easier were it
To hurl the rooted mountain from its base,
Than force the yoke of slavery on men
Determined to be free."

Most wonderful of all is it that this measure should be mistaken for one of peace. Peace from injustice! peace from oppression and fraud! peace from the destruction, in fact, of the great principle of popular government, the enjoyment of which can alone render peace honorable or even tolerable to an American citizen!

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So far from bringing peace, I submit that this is a measure of unrest. A government is proposed, of which coercion is to be the motive power. *Coercion is war.* What has the coercion of years past accomplished? Not a government; but a necessity only for further coercion, or for a return to the right rule of law. I marvel much to see the South, illumined by the historic halo of good deeds done in the name of Freedom, rich in the treasured fame of the pure and lofty men she has freely given up to the cause of the Republic in all times of peril, cherishing not unfairly lofty conceptions of honor, and a zeal not accustomed to calculate in the cause of truth, now moving forward in solid column, lowering her crest, and with averted eyes joining battle for a cause that has nothing of right, and still less of favorable interest to her institutions, involved in its proposed success. I say to her, respectfully, that there is perfidy in this business, and such perfidy as will return to plague her when too late to retrace the step she is now taking. When the spoils of the victory are told, she will exclaim—

"For Banquo's issue have I fill'd my mind."

Put rancors in the vessel of my peace,
Only for them."

You who ask, and justly, too, that your constitutional rights shall be respected, can with ill grace, I submit, afford to deny that boon to others, under any pretense, however specious. Beware how you sow infirmities in the spirit of your adversary!

The President has seen fit, in his annual and special messages, to stigmatize the people of Kansas as rebellious and revolutionary in their conduct and opinions. In his annual message he says, "it is to be regretted that all the qualified electors had not registered themselves;" and again, that "a large proportion of the citizens of Kansas did not think proper to register themselves, an opportunity to do so having been afforded," &c. I have already shown that it was never contemplated by the act that the people, or any part of them, should "register themselves;" on the other hand, it is made the imperative duty of certain municipal officers. Again, I have shown that no fair opportunity was given to the people either to register themselves—a thing not contemplated—or to be registered by others officially assigned to that duty; and there I leave this unfounded insinuation. But these charges are based mainly on two specifications: 1. That the people sought to subvert the territorial government; and 2. That they set up the Topeka constitution in defiance of the General Government, and with a view to form an independent State.

Now, as respects their position to the Territorial Legislature. It cannot be denied, and least of all by me, that they have been persistently hostile to that body, while it was an imposed and usurping assemblage. Knowing it to be the creature of fraud, they could not recognize it without becoming accessory after the fact to the great crime charged against it. But this opposition has been limited to a non-recognition of its validity—to action of a negative kind merely. On the other hand, this Government is indebted to the loyal forbearance of the people for its existence so long. They could have swept it from their soil long ere this, had they chosen.

This is all; and if this be revolution, rebellion, or treason, I own my participation in it, without fear and without shame. But the Topeka constitution! Is there treason lurking in its folds? What are the facts in relation to it? The people met, framed it, and petitioned Congress to admit them under it. It was a petition for a redress of their grievances. They were in the strict line of precedent—indeed others had gone further without reproach—in setting up a constitution and State government on the authority of the people alone.

It was framed and held in strict subordination to the will of Congress. The convention which framed it sent it here with a memorial for admission. The first Legislature under it, at its first meeting in March, again at its meeting in July, and yet again at its meeting in January of the next year, and still again in July, memorialized Congress for its recognition. Since the formation of the Topeka constitution, no Legislature or con-

vention of the people has met without reiterating, in some form or other, their entire dependence on Congress for the vitality of the instrument. Since I have had a seat here I have presented many petitions to that effect, one alone signed by four thousand voters. I have also presented the joint resolutions of the Legislature to the same effect; and now, after two years industriously employed by the friends of this constitution in piling petition upon petition before Congress, and in presenting the accumulated evidences of its acceptability to the people, again there comes, and from the Chief Magistrate of the Union, this stale imputation—something the worse for age—of rebellion and treason, to terrify the timid, to embarrass the uninformed, to prejudice the public, and thus to bolster up the fortunes of a falling cause. It should be set at rest.

The loyal people that I represent, discouraged by the persistent deafness of Congress to their petitions on this subject, have at last, of their own motion, discarded the Topeka constitution and its government. I speak these words in justice to its memory, and in vindication of the motives of those who so long sustained it.

I should like, if time permitted, to draw a parallel between these two constitutions—Topeka, the child of popular sovereignty, and Leecompton, the illicit offspring of popular violence and presidential intervention—a wretched bastard pretender, "scarce half made up," that now stands with brazen mendacity at your bar, a candidate for the honors which belong to legitimacy alone.

The former confessedly sprang spontaneously from the people, asking the restitution of their rights; the latter is the vile spawn of usurpation, emitted by spurious legislation; and so far from having any support from the people, it slinks away, like a convicted felon, from any submission of its pretensions to the judgment of a popular verdict.

Mr. CLEMENS. Do I understand the gentleman from Kansas to contend that the Topeka constitution is either legal or legitimate; and that he, a Delegate of the people of Kansas, maintains, in the discharge of his official duty, that constitution in preference to the Leecompton?

Mr. PARROTT. I said, a moment ago, that the people of Kansas had virtually withdrawn their application under the Topeka constitution. In answer further, however, to the gentleman from Virginia, I say I do, in the discharge of my official duty, give the Topeka constitution vastly the preference. In every point of view, it is incomparably superior to the one framed at Leecompton. I was going on to say a word of the attitude occupied by the friends and framers of the Topeka constitution, in relation to the territorial government. Those who made and upheld this constitution whilst it was a living measure, so far from subverting the territorial government, have, in reality, rescued it from the odium and imbecility beneath which it was prostrate; they have lifted it from the ground, poured oil into its wounds, and infused into its veins the newness of life, through popular support. Nay, more; they are the only defenders of it against those who were its worst enemies, while they enjoyed it by usurpation; and its *only* ones, now that they can no longer wrest it to their unlawful ends. But, alas! with the departure of the ruffian usurpation, has fled also those charms which once captivated the affections of the executive bosom. The President no longer upholds this government.

Enough has been said on this subject to show you that the specifications on which the President grounds his charges against the people of Kansas are palpably erroneous, as illustrated by the records of Congress, as well as otherwise.

The people of Kansas have borne and forborne much for the sake of the Constitution and Union, which they revere. I could, if my time permitted, point you to some instances where they have suffered outrages at the hands of the Federal authorities, rather than adopt the dreadful alternative of resistance to its process. On the 21st day of May they suffered a band of drunken blackguards, because a United States marshal, in abuse of his authority, marched at their head, to overrun and desolate one of the fairest and most cherished towns of the Territory. Again, in the same year, on the 4th of July, what do we see? That

is a sacred day. Partisan spirit, however rampant, is generally exorcised by the shades of the immortal patriots that are evoked by the stirring memories of that anniversary of our national freedom. It did not happen so on this occasion. The people had assembled to commemorate the day, and to exercise the great constitutional right of consulting about public affairs.

While engaged in their pious purposes, the sun in the meridian, the rattle of sabers is heard, then the tramp of armed men, and the assembly is dispersed by a regiment of Federal dragoons. Yet we are told that the people of Kansas are revolutionary, when these flagrant acts of tyranny have been submitted to, sooner than raise an arm against the colors of our country. Who is the President of the United States, that he should dare to libel and insult any portion of the people, threatening them with ostracism if they do not bow the head and bend the knee in servile compliance to the dogmatic arrogance of his demands? But for his infidelity to two noted pledges, this constitution would never have vexed the peace of the country. The first was given in the presidential campaign, and was to the effect that the people of Kansas should be left free to form their domestic institutions; and the second was his pledge, through Governor Walker, that the right of passing on their constitution should be sacred to them. The infraction of these pledges has brought division and dismay to the ranks of his followers, and distrust of his designs to the country at large.

One word more of the people of Kansas. They are the peers of the President—they are not surpassed by any people in this country, or any other country, in respect to those qualities which elevate and ennoble the character of communities in the scale of social, moral, or political worth. Their misfortune is their merit—constancy to the cause of freedom. The struggle is now over; they have won a new empire of inexhaustible fertility on a remote frontier; to them belongs the imperishable honor of the achievement. They know the value of a good government none the less for having tasted the bitterness of a bad one.

The settlement and growth of Kansas in a material point of view, taking into consideration the discouraging circumstances that have embarrassed her career, constitute one of the noblest passages in the great epic of modern civilization. I am proud of her past and sanguine of her future. The chrysalis is just bursting into full life, buoyant, elastic, and full of strength to accomplish her high destiny. Her resources, her climate, and her position, show that nature has put it in the power of her people to make her a shining example among the States of the Confederacy—a radiant gem, sparkling in the geographical center of the country. When she is prepared to come into the Union, which will be ere long, it will be with a constitution anointed, sealed, and sanctioned by the free suffrages of the people, in which no doubt or shadow of suspicion will linger, as to its perfect acceptance. Coming thus gently into the sisterhood of States, full of prosperous and pleasant auguries, she will add another link to that chain which binds us in fraternal harmony; another example of the capacity of the American people to sustain the principle of self-government.

ADMISSION OF KANSAS.

SPEECH OF HON. W. E. NIBLACK

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. NIBLACK said:

Mr. CHAIRMAN: It was not my expectation, sir, when I came here, to participate during the present session, at least, in the general debates of this House. It is not my expectation to do so still. What I have, very briefly, to say is rather by way of personal explanation.

When the President's annual message was communicated to this House, at the commencement of the session, it received, as a whole, the approbation of my judgment. So far as the policy of the Administration upon this vexed Kan-

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sas question was foreshadowed in that message, I could not see how the President could have taken any other view of the question in reference to the legal points involved, than he did. The case, then, not being fully made up, however, and the question not being before Congress for its immediate action, I felt it my duty to suspend my opinion, so far as was practicable, until the question came regularly before us, and until it was seen what new and different phases of it might be presented. In the mean time I was exceedingly anxious, in view of the division of sentiment here, as well as elsewhere, amongst those political friends with whom I am accustomed to cooperate, upon the propriety of admitting Kansas, as recommended by the President, that direction might be given to the question which would enable those friends to unite in their action upon it. In this feeling I was not actuated by any distrust of the correctness of the President's policy in my own mind, but by a desire to consult, as far as was practical and proper, the views and feelings of others whose cooperation I very much desire.

Sir, when the President's special message was delivered to this House transmitting the Lecompton constitution, I unhesitatingly indorsed both the premises and conclusions of that message. I felt reassured that my first impressions of his Kansas policy were correct. I would have been willing to have stood upon the doctrines and recommendations of that message alone, and to have relied upon both for my vindication. While I had seen so much to condemn and so little to approve in the action of the people of Kansas, I felt then, as I do now, that the sooner this unfortunate Territory was organized into a State, the better for it and the country.

But there were those here who, professing not materially to disagree with the President, insisted that as so much had been charged about irregularities and frauds in the formation of this constitution, some investigation ought to be had by some committee under the order of this House; and as I feared no legitimate investigation upon this, as upon all other public questions, and as I was willing to concede something to what seemed to be an honest difference of opinion, I voted to refer the message to the select committee, with instructions, under the substituted resolution of the gentleman from Illinois, [Mr. HARRIS.] Sir, I did so with the hope that, when the smoke and dust which then enshrouded this question should be cleared away, as I felt confident would soon be done, those gentlemen here who seemed only in doubt as to some mere collateral questions would come forward in the same spirit and concede something for the sake of united action in bringing this controversy to a close. Whether those hopes shall be disappointed remains yet to be seen. Upon all matters, however, which I considered a fair test of the real positions of members, I have thus far steadily voted with the friends of the Administration on this question, and I expect to do so, sir, still, to the end of this contest.

Whatever may have been said to the contrary, I insist that the select committee to which I have referred, has been fairly constituted. It was the message which was referred. The instructions were only incidental to this reference. It was proper, then, and in strict conformity with parliamentary usage, that a majority of the committee should be friendly to the recommendations of this message. Nothing to me seems clearer than this. I think, too, the report of the majority of this committee ought to be satisfactory to all here not predisposed to complain. I regard it as one of the ablest things yet published on this subject. With those who desire to pursue the investigation further, and to go into everything connected with the history of Kansas for the past two years, not affecting the validity of the Lecompton constitution, I have no sympathy. Such a course could only serve to render more infamous the names of many persons who have already brought disgrace upon that fair Territory, and to get up a second edition of Kansas troubles, which might serve as a text-book for professional "freedom-shriekers" in the approaching political campaigns. For such purposes, my vote cannot be given. Sir, I will not go into the merits of this controversy. The subject has already been more than exhausted. Any-

thing I might now say, could be little else than a stale repetition of what has already been said by others. I think the President's position has been greatly strengthened by the discussion here. Many of the objections first urged against his policy have already been abandoned. The remaining ones have lost their original force and plausibility. With all due deference to the opinions of other gentlemen to the contrary, it does seem to me that the policy of the present Administration, in the affairs of Kansas, is but a continuation of the same policy inaugurated by the late Administration of Mr. Pierce, in relation to that Territory. How often have we all on this side of the House, both here and elsewhere, defended this policy? Who of us does not feel himself thoroughly committed to it? Why shall we now recede? For one, I will not, whatever may be the consequences, unless some better reasons be given than any I have yet heard urged.

Sir, I am admonished that I am assuming a fearful responsibility in the course I have felt it my duty to pursue, in consequence of the divided condition of public sentiment on this question throughout the country, and particularly in the great Northwest, from which I come. I feel as keenly as any one the force of this suggestion. No one is fit to be here, sir, who is not willing to assume some responsibility when the occasion demands it. I will not shrink from the discharge of what seems to me to be a plain duty on this account.

Whatever may have been the first impression as to the present phase of this Kansas question before it was fully before the country, I have the confidence to believe that a large majority of those who sent me here already acquiesce in the views of the President, and that this feeling is fast ripening into one of warm indorsement. I cannot believe that any very large number of persons in my district can be found willing much longer to give aid and comfort to those who have so long distracted the peace of this unfortunate Territory.

At all events an opportunity will soon be afforded to those I represent of expressing their views upon this now all-absorbing question. I cannot feel otherwise than mortified if I find I have mistaken those views. I desire them, however, to speak out plainly upon this as well as upon all other questions of public policy. I hold, sir, that the most candid relations ought at all times to exist between a Representative and his constituents. I desire, therefore, that my position here shall be fully understood. To the people of my district, and to them alone, I acknowledge my responsibility. Whether I have mistaken my duty or my allegiance, a brief period of time will determine.

Mr. GILMAN. I desire to state to the committee that it was my purpose to have addressed the committee, or the House, in reference to the Lecompton constitution; but the question has been so fully and so fairly discussed, that I have deemed it proper not to address the committee on this occasion; but I will, on some future occasion, indicate my views in regard to several propositions presented by the President of the United States in his message.

ADMISSION OF KANSAS.

SPEECH OF HON. J. THOMPSON, OF NEW YORK, IN THE HOUSE OF REPRESENTATIVES, March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. THOMPSON said:

Mr. CHAIRMAN: He who mingles in a conflict in which the fanaticism of passion has been awakened on the one hand, and the fanaticism of interest on the other, each forgetful of its opponent's rights, and is just enough and bold enough to tell only the truth, without coloring or abatement, occupies a post at once of responsibility and of peril; he is sure to satisfy neither party while he rebukes both, and, like a peacemaker in the heat of battle, may fall under the shot of both lines, of which he is deemed to be equally the enemy.

Week after week have we listened to moral lectures on the evils of slavery from one party, met by a recital of its blessings, its Divine authority, and threats of disunion if its political influence is abated, from the other party. Each accuses the other of designs to subvert its rights. The North fears she is to be subjugated by the South; the South fancies she is to play the part of conquered provinces chained to the chariot wheels of northern aggression. Higher and higher rises the cry of warning, remonstrance, and intimidation! Sir, is this fanatical game to go on unlimited and unre-buked? Is no man bold enough to step between the parties, and, as a "day's man," lay his hand upon them both? Shall each swell the waves of excitement from the North and the South, until, as the wild surges meet on this Capitoline Hill, this structure of strength and beauty (emblematical of the institutions it symbolizes) is swept away, leaving not one stone upon another, and time's latest and best empire prove, after all, the frailest? God forbid!

Though coming from the Empire State, and representing a district second to none in patriotic loyalty and political intelligence, it is well known I am no political Abolitionist, nor desirous of meddling with the domestic institutions of the South, wherever they lawfully exist. As a statesman, I have no right here to intrude even my advice, because it may exasperate where it cannot cure. When they desire my counsel, they will probably ask it, and it will then be time enough for me to express my sentiments as a Christian, or philanthropist, upon this creature of local law. As such it doubtless has its rights, under the provisions of existing laws, as well as security in the States where it is established. This institution, however abhorrent to northern sentiment, is the growth of a century, and a century may elapse ere this Republic, under the wisest, calmest counsels, may witness its extinction. But for the interference of party politics, four, and perhaps five States where it now exists, would have abolished it, after the example of their sisters at the North. It is not necessary to say what I would do, should this or that case arise in the developments of Providence, and in the history of my country. No wise court pronounces judgment on a case not before it. Enough that I feel bound to stand by the law of the land and the compromises of the Constitution. So much on the one hand.

On the other, I am no slavery propagandist. I do not see in this thing that expansive element that is in danger of becoming straitened for room, and is casting about for new fields of enterprise, lest it should be driven in upon itself, and perish by a sort of spontaneous combustion! On the contrary it existed at the Declaration of Independence in all the thirteen States of the Union. It has been dying out at the North instead of expanding; it cannot live in a northern atmosphere; it perishes by the side of free labor, where ideas of social equality and equal political privileges so extensively prevail; it was ejected, not simply from humanitarian motives, but from those of economy to the master, and of vigor to the State, which is always weakened by the existence in it of a helot race. Where every gentleman is a working man, and every working man a gentleman, there is no need of involuntary servitude. Labor is dignified, as well of the hand as of the head; and the toiling millions, who form the substratum of the social edifice, toil freely, cheerfully, for themselves and their children, and in the next generation stand on the topmost round of the ladder. Our "sills," at the North are of granite and marble, and not "mud," and are therefore capable of being wrought into polished shafts and capitals, to adorn even this national temple with gracefulness and beauty.

We may speculate forever upon the superiority and inferiority of races, and upon the adaptation of color to climate. Sugar, tobacco, and cotton have a vigorous grasp, which northern and European consumption strengthens and tightens. We have no right to be impatient, denunciatory, or meddlesome. God only can solve this problem, which elongates its shadow beyond human ken; and in the mean time the master should remember that he is responsible to his servant and his Maker for every ray of intelligence he withholds, and every social and religious enjoyment he

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denies to this creature, whose body and soul are alike in his keeping.

At the North, the physical condition and moral elevation of the free people of color are not yet what philanthropy had hoped; and, moreover, a fearful diminution has taken place in their numbers, by disease, by poverty, by thriftlessness, by the social pressure of the white upon the negro, of the superior upon the inferior. That population is disappearing, until, a few years hence, they will, by an inevitable law, which seems to enfold them and the Indian alike, pass out of the vision of the northern eye. With a different climate and relation as to numbers with a white population, emancipation would have been more tardy, and its results an unsolved problem.

However political parties may fight against it, the population of the Territories will be ultimate judges of what institutions they will establish, and Congress will admit them under the provisions of the Constitution.

Up to this hour, more than one hundred speeches have been made upon this floor, in reference to the affairs of Kansas; those who urge her admission doing it on the ground, chiefly, that a majority of her legal people ask such admission under the Lecompton constitution; that it will allay the slavery agitation of the country; that it is necessary to give to that institution a wider area; that the balance of power between the North and the South can be only thus preserved; and that, without this, there is imminent danger that several, if not all, of the southern States will withdraw from the Union! On the other hand, it is urged that the people of Kansas have from the beginning been circumvented and overborne by a foreign domination; that they are opposed to the permanent and constitutional establishment of slavery among them; that the adoption of this constitution will create wider and fiercer agitation, resulting in civil war; that the idea of a balance of power in the General Government between the two thirds and one third is an unjust and obsolete idea; that power must follow population; and that greater peril to the Union will result from the admission than from the rejection of this Territory with this constitution; these, with many auxiliary and minor points, have been urged with great talent, zeal, and sincerity.

I regret that honorable members, in the heat of debate, have sometimes indulged in the language of menace and intimidation—language always unsuited to the discussion of topics so grave and interests so momentous. It is not by threats or taunts, upbraidings or insults, nor by invidious comparisons, that we are to work out a solution of this difficult theme. To my mind there are presented questions of greater immediate interest than whether Kansas shall be admitted with a constitution establishing or recognizing slavery; for no man who knows anything of the tough hardihood and grit of the American character and will, can be doubtful of that issue, whether the knot is eventually cut by legal or martial weapons. If we do a great wrong to Kansas, she has power enough, material and moral, to right her wrongs, and the will to do it. From her position, environments, climate, population, educational and industrial forces, her State policy must eventually be a free policy, as well as that of Missouri, by her side, and no constitutional barriers or Federal armies can prevent it. If not stamped upon her institutions in their inception, for any cause, that policy will work on, repressed, yet omnipotent, until it leaps forth, like smoldering fire, to consume its fetters; and bathe the whole landscape in its light!

But, sir, in the rapid unfoldings of this drama, it has constantly gathered in importance, and assumed aspects more portentous, becoming not simply a question of free or slave policy in a Territory, but one deep, broad, vital as the foundations of popular government, underlying the entire fabric of our national institutions, and to determine, in its issues, whether the popular will is to be respected; whether government is no longer to derive its powers from the consent of the governed; whether fair dealing or fraud shall be the rule; whether our Chief Executive is a public servant or a despot; whether our Government is one of law or of force; whether the people shall govern themselves, or be ruled by a standing army in time

of peace; whether the open and shameless violation of all the decorum and decencies of political institutions, promising the people that through the ballot-box their voice shall be heard, and falsifying it by the double crime of forgery and perjury, shall terminate in success, or in detection and defeat? These are questions now looming up before us, and soon to receive a practical adjustment; for, if our free institutions are prostituted to despotic ends; if men in office can defy the popular voice, and triumph; if history can be falsified, facts perverted, violence and cruelty meet with approval; if a President, or party, or both, can defy and trample upon the people's rights and come off victorious—then indeed have we fallen upon evil times; then is this whole fabric of civil government, for which so much blood has been shed, so much treasure expended, so many prayers offered, and with which humanity's progress and the world's hopes are linked, suffering disaster and derangement, and imperiled by shocks it cannot long survive.

In view of these questions, it is comparatively immaterial what the Lecompton constitution proposes to establish, whether servitude or a millennium; its precedents, its surroundings, its authors and abettors, write all over it the record of its condemnation. Yet it has been twice recommended by the President for adoption by Congress, as the basis of admission. It has been published; it is before us and the country; a document so singular and anomalous in its provisions, so pregnant with the doublings of political trickery, so fortified against abrogation or amendment, so hedged about by test oaths and double entendres, so prodigal of grace in one direction and so niggardly in another—that we ask involuntarily, is this the spontaneous expression of a free people? And we are answered by their Delegate here, by their public meetings and prints, by their legislative expressions and protests, in a voice we cannot mistake, pronouncing it a spurious document, not emanating in any sense from the people of Kansas; an outrage and a sham, in its inception, progress, and consummation; a stupendous swindle upon popular rights and sovereignty; a fraud not only upon every principle involved in the ordinary mode of originating and perfecting State constitutions, but equally so upon the peculiar creed and pledges under which it is pretended to be framed.

I.—THE ORGANIC ACT CONFERRED NO POWER UPON THE TERRITORIAL LEGISLATURE TO CALL A CONVENTION.

Sixty men, calling themselves the Lecompton convention, framed this constitution. From whom did they derive their authority? from the Territorial Legislature? What authority resided in this Legislature to originate such a convention? Was it conferred by Congress, whose special agent, with limited powers, this Legislature is? No such authority can be shown; and the settled doctrine, both as it respected Arkansas and Michigan, was, heretofore, that all such exercise of power to originate a constitution, was, in the language of James Buchanan, in 1820, "nothing but usurpation!" To make it legal, to give it the form and show of a regular procedure, the power must emanate from Congress; for to Congress is the government of the Territories alone committed; and, unless somewhere in the organic act the Territorial Legislature were authorized to set on foot measures to originate a State constitution, it is as much a usurpation to propose one for Kansas, as if this same convention had proposed one for Arizona or Utah! It has been contended, by gentlemen on the other side, that by the twenty-fourth section of the Kansas-Nebraska act, the legislative power of the Territory is declared to extend "to all rightful subjects of legislation," and that the authorization of a convention is one of them. But by what rule is this act made one of them? Being a Territorial Legislature, its functions are purely territorial, and cannot reach beyond those subjects which are strictly such. Who gave it power to originate acts which contemplate its own extinction? No legislative body can do that indirectly which it cannot do directly. Could it lawfully pass an act terminating its own existence? Such an act would be essentially revolutionary—not in pursuance of, but hostile to, the purposes of its creation. So far from being in the Territorial Legislature, it is not even in the people of

Kansas, who are under the wing of the General Government, and can exercise no powers of a political character not conferred upon them by the laws of the United States. If such a constitution is presented, it is of no higher force or authority than a petition; it binds no one, it concludes no one; it is no estoppel upon the people to remonstrate; it is no pretense in the face of objection for Congress to act. I know it is said that it has not been deemed material heretofore how a State constitution originated, provided the people were agreed. But while this is true, it in no way impairs the force or validity of the objection to this constitution, that it comes from a source entitled to no consideration as a duly-constituted body with power to originate it.

Says the President, in his message:

"The convention to frame a constitution for Kansas met on the first Monday of September last. They were called together by virtue of an act of the Territorial Legislature, whose lawful existence [not power] had been recognised by Congress in different forms and by different enactments."

Well, suppose this to be all true, may not a Territorial Legislature exist, and perform all its functions as such, in carrying on the machinery of territorial government without at the same time possessing any power to originate or initiate proceedings, by convention or otherwise, which are to result in the extinction of the legislative body? Their power is, *ex necessitate rei*, bounded by lines which keep them from suicide—self-annihilation:

"A large proportion of the citizens of Kansas did not think proper to register their names," says the President, "and to vote at the election for delegates; but an opportunity to do this having been fairly afforded, the refusal to avail themselves of this right could in no manner affect the legality of the convention."

It is now clearly evident that the President was misinformed on this subject; it being ascertained, not only that the citizens had no agency in the registration—which was omitted designedly by the officers having that in charge—but that in nineteen counties there was no census, and in fifteen counties there was no registry of voters, including some of the oldest, most populous, and best organized counties; and in which counties, therefore, not a vote could be given. But however this may be, I inquire if the Territorial Legislature had no power to authorize a convention to change the organic law, how could the convention bind any one to vote, or abstain from voting, and by what right are the original privileges of citizens curtailed or defeated, because they refuse to accept such an empty boon, and go through the parade of such meaningless forms? Voting, or not voting, the "legality of the convention" is not affected! It would have possessed no legality had they voted, and it has none now. Not having power to authorize a convention, the Legislature had no power to prescribe the means and processes of calling it into being; the one falls with the other.

II.—THE SCHEDULE AN ILLEGAL LEGISLATIVE ACT.

What has this convention proposed, apart from the constitution, in a most extraordinary paper called a "schedule," forming no part of the instrument necessarily, but dictating the mode of its adoption, and revealing to the people what they are permitted to do in regard to it? It is claimed by the President that it intends fairly to carry out the provisions and spirit of the organic act of May 30, 1854; and that the convention proposed this schedule because "the act of the Territorial Legislature omitted to provide for submitting to the people the constitution which might be framed by the convention."

Sir, I again inquire by what authority did the convention draw up a schedule dictating to the people of Kansas what they might or might not do, in reference to this notable achievement, by ordering an election on the 21st of December last? The President graciously tells us "the convention framed it, because the Legislature did not;" or, in other words, Congress gave no power to the Legislature; and if it did, it has failed to exercise it, and therefore the convention have done it themselves. Is this legal? There was no necessity for it; the convention were to meet on the first Monday of September, 1857, but the Legislature doubtless supposed they might be a long time in deliberation, and that it might be safely left to a future Legislature to prescribe the mode of its submission to the people. Sir, this schedule, in

respect to this election, is an assumption from beginning to end. It is nothing more nor less than an act of legislation by a single body, claiming to be of popular origin, but unapproved by any Governor, and having none of the features of ordinary legislation; an oligarchic ukase or decree, as worthless and inoperative as a falling and withered leaf; it binds no one, it unbinds no one. The people may regard or disregard it, with equal impunity; and so it has been looked upon by the Territorial Legislature who postponed the election of the 21st of December—ordered by the convention on the constitution—to the 4th of January, 1858, at which time the only legal expression of the popular will was had upon it, resulting in its rejection by over ten thousand votes. Under this territorial law, the election of the 21st of December was a nullity, and so regarded by the people. But it is claimed that the Legislature had no power to alter the time appointed by the convention. No power? Why not? All the legal power of the convention was derived from the Legislature; and can the creature say to the creator, "I am sovereign?" Is there any question of contract or vested rights involved? Can a legislative body denude itself of its plenary powers over its creatures and agencies, and that, too, by implication, so that they are held in abeyance until resumed by permission of the agency? What novel doctrine is this, and to what consequences would it lead?

STRANGE AND INEQUITABLE PROVISIONS OF THE SCHEDULE.

Look at the substance of this schedule in other respects:

1. It tenders a ballot with one hand, and with the other presents a test oath to support the constitution, if adopted, under the pains and penalties of perjury.
 2. It submits only a single clause to the choice of the voter, and he must swear to support that for which he cannot vote, before he can vote at all upon this solitary clause.
 3. It provides that all male inhabitants over twenty-one, in the Territory on the day of election, may vote; thus inviting back the hordes who overran it in former times, and who promptly responded to this invitation, in place of the quieter forces drawn from the Cincinnati Directory—spiritual voters, dispersed by the stroke of the Governor's pen.
 4. The places of holding elections are not designated, nor the mode of canvassing or returning the votes, but all delegated to three commissioners, named, not by the Governor, nor by any responsible officer, but by the president of this convention, who in this schedule violates the solemn pledge, made before his election, in writing, to submit the whole of this constitution to the people.
 5. The State election of January, 1858, was to be conducted under the auspices of the same set of judges; and we have seen the result of this.
 6. No amendment of the constitution can, by the terms of it, be initiated before 1864, nor be perfected short of 1870, and then only on two thirds of the members of each House concurring; "but no amendment shall ever be made to affect the rights of property in the ownership of slaves." And after reading all this, the president adds, "that in the provisions of the schedule providing for the transition from a territorial to a State government, the question has been fairly and explicitly referred to the people."
- Sir, I take issue with him on all points of his allegation. Fairly referred, when a test oath bristles in the forefront of the whole proceeding? Fairly referred, when a single point only is submitted, and an oath exacted to support the rest of it, on which he has nothing to say? Fairly referred, when a stranger may vote who has not been there one hour, and may never be there again, only inhabiting *pro tempore*? Fairly referred, when one man—and such a man!—has the whole power virtually of ordering the polls at inconvenient and unusual places; and is only to count the names returned on the poll lists, without any comparison of them with the ballots, and may carry the fate of this people in his pockets, as he has done, for months? What idea has the President of fairness, if this be the standard he adopts? Sir, I

almost admire the daring of this "Rump Parliament" of Lecompton. They felt, evidently, that the people were not to be trusted with political power; they grasped hold of all the functions and prerogatives of government; they rolled the Governor's head in a basket; they bound and hampered with restrictions and restraints the free exercise of the elective franchise; they cut off the people virtually for twelve years from the power of change. "They had," the President tells us, "an angry and excited debate," and graciously concluded, by a majority of two, to submit a single clause of their labors to the people! Benevolent legislators! Condescending Democrats, to confer such a boon! The "factious majority" of Kansas ought to accept this bounty on their knees, or we should abuse them for mutiny and madness in its rejection! One step more would have rounded out the picture. Like the French Chamber of Deputies that inaugurated the "reign of terror," they should have declared their sittings perpetual, organized a standing army for its protection, calling it a "*posse comitatus*," by way of euphony, and to harmonize with modern nomenclature.

Do we read aright, when the message says, "the convention was not bound by its terms to submit any other portion of the instrument to an election except that which relates to the domestic institution of slavery?" Sir, who gave to this convention power to arrogate to itself the decision of this question of submission or no submission? This sounds very much like the language of imperialism; it hath an arrogant and kingly tone; it comports only with the state and prerogatives of an unquestioned supremacy. No body of men, dealing with the first principles of political science, as understood and administered in a representative Republic, have a right to use it. No body of men, if authorized by the clearest sanctions to "propose, form, put in a shape," a constitution, can wisely use it. Why not bound to submit it? Sir, they were bound to submit it—every letter and every line of it. If this convention had any show of authority, it was a special agency to do a specific act; and that act done its power ceases. There is no pretense that, in the organic act forming the convention, the Legislature bound the people to accept any and everything they might do, or fail to do, and that, in advance, their decrees should be deemed the voice of God, like the ravings of Brigham Young. I deny, indeed, that any Legislature of State or Territory has any power to delegate legislative functions to a convention or committee, and bind the people in advance to their observance; and so thought the Kansas Legislature, who refused to recognize this assumption of the convention, by ordering the election of the 4th of January, 1858.

WHAT INSTITUTIONS ARE DOMESTIC.

Yet the President tells us that this submission of a single clause carries out the spirit of the organic act, and that the convention was not bound to submit the whole constitution, because "*nothing but slavery is a domestic institution*." Well, sir, owing to his Excellency's want of experience in the field of domestic relations, this criticism might be overlooked, if it did not involve issues and rights of the gravest import. I had supposed that the domestic institutions of a people, in their corporate character as Territories or States, and which they were "*to form and regulate*" in the exercise of political sovereignty, were all the institutions of the State, in like manner as the rules and regulations of the household are the domestic institutions of home, whether they relate to agriculture, finance, internal improvements, charitable endowments, railways, or the terms and conditions of human servitude; and doubtless the power conferred in this principle covered all these matters of national concern, every one of them full as important as the last. So says Webster: "Domestic—the affairs of a State considered as a family, in contradistinction from foreign." But by the President's criticism the domestic institutions of Kansas are only "*the right of regulating their domestics*." Why are all others ignored, and sought to be fastened on a people without their consent? Why are they to be cheated by the empty parade of a principle, every advantage of which is denied them? Is any reason given for this? Is it true that no difference of opinion exists on other top-

ics? How do we know this? Was not the first constitution proposed for Wisconsin, with its hard-money policy, sent back to the people on that issue, and voted down by them? and did not Congress embody the principle of submission in the Minnesota territorial bill, and has it not become a rule and precedent in like cases? Is this the *finale* of the doctrine of popular sovereignty? Does it culminate in denying them all opportunity of choice, and must they take such institutions as their masters choose to give them for twelve years unaltered, because they are not "domestic?" Was it for this that the pledges and peace of thirty years were violated and broken up, and bitterness and heart-burning spread like fire-brands through every part of this wide Confederacy? Was ever such price paid, such hazards incurred for such a boon? But gentlemen say here it would have been voted down if submitted. Is not this a confession of the whole iniquity? Why would they vote it down, but because all men see that in the only point pretended to be submitted there was a trick and cheat? because important provisions were contained in the constitution not submitted, relating to banks, the State capital, county seats, the fugitive slave bill, upon which the people desired to be heard? because the entire machinery of the State government, which the people had elected, was stricken out, and a virtual dictatorship instituted in its room? because it was the consummation and culmination of all those foregone acts of tyranny which had ground that people in the dust for years? But I need not recount all the difficulties in the way of the people of Kansas, to prevent their swallowing this document whole, for the privilege of voting on the slave clause.

THE PRESIDENT WANTS "PEACE AND QUIET."

He tells us all other matters are of trifling consequence, and that Kansas has for some years occupied too much of public attention. Sir, the Chief Magistrate of this Republic ought to remember that no peace or quiet can come to a nation unless justice and equity prevail in her councils; that there is no free American heart but will beat fast and fiercely under insult and wrong; that resistance and redress dog the footsteps of oppression; that government without representation is tyranny, however disguised; and that deep down, hidden among the earliest maxims the men of Kansas drank in from their mothers' lips is this—that resistance to tyrants is obedience to God. While we oppress, they will agitate, though soldiers sentinel every doorway, and bayonets gleam in every city; agitate, though every school-house be converted into a barrack, and every temple of God, like the "Old South," of Boston, stables the war-horse of the invader! This agitation is not aggressive, but protesting and defensive. Tread upon the worm, and when it squirms, complain of agitation. Open a sore, closed and healed by the political surgery of 1850, and when the body politic shrinks and trembles as the knife goes down through marrow and nerve, call this tremor agitation. Etna may as well complain, while her boiling surges work in fierce convulsion, that the landscape above is not quiet; while the fires are raging the earth will respond, and if this agitation ceases, they must first be put out. Think you this young giant of the West, stretching his lusty limbs, and conscious of his mantling powers, can be crushed into quiet by the might of the Federal arm, called by the President a "*posse comitatus*?" What features of similarity does the President find between the standing Army and a "*posse comitatus*?" Who does not know that the power of the country, its citizens acting in aid of its own officers, is as widely different from the standing Army as the poles? In fact, the army was sent there to overawe and put down the people and their "*posse*." The Army is not of the people, but acts in obedience to a central and imperial will.

"When legal process is executed by the artillery and bayonets of a standing Army, Liberty is dead. As well confound the *lettres de cachet*, of the old French régime, with the writ of *habeas corpus*, as the standing Army of the Republic to the *posse comitatus*."

However desirable "peace and quiet," they can be purchased at too great a sacrifice. A pure despotism is the most quiet of all governments. Better, far better, that the initial processes that make the foundation stones of empire be laid in tempest

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and hurricane, if justice and equity preside over the ceremony, and they lie upon the rock, than to imbed them beneath a clear sky and unclouded sun, if they rest upon the sand. The way to restore peace and harmony, is to permit the people of Kansas to frame their domestic institutions in their own way.

"THE PEOPLE MAY CHANGE THIS CONSTITUTION IN A BRIEF PERIOD."

But, says the President, with wonderful adroitness:

"If this constitution is displeasing to a majority of the people, no human power can prevent their changing it within a brief period."

Does this look like a desire for peace and quiet? to have the Federal Legislature hang fetters about their necks, because no human power can prevent their breaking them off? Has the President well considered what struggles and convulsions, what strifes and excitements, such a change embosoms; what fierce elements it awakens in the conflict, of wrong with the show of legitimacy on the one side, and of right with the appearance of revolution on the other? What is this but sowing the wind to reap the whirlwind? And in how short a time can this be done? It cannot be initiated until after six years, if we accept the assumptions of this instrument—one fifth the average duration of a human generation! Is this statesmanship or time-serving? Tell the exile that in a brief period he may again tread his native soil, and look upon the faces of his friends, and when his eye lightens with hope, say to him, after six years, and he will curse you for a mocking fiend! Tell a free people, now ripe for empire, and capable of forming their own institutions, that you will fasten upon them a constitution they abhor and a policy they despise, and if they are not content they can change it in a "brief period," and what must they think of your wisdom and sincerity? Sir, in this "brief period" this constitutional upas tree may entwine its roots and fibers into every fissure and crevice of State institutions; it may lock and hold with its banded strength every stone and buttress of this young member of the Republic, mingling itself with every interest, and diffusing its poison through every avenue, until the very capacity of resistance dies out, or until men, so tantalized and abused, shake off the dust of their feet upon a soil tainted and defiled, and leave this fair portion of God's heritage to wither and perish in the folds of an influence that spares nothing it can grasp. Sir, this "brief period" is about as long as the revolutionary war. No freeman born on American soil will endure it. You may push power so far, and defer hope so long, as to provoke instant resistance, and exasperate to open defiance without compromise or delay.

I have thus noticed the absence of all legal authority on the part of this *quasi* Lecompton convention to prepare and send this constitution to Congress for ratification or rejection; that in any event the people of Kansas are not to be subjected, like a conquered military province, to the rescripts of a central power, in respect to the form or principles of their constitution; that the Administration is not consistent with its own avowed creed in forcing a constitution upon them without their own free expression upon the whole, and upon every part of it; that domestic institutions in a State are something more than those regulating household domestics. I have exposed the fallacy of the President's criticism upon language, as well as his reasoning upon affairs of State; I have shadowed out the uselessness and danger of pushing a free people beyond the point of endurance, and have tried to show that justice and fair dealing is the only safe policy of nations; and yet, sir, I am admonished, by the history of the past few years, that all this may be in vain. Step by step, as with the crushing omnipotence of fate, has the policy which now rules the Executive been advancing upon us, extending its Briarean arms until it enfolds every important interest of the Republic in its grasp. No man, as Governor or Secretary, has been found stern enough to do its behests upon the soil of Kansas. One after the other falls under the executive guillotine, because he cannot quiet the throes of this modern Enceladus, that shakes the earth each time he moves within his tomb. It is keen, active, versatile, tireless—it molds and manages

every national expression to a single purpose and end—it builds up year by year, beneath the calm surface of affairs, foundations of empire and aggrandizement, until by a sudden recession of the tide they stand revealed to the amazement of every eye. It has a logic as intuitive as it is sure, and according to which everything has followed in its order; no purpose balked, no prophecy of friend or foe unaccomplished, but the end is not yet. "Logic," says Lamartine, "is the vengeance of God." Those messages have awakened a thrill of indignation in thousands of bosoms which no prior act could move; they have rolled the scales from many an eye which, once opened, nothing again can darken. Great masses of patriotic men have read them in sadness, and arose from their perusal as if an eclipse had covered up the sun. They have broken party ties and party entanglements, rendered imperative a new mustering of forces, and already the hosts are selecting their position, and the hour of preparation draws on. Sir, let it come. I care not who is leader. It is a conflict of great principles, now meeting face to face. There is no neutrality, no side issues, through which to escape the responsibility of their direct encounter. And yet, say gentlemen in an agony of laudation, "the message is transparent." Well, sir, I think it does begin to be transparent, riddled like a drooping flag run up from the White House; the big rent in the center shot through by the first gun from the Senate, which, traversing yon avenue, went point blank to the mark. It begins to be a transparency, the most transparent thing I ever saw, and we can now see stars, not on it, but through it.

"NON-INTERVENTION."

But, sir, the principle of popular sovereignty, it now seems, has a new phase for the occasion, "non-intervention." It is now gravely urged that Congress is not to look behind the presentation here of a constitution by the Lecompton convention or its agents, but accept it as the valid expression of the popular will, and so pass it on the principle of non-intervention; on the ground that the doctrine of State sovereignty, carried to its logical and legitimate results, denies to Congress the right of interfering with inchoate, incipient States, when taking the steps for emerging from the condition of Territories, precisely in the same manner as they have denied its right of interference in the organized States themselves. This doctrine is as ridiculous as it is wicked. Congress is bound to scrutinize and review all the proceedings of a Territory in asking for admission, to see to the fairness of every step; that no oppression is attempted, no undue advantage obtained; that the constitution proposed is the fair and honest expression of the popular will, and will promote peace and harmony. Congress has no right to separate the science of government from ethics, nor encourage the dangerous suggestion that governments are not strictly bound by the obligations of truth, justice, and humanity. On this non-intervention principle, it is a question of superior speed, or of more adroit lying, in the messenger; the fleetest horse and the boldest front wins the day. A whole directory of names may be returned by a corrupt commissioner, and the Governor is to certify it by non-intervention. It goes to the Legislature, and they look only to the *imprimatur* of the Governor, and it passes along by non-intervention, and a Delegate comes here, never chosen, by non-intervention. And so of this constitution. If the votes, or their results, on the 21st of December, are as false as those rejected by Governor Walker, and every member of this House knows it, provided they are certified by this roving constitutional-ballot-box, Calhoun, that is an estoppel upon Congress, and no man can say nay. The argument so often made here, that a majority of the new States did not first submit their constitutions to the people, cannot be urged by any one who approved of, or participated in, the repeal of the Missouri compromise line; that act was repealed to assert a principle—popular sovereignty. How can its authors after that force a constitution upon a new State, upon the whole of which the popular voice has not spoken. They are estopped from asserting and repudiating the same principle in the same breath.

BRIEF HISTORY OF KANSAS.

Kansas has a brief but bitter history, of misrule and Federal despotism. She was organized as a Territory, May 30, 1854; the organic act providing for a Governor, Secretary, district attorney, marshal, and judges, to be appointed by the President. By section twenty-two, the legislative power is vested in the Governor, and a Legislative Assembly, composed of two Houses—a Council of thirteen, chosen for two years, and a House of Representatives of thirty-six, to continue for one year—an apportionment to be made of these among the several counties; and, "previous to the first election, the Governor shall cause a census of the qualified voters to be taken"—every free white male inhabitant being a qualified voter. This first election, under Governor Reeder, was to take place on the 30th of March, 1855. The qualified voters went to the places designated to vote; what did they find? In every Council district, and in every Representative district but one, an armed mob from an adjoining State in possession of the ballot-boxes, and voting for members of the Territorial Legislature; four thousand nine hundred of them doing this treason to the rights of the people of Kansas, and usurping the government over them. The Governor was appalled by this invasion, and attempted to correct it, but had not the means of reaching the evil. Members, actually elected in some districts, to whom he gave certificates, were rejected by the creatures of the four thousand nine hundred invaders. This *quasi* Legislature opened its sittings, and assumed to pass a body of laws, which would not be credited, had not paper and type immortalized their infamy with that of their authors—a Draco code, more infernal than the bloody and barbarous edicts of the tyrants of eight centuries ago.

The actual voters of Kansas, having no voice in all this work of the invading hordes, peaceably assembled, and in convention framed a constitution; submitted the whole of it to the people, by whom it was approved, and asked for admission under it into the Union. They were rejected, because the Federal Government, in the face of all the facts to the contrary, assumed that the government of the invaders was a *legal government*. The President became *particeps criminis* to this outrage upon popular rights, and then commenced that series of measures, unparalleled in the history of this country, to force a government upon an *unwilling people*. The standing Army was summoned from every accessible post, and bayonets thrust at the throats of freemen, to compel them to form and regulate their domestic institutions in their own way. Unwillingness to submit to a gang of marauders was denominated treason, and shooting and hanging were freely threatened to those who desired fairness and freedom in matters which concerned only themselves.

After the failure of several Governors to reconcile a free people to this combined local and Federal usurpation, Governor Walker was chosen, as peculiarly fitted, first, to legalize the fraud in the eye of the people, if possible, and if not able to do this, then to bring the Territory into the Union as an Africanized Democratic State. His own letters to the President, as well as his instructions from that functionary, abundantly prove this. Two years had passed away in bitterness and broil—two years of misrule, tyranny and usurpation. A law was passed by this ruffian Legislature, authorizing the election of a convention to frame a constitution, ignoring the one already rejected by Congress. The people insisted on an organization of the election districts, and a registration of legal voters, before going into another election. This was denied them, and they could not, therefore, vote. Not one ninth of the voters in the Territory did or could vote. That one ninth elected the members of the Lecompton convention—Calhoun and his associates pledging themselves, on paper, to submit the whole constitution to be framed by them to the people. This pledge is shamefully violated, and the President indorses it—quibbling about domestic institutions. An election is held upon the slave clause—the people indignantly refusing to participate in the farce, but condemning the whole of it by the authority of the Legislature, on the 4th of January, 1858. Directories are copied to furnish a show of voters on these occa-

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sions, and even Governor Walker and Secretary Stanton, presidential pets, are guillotined for declining to indorse the frauds.

A last farce in the Territory is enacted in the election, under this pretended constitution, of *State officers*, by an apportionment based upon the fraudulent and spurious votes of non-residents in the Territory. And even this farce cannot be played out without forgery and perjury—one thousand four hundred votes being certified as given in two precincts, more than there are residents there; and, finally, the *denouement* of the whole is dug from beneath a wood-pile, and now forms the last plank in the platform of the present Democratic party, every man of whom must indorse all this unblushing wickedness and usurpation before he can vote for the admission of Kansas under the Lecompton constitution.

And this complication of wrong and outrage, perpetrated under the protection of Federal bayonets, is called *legal*! and gentlemen here, who would scorn to do a private wrong, call this result of infamy a legal government! God forbid. Call it anything but *legal*. It is revolutionary, tyrannous, despotic, forcible, fraudulent; anything but legal. What! a paper stating that five hundred and forty-two votes were given, when forty-two were cast, a legal paper! or a forgery and fraud? Do not desecrate the law by subsidizing even its forms to such mocking rascality; on this principle a counterfeit note is legal.

HOW THE PRESIDENT DESIRES TO LIVE IN THE AFFECTIONS OF THE PEOPLE.

Why is this constitution pressed with such vehement importunity? The more emphatically the people condemn it, the more fierce is the Executive persistency. The most unblushing frauds upon the ballot-boxes are detected and exposed, yet their shameless perpetrators lose none of their influence or regard. Governors and Secretaries who yield to the popular will are promptly rebuked and decapitated.

The military power is retained in Kansas, for the avowed purpose of keeping down the people, and compelling submission to a government they abhor. And yet the President says he has "no other object of earthly ambition than to leave his country in a prosperous and peaceful condition, and to live in the affections and respect of his countrymen." Live in the affections and respect of the American people—when the popular will is trampled on or disregarded, and legal quibblers resorted to for the purpose of reconciling them to a despotism until they can shake it off! Live in the affections of the American people—when every western breeze comes laden with the cry of executive oppression, which, if perpetrated by a King of Great Britain, would cost him his crown and his head! Sir, I wish the Executive would remember that no man can live there who plants the foot of power on the neck of freedom, who throws the sword into the scale in the contests of the ballot-box, and brings all the machinery of governmental influence to bear upon subjecting an unwilling people to the despotism of his will.

What has any portion of our country to gain by such tyranny? Will it satisfy the North? The throb of the great northern heart is that of sadness and indignation; the recent defenders of the President there are silent, and those who do not eat his bread are dumb. Will it satisfy the East? The stamp act and tea tax of a foreign ministry were a feather in the scale, beside the grinding and insulting oppression of this measure. They fought, and we fought with them, for a principle; but here a principle has ripened into a crushing fact; they fought for that principle with the standing army of a mighty empire encamped at their doors. Is the East less patriotic now, and will she trample on a foreign foe and bow tamely to a domestic tyrant? Will it satisfy the South? No, sir! I think I know something about southern sentiment and southern honor. The history of our country blazes with the record of heroic achievements, patriotic loyalty, and devotion to our national flag, which her sons have exhibited on every battle-field and in every council hall, from the day when Morgan's riflemen followed the daring Arnold through a northwestern wilderness to Quebec, through all the strife and sufferings of the revolutionary era to this hour. How

her chivalric spirit responds to what is upright and true; how danger has been defied, peril encountered, and sacrifices welcomed, if they contributed to the strength and glory of our common country. I remember her Washington and Jefferson and Madison, her Sumter and Pinckney and Marion, their deeds of renown—our common heritage; their fame—national and immortal; the voices of her Clay and Preston, yet resounding through the arches of these Halls, and never raised but to testify their devotion to the institutions they honored and the country they loved. Sir, the great southern heart, fervid and valorous as it is, will scorn to do a wrong. No temporary exasperation will satisfy its calm conscience, when memory holds up the record of an evil deed. To a generous heart, the sting of a wrong inflicted is keener than of a wrong endured. Will it satisfy the West, those young and growing empires, just emerged from territorial pupillage, and already mightier than most of the old thirteen States? Will they approve of a policy to which they would have scorned submission, and stand tamely by, while the foot of Federal oppression is planted on the neck of a friend and brother? Will it satisfy anything but a dogged fanaticism of purpose, formed against the dictates of sound reason, and persisted in, in defiance of the remonstrances of nine tenths of the nation?

Would that the President and his counselors would remember that the path of empire is glorious only when illumined by the luster of virtue and justice. The efforts of nations, age after age, to settle upon permanent foundations, have failed—signally and uniformly failed—because power was not wielded by principle; because public ambition was venal and selfish; because the hand that swayed the scepter, and the tongue that ruled the will, were pledged and prostituted to craft and crime; and so man could not attain happiness because he was not free; and he was not free because the wielders of governmental power brought its whole enginery of intimidation and corruption to bear so heavily upon his personal, social, and political being, that not only the desire, but the capacity to use and enjoy liberty was crushed out of him. It was only a few heroic hearts here and there that, like solitary altars, sent up the flame unquenched and unquenchable. Asiatic Governments, in all their phases, never presented the true idea—they were unmixed despotisms. The Greek and Roman illustrated it in caricature and distortion, but it grew in England under a free Bible and a free press. It flickered here and there under the throne of the first Charles, until it broke forth in wide display in the trumpet tones of Hampden, Russell, and Sidney; in the lofty strains of Milton, ringing like a superb anthem of "hallelujahs and harping symphonies;" in the iron tramp of Cromwell's legions, and in the solemn utterances of Puritanic prayer; and on the breath of that prayer it was wafted in the Mayflower across the Atlantic.

Look into the rotunda of this Capitol, and see Robinson, Bradford, and Miles Standish, and those pioneers of liberty on their knees, before they embark. But even here in the howling wilderness, the hand of oppression lay heavy upon them; and as colony after colony grew up, the stern patience, the heroic fortitude, the overcoming faith, that battled with a savage foe and conquered him, that struggled with a sterile soil and subdued it—these virtues, so grand and so ennobling, were rewarded by imposition, tyranny, and wrong, until patience became criminal, and acquiescence a deadlier evil than revolt.

The declaration of our independence followed—not a mass of "glittering generalities," composed and finished up for school-boy declamation and rhetorical effect, but every letter and line of which was burned into the souls of those who composed it. Sir, it was not only an announcement of eternal principles, founded in the nature of man, on his equality, on his intelligence, on his responsibility, but it was an indignant protest against the galling fetters he was determined no more to wear, and the blighting humiliations to which he had resolved never again to submit. Every word leaped forth from the living experience of men freeborn, who felt that humanity owned a common brotherhood and merited a kindred destiny; and now, sir, through all the experience of former years, since

that great declaration of human rights has been given to the world, since it was even sanctioned and acknowledged to some extent by the ancient nations whose sway it had broken, and whose policy it had frustrated and rebuked it has gone forth over this continent, building up and animating State after State, molding their institutions, dictating their laws and shaping their interests, giving them harmony, stability, and strength, until all at once we are brought to a stand, and here in this Capitol which it has built and adorned; here, on this high altar, consecrated to freedom, we find men who disclaim its holy evangel, and believe they have succeeded in turning against it some of the grandest institutions reared to illustrate its spirit and extend its blessings.

Would to God that the spirit of patriotism and self-sacrifice which animated the men that framed it would come back to her forsaken altars! Would to God that, forgetting all differences, and burying all discords, we could deliberate on every subject in a spirit such as pervaded the nation when State after State wheeled into rank under the banner of the Constitution, and strove which should be foremost in every noble and patriotic achievement; that, rising above all party lines and party ties, we could open our eyes wide enough to see what a sublime destiny lies in the future, if we remain true to the principles on which the pillars of our national greatness and renown repose; and blessed as we are with a heritage such as no living generation beside possesses—our broad domain washed by two oceans, our steamers plying in every zone, and our canvas whitening every sea, our valleys smiling with abundance, and our cities glittering with the trophies of industry and art—let us beware how we imperil it all in the mere lust of party power, perchance to be wielded only amidst the desolations of civil war!

NATIONALITY OF THE DEMOCRATIC PARTY, AND ITS IMPORTANCE TO THE UNION.

SPEECH OF HON. ELIJAH WARD, OF NEW YORK, IN THE HOUSE OF REPRESENTATIVES, March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. WARD said:

Mr. CHAIRMAN: The subject of admitting Kansas as a State under the Lecompton constitution has been so fully and ably discussed by the distinguished members of this honorable body that no new view can be presented of the immediate points in issue. It has occupied the attention of Congress until, I am sure, the whole country must be wearied of the discussion. It is a matter of deep regret that so large a portion of the time of this Congress has been thus absorbed. The nation has just passed through one of those periodical financial revulsions which occur from the inflated issue of bank paper, overtrading and speculation, leaving thousands in hopeless bankruptcy—all branches of industry arrested and commerce paralyzed; and yet nearly four months of the session gone and not one effort made, one word of hope or consolation uttered, or any measure of relief brought forward in Congress that exhibits an interest, or sympathy even, with those upon whom calamity has fallen so heavily. A sectional and political excitement has been engendered, which, while it may not precipitate a dissolution of the Union, weakens that bond of fraternal intercourse which should always exist between different sections of our common country. My position was early taken from a deep conviction of duty to the nation and my party; my constituents have left me free to take such a course as my judgment dictated; and whether it meets with their approbation or not, I know they will accord to me an honesty of intention and a rectitude of purpose. While my own immediate constituents have confided in my judgment, I have not been unmindful that the united Democracy of the city of New York, of which my district is a part, and the local organizations, have cordially approved of the action of their Representatives that sustain the admission of Kansas under the Lecompton constitution; that the Democratic press, the Democratic

members of the Legislature, and the leading men of the party present an unbroken front in support of the Administration, and exhibit a unity of action that has not been witnessed in our State for many years upon a prominent public question.

In addition to this concentration of public opinion, I have not been insensible to other influences. The city of New York is the largest commercial city in the Union. In 1856-57, five eighths of the total imports into the United States were imported into that city; one third of the exports, one third of the domestic produce, and over one half of the foreign produce, were exported therefrom; and there were collected at the custom-house there within the same time forty-three and a half million dollars upon dutiable imports; its banking capital, exclusive of that of private bankers, in 1857, amounted to sixty-five and a half millions, and besides has millions invested in other corporations, and in domestic manufacture and trade. These, too, are but a part of the vast interests that center there. These sources of wealth, power, and greatness, cannot but suffer by the continued agitation of this Kansas question, ending as it may in disturbing the harmony of the Union, without resulting in any practical good to the persons the slavery agitators desire to benefit. It is not to be denied that we are a commercial people, and that to commerce we are indebted for our advancement, growth, and prosperity as a nation. The majestic vessels which carry our products to other climes, penetrating every sea-port, bear with them civilization, and instruct other nations that a power here exists that cannot be disregarded. The commercial prosperity of my city, the whole country, the onward progress of commerce, and the agricultural and the other departments of industry, I believe, are involved in the public questions which from time to time agitate the country. Impressed with the value and importance of the Union to my constituents, I find reasons in addition to party considerations for pursuing a course best calculated to end the present agitation, and restore once more amity and good feeling. No one who has observed closely the events in Kansas for the last few years can fail to trace to its proper source the present excitement, and perceive the urgent necessity of investing the people of that Territory with the rights of sovereignty, so that they may exercise the function of a State government, and relieve Congress from further interference. No analogy can be made between the grievances of the American colonies prior to the Revolution, as attempted by my colleague, [Mr. HASKIN,] and the alleged complaints of a part of the people in Kansas. In the former case, Great Britain persisted in controlling local affairs; and in the latter, Congress desires, in the most speedy way, to confer all power upon the citizens of that Territory to manage their own affairs in their own way, subject to the Constitution of the United States.

Mr. Chairman, from the course the debate has taken, an apprehension would prevail with those not cognizant of the facts that a foul and deep wrong was about to be perpetrated upon the people of Kansas; that the provisions of the Kansas-Nebraska act were to be violated, and the platform adopted at the Cincinnati convention relating to the question of slavery ignored. To demonstrate that this is mere clamor, it is proper that I should briefly refer to a few antecedent events. The act referred to, passed in 1854, has this provision:

"When admitted as a State, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission; it being the true intent and meaning of this act not to legislate slavery into any State or Territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

The territorial government of Kansas was organized under the act containing this section. The resolutions of the Cincinnati convention, relating to slavery and territorial organization, were as follows:

"And that we may more distinctly meet the issue on which a sectional party, subsisting exclusively on slavery agitation, now relies to test the fidelity of the people, North and South, to the Constitution and the Union—

"1. Resolved, That claiming fellowship with, and desiring the cooperation of, all who regard the preservation of the Union under the Constitution as the paramount issue—and repudiating all sectional parties and platforms concerning

domestic slavery, which seek to embroil the States and incite to treason and armed resistance to law in the Territories; and whose avowed purposes, if consummated, must end in civil war and disunion—the American Democracy recognize and adopt the principles contained in the organic laws establishing the Territories of Kansas and Nebraska, as embodying the only sound and safe solution of the slavery question upon which the great national idea of the people of this whole country can repose in its determined conservatism of the Union—NON-INTERFERENCE BY CONGRESS WITH SLAVERY IN STATE AND TERRITORY, OR IN THE DISTRICT OF COLUMBIA.

"2. That this was the basis of the compromises of 1850, confirmed by both the Democratic and Whig parties in national conventions, ratified by the people in the election of 1852, and rightly applied to the organization of Territories in 1854.

"3. That by the uniform application of this Democratic principle to the organization of Territories, and to the admission of new States, with or without domestic slavery, as they may elect, the equal rights of all the States will be preserved intact, the original compacts of the Constitution maintained inviolate, and the perpetuity and expansion of this Union insured to its utmost capacity of embracing, in peace and harmony, every future American State that may be constituted or annexed with a republican form of government.

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

It will be observed that neither the act nor resolution contemplated that the constitution of Kansas should be submitted to the people. They intended, unquestionably, the people should have the power to "regulate their domestic institutions," but whether through a submission or a convention was left undetermined. A sentiment and feeling, however, grew up during the canvass that the slavery clause should be submitted, and was acquiesced in, which would have been a full compliance with the act and the platform, leaving the constitution otherwise to be formed in such manner as the people judged best. I did not mention these facts as approbatory of non-submission, for I should have preferred the whole constitution had been voted upon. But whether that could or could not have been done, rested with the people and the convention; such has been the uniform practice, I believe, relating to the territorial action for the admission of new States, except when controlled by legislative action. I mention this because my colleague [Mr. HASKIN] has sought to create the impression that the question of submission of the whole constitution entered into the last presidential campaign as a distinct issue. Whatever individuals may have done, I assert that it was not then made a part of the Democratic creed. In confirmation of this position I cite the following passage from the address of acting-Governor Stanton, under date of April 17, 1857:

"The government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people, through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of all the actual bona fide residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn."

This question of submission has recently arisen, and has been seized upon since the commencement of this Congress, and made the basis for assailing the President of the United States for an honest and patriotic discharge of his high duties. The President, in his instructions to Governor Walker, neither intended nor expected that any other question than that of slavery was to be submitted. In his message transmitting the Lecompton constitution to Congress, he says:

"No person thought of any other question. For my own part, when I instructed Governor Walker, in general terms, in favor of submitting the constitution to the people, I had no object in view except the all-absorbing question of slavery. In what manner the people of Kansas might regulate their other concerns, was not a subject which attracted my attention. In fact, the general provisions of our recent

State constitutions, after an experience of eighty years, are so similar and so excellent that it would be difficult to go far wrong at the present day in framing a new constitution.

"I then believed, and still believe, that, under the organic act, the Kansas convention were bound to submit this all-important question of slavery to the people. It was never, however, my opinion that, independently of this act, they would have been bound to submit any portion of the constitution to a popular vote, in order to give it validity. Had I entertained such an opinion, this would have been in opposition to many precedents in our history, commencing in the very best age of the Republic. It would have been in opposition to the principle which pervades our institutions, and which is every day carried out into practice, that the people have the right to delegate to representatives, chosen by themselves, their sovereign power to frame constitutions, enact laws, and perform many other important acts, without requiring that these should be subjected to their subsequent approbation. It would be a most inconvenient limitation of their own power, imposed by the people upon themselves, to exclude them from exercising their sovereignty in any lawful manner they think proper. It is true that the people of Kansas might, if they had pleased, have required the convention to submit the constitution to a popular vote; but this they have not done. The only remedy, therefore, in this case, is that which exists in all other similar cases. If the delegates who framed the Kansas constitution have in any manner violated the will of their constituents, the people always possess the power to change their constitution or their laws, according to their own pleasure."

The alleged grievance of the Republicans in Kansas, arising out of the non-submission, is not of such a character as would authorize us to reject the admission of Kansas as a State under the Lecompton constitution. They had an opportunity to vote for delegates to form the constitution, also, when that instrument was submitted with slavery or without slavery, and they refused to exercise the right. But it is urged that they could not vote for or against slavery without voting for the constitution. Admitting this, I would ask who is to blame? Surely those who abstained from exercising the right of popular sovereignty when the delegates were elected to the constitutional convention. Here is a willful determination, and repeated, not to take part in any proceeding which recognized the Territorial Legislature; and which omission, in my judgment, stops them from any claim upon, or right to, our sympathies. Governor Walker, in referring to the selection of delegates, distinctly warns them what would be the consequences if they should not participate in the election. He says:

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in the contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

This is the true doctrine, and I have never heard it questioned. I firmly believe that, judging by the past acts of the Republicans of that Territory, if this constitution is sent back the same obstinacy and difficulty will exist. It was their deliberate intention that the constitution should be presented here with slavery to keep up that excitement, and to further aid and abet those who seek to break down the Democratic party, and this honorable body will fail to assert its rights and protect its dignity in permitting its attention longer to be occupied with this subject and these local contentions.

The motives and acts of the Republicans have been such as cannot be recognized without overturning all government, law, and order. The evidence is unquestioned and overwhelming, that they have been in a state of rebellion to the government since the meeting was convened on the 14th or 15th August, 1855, which resulted in the convention, held September 19th of that year, which framed the Topeka constitution, to be put in operation in subversion of the territorial government established under the authority of Congress. The organization under that instrument, the assembly of its Legislature, its acts, the presentation of that constitution to Congress, the passage of the bill admitting Kansas a State under it by the Republican members of the House of Representatives, and its rejection by the Senate, the creation of armed forces in Kansas to sustain this

revolutionary movement, are now matters of history. These occurrences demonstrate the position I assume, and which is sustained by the President in his message, February 2, 1858:

"This government [territorial] would long since have been subverted had it not been protected from their assaults by the troops of the United States. Such has been the condition of affairs since my inauguration. Ever since that period, a large portion of the people of Kansas have been in a state of rebellion against the government, with a military leader at their head of a most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied, the government to which they owe allegiance, and have been all the time in a state of resistance against its authority. They have all the time been endeavoring to subvert it, and to establish a revolutionary government, under the so-called Topeka constitution, in its stead. Even at this very moment the Topeka Legislature is in session."

Again he says:

"The truth is, that, up till the present moment, the enemies of the existing government still adhere to their Topeka revolutionary constitution and government. The very first paragraph of the message of Governor Robinson, dated the 7th of December, to the Topeka Legislature, now assembled at Lawrence, contains an open defiance of the Constitution and laws of the United States. The Governor says: 'The convention which framed the constitution at Topeka originated with the people of Kansas Territory. They have adopted and ratified the same twice by a direct vote, and also indirectly through two elections of State officers and members of the State Legislature; yet it has pleased the Administration to regard the whole proceeding revolutionary.'"

"This Topeka government, adhered to with such treasonable pertinacity, is a government in direct opposition to the existing government prescribed and recognized by Congress. It is a usurpation of the same character as it would be for a portion of the people of any State of the Union to undertake to establish a separate government, within its limits, for the purpose of redressing any grievance, real or imaginary, of which they might complain, against the legitimate State government. Such a principle, if carried into execution, would destroy all lawful authority and produce universal anarchy."

In these revolutionary acts may be discerned the object of the Republicans, and that is, to agitate until the Topeka constitution is accepted. This cannot be done so long as Congress recognizes the legitimacy of territorial organization, and would be subversive of the fundamental principles of our Government. The question then arises, does the Lecompton constitution come to us in a legal form? The only mode in which a people of a Territory can form their constitution, or alter it when a State, is through the Legislature. This is the proper manner of ascertaining the popular will. Applying this rule to Kansas, we find that the Kansas-Nebraska act left the "people of the Territory perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." Acting upon the power thus conferred, proceedings were had authorizing the election of delegates to form a constitution. Such election was held; the convention assembled at Lecompton, adopted the constitution now presented to us for our action. I have already disposed of the objection that but a small part of the voters exercised their right. The question then arises, what can and should Congress do in the premises, and what power does it possess?

The Constitution provides that new States may be admitted by the Congress into this Union, and "the United States shall guaranty to every State in this Union a republican form of government." The Lecompton constitution is legally framed, presented, and is republican in form, and the Territory should be admitted at once as a State under the power thus conferred. It has been urged that even if a part of the people would not vote, they should still be protected against their own wrongful omission. I am free to say, Mr. Chairman, that I should feel reluctant to participate in any act that would inflict a wrong upon the citizens of Kansas, and would not do it knowingly. I would not vote for a measure that I believed would fasten upon them a permanent constitution that could not be altered or amended; but, sir, I can see no wrong in giving them a republican constitution, and conferring upon Kansas the powers of a sovereign State. I have examined the provisions of that constitution, and find it is as democratic as that of other States. The following liberal provision is in the bill of rights:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

This is a full reservation of power by the people, except so far as its exercise is restricted by the constitution. Taking the position I have, that an alteration of such an instrument can only be effected by legislative action, except in case of revolution, and believing, with the late lamented Webster, the great expounder of constitutional law, "that no single constitution has ever been gotten up by mass meetings," that "there must be some mode of ascertaining the public will, somehow and somewhere;" and, "if not, it is a government of the strongest and most numerous," I can only recognize the right of the people of Kansas to change their constitution in the manner prescribed thereby. If Kansas is admitted under the Lecompton constitution, can it be altered? and, if so, when? It provides for a change as follows:

"SEC. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention; and if it shall appear that a majority of all the citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention," &c.

It seems to me that this section (and I give it as my opinion only) takes effect in *future*, and that, until 1864, there is no restriction that can prevent a prior alteration. I shall not occupy the attention of the committee in elucidating this point—it has already been ably done, and especially by my friend the honorable member from Pennsylvania, [Mr. PHILLIPS.] I presume it will not be disputed that, if Congress or a State Legislature pass a law to take effect on and after such a day, (named,) or after such a time, it cannot take effect or become operative until the period designated has expired. The same rule would apply to a constitutional provision. The Topeka constitution has the following:

"SEC. 4. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be, by the General Assembly, made, before the year 1865, nor more than once in five years thereafter."

This contained a restraint or restriction that would become immediately operative.

The State of New York illustrates, in her action, the effect of both provisions. The constitution of that State, of 1777, contained no provision for its amendment. The Legislature, in 1821, passed a law submitting to the people the propriety of amending the constitution. They responded in the affirmative. The convention which assembled, instead of amending the old one, framed a new constitution, which was accepted. The one thus formed contained a clause directing the mode of changing it. In 1846, contrary to the restriction, the people, through the Legislature, called another convention, and formed the existing constitution.

Mr. Chairman, no serious objections are urged, I believe, against any other part of this constitution except the slavery provision, or point raised except as to the provision relating to an amendment. It may be said to have been recognized in solemn form by the whole people of that Territory; for, after the constitution was framed, an election was ordered and held under its provisions for the election of State officers and the Legislature. In law this is an estoppel, and amounts to an assent.

Suppose, sir, that instrument could not be altered before 1864: what injury would result thereby to the party that desire it to be a free State? None. It is conceded that there are now in Kansas but about one hundred and sixty slaves. With a supposed free-State majority in the Territory, with climate and soil adverse to the permanent existence of slavery, I do not believe that southern gentlemen would desire to take their slaves there, so that the present number would not be greatly increased before the people could amend their constitution. The public welfare, the repose of the nation, and, indeed, every consideration that can influence the patriot and lover of his country, demand that this subject should be promptly dismissed from the Halls of Congress. Kansas admitted, and the people of the Territory will then adjust their own internal affairs, peace be restored, a more natural and healthful flow of immigration than that sent forward by the emigrant aid societies will occur, peaceful pursuits be cultivated, instead of threatened warlike amusements. If

Kansas is not admitted, the excitement now pervading the country will be continued, the subject will again be presented at the next session of Congress, impeding all legislation, and perhaps to the following one; with each protraction the waves of angry and embittered feeling rolling higher and higher. It does not require a prophetic spirit to foretell the disastrous consequences that may ensue.

Mr. Chairman, political history presents curious phases. It shows the members of the Opposition party to have opposed all the leading measures of the Democratic party in times gone by, until public sentiment indicated their adoption as part of the public policy of the country, and, after being driven from point to point, they sought shelter under the slavery agitation, in which refuge they now remain, pressing it on regardless of consequences to the Union. In the last Congress they were the opponents of non-intervention, or popular sovereignty, and in favor of congressional interference, and opposed to an enabling act; now we find them in favor of an enabling act and in favor of popular sovereignty, and what the next phase will be to-morrow may determine; it is not unlikely that we may find them voting for the admission of a slave State. They have the warmest sympathy for "bleeding Kansas," and cry fraud! fraud! and charge high crimes upon the Democratic party; but they have none for the great city of New York, whose vested rights were ruthlessly invaded by a Republican Legislature, and stripped of many of its chartered privileges, to give spoils and patronage to their adherents. I have been taught to believe that "charity begins at home."

Another singular spectacle is presented: we find several honorable members, who fought side by side with us in the great political battle which resulted in the recognition of non-intervention in local affairs of Territories, recently voting for the appointment of a special committee to intervene in its worst form in the domestic affairs of a Territory. Among the latter I find my colleague, [Mr. HASKIN.] It was with feelings of regret and mortification that I heard him utter the following language:

"In arriving at the conclusion to vote against the admission of Kansas under the Lecompton constitution, I have been aided and influenced by a desire to faithfully represent the constituency which elected me, and to fulfill the pledges which I made them upon accepting my nomination. To them I am responsible for my course here; and being honestly convinced that my opposition to the admission of Kansas under the Lecompton constitution—repudiated and protested against, as it is, by at least three fourths of her people—meets with the approval of a large majority of my constituents, whose wishes I am in honor bound to obey, I shall vote against the admission of Kansas under the Lecompton constitution."

The honorable member represents the counties of Westchester, Rockland, and Putnam. I was born on the banks of the noble Hudson, in the county of Westchester; the traditions of home clustered around and have been identified with it for more than a century; my early life was spent in rambling among the rocks, hills, and dales of that beautiful region, until they became familiar as household words. It is classic ground, hallowed by the footsteps of the Father of his Country and his compeers; the scene of some of the most important events of the war of independence. Revolutionary patriots now sleep the sleep of death beneath its green sod; and there rest, too, the remains of Paulding, (and his associates,) the capturer of André, whose last request to his medical attendant was, "Please tell all those who ask after me that I die a true Democratic Republican," and whose descendant my colleague so recently defended on this floor. Surrounded by such association, the Democracy of that section cannot, will not, falter in a crisis like this; and I am justified in saying that my colleague does not represent the wishes of the constituents that honored him with his election. Public meetings have been held in the several counties of the district, condemning his course, and the Democratic press is unanimous against it. My colleague will bear in mind that his predecessors, in 1854, voted against the Kansas-Nebraska bill in opposition to the wishes of his constituents. He boasted that he could be returned upon that vote; not being nominated, he ran, in 1856, as an independent candidate, and received so small a number of votes that I do not find his name mentioned in the official

35TH CONG....1ST SESS.

Admission of Kansas—Mr. Groesbeck.

HO. OF REPS.

canvass. Whether my colleague is to share the same fate, remains to be seen. While I desire the honorable member shall take all the credit he is entitled to for his advocacy in times past of the principles of the national Democracy, I cannot perceive how it can justify his present course. Others before him have been distinguished for consistent political action, and yet by a single act have blighted the good effect of all their antecedents, and destroyed their political future. Without intending anything personal, but by way of illustration, I would say that Arnold was esteemed a true and loyal officer, and had done the State some service, until he committed treason against his country. Will it be urged that his treason was therefore justified?

I have heard much during this debate of "reading members out of the party." Sir, no formal *pronunciamiento* is required for that purpose. They are out by the operation of their own act; they are in the position of the soldier who, in the hour of battle, deserts to the enemy; the penalty follows. It is idle to suppose that, when gentlemen proclaim the result of their act will be to break down the national party, and elevate a sectional one with its attendant consequences, and are doing all they can to attain that object, they can remain, when the act is completed, in full communion with the party they seek to destroy. Their proper place is with the Opposition, and time will soon place them in that association. History is full of examples of conflicts between individuals and the party; but each instance has resulted in a signal failure of the assailant. The contest in such cases is as unequal as that between a mere guerilla band and a powerful and well-organized army. Men, as individuals, are apt to exaggerate their power when directed against organizations. In struggles with the Democratic party, men are but pigmies contending with giants. They may be compared to the fly on the wheel: the fly is crushed, and the wheel rolls on. Whenever a great issue, as in the present case, arises, involving perhaps the very existence of the Union, it is the duty of every man having at heart the welfare of the nation to sustain the Administration in its patriotic course, and more especially those who hold their seats in this honorable body, and were elected upon the same platform with the present distinguished chief.

Sir, I entreat these anti-Lecompton Democrats to pause in the step they are about to take in the opposition. You concede the great purpose and mission of the national Democratic party; you concede it is the great bulwark that alone can arrest the ascendancy of sectionalism; you concede that such a triumph may result in a separation of the States, bringing in its train calamities that may be conjectural but not foretold; and yet you stand ready to strike the parrietal blow. Should this measure be defeated by your votes, and the disaster flow from it which has been predicted, you cannot fail to be regarded hereafter as the parricides of the Republic.

Mr. Chairman, the northern national Democracy stands now, and will continue to stand hereafter, by the principles established by the Kansas-Nebraska act, and those enunciated at Cincinnati. We insist that the Territories, as well as States, have the sole right to determine their local and municipal matters, and that each should be let alone to manage them in their own way. This course must ultimately force the slavery agitation out of Congress, notwithstanding the embarrassment which has thus far attended the application of the principle to Kansas. The present difficulty has grown out of the premature immigration forced upon the Territory by slavery agitators, which went there, not to cultivate the soil, but to foster the excitement which has of late convulsed the whole country, and of which all, I believe, are heartily tired. This rule adopted will not produce like consequences again. There may be some struggle when a constitution with slavery is presented, but I believe public sentiment will determine that it shall be no bar to admission on that ground. Once firmly established and acted upon in good faith, slavery will be left to the law of climate and soil to control it. This law, which has been silently working since the adoption of the constitution, has caused the abolition of slavery in six of the original States, and either abol-

ished or prohibited it in nine of the new States since admitted, and which has now brought to us two, if not more, free States for admission into the Union, thereby destroying the equilibrium between the slave and free States, imposes, in my judgment, a higher duty upon the national Democracy of the North than has hitherto existed, to see that the compromises of the Constitution are maintained, and the rights of the States secured. Its action in the past is a guarantee for the future. All that the southern States demand is to be allowed to control their own affairs, and equal rights with the other States. When a new State seeks admission, and its people desire slavery, Congress should not interpose objection, if the constitution is republican in form, but should at once admit it into the Union. The national Democracy are fully committed upon this point, and will redeem the pledge.

Mr. Chairman, my colleague, [Mr. HASKIN,] in his remarks, uses the following language:

"I honestly believe that, but for patronage, fast becoming the bane of the Republic, not ten Democratic members from the free States would be found supporting the Lecompton constitution as it has been presented to us."

I hold that no member of this honorable body should make even a vague charge of this grave character against his associates, even from belief, unless founded upon some fact. If the integrity and honor of any gentleman has yielded to the seductions of patronage and power, it is proper and due to the dignity of this honorable body that it should be known, and the person or persons named. I therefore call upon my colleague [Mr. HASKIN] to give this information, and the facts upon which his belief is founded; my respect for this honorable body forbids that I should characterize this charge in such terms as it deserves. I await his response: I can make great allowance for excitement incident to debate. The remarks of my colleague, however, having been prepared in advance, and read from a printed copy, indicate premeditation and deliberation. While my colleague makes an assault on the one side, the honorable member from Illinois, [Mr. MORRIS,] in saying that the "northern men who vote for the admission of Kansas under the Lecompton constitution are going to their political graves," (I do not quote the exact language, not having his remarks before me,) pays us a high compliment, for which, as one, I thank him. It shows his conviction that we have been guided by higher motives than selfish considerations.

Sir, I have heard it stated on this floor, and held in *terrorem* over the northern Lecompton members, that the Kansas-Nebraska act republicanized the last Congress. Without desiring to refer in detail, I desire to state a fact not generally understood. The whole country has been made aware long since of the division in the Democratic party of the State of New York from 1853 to 1856. It is to be deplored, but nevertheless true, that had the Hard and Soft vote been united upon single candidates in 1854, it would have secured eleven more members in the last Congress—seven by a majority vote, and four by a plurality—making a total of fifteen, and given to the Democratic party in Congress a decided majority. I may also say that the twelve Democratic members from that State in the present Congress were returned upon the principle contained in the Kansas-Nebraska act.

In times gone by, the parties in this country were divided into the Democratic and Whig party. Many glorious battles were fought between them, and many brilliant and gallant contests were had by the rival leaders upon this floor upon the great questions which, from time to time, have agitated the country. As participants in these intellectual encounters, the names of Calhoun, Clay, Webster, Benton, and a host of others, now occur to me. In all the giant efforts of these statesmen—amid all the heat, zeal, and bitterness of debate and party warfare—there was one common bond between them, and that was the love of the Union. The Whig party was national—it was glorious to battle with it—it was "a foe worthy of our steel." In its triumphs, however much we might differ from its policy, the country rested secure upon its nationality. The great issues between them were decided by the people in favor of the Democratic party, and the contentions ceased. The

great leaders of the Whig party, Clay and Webster, having lived the period allotted to man, and devoted their whole lives, from their manhood to their graves, to the service of their country, full of honors, passed away to the silent tomb, amid grieved hearts, bearing to their eternal home the affection and veneration of their fellow-countrymen. The Whig party ceased to exist, and the Opposition party were without a leading principle. The slavery agitation, which had for a long time been seen but dimly in the distance, now culminated in the Republican party, and a bitter, sectional, and fanatical contest ensued. In this struggle the national Democratic party—lifting itself up to its giant proportions, reinforced by a part of the national portion of the Whig party, several of whom, I am proud to say, are now upon this floor coöperating with us, met the enemy and triumphed. Though defeated, they were not conquered; and the war is being waged.

No intelligent person can be so blind as not to see, in the success of a northern sectional party arrayed against the constitutional rights of the South, that a counter-geographical party must arise. When this occurs, it is easy to foretell the consequences. I shall not dwell upon it. In this crisis we can only look to the Democratic party in the future; it occupies a broad, national platform, and guards scrupulously the rights of all sections. I believe in its invincibility and in its great destiny; its nationality will preserve it; the people must see the consequences of its defeat; and I feel a deep conviction that when the hour of trial comes, all classes will rally to its support as the only means of preserving the Union, which they are taught to love and cherish from early childhood. I love my whole country; it is with regret that I see contrasts presented, attempting to show the greater prosperity of one section or class over another. We are one aggregated whole—what adds to one part strengthens the other. Our power and greatness as a nation result from combination, and from that alone must it increase and be carried on in the fulfillment of its great future.

This protracted struggle is drawing to a close; the President of the United States has taken his position firmly, and it is our grave and solemn duty to sustain him. I have taken mine, whatever may be the individual consequence, and can say, in the language of the lamented President Jackson, when standing over the rocks of the Rip Raps, looking upon the ocean, when friends were deserting him by legions in consequence of his firm course upon the public measures of his day: "Providence may change my determination; but man can no more do it than he can remove these Rip Raps, which have resisted the rolling ocean from the beginning of time."

ADMISSION OF KANSAS.

SPEECH OF HON. WM. S. GROESBECK,
OF OHIO,
IN THE HOUSE OF REPRESENTATIVES,
March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GROESBECK said:

Mr. CHAIRMAN: In a very few hours the roll of our names will be called to take the vote on the admission of Kansas into this Union as a State under the Lecompton constitution. I shall vote "No;" and I have felt it to be my duty to express some of the reasons why I shall so vote. I have withheld the expression of my opinion in the hope, which I have entertained to the last hour, that there might be some modification, some arrangement of the measure by which I could coöperate with my party. It would give me great pleasure to sustain the President in this and all other measures; and far be it from me, Mr. Chairman, to say one hard word of him. All my inclinations are to the opposite direction. I decline to call in question his motives, or to throw the faintest shadow of suspicion on their purity. I condemn the practice, much too common here and elsewhere, of assailing the motives of our high public functionaries. It is unjust to them, and injurious to us all, and we should be careful how we

undermine, for temporary, or party ends, the confidence of the people in the departments of their government.

It is now admitted on all sides that the known and expressed will of the people of Kansas is against the constitution we propose to vitalize. I will inquire hereafter whether this will of the people has been legally and fairly expressed. What I now claim is, that there is not a man in this House who doubts it. Therefore it is, Mr. Chairman, that from day to day, and constantly, our attention has been called to measures of relief for the people of Kansas against the imposition of this constitution upon them. It seems to strike many who will vote for it, that it would be wrong that the people should be compelled to live under it. And Representatives on this floor, from the North especially, have from day to day pressed upon us the proposition, that the people of Kansas will have the right without delay, and as soon as they are introduced into the Union as a State, to change this constitution, or make a new one in accordance with their will.

This has become a serious and important question; votes seem to be hanging upon it. Let us examine it. Before proceeding to its examination, allow me to refer to the clause, so often referred to, of the bill which has been passed in the Senate, in order that we may have no misapprehension in regard to its meaning. It is as follows:

"And nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas at all times to alter, reform, or abolish their form of government in such manner as they may think proper—Congress hereby disclaiming any authority to intervene or declare the construction of the constitution of any State, except to see that it be republican in form, and not in conflict with the Constitution of the United States."

I will not dwell upon the closing part of this extract, because it does not lie within the line of my argument, nor will I pause to construe its meaning. But I say this of the entire clause, and I challenge all dissent, that there is nothing in it that confers on the people of Kansas, should it be made a State, one particle of authority that they have not under the constitution itself. There is no gentleman on this floor, no Democrat, who intends to advocate the passage of this bill, who will rise in his seat and intimate that this bill confers on the people of Kansas the slightest additional power over their constitution. Is there any one here who will so claim? No one. I pass it, then, and come to the constitution itself, to ascertain whether, according to the fair construction of it, the people have any such power.

Mr. Chairman, where a constitution is silent upon the subject of alteration, I take it to be the law of such a constitution that the people can alter it whenever they see fit. That is so with your own. It is so in the case of any legal association. Take a partnership, for instance. If we who are here should embark in a partnership to carry on any particular enterprise, and say nothing in the articles of copartnership about the time during which it should continue, any one of us could legally terminate it whenever he saw fit. If, however, the articles provided a given time during which it should continue, or if they provided, in the very language of this constitution, that at any time after the year 1864 it might be terminated, those who were thus associated might put an end to the association whenever they saw fit after that time, but not before. We would be legally bound to hold together according to that limitation; and it could not without violence, without a breach of the law of the association, be terminated sooner.

Now, what says this constitution:

"Sec. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall at its next regular session call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the Representatives; said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution, but no alteration shall be made to affect the rights of property in the ownership of slaves."

Whenever, at whatever time, but after 1864, two thirds of the Legislature shall think it necessary to amend, &c., they shall recommend to

the electors to vote for a convention, &c. No one doubts what was the meaning of the convention in framing this section; and is there any room to doubt the plain construction of the language? They may call a convention for the purpose of altering the constitution—when and how? Whenever, after 1864, two thirds of the Legislature shall pass a law for that purpose. This constitution is intended to keep Kansas as she is, in any event, until the time named, and to continue till that time, that the experiment may be fairly tested as to its fitness, as a constitution, for that people. It is intended to hold them according to its provisions, in order to give those provisions a fair test; and if, at the expiration of the time, (the year 1864,) the people shall find that it has not worked well, then, and not before, they may proceed to call a convention to alter or change it.

Why, Mr. Chairman, this section is copied almost word for word and line for line from a section of the first constitution of my own State, limiting my people in this respect, and providing that after the year 1806, (that is the way it begins,) whenever the Legislature, by a two-thirds vote, shall pass a law for that purpose, they may call a convention. I give the section from the constitution of Ohio adopted in 1802, and invite attention to it:

"Art. 7, Sec. 5. After the year 1806, whenever two thirds of the General Assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members of the General Assembly, to vote for or against a convention; and, if it shall appear that a majority of the citizens of the State, voting for Representatives, have voted for a convention, the General Assembly shall, at their next session, call a convention, to consist of as many members as there may be in the General Assembly, to be chosen in the same manner, at the same places, and by the same electors that choose the General Assembly, who shall meet within three months after the said election, for the purpose of revising, amending, or changing the constitution. But no alteration of this constitution shall ever take place, so as to introduce slavery or involuntary servitude into this State."

Many of the State constitutions have similar provisions. They are not uncommon. And I take it upon myself to say, without pausing to enter upon a nice criticism of this language, that there is no room to doubt the meaning of the convention, the plain meaning of the language, and the fair construction of the section quoted from the Lecompton constitution. The fitness and constitutionality of such provisions I will refer to hereafter.

But, say gentlemen, there is something more in this constitution upon this subject, and we are referred to a section which is to be found in the bill of rights in these words:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and, therefore, they have at all times an indelible and inalienable right to alter, reform, or abolish their form of government in such manner as they may think proper."

Whence came this doctrine? We have been directed and carried to its proper source, by the gentleman from Pennsylvania, [Mr. PHILLIPS,] though he greatly misapprehended its meaning. I will tell you where we will find it; and when we have found it, we will, at a glance, see its true meaning. I go to our Declaration of Independence and read as follows:

"That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

Here it is; the great declaration of the right of the people to alter, reform, or abolish their government. Made when? On the 4th of July, 1776. Made how? The sword of revolution leaped from its scabbard in the act of making it, and our fathers pledged to each other their lives, their fortunes, and their sacred honor, for its maintenance.

This is no mere legal or constitutional right to change or reform government. It is the sacred, inalienable, ultimate right of revolution. It is above and beyond constitutions; it scorns law; it does its work with armies and not in conventions. It speaks with cannon and not with the ballot; it writes its constitutions not with ink, but, if need be, with blood. It plunged our ancestors into a

seven-years' war; it was a part of their very declaration of war, and under it they proceeded, not legally to change the Government then over them, but, as enemies, to overthrow and to crush it. Thus it is you alter, reform, or abolish governments under this right. And if you will examine the State constitutions from Maine to California, you will find this same doctrine, of the right of revolution, asserted in their bills of rights. It means in the State constitutions just what it means in the Declaration of Independence, whence it was taken.

Look into these State constitutions. In the early ones, you will find this doctrine asserted in almost the identical language of the Declaration of Independence; and they have modified it from year to year, and in convention after convention, not wishing to appear as mere copyists of each other, until we now find it in the language in which it is contained in the Lecompton constitution. Do you call this a mere legal right, a right under and by authority of the constitution? Why, Mr. Chairman, what says this constitution in reference to it? In its own language it declares that this great ultimate right of sovereignty is not confided to the government of the State of Kansas, in case it shall become a State under the Lecompton constitution. By express provision of the constitution itself, this power—this right of revolution—is excepted from the general powers of the government. It is not confided to the executive; it is not confided to the judiciary; it is not confided to the legislative department. I read from the Lecompton constitution:

"And to guard against any encroachment on the rights herein (that is, in the bill of rights) retained, &c., we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate," &c.

How, then, can it be claimed that this right of change, thus "excepted," is a right held under and by authority of the constitution. It is above it and independent of it.

Mr. Chairman, it will be found upon an examination of the American State constitutions, that of the thirty-one, about twenty-eight of them contain just such a declaration as this. You will always find it carefully put away, not under the power of amendment, not in that part of the constitution which provides expressly for its alteration and reform in a constitutional way, but in a different place; not under the article for amendments but among those rights which are declared to be inalienable—that is, in the bill of rights itself.

What then can this Legislature do? They are sworn to administer the provisions of this constitution. They are sworn to exercise only those powers which have been confided to them, not those excepted. They can do nothing else. If they proceed contrary to this fourteenth section of the schedule, which is a part of the constitution and treats expressly of the power and mode of amendment, they proceed unconstitutionally. To proceed contrary to a constitution, is plainly unconstitutional. A constitution is the supreme law, which they must observe, and if they depart from it, they act illegally. The constitution is the supreme law for all.

It is said, Mr. Chairman, that the people cannot bind themselves in this way. We have heard that one generation cannot bind another. I do not care to discuss that proposition; I do not care to argue the proposition whether the living can legally bind the dead. I may grant that they cannot. That is not the question. The question is, can the living bind themselves. The question I have to consider in reference to this provision is, whether you, and I, and all of us, have the right to bind ourselves for the brief period of six years, from 1858 to 1864? What are we? Sovereigns—essential parts of the sovereignty of this Government, wearing sovereignty, as it were, upon our shoulders. There is no power above us, and no power to control us. Where is the power above me, which says I cannot bind myself? If there be, sovereignty is there, and not in me. Do you tell me, sir, I cannot bind myself for six years? I am no freeman if I cannot. You treat me as if I were an infant, as if I were a lunatic, as if I were an imbecile. You put me under guardianship. To whom? I can go into a partnership, and bind myself for six years to carry

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out some twopenny arrangement; but when I come to the great matters of government, where stability is most needed, and wherein my highest rights are cared for and deposited, then, according to the theory of these gentlemen, though a freeman, I have no power to bind myself for six years! That is a curious notion, in my judgment, of the rights of a freeman.

What mean the commentators upon this subject, in advising that constitutions be framed to secure some degree of stability and permanence in government? What meant Thomas Jefferson, when, in treating of this subject, he advised that constitutions should be made alterable every twenty years? With the tables of mortality in his hand, and with a close and careful reckoning, he ascertained how long the majority of any given generation would survive, and recommended that as the period for which constitutions should be made binding. What did he mean by this, if they can be changed at any time regardless of their provisions? Let me give his language. In speaking of the propriety of providing for periodical amendments of constitutions, he says:

"Let us, as our sister States have done, avail ourselves of our reason and experience, to correct the crude essays of our first and unexperienced, although wise, virtuous, and well-meaning councils. And lastly, let us provide in our constitution for its revision at stated periods. What these periods should be, nature itself indicates. By the European tables of mortality, of the adults living at any one moment of time, a majority will be dead in about nineteen years. At the end of that period, then, a new majority is come into place; or in other words, a new generation." * * *

"And it is for the peace and good of mankind, that a solemn opportunity of doing this every nineteen or twenty years should be provided by the constitution." &c.—*Jefferson's Works*, volume 7; pages 14, 15, and 16.

What meant the numerous conventions which have, from time to time, been held to frame and change constitutions? Why put the power of amendment into your constitutions and point out a particular mode of amendment, if this phrase in your bill of rights enables the people, at any time, in any way, constitutionally and legally, to tumble their governments to the ground? Why require two thirds of a Legislature to pass an act to assemble a convention? Why go into all this formality if the people have the right, at all times, and in any manner they see fit, *legally*, and not by revolution, to change the constitution?

Sir, they cannot do it. If they undertake to change their constitution in a manner not authorized by the constitution itself, it is the right, and it may become the duty of the existing government to resist such an attempt; and I tell you that if blood be spilt in such resistance, it is not always a penal act; if life be taken, it is not manslaughter; if property be taken, and houses entered and searched, it is not trespass. Look at the Rhode Island case. It furnishes an illustration. At the period of the American Revolution, Rhode Island did not, like the other States, adopt a constitution, but continued the form of government established by the charter of Charles the Second. In 1841, the people held meetings and formed associations, which resulted in the election of a convention to form a constitution, to be submitted to the people for their adoption or rejection. The convention framed a constitution, directed a vote to be taken upon it, and declared afterwards that it had been adopted and ratified by a majority of the people, and was the paramount law and constitution of Rhode Island. Under it elections were held for Governor, members of the Legislature, and other officers, who assembled together in May, 1842, and proceeded to organize the new government. But the old government, under the charter of Charles the Second, did not acquiesce. On the contrary, it passed stringent laws, and finally declared the State under martial law. I will not stop to give further particulars. The people tried to enforce the new government; the old charter government resisted. The people were put down. The legality of their movement was tested in the courts, and it was decided to be illegal, because done without the sanction of the old government. The effort of the people was treated as rebellious and insurrectionary. I give no opinion upon the determination of this case, as being right or wrong. I allude to it simply as an instance where, in an extreme case, the people were not allowed, on their own motion and without consent, to reform or alter their government in their own way.

An action arising out of this movement was taken to the Supreme Court of the United States, and, as it has been referred to in this debate, I will give a part of the language of the court on this alleged right of the people to change constitutions in any way they see fit, and without regard to the provisions for change in the constitution. "No one," we believe, says Chief Justice Taney, "has ever doubted the proposition that, according to the institutions [not constitutions, it should be noticed,] of this country, the sovereignty of every State resides in the people of the State, and that they may alter and change their form of government at their own pleasure." Woodbury, dissenting, but only on the point concerning martial law, explains at length the character of this right of change. In speaking of the hardships of the old Rhode Island government, and the controversies it gave rise to, he says:

"If it be asked what redress have the people if wronged in these matters, unless by resorting to the judiciary, the answer is, they have the same as in all other political matters. In those they go to the ballot-boxes, to the Legislature, or executive for the redress of such grievances as are within the jurisdiction of each; and, for such as are not, to conventions and amendments of constitutions. And when the former fail, and these last are forbidden by statutes, all that is left in extreme cases, where the suffering is intolerable, and the prospect is good of relief by action of the people without the forms of law, is to do as did Hampden and Washington, and venture action without these forms, and abide the consequences. Should strong majorities favor the change, it generally is completed without much violence, &c."

"Changes, thus demanded, and thus supported, will usually be allowed to go into peaceful consummation; but when not so allowed, or when they are attempted by small or doubtful majorities, it must be conceded that it will be at their peril, as they will usually be resisted by those in power, by means of prosecutions, and sometimes by violence, and, unless crowned by success, and thus subsequently ratified, they will often be punished as rebellious or treasonable."

Now it must be remembered that this language was used in reference to one of our own State governments, and in a case where the people had endeavored to throw off an oppressive, unequal, and offensive form of government. (7 Howard, Curtis 15, 23.)

Webster, in the same case, in argument, says:

"One principle [of American government] is, that the people often limit their government; another, that they often limit themselves. They secure themselves against sudden changes by mere majorities."

But we are told the Legislature will concur in this movement. I will consider this aspect of the question hereafter. I am now considering the constitutional right of the people to change this Lecompton constitution prior to 1864.

We are also referred to what has been done in other States. We are told that New York has changed her constitution in disregard of the mode pointed out in it. This is questionable. The constitution referred to provided for particular special amendments to be made by the Legislature exclusively, and had no provision for making a new constitution by a convention of the people. It is very proper to avoid the expense of a convention in making a single or slight amendments, and it does not always follow, because provision is made with that view, that a convention may not be called to make an entirely new constitution, when such a course is not forbidden. But in this New York case the justices of her supreme court, in giving an opinion to the Legislature of that State, on a collateral question growing out of that movement, say:

"In this discussion we have assumed, without intending to express any opinion on the subject, that the constitution can be amended in a different way from that which has been prescribed by the people in the instrument itself."

In Massachusetts, the opinion of her supreme court on a like question has been called for by the Legislature. I give the following extract from that opinion:

"The court do not understand it was the intention of the House of Representatives to request their opinion upon the natural right of the people, in cases of great emergency, or upon the obvious failure of their existing constitution to accomplish the objects for which it was designed, to provide for the amendment or alteration of their constitution; nor what would be the effect of any change or alteration of their constitution made under such circumstances, and sanctioned by the assent of the people. Such a view of the subject would involve the general question of natural rights, and the inherent and fundamental principles upon which civil society is founded, rather than any question upon the nature, construction, or operation of the existing constitution." * * *

* * * Considering that no mode previous to 1820 was provided by the constitution for its amend-

ment, that no other power for that purpose than in the mode alluded to is anywhere given in the constitution, by implication or otherwise, and that the mode thereby provided appears manifestly to have been carefully considered, and the power of altering the constitution thereby conferred to have been cautiously retained and guarded, we think a strong implication arises against the existence of any other power, under the constitution, for the same purpose."—6 Cushing, pages 573-4.

It is proper to notice that this opinion was given upon a constitution which had a particular mode of amendment, and, also, in its bill of rights, just such a clause as we have in this Lecompton constitution, declaring that "the people alone have an inalienable, incontestable, and indefeasible right to institute government, and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it." It would seem that the judges did not regard this as a constitutional way of amendment, but as a declaration of the right of revolution.

But, Mr. Chairman, I do not think it necessary to continue this inquiry. I can well understand how a constitution might be changed in an irregular and unauthorized manner, when the people had become tired of it; but where is the State in which this has occurred when slavery was the matter in issue? Where is the slave State which has been made a free State, in an unconstitutional manner; or the free State which has been made a slave State in such a way, and especially when the people are divided upon the question; when they stand in bitter hostility to each other; when they have been warring with each other about it for years? Remembering, as we must, the extraordinary struggle which has been made in Kansas, on one side to make it a slave State, and on the other to make it a free State, does any one suppose the Lecomptonites will tamely submit, and when you have crowned their effort with victory, by making Kansas a slave State, quietly yield all this to their opponents, and allow them to make it a free State in a manner not clearly sanctioned by the constitution?

What is to become of our State governments, under the operation of this doctrine of the unlimited right of the majority to change them, at any time and in any way? We have thirty-one States, each having political parties. To-day one party is in the ascendant, to-morrow another. What stability is secured for our institutions, if mere majorities, regardless of the rights of minorities vested in them by constitutions, and regardless of the provisions of the constitutions themselves, can at any time and in any way overthrow and change them? Not only so: what becomes of your Federal Constitution under this doctrine? Let us inquire.

In 1830, on the floor of the Senate, Daniel Webster, in speaking of our Federal Government and its Constitution, used this language:

"I hold it to be a popular Government, erected by the people, those who administer it responsible to the people. It is as popular, just as truly emanating from the people, as the State government." * * * "We are here to administer a Government emanating immediately from the people." &c. * * * "This Government is the independent offspring of the popular will. It is not the creature of State Legislatures. Nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the very purpose, amongst others, of imposing certain salutary restraints on State sovereignties."

Again:

"The people erected this Government. They gave it a constitution?"—

a constitution, not a confederacy.

In 1833, he said again, in the same place:

"The Constitution of the United States is not a league, confederacy, or compact between the people of the sovereign States in their sovereign capacities, but a Government proper, founded on the adoption of the people," &c.

The preamble begins as follows:

"We the people of the United States," &c., "do ordain and establish this Constitution," &c.

I do not say that this is my view of the character of our Federal Government; but how easy would it be to popularize some such doctrine? How ingeniously could the argument be made that this is a Government of the people! Who will say it is an impossibility that such a doctrine could obtain a majority in Congress? Suppose it should, and you then tack to it this other theory now propounded in this debate, that con-

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stitutions have no more sanctity than village by-laws, and it may not be long before you will see these united doctrines ascending up into national party platforms; and what, then, becomes of the fifth article of the Federal Constitution? It will be no more a barrier against the right of change than the fourteenth section of the schedule of the Lecompton constitution.

Mr. Chairman, I am opposed, then, to vitalizing this Lecompton constitution, because it is not legally alterable before the year 1864. Why do I object to it on that account? I recur again to the arguments which have been made here from time to time; the appeals which have been addressed to members; the inducements which have been held out to them to make this Territory a State, because, it is said, they will have the constitutional right to alter it instantly. They will not. I oppose it because I claim, that, by the constitution, they cannot legally alter it until 1864; and I know, you know, we all admit, that it is not the will of the people. You remit them to revolution in order to effect a change, and you can give no assurance that such a movement will be allowed to go forward to a peaceful consummation.

But we are told that the Legislature of the State will concur in such a movement, and that it is now ascertained that the free-State men will have the Legislature. Let us look at this. The first announcement was, that the pro-slavery candidates throughout (Governor, judges, legislators, and all) were elected. Enormous frauds were brought to light, and it was then announced that the result of the election was uncertain. The disclosure of frauds thickened, and very recently the president of the convention has made a third announcement, that certificates will issue to the free-State candidates for the Legislature. This is all. Nothing is said as to the Governor and other State officers, notwithstanding the great anxiety to know the entire result.

Now, suppose, for the sake of the argument, that the free-State men will have the Legislature. How will they have it? They will have a majority, but not a two-thirds majority, in each branch; and by this Lecompton constitution a veto power is given to the Governor, so as to make it impossible to pass a law calling a convention over his veto, unless they have two thirds in both branches of the Legislature, which they have not. Who is Governor? I do not know. Nobody can tell me. It seems to be understood that the president of the convention is to declare, in the first instance, who he is.

I am told again, that if the wrong person should be declared Governor, the Legislature could eject him, and put in the man rightfully elected. Under what law? By what authority? There is no law or authority to begin that contest; none at all. If there be, will some one point me to it? The Governor takes his seat. If they should undertake to pass a law under which to contest his right to his seat, he could veto it. You cannot touch him after he takes his seat in the gubernatorial chair. It is not a case for impeachment. There is no law to disturb him. There is no law to meet the case. I might go on, if I had the time, showing other aspects of this case which seem to make it uncertain and very difficult for the people, even if they had the legal right, to go forward to change the constitution. I make this argument, I repeat it again, because that constitution does not express the will of the majority, and I can see no safe, legal, and easy way, in which they can alter it.

I am told again, make this people a State, and then they are free to do as they please. Sir, they are not half as free under the Lecompton constitution as they are under the Kansas-Nebraska act. That act makes them perfectly free. We have so boasted from the date of its passage. There is no comparison of the freedom on this subject which they enjoy under that act and the restraint—I would term it—imposed upon them by the Lecompton constitution.

But, sir, suppose I am wrong, I come to another aspect of this case. I affirm that this Congress, if it act at all, is bound—that is the word I use—to respect and act according to the known will of that people, as given to us on the 4th day of January. Suppose my argument on the other

proposition is wrong; suppose the people have the legal right to alter this constitution whenever they see fit—the legal right, regardless of its provisions, to destroy a living and binding constitution: pray tell me, Mr. Chairman, how it is that this same people have no power over a constitution not yet binding. Explain to me the logic by which the people may throw aside a living, binding constitution, and yet are powerless to say a word upon what is as yet but a piece of paper entitled a constitution. What is this constitution? What rights does it vest? Will somebody tell me? What right can any man in Kansas assert under it? I should like to hear? Can you get into court under it? Can you do anything upon any alleged right it confers? No. Why, then, tell me that it is legally binding upon anybody? Can anybody in Kansas do anything under it now, before we put breath into its nostrils? Is it binding upon Congress?

Mr. Chairman, let me say a word on this subject of constitution-making. That territorial government of Kansas was established by the Government of the United States. It is *our* government. Every inhabitant there owes allegiance to that territorial government. I think that is a plain proposition. And if that be so, I deny the power of any part, small or large, of the inhabitants of that Territory to institute any proceeding that will *legally* bind the people of that Territory, without the previous consent of the Government of the United States. Let me illustrate this. You start, if you please, in the Territory of Kansas, a proceeding to make a constitution, and set up a new and different government. The people of the Territory of Kansas owe allegiance to the territorial government so long as the Government of the United States continues it there. Will any one explain to me how, then, you can institute a proceeding there, without the consent of the Government of the United States, that shall legally bind—that is the word used here in debate—bind the people to its consequences? An inhabitant of that Territory, as I said before, owes fealty to the territorial government, and to nothing else. He cannot become bound to any other governmental organization, complete or incomplete. Any such obligation would be inconsistent with, and might compromise, his obligations to the territorial government; and unless the Congress of the United States pass an enabling act, and thus legally authorize such a proceeding to be instituted—and unless, in accordance with the authority thus conferred by the Federal Government, to whom that territorial government belongs, the proceeding is carried on, it cannot be regarded as a legal proceeding, no matter what form it may have, and you cannot bind anybody by it. All are bound by the territorial organization, and this excludes the possibility of their becoming bound to any other, or by any proceeding to build up another. There can be no double allegiance or double obligation until Congress assent; and every movement, whether in conventions, primary meetings, or in any other form, stands, as to its legal character, on the same footing; and none of them can rise to a higher grade than a petitioning movement.

Mr. Chairman, constitutions have been made without enabling acts. That is admitted. Constitutions have been presented here that were not made in pursuance of enabling acts, and that were not submitted to the people, and Congress has received them, and has introduced the Territories presenting such constitutions into the Union as States. We can do just as we please about it. We have a right to receive all these applications as petitions; and when we are satisfied, by any kind of evidence we may have before us, that they express the will of the majority of the people, it is right that we should receive them.

But, sir, I take the position, and had I time I think I could make it plain, that it is impossible to institute a proceeding in a Territory without the consent of Congress, I care not how regular it may be, which shall be legally binding upon the people, so that, when it is brought here to Congress, we, too, are bound to entertain that proceeding, and admit that Territory into the Union as a State. As I said before, we may receive the constitutions presented, regarding them as peti-

tions; and it is all well if they express the will of the majority. For what, at last, are all these forms; what are your enabling acts; what are all these proceedings which occur in a Territory, but the mere machinery to ascertain the will of the people? That is what we want, and all we want; and when we have it, satisfactorily and beyond doubt, it is our duty, if we act at all, to act in accordance with that will.

Sir, it is objected that the people of Kansas have not properly made known their will. How have they expressed it? They have expressed it through the territorial government. We have upon our table the protest of the Legislature, in which they strongly condemn the Lecompton constitution; and, "as the representatives of the people, in their name and on their behalf, solemnly protest against admission under it." We know this, that the people are not acting rebelliously, and that the territorial government we have there is in unison with them.

That is not all, nor the half. The territorial government, believing that the Lecompton constitution was a fraud, and obnoxious to the people, passed a law to ascertain, without a doubt, their will in regard to it; and that there might be no uncertainty, resorted to a method of ascertaining their will, which ought to be more satisfactory to Congress than any and all others which can be contrived.

Under the pains and penalties of an election law, and all the responsibilities it imposed, the people were called upon to say, not through agents or representatives, but directly, whether they would have this constitution or not to bind them. They spoke at the ballot-box; they spoke with that voice which makes and unmakes Presidents; with that voice which made us; with that voice which keeps the whole machinery of this Government, and the State governments, in motion; they spoke in their great, primary, and most satisfactory method, and by an overwhelming majority condemned and rejected this constitution.

Mr. Chairman, where is the authority, where the precedent, that tells us that this voice of the people shall not be listened to in acting upon this application? I have waited with watchful ear to hear it. What case can be cited, what doctrine shown—how will any gentleman argue to show this expression of the will of the people, fairly, properly, and decently made under the sanction of the Government, to be illegal, and such as should not be noticed here? I cannot find it; I do not think anybody can find it. Observe, sir, when we, in our States, undertake to alter constitutions, we do it under the restrictions of the old constitution. The old constitution is our chart, and we proceed in just the manner pointed out in it, or in a law passed under it for the purpose. When we have gone through the course so prescribed, the work is ended and complete. Nothing more can ordinarily be done, and the new constitution goes into operation; because, in such cases, the old constitution, and the act passed for the purpose, bind the people to the course pursued, and make it the legal and only course by which to arrive at the result.

Again: when we proceed in a Territory, under an enabling act, then the enabling act furnishes the chart by which we are to go, step by step, presenting the course we are to take, and we can take no other. Therefore, if we depart from it, our departure, being contrary to law, is a nullity. When Congress has thus passed an enabling law, if it has been followed, Congress, then, should admit the Territory into the Union as a State. The enabling act is not only an authority which justifies the proceeding in the Territory, but may be regarded somewhat as a proposition or conditional promise to make it a State, in case it proceeds and prepares itself for admission, in the manner pointed out in the act. It is very clear that Congress is not bound to admit, where it has not previously passed such an act, and has entire liberty to consider, and approve or reject the application for admission. But here there is no constitution behind the people holding them to a particular course, and no enabling law tracing the line on which they are to move. But, in the language of the Kansas-Nebraska act, they are left "perfectly free" to do it, "in their own way."

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Let me here dispose of the question whether the Kansas-Nebraska act is what is meant by an enabling act. Suppose it were. It marks out no particular course to pursue, but leaves the people "perfectly free;" and there is not a word or line in it which forbids such action as the people took on the 4th of January. On the contrary, its true meaning and spirit approve just such action.

But it is not an enabling act. An examination of it will clearly show it was not so intended. It merely declares the principle which shall be recognized in that Territory whenever, in the future, they should be authorized to begin and prepare to become a State. President Pierce, after its passage, recommended that an enabling act be passed for Kansas; and the entire Democratic party in the last Congress, after its passage, voted for one, commonly known as the Toombs bill. And it is proper to notice here that the effort of the last Congress to pass the act referred to, was made three or four months after the beginning of the proceedings which ended in making the Lecompton constitution; thus showing that the last Congress did not regard those proceedings up to that time, as legal and binding. If they had so regarded them, they would not have attempted to supersede them by an act of their own.

Let me say, further, we have not only the known and expressed will of the people of Kansas, but the *last* expression of their will. Now, is it right, Mr. Chairman, especially if the constitution is not legally alterable until 1864, and if it be not the will of the people; if they are in earnest about it, and not indifferent; if it is a matter in which they take a deep interest—is it right to put this constitution upon them? Let us remember we are under no legal obligation, under no obligation of an enabling act, under no obligation whatever to do so. I here affirm, in my place, that if it be done now, it will be done for the first time in the history of this country. Never before has the Congress of the United States forced a people into the Union under a constitution which they had expressly, and by an overwhelming majority, rejected. I can understand how we might entertain a proposition of this kind, when we were not, beyond all question, advised that it was, in fact, withdrawn, if ever made. I could agree, in certain cases, to take their silence for consent. I could resolve all doubts in favor of admission; but here there is no silence, and we are not allowed to doubt. We know—we do not conjecture—we know that the people have condemned this constitution. We know that they condemned the constitution, and the proposition for admission under it, before the proposition was made to us. They condemned it on the 4th of January last, and it was not presented here until the 2d of February. I repeat it, the act now sought to be done has no parallel or precedent in our history. Where is the authority to do it? Where is the precedents? I call for them. We are told that we cannot do an *i* or cross a *t* of a constitution, because the people alone must make constitutions; and yet we now undertake to put upon them an entire constitution, which we know they have rejected and do not want.

There are many things which have occurred in that ill-fated Territory which I should be pleased to present and lay before the sober judgment and moral sense of this House. I will not attempt, in this stage of the debate to go into the history of Lecomptonism; it has been often discussed. This may be said of it: It is characterized by unfairness, bad faith, and a total absence of integrity, as a movement, properly and honestly, to make a constitution for the whole people. Nor will I refer to the acknowledged frauds which have been committed by it, offensive to the South and offensive to the North. But this I will say: there is nothing in its history which entitles it, in this tribunal, to a judgment as by default, against the people. It has no equitable claim to our consideration.

Mr. Chairman, if there be a spot of land in all our vast domain, in reference to which the South should be especially careful to ask nothing which does not seem fair, and where she should be anxious to demand the utmost good faith and fairness in the proceedings by which it was sought to introduce it into the Union, that spot is the Terri-

tory of Kansas. The line of the Missouri compromise lay on that Territory for about the third of a century, all the while an offense to the South. It really did offend that section of the country. It was effaced. The South said that it was a stain upon their honor. They complained of it as an odious distinction that had been made against them. It was removed, on that account, I suppose. Northern Democracy aided in the movement, and defended it. That is not all. We had, last session, an application from this Territory to enter into this Union as a State, under a different constitution. It was rejected with the aid of the Representatives of the North. It provided for making Kansas a free State; and was quite as good a constitution as this. It was submitted to a vote of the people and approved, but it was not rightly prepared. Although it would have made that Territory a free State, the northern Democracy assisted the South and rejected it. Topekaism was condemned by the North. In the name of the northern Democracy I demand that Lecomptonism shall not be forced upon us by the South. Courtesy for courtesy. Good deed for good deed. Kindness for kindness. Gentlemen say, that we object to the admission of Kansas because it comes as a slave State. Would its admission be so pressed by the South, if it did not come as a slave State? Sir, such an argument is unfair; and for one, let me say, that were a Territory to come here with a free-State constitution, under just these circumstances, with all this unfairness and fraud, with all this reasonable opposition from the South, with all this history about it which belongs to Kansas—and, more than all, with this emphatic condemnation by its people, I, too, would condemn it. It seems to me I would not hesitate an hour in opposing it. Topekaism was rebellious; it has suffered the death penalty. Lecomptonism is fraudulent, and judgment has been pronounced against it by the people. Let it be executed.

I have heard in this Hall the declaration that this would be an empty victory—that Kansas would be a free State very soon, and that the South wanted a mere empty victory. Mr. Chairman, that is not what I want. This House is no proper arena for victories for the South or victories for the North. I want neither. I want a victory for the people; a victory for the principle of the Kansas-Nebraska act; a victory for popular sovereignty.

I would deplore the passage of this Senate bill in its present form, disregarding as it does the rights of the people of Kansas. I would deplore it, because of its possible effects upon that people. You can give no assurance that there will be no trouble, no future wrong in Kansas, with this constitution set up and such knowledge as we yet have of the persons, who are to fill the offices of the three great departments of the government. Let us hope, however, that there may be peace; that there may be no resistance to the people, no struggle, and that all may be well. But I would deplore it, also, quite as much, because of its probable effects upon the more remote future and upon the country. Lecomptonism, I fear, will be remembered by the North quite as long as the Missouri compromise was remembered by the South. Be assured, it will make difficulties in the future, and may embarrass the South when she should not be embarrassed. I would pursue a course that should make peace and create mutual good will. We have other Territories besides Kansas, and, it may be, we shall acquire yet more, and those in which the South will have a deeper interest than in this. How shall we manage them? Again and again, and often, Territory after Territory will come before us for organization and finally for admission into the Union, as States. What shall we do with them? Hark! and we may hear the bounding footsteps of one, even now, hastening to this Hall. Arizona is at the door. How shall we organize her? Shall we shackle her with provisions, or shall we crown her with popular sovereignty? Shall we place it kindly and becomingly on her brows, or shall we crush it upon them, as a crown of thorns, a mockery, and the prelude to another crucifixion? Let us not approve this most unfortunate and miserable illustration of popular sovereignty. It is unjust, unwise, and inexpedient.

ADMISSION OF KANSAS.

SPEECH OF HON. R. P. TRIPPE, OF GEORGIA, IN THE HOUSE OF REPRESENTATIVES, March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. TRIPPE said:

Mr. CHAIRMAN: If we have grateful hearts, we ought all to be willing to render our thanks to the Giver of all good for the promise before us, that this "harp of a thousand strings," which has so long given out such discordant music, may at last be broken forever. It has been tuned so long by demagogues and fanatics to harsh and factious strains, as to almost cause us to forget those nobler anthems, which in former times swelled the national heart and gladdened the patriot's bosom. And would, sir, it were vouchsafed to us, before this vile instrument is cast away forever, to be used, if possible, for viler purposes than those to which it has hitherto been appropriated, that some mighty hand, nerved by truth and virtue, might sweep across its strings and perchance strike from its snapping cords some melody which they have not hitherto known, though it should serve no other end than to revive the memory of the harmonies of the past, and to remind us that we were once brethren, and could politically worship together, acknowledging "one Lord, one faith, and one baptism." But, sir, I fear that the hand of that minstrel lies cold forever; and, in looking over this broad land, wherever I cast my eyes, I see nothing but his tomb.

Mr. Chairman, this Kansas question, this slavery question, has been the foot-ball of party and faction long enough—used by *Cordelier* and *Jacobin* until our country has been erected into one vast revolutionary tribunal, before which every demagogue and fanatic is dragging, as a prosecuting Fouquier Tinville, every conservative; and, with his "moral proofs of guilt," is dismissing him thence to the *conciergerie* and the guillotine, to be counted as another in the great holocaust of victims that have already fallen under its murderous ax. It is time for peace. It is time that the voice of patriotism was once more heeded in the land; and it is time, sir, that the fanatics and demagogues upon this great question should die, and die the death that knows no resurrection. Would that I possessed the power of acting the executioner upon the great culprits!

Mr. Chairman, my colleague [Mr. HILL] upon the floor of the House the other day, expressed a sentiment which I have privately and publicly expressed on all occasions; I have done it before my own constituency at home; I have done it in private conversation to those with whom I know I differ as far as from pole to pole; and it is this: that slavery is not a question for discussion here. If it is right, then one portion of the country has the right; if it is wrong, then one portion suffers that wrong; and he who stands upon this floor, in the face of his countrymen and the world, and abuses and slanders the people of one section because they have an institution which he does not approve, and to which they have a clear constitutional right, is unworthy his seat here, unworthy of his constituency, and unworthy of the country that protects him. The question of slavery, I repeat, Mr. Chairman, is not a debatable question proper for these Halls, and I will not enter upon it. When the effort is made, I plead to the jurisdiction, and will come up to all the requisites of such a plea by showing where the true jurisdiction is, to wit: in the people to be affected by it; and if you would still claim to pronounce judgment, I, for one, would pronounce that judgment as *coram non iudice* and void, and a tyrannous assumption of power over the rights of those who have both the right and the power to determine for themselves.

Mr. Chairman, in dismissing this point, and coming to the great one now absorbing all others, I beg leave to say, that when any man declares that one portion of this Confederacy could, would, or ought to be subjugated by another portion, and held as a subject province or colony, and that, too, because it refuses to be deprived of its most sacred rights, he utters a sentiment which involves

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a libel upon American history and Anglo-Saxon blood, and is as credulous as he who is spoken of in Holy Writ, who "believed a lie that he might be damned."

Mr. Chairman, I shall vote for the admission of Kansas under the Lecompton constitution. The question is put with a great deal of ingenuity and force: will you vote for the admission of a State with a constitution when a majority of the people of that State are opposed to that constitution? Sir, if that were the sole point in this question, or if it constituted the real gist of the matter, I answer emphatically that I would not, and I would condemn the man, as much as any one, who would avow the naked principle that he would be willing to force any constitution or any government upon an unwilling people. But I repudiate that as being the test of my action or my vote, and think I can plainly demonstrate that there are controlling circumstances surrounding this question, which materially modify the aspect in which the opponents present it, and comes as near as the point can be reached of stopping this great cry, that the will of the majority is about being violated, and that a constitution odious to that majority is about being forced upon them.

Sir, I am willing to meet this matter and argue it on the basis on which the opponents of the admission of Kansas put it, to wit: that there is a majority of the people of Kansas opposed to this constitution. There may be some difference of opinion on that point, but I believe that the general current is, that there is, in all probability, such a majority. I will go yet further, and concede, for the sake of argument, the very largest majority that has ever been claimed. Some gentlemen on this floor have said that majority was ten thousand. That, sir, was the full vote against the constitution on the 4th of January, without deducting any that were cast in its favor on the 21st of December. I see, sir, by the dissent indicated by several gentlemen on that side, that they do not claim this majority. Very well; how, then, stand the numbers, according to their estimates? Six thousand on the 21st of December in favor of the constitution; of this they allege, as fraudulent, twenty seven hundred—leaving thirty-three hundred legitimate friends. For the sake of the argument which I make, grant it. On the 4th of January the opponents of this constitution they say polled ten thousand votes, making six thousand seven hundred majority against it. Yes, sir, these are the figures according to their own showing—that out of an aggregate vote of the two elections together, of thirteen thousand three hundred, they have a majority of six thousand seven hundred, or more than three to one. And it has been pretty strongly asserted that the proportion is still greater. But certainly, sir, the above is sufficient to satisfy the most inordinate ambition on the other side in the way of figures.

Here, then, Mr. Chairman, according to the claim of gentlemen of the other side, is a question which not only presents a state of matters that on its face would be totally inexplicable, but which, in reality, presents strange and suggestive portents, the true solution of which would not be favorable to this great majority in this distant Territory; and which, if fully explained, might reduce their loud cry about fraud and violated rights, into a puny whine, and that, too, affected, because they did not get what, in reality, they did not want—a final settlement of this vexed question.

What, sir, is this case? A history may be written upon it to give its full details, but I will state it briefly. Four years ago by the legislation of Congress, by the construction given to that legislation, and by the excitement produced by it, the peace of the country, if not the existence of the Union itself, seemed to rest upon the result of a struggle that was gotten up, whether slavery should or should not be established in a certain Territory of this Union, when it formed a State constitution. It was a matter that should have been determined peaceably and quietly, had patriotism governed, but the fanatic and factionist did not so intend. Every means was resorted to, and the very policy adopted that produced furor and excitement amongst the people. Parties were overthrown; a new and great one, great in its strength and numbers has sprung up, which has about taken possession of one half the country.

The armies of Gog and Magog seemed to be turned loose. The world stood on tiptoe to watch the contest whether Kansas should be a free or a slave State. So high and furious waxed the struggle that it threatened civil war, and caused the patriot to ask the question, where will all this end? and made the stoutest to fear that his own loved Union might be involved in the result.

Mr. Chairman, in the midst of this confusion and danger, the very identical question that had gotten it all up, was in June last to be determined by the people of that Territory. An election was then to be held for delegates to a convention, which body could frame the organic law of a new and sovereign State, and which had sole jurisdiction over the matter and could forever settle it. A judgment that should have been final, at least until that very people would have wished to open it as they might have done when a State, was sought to be pronounced. All parties were summoned to the trial. Ample security and fairness were guaranteed, and the prayers of all true patriots were rendered, that a settlement might be secured which would give peace to a distracted country.

But what is the result? After the trial has gone through, and the verdict pronounced, one party is loudly protesting, and claims that an overwhelming majority, a majority of more than six thousand is against that verdict. As a judge who is to determine on this impeachment of this verdict, I demand to know, how it is, if there is the great majority you claim, that such a verdict was rendered?

The answer, Mr. Chairman, to this question is twofold. First, they say an unfair registry was made; that a large number of legal voters in several counties were refused a registry, and hence could not vote. I will not stop here to go fully into the merits of this reply as to the facts, but will say that the evidence is clear and satisfactory that a large number of those who were not registered refused to be registered, and that some of the disfranchised counties expelled the officers who were sent to make a registry. But take the fact as claimed, and you cannot make out, by the greatest count that you can in reason reach, more than some thousand votes in those disfranchised counties. Granting, then, that these thousand voters were illegally deprived of a hearing, and there would still have been five thousand seven hundred majority, according to the Opposition. Why did these not vote? Why did they not, when power was in their reach legally, stretch forth their hands and grasp it? Why did they not at once determine this vexed question according to the will of such a huge majority, and give peace to the country?

Sir, upon my view of the answer to this I rest my action, and am content that it should determine the character of that action, whether it is just or unjust to those who make the plea. It is said by that people, and by their strongest advocates here, that they knew they could not get justice, and therefore would not come to trial; that they knew fraud would be practiced, and right denied.

Mr. Chairman, it is but a poor plea that the suitor for justice would set up as a reason against a trial, that he knows wrong will be done him and justice denied. It would not avail in any court in Christendom. He would be told to defend his rights and trust to the law and the revisory power of the court or other tribunals to set aside fraud, or to vacate a corrupt verdict. Is the apprehension of fraud or violence sufficient to vitiate any election, from a constable's to the President's? It is not pretended that this belief or fear was founded on any threats or concerted arrangements, or that there were any signs thereof; and the only pretense set up was, that at the first election for a Territorial Legislature, there were fraud and violence. It is simply contemptible to say that that was sufficient in advance to vitiate any and all future elections.

But, sir, there was a corrective power; there was a power to have prevented the consummation of any fraud or any violence. That power was the Congress of the United States, which have full authority to determine the final question of admission. Had there been an honest effort on the part of all the legal voters to have been heard, and by any means that were unjust and unfair the rights of the majority were denied, no man will

pretend that Congress could not have intervened, and even if it could not give at once full force and effect to the will of that majority, it at least could prevent the consummation of the wrong. It would have been within the clear, legal, and constitutional competency of Congress to have listened to such an appeal, and to have determined such a question; and it would have been its duty to have decided according to the facts.

Sir, that was the course that should have been pursued. It was the only course, to wit: to have tried to "form their domestic institutions" according to their own will; and, if unjustly prevented, to have then appealed to Congress to set aside a fraudulent verdict—to grant a new trial.

Mr. Chairman, will it be replied in answer to this, that Congress was not to be trusted—that faith was not to be placed in the Senate and House of Representatives, and the President of the United States? Who would set up this answer? Who alone is entitled to make it? Counsel cannot do it without the authority and in the name of the client. Gentlemen cannot do it here except in the name of, and speaking for that part of the people of Kansas who protest against the judgment. If they make it, what spectacle do they present? First, they impeach the authorities of the Territory, as intending to be guilty of fraud, and then impeach Congress as being willing to become parties in that fraud. They outlaw the territorial authorities as unworthy of faith, and then pass a general judgment of outlawry against the constituted authorities of the whole country, and challenge one and all as unfit to preside in the case. Sir, I will not listen to such a plea. I would strike it from the record as insulting and scandalous. I would not formally pronounce upon that which distinctly charges infamy on myself, on my associates, on the Senate, and the President, and on the whole legislative and executive departments of my country. And yet, sir, that people to meet the point made, to wit: that they should at least have struck for their rights when the chance was afforded them, are compelled to assume this strange, insulting, and slanderous position.

I repeat, sir, that the course for that people to have taken, and for not doing which they cannot complain of their self-imposed disability, was, when this question was before them in the election of delegates last June—had they been patriots, and desired the peace of their country; had they been true to the cause they proclaimed; had they wished the whole matter settled "in their own way," and just as they wanted it—to have made at least the effort, as freemen, to proclaim their will; and, had they fallen by wrong and injustice, to have entered their caveat, and appealed to the proper tribunal against the fraud. There would have been nothing unmanly in this; and such should have been the course of patriots, who, knowing their rights, will dare to try to secure them.

Mr. Chairman, some time before this election in June, Governor Walker and Secretary Stanton were in Kansas, pledging and guaranteeing the people a fair and honest election, and begging—ay, sir, imploring—them to vote, and let their voice be heard in determining the controversy. In my opinion, sir, in attempting this, he even went so far as to commit a great outrage against their rights, and to make threats that called for condign punishment; yet they would not vote. Deaf to entreaty, to promises, to the true interest of their own cause, to the calls of duty, they took refuge in mere stubbornness; and, conceding their great strength, they, like the giant, either went to sleep, or took the "sulks," until he was bound with cords, and then aroused with a loud cry that his rights were about being violated. Let that giant break those cords as best he may; I do not think he has any strong claim on me to help unbind him.

But, sir, in three months after the election in June—within three months after that election at which was chosen the body who had power to decide this exciting question—a change came over the spirits of this recalcitrant people, and without any additional legislation, they went to the polls and voted, and that, too, at an election of by no means the importance of the first. They not only voted, but succeeded, elected their Delegate to Congress, and the Territorial Legislature. That

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Delegate is now occupying his seat, and that Legislature has been more than once in session.

Mr. Chairman what does all this mean? How would the calm and unprejudiced observer be compelled to read this history? Take it altogether, and I confess I see no other solution than this: that that people, either from some outside influence, or from some unhallowed motives of their own, did not desire an adjustment of this question; that they did not desire peace; and that the whole matter must be kept open for the benefit of those whose capital was excitement, and whose aim was to build up party by the aid of that excitement. Sir, I would not unjustly charge any person or people; but, fearing this, I will say, that Kansas has been a disturber of the public peace long enough; and if it can be done, good bonds to keep that peace ought to be put upon her. At least, I would so act that when she feels disposed to get up any further difficulty, she may not only have the right to settle "her own domestic institutions in her own way," but that that "difficulty" may become, if she will have it, one of those "domestic institutions" which she shall have the same "organic" right to settle in the same way.

Mr. Chairman, if Kansas is admitted under this constitution, and there be this great overwhelming majority of three to one, what great harm can practically ensue? More especially is this question pertinent when that majority has the whole machinery of the State government. I know the reply is made to this that the Lecompton constitution does not provide for any change until 1864; and that it is only a revolutionary right which the people have to change that constitution before that time. I will not, Mr. Chairman, assume any formal position now on that question, as the brief time I have does not allow me either fully to state it or to fortify it. I cannot concur in what the President has said on this point; but practically as applicable to this case, I will say that there is nothing in the Lecompton constitution that in terms prohibits any change before 1864. And if the majority in Kansas in favor of a change is so great, being ten thousand out of thirteen thousand three hundred, and that majority has now the whole government, no one can doubt what the result will be. With all official power, and that power willing; with such numerical power, and that power anxious; no government on earth ever did or could stand six, or five, or four years against it. If it be revolutionary it would of course be a peaceable revolution, for one government would simply abdicate in favor of the other; and that other sustained by three to one of the people. What I mean is, that it would, all this being true, obey the great law of human nature, and change itself. I speak of what, in all probability, would be the practical end of this whole matter, and not of constitutional right; nor do I believe it to be competent for Congress in this bill to pass upon that question.

An amendment has been put on the bill for the admission of Kansas, in relation to this point, about which I desire to submit a few remarks. It is in these words:

"And that nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas at all times to alter, reform, or abolish their form of government, in such manner as they may think proper, Congress hereby disclaiming any authority to intervene or declare the construction of the constitution of any State, except to see that it is republican in form and not in conflict with the Constitution of the United States."

These words, sir, seem fair and plausible; but I do not like them. They say "nothing in this act shall be construed to abridge or infringe any right of the people," &c. Does this special repudiation of such a construction being put upon this act imply that Congress could pass any act upon which such a construction could be legally put? Or that Congress could have put anything in this act which should legally admit of such a construction? If that be their meaning, I repudiate them altogether. Do they mean to set up, as a special congressional declaration, the wild radical doctrine of Dorrism? If so, I repudiate them. Why put all that in this bill at all? Is it a bait for gudgeons or a tub for the whale? Into whose brain did the faintest idea ever enter, that the act admitting a State into the Union could, by possibility, have any control over the meaning of its

constitution as to the right of the people to change that constitution? Where are there any words in that bill that, by any construction or distortion, can have any possible connection, directly or indirectly with the matter of the right of a people to alter or change their constitution? Unless, then, this declaration is utterly impotent and meaningless, I fear that there is a "cat under the meal." If they are intended to have any practical efficiency, I here enter my protest. I trust they will be stricken out, and that we will not again run the risk of a double construction of fair-seeming and high-sounding speeches introduced into the body of this bill, as we did in the celebrated declaration in the old Kansas-Nebraska bill.

There is another fact in this Kansas history, Mr. Chairman, to which I wish to refer, as in my opinion it has tended no little to complicate the question, and has furnished almost the whole capital to the opponents of the admission of Kansas. The organic act declared, "the people perfectly free to form and regulate their domestic institutions in their own way, subject to the Constitution of the United States." Governor Walker, in last May, went to Kansas, and as the agent of the Administration in his very first act, to wit, his inaugural address demanded that the people of Kansas should "form their domestic institutions," or frame their constitution after a certain mode specified by him. This he repeated in his Topeka and other speeches, and backed them up by threats of preventing their admission into the Union unless they complied; and further declared, that in this he represented the President of the United States. One of those modes specified by him, was that any constitution that might be made should be submitted back to a vote for ratification or rejection. Did the Constitution of the United States require this as a prerequisite for admission? It would have been perfectly right and proper for the people so to have done had they seen fit; but the attempt to coerce them was an outrage that has never been redressed.

I have stated that in this, Governor Walker said he was representing the President of the United States. And how turns out the case? The only difference between the President and Governor Walker is, that the President says he meant that the slavery question was the question that the people of Kansas, in framing their constitution, must submit back to a vote. Walker was for the whole being submitted, and so was the President, and says so in his message; and further takes the position again and again that would have compelled him to resist the admission of Kansas had not the slavery question been so submitted. He says:

"In the Kansas-Nebraska act, however, this requirement as applicable to the whole constitution, had not been inserted, and the convention were not bound by its terms to submit any other portion of the instrument to an election except that which relates to the 'domestic institution of slavery.'"

Here the President broadly asserts that the Kansas-Nebraska act, "by its terms" bound the convention to submit the question of slavery back to an "election." Of course the inference is not only legitimate, but irresistible, that if the convention had not thus submitted the question of slavery, he would have redeemed the pledge of Walker, and opposed the admission.

Sir, with all due respect to the President, I beg leave to say, that no man, woman, or child in all this broad land ever heard of such a construction to the Kansas-Nebraska act, until they read it in the message. That act had been read by everybody, discussed and scrutinized and canvassed as no act of Congress had ever been before. The very words the President quotes to sustain his construction, had become as familiar as household words to everybody. All had them by heart, and countless inquirers were asking and quarreling about their meaning—but no one hinted or suggested, the idea never found a lodgment in print, or was whispered on the air, that that act meant what the President says it means, and yet, as to its meaning this, he says he "had never entertained a serious doubt." Very well, sir, I will not dispute what the President's convictions were, but I will say, that he was not only the first who ever promulgated the idea, but that down to the present day I have never heard that he has found a single indorse.

If the President is right in saying that the Kansas-Nebraska act required the constitutional convention to submit the question of slavery back to an "election," then are Walker, Douglas, and Stanton right in holding that the whole constitution was required to be submitted. But either the one holding or the other is a forced construction; and when any Federal agent or authority raised such a question on that people, a great wrong was done; and when the demand was made, an outrage was attempted.

I have said that this demand, or this position on the part of the President and Governor Walker, tended no little to complicate the whole Kansas imbroglio, and has furnished in its results the groundwork for the most of the arguments of the enemies of admission. How? The convention, overawed by these threats, or seduced by the powerful influences brought to bear upon them, did submit back to an "election" the question as to the future importation of slaves. From the history of the preceding election no reasonable man could believe that but one side would vote, and we had the spectacle of another "election," with very few voting but the friends of the measure. It was not to be expected that when there was no opposition the full strength of the friends of that measure would be exhibited. Moreover, with the wild construction that had been claimed for this great doctrine of "popular sovereignty," the free-State Legislature, which had just come into power, concluded they would take the strength of their side, when they knew they would have no opposition. They appointed another, and a subsequent day, to take the vote again. They had seen the hands of their opponents, and they knew precisely what they had to overcome. The calf had been taught exactly how high he had to jump, and he jumped it. There were no obstacles in the way, and clear over everything the leap was made by thousands, and now comes up the hue and cry that the plan of the President has been adopted, and upon the high principle of "popular sovereignty" the Lecompton constitution must be rejected. I here put the question: if this demand of a submission back to an "election" had not been made and enforced, and the convention had framed the constitution and applied for admission, where would have been the inch of ground upon which the opponents of admission could stand? None whatever, except that voters were not registered, who refused to be registered, and that certain counties were disfranchised, which refused to comply with the law that would have secured their rights.

Let then, sir, the responsibility for this distracting state of the question rest upon all who have aided in bringing it upon us.

Mr. Chairman, I have remarked that this Kansas question has been the instrument with which parties and factions have worked long enough. For years it has absorbed everything else but the Democratic party; and it really does seem as if, at last, it was about making its final bait of that powerful organization. Under the excitement it has produced, the Republican party had its birth, and has grown up to colossal proportions, more terrible than an "army with banners." It has given that party its war-cry, and is the life-blood of its existence. By a sort of *converso* principle, produced by the same cause, the Democratic party had pretty nigh taken captive another portion of the country. Between these two great parties, thus strengthened, the American party, with its noble aims, and with its great leading principle, to-day deeply rooted in the hearts of three fourths of the American people, has almost fallen, like the good man overcome by a multitude of sinners.

Where then, sir, is the patriot who does not wish to relieve his country from this pressure, and to enable the people to come up to the consideration of other great principles intimately connected with their present interests and future prosperity? Happy would be the lot of that man who could remove the Achan's wedge, and bring back once more the blessings of Heaven upon our political Israel.

I may be mistaken, Mr. Chairman, in one great object I hope to aid in securing by my vote. I am for peace—an honorable and lasting peace—heart and soul; and short of a sacrifice of princi-

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ple, I dare not sacrifice; short of a surrender of rights, which would be degradation—I would be willing to adopt any honorable course to give and secure that peace to a distracted country. I shall take this step, and give this vote, hoping, if it succeed, that peace may come. As it is, I know full well we have it not. The old vessel is cabled fast to the shore, as if to a "body of death," striking heavily on the rocks that surround her. She cannot part that cable, and go out to seek deeper and safer waters. There she is, bound by this Gordian knot. As a pilot or mariner on board, it is on me to join in deciding what shall be done. It may be a dangerous attempt, for serious threats are made; but, risking all, I would cut that Gordian knot, turn loose the ship, hoist sail and strike out for more quiet waters, where the winds of heaven may fill her sails, and send her on her way rejoicing.

Let the deed be done; and give the patriot's prayer—God speed her, and send her safe deliverance!

AFFAIRS OF KANSAS.

SPEECH OF HON. F. H. MORSE,
OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1855.

The House being in the Committee of the Whole on the state of the Union—

Mr. MORSE, of Maine, said:

Mr. CHAIRMAN: During the discussion which has been going on here for so many weeks on the question of admitting Kansas into the Union under the Lecompton constitution, much has been said by both sides on the general question of slavery and its influence over the prosperity of the country. I shall not enter upon a discussion of these topics now, but hope, on some future occasion, to have an opportunity of being heard in defense of free labor, and in an attempt to illustrate its elevating influence on modern civilization. But in this debate I do not think it wise too far to divert attention from the real issue tendered, and lose sight for a moment of the wrongs of Kansas and the crimes of her enemies. In what I propose to say, therefore, I shall confine myself strictly to the question before us, and attempt to show that this instrument, called the Lecompton constitution, did not originate with the people of Kansas, or come from any legalized body of men elected by, or recognized by them.

The admission of a new State, to our still young and growing family of stalwart States, ought always to be an occasion of much interest. It is not a union of one old country to another, venerable from age and made weak by worn-out institutions, but it is the birth of a new State, nursed and grown up in the wilderness, where the lights of civilization have never before shone. And when, in the formation of a new State, our form of fresh and vigorous civilization, with its free industry, free institutions, and self-government, spreads and expands to the waste places of the earth, it ought to be a cause of joy to the whole land, and to all lands where civil and religious liberty is known and tolerated. We have now pending before us a proposal to admit a new State, where, but a few years ago, the Indian and the buffalo were lords of the forest, and the only disputants of empire; where the music of machinery and the hum of civilized industry have silenced the Indian war-whoop and the tramp of the buffalo. It is true, sir, her star has not risen on an unclouded sky; storm and tempest have hung around her pathway, and her young heart grown strong and bold midst the fire and blood of oppression. But her courage and devotion to liberty will conquer all. The dark clouds that hang over her will soon disperse, and leave a bright and glorious future before her.

In considering this question I shall indulge in no fine-spun theories as to the obligation of a constitutional convention of a Territory to submit its work to a ratifying vote of the people, in all cases, or the independence of such convention of the people, as some have argued, or whether the Nebraska and Kansas bill was an enabling act; nor shall I calculate the number of States which have been admitted without the ratifying vote of

the people. All such, in my judgment, are outside questions, and can only mystify and lead astray, or, at best, form a poor and pitiful apology for disregarding the wish of Kansas, and depriving her people of their rights.

The real and substantial question is, where did this Lecompton constitution come from? and do the people of Kansas unite on it, and ask to be admitted into the Union under it? If they do not, and a clearly ascertained majority of them oppose it, and decline to make it the constitution of Kansas, and live under it, then we are setting aside and overturning the whole theory and practice of American governments. You are uprooting the foundations upon which the whole fabric of American liberty rests—the principle of self-government; and forcing a constitution and institutions upon the people of a State under which they are determined not to live. There never yet has been a new State forced into the Union contrary to the wish of her people, and with a constitution they detest. In every case of the admission of a new State, up to this time, the people of the new State have been allowed, not as a privilege, but as a right, to form their own constitution. When the Congress of the United States departs from this great American principle, and permits the national Executive to encourage, and, with military power, protect a wicked faction in imposing an obnoxious constitution on a free and intelligent people, there is an end to self-government, and the beginning of despotism.

Now, sir, what has been the desire, the action, the control of the party in power, mainly through its Executive and its instruments in Kansas, in molding the affairs of that oppressed Territory, in controlling her people, in preparing her laws and this constitution, and in forcing them on a continually protesting people? Did this instrument come, through any of its stages, from any legally organized body, or association of men, in which the people of Kansas were fairly and legally represented? It is to a consideration of these points that I wish mainly to address myself during the brief hour allotted me under your rules.

I declare fearlessly, and with a full knowledge of what I say, that the first and last, and almost every intermediate act of the Central Government and its agents in Kansas, in controlling her people and molding her political and civil institutions, was a violation of her legal rights, and of justice and humanity. That usurpation and tyranny have reigned there, under the protection of this Government from the beginning to this very hour. And now, sir, go with me over the leading official acts in that Territory during the last four years, and see what proof we can discover to sustain these allegations.

You started with the clear, unmistakable purpose of making Kansas a slave State, otherwise there was no definite object in the repeal of the Missouri compromise. Such was the oft-repeated declaration of your partisans in Kansas, such is the testimony of Governor Geary, and the entire territorial history of Kansas. The first election held in the Territory under the law establishing the Territory, was on the 29th of November, 1854, for a Delegate to Congress. The law of Congress required voters to be "actual residents" of the Territory. The whole vote thrown, legal and illegal, was two thousand eight hundred and thirty-three; of these Mr. Whitfield received two thousand two hundred and sixty-eight, about one thousand seven hundred of which were illegal, and only one thousand one hundred and fourteen legal. But this has no other bearing on the case under consideration than to show that the government of the Territory was begun in fraud, and that the first election held there was controlled by non-residents and strangers.

Preparatory to the first election to the Territorial Legislature, a census of the inhabitants and a registry of the voters were taken. This was done without excitement, was full and fair, and included about all the inhabitants at that time residing within the Territory. The return of this census was made on the 25th day of March, 1855, and gave eight thousand five hundred and one inhabitants, two thousand nine hundred and five of whom were voters. The election for members of the Territorial Legislature was held on the 30th of March, 1855, one month after the census was

taken. This was an important election to the citizens of Kansas, by far the most so of any to be held there during their territorial condition, as it would establish a code of laws for their government, and shape and guide, for a time, if not settle permanently, her future policy and institutions. If the legal voters, the actual residents, had not been interfered with from without, but been left to manage their own affairs in a peaceful and legal manner, all would have gone on harmoniously, and peace and prosperity walked hand in hand. But, unfortunately for Kansas and the credit of the country, this was not the case. An armed invasion was organized in a neighboring State to control that election. Preparation for this most extraordinary event had been going on in Missouri for many months, and many of the leading citizens and presses of western Missouri were vigorously urging on these preparations. Let me give an extract from one of these papers, as a sample of the border editorials of that day. The *Weston Reporter*, of March 29, 1855, one day before the election, says:

"Our minds are already made up as to the result of the election in Kansas to-morrow. The pro-slavery party will be triumphant, we presume, in nearly every precinct. Should the pro-slavery party fail in this contest, it will not be because Missouri has failed to do her duty to assist friends. It is a safe calculation that two thousand squatters have passed over into the promised land from this part of the State within four days."

This is true, sir. They did march across the State line into the Territory at this and other points by thousands, and were distributed over the Territory to the several ballot-boxes in such numbers as were required to control the vote of each. And these foreigners and enemies of free Kansas did control every ballot-box in the Territory save one. But little more than one third of the free-State men in the Territory voted. The right was denied them by the usurpers, and they could not exercise it without bloodshed, and the fear that their comparatively small band, unprepared for conflict, and beyond the reach of friendly aid, would be borne down by the armed hosts of invaders. It will be remembered the census and registry of voters were taken to prepare for this election, and showed a population of eight thousand five hundred and one, and two thousand nine hundred and five legal voters; and yet, at this election, six thousand three hundred and seven votes were polled. The Administration vote was five thousand four hundred and twenty-seven; and the free-State vote, seven hundred and ninety-one. A committee of this House, sent to Kansas to investigate the election frauds, conclusively showed, by an examination of witnesses, the poll-books where each voter's name was recorded, and the register where each legal voter's name was recorded before election, that only one thousand four hundred and ten of these six thousand three hundred and seven votes were legal; and that seven hundred and ninety-one of these one thousand four hundred and ten legal votes were cast by free-State men, and eighty-nine were scattering, leaving only five hundred and thirty legal votes for the Administration or pro-slavery party. Although the free-State men, hunted down as they were, really threw a majority of the legal votes, and no doubt elected a majority of their members to each branch of the Legislature, they were not allowed a solitary seat in either. Does it need argument, Mr. Chairman, to prove that a Legislature thus elected by non-residents, strangers, and invaders, was an illegal body? A bare statement of the case is an irresistible argument; and I should as soon think of presenting an argument to convince you that the waters of the Potomac have not dried up, when you see its current before you flowing on to the ocean. It is important to remember that one branch of this Territorial Legislature, the Senate or Council, was elected for two years.

It was a Legislature thus placed in authority by a foreign power, that passed the bloody code, and tried to seal the lips of freedom; which enacted that every territorial officer, not appointed by the President, should be but an emanation of itself and a creature of its will. For fear the Governor might occasionally forget his duty to his masters at Washington, and lean towards justice and the people, they made his legitimate duties as Governor as light as possible. They elected all county officers for a term of years, and then pro-

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vided that census takers and judges of elections should be appointed by certain county officers. In this way that usurping Legislature, the illegal creature of violence and fraud, accumulated all the active powers of the government in its own hands, and upheld by the President and the Federal Army, was the imperious master of Kansas. Without the support of Presidents and Cabinets, and the United States Army, they could not have maintained their power a single day.

The next election having any bearing on the formation of the Lecompton constitution was held October 1, 1856. At this election a delegate to Congress, and members of the Territorial House of Representatives were to be elected, and the Missourians were asked to express an opinion on the question of forming a constitution for their colony of Kansas. This election was held under laws passed by the bogus Legislature, and were not the laws of the people of Kansas, but of their oppressors. The people did not regard the doings of that creature of the great invasion as constitutional and legal, and would not, and never did, demean themselves so much as to respect or obey them. At this election the great body of the people of Kansas did not vote, and why?

In the first place, no free-State man could vote without paying a tax under the territorial laws, and apparently indorsing the usurpation, and paying the usurpers for the crimes committed against them.

In the second place, no free-State man could vote without being liable to have first administered to him, at the polls, a *test oath*, a thing heretofore unheard of in a free country, and ought never to be tolerated by a free people.

In the third place all the machinery of the elections was in the hands of their worst enemies, selected for their peculiar qualifications for the duties imposed on them. They were not responsible to either people or law. Their duty was always to see that votes enough were returned to elect the pro-slavery candidates, and if they were responsible to any power, it was to a Legislature forced on the Territory by foreign votes and the Federal Army. These men could administer oaths, demand the payment of taxes, and then make up the returns to suit the *wants* of the tyrants who controlled the Territory. Could you expect men who knew their rights, and when there was no hope of success, to vote under such humiliating circumstances? Serfs may consent, but free men never.

But again, sir, had they humiliated themselves before their oppressors, taken the repulsive oaths, rewarded their masters, in the form of taxes, for their scourges, and attempted to set up a rivalry of honest votes against fraudulent returns, they could have accomplished but little, even if success was possible against such obstacles, for only one branch of the Legislature was to be elected; and if there was any hope of carrying that, they could right no wrongs. The Council, or Senate, was elected for two years, and held over. If they could have carried the lower House at that time, against the insurmountable obstructions placed in their way, it would have been a barren victory. For with the Senate, the executive, the judiciary, all the machinery for conducting elections in full operation, and all county and State officers against them, they could have accomplished nothing. Under such a state of things, the free-State men showed their wisdom and manhood by withholding their votes.

You will remember, Mr. Chairman, that a Delegate to Congress and representatives to the Territorial Legislature, were to be chosen, and the sense of the people taken on calling a constitutional convention. At this election Mr. Whitfield, the Administration candidate, received four thousand two hundred and seventy-six votes, more than twice as many as the pro-slavery party ever had in the Territory; and by a peculiar genius they have for *making up* returns, they could easily have doubled this number, had as many been necessary for their success. The vote polled, or returned, for Whitfield, showed the extent of their preparations, and that they had determined to overcome all opposition, even had the free-State men appeared at the polls in full force. The readiness of the "Blue Lodges" of Missouri, and their own expertness at bringing up any arrear of

votes by long returns, would have proved equal to any emergency. At the same time, and at the same polls from which Whitfield had these four thousand two hundred and seventy-six votes returned, the constitutional convention was approved by only two thousand five hundred and ninety-two returned votes. This falling off, of nearly one half, showed great negligence, or indifference, in some branch of the vote-manufacturing department. Whether the fault is to be attributed to the carelessness of their Missouri friends, and their hurry to get home, or to laziness or negligence in the directory-copying office, the result is certainly not very favorable to a popular expression for a State organization.

But the rulers of Kansas, in and out of her territory, determined that she should become a State, and a slave State, too, while they could control her institutions; and therefore the census and convention law was passed. This law was apparently fair; and, in the hands of honest men, would have worked well enough. Yet it was cunningly contrived, and a capital law for the dishonest to commit frauds under. Those who were charged with its execution could, and did, so execute it in the several districts as to control the elections in the districts. The execution of the law was under the direction of county officers selected by the Legislature, and of course were selected with direct reference to the nature of the delicate duties to be required of them.

As, under the new policy adopted by the Administration party for the government of the Territories, there was to be no "intervention" by the Federal Government in them, the curious may feel some interest to learn the origin of this law. I will give them what light Governor Geary throws upon the subject. His private secretary says, in a book written under the sanction and direction of the Governor:

"This was the most infamous scheme to rob thousands of freemen of their right of the elective franchise that has ever been devised in this or any other country. The bill was created with much care and cunning by certain United States Senators at Washington, and sent to Lecompton, with orders for its adoption without alteration or amendment."

"Upon ascertaining the nature of this act, Governor Geary, before its passage, sent for the chairmen of the committees of the two branches of the Legislature, General Coffey of the Council, and Colonel Anderson of the House, and informed them that, if they would consent to a clause referring the constitution that might be formed by the convention to the citizens of the Territory for their sanction or rejection, before its being submitted to Congress, he would waive all other objections and give it his approval."

The reply of these men was most remarkable. It comes from your own witnesses, told by your own witness, and truthfully illustrates the whole page of Kansas history. Governor Geary continues:

"The reply was that that suggestion had already been fully considered and discussed, and could not be adopted, as it would defeat the only object of the act, which was to secure, beyond any possibility of failure, the Territory of Kansas to the South as a slave State. Any alteration in the bill would be fatal to their projects. Even should they allow the spring immigration to take part in the election, their plans would be frustrated. This, they said, was their last hope, and they could not let the opportunity pass unimproved. They had already, in anticipation of the passage of the bill, so apportioned the Territory, and made such other preliminary arrangements, that the success of this grand project was placed beyond the reach of any contingency that might now occur."

Comment on such a scheme of villainy, to cheat and plunder a people of their rights, is unnecessary. My leading object is to examine and record the manner in which that census law was executed, and show how the people of Kansas were plundered of their legal and constitutional rights under it. They refused to submit the constitution to be formed to the people, because they knew the people would reject it, and confessed such submission "would defeat the only object of the act." The law provided for taking a census of the population, and for registering the voters of the whole Territory, under the direction of the sheriffs of the counties. It formed nineteen districts out of thirty-three counties, and provided that sixty delegates to the constitutional convention should be apportioned on the census, to be returned by the census-takers. These census-takers were appointed in each county by the sheriff of the county, and no doubt suitable care was taken to select men fit for the work to be done. All the counties were not included within

the districts. Those excluded were disfranchised by the census law itself, and were Washington, Marion, Arapahoe, Dickerson, and perhaps one more. Now, sir, let me examine with some care these notorious census returns, and the manner in which they were taken; for out of them grew the Lecompton convention and constitution.

The leading fact to be noticed is, that returns of the census were made from only fourteen of the thirty-three counties in which the law imperatively required the census to be taken; leaving nineteen counties of the thirty-three from which no census returns were made. These nineteen counties, with the four not districted, makes twenty-three from which no return of population was made. Feeling that some excuse for such an outrage against the rights of a free people would be demanded by the country, it was first said that the people refused to come forward and be registered. But finding they could not stand on such an impotent apology—that it was the duty of the officers to go among the people, from house to house, and take the number of the whole population, and post up the names of the voters that each might see that his name was registered, the ground of defense was changed.

It is now said that the people of the disfranchised counties would not permit the census to be taken in them. On what proof, sir, does a charge so unnatural and groundless rest? If the officers had been prevented from performing their duty, witnesses would have multiplied upon you in scores. Only one witness in all the disfranchised counties has been hunted up, and his testimony does not sustain the charge. This man was a judge of probate under the usurpers, and only swears that any attempt to take the census would be dangerous. It does not appear that any attempt was made to take it until after the time in which it was legal to take it had expired. If the sheriff and his deputies were prevented from performing their duty, why do they not speak? They are your own witnesses; produce them. But the census was taken in that county, though not within the time required by law; and when this bogus judge undertook to manipulate the returns, he says the people objected. The objection then was not to having the census taken, but to having him *correct* the returns after the Oxford and McGee fashion. He was an old offender, and the people knew with whom they were dealing. Does any one believe that if the sheriffs had been expelled and driven out of these nineteen counties, or in any way prevented from complying with the law, some one of these exiled gentlemen could not be found to testify to the fact? If the sheriffs had reason to apprehend obstructions anywhere, it was in the strong free-State county of Douglas, more especially in the city of Lawrence, the council-ground of the free-State party. But they were not obstructed there, nor do I believe they were anywhere. The whole story is an afterthought, invented as an excuse for a designed neglect of duty. The people wanted to be registered that they might vote against the Lecompton constitution, and in some cases, where no census-taker had been near them, requested the Governor to have the law executed.

It has been said there are no people in some of these disfranchised counties, because no vote was returned from them on the 4th of January, when the free State men voted down the Lecompton constitution by over ten thousand majority. True, there was a vote in only a portion of those counties, but it was owing entirely to the short time between the passage of the law, and the day the notices for meetings were required to be up, and not to a want of population. The counties were distant; no mails running, the expense of sending out messengers from one to two hundred miles, with notices, was not incurred. The notices were sent by private hands as opportunity offered, and many of them were not received in time to be posted according to law, and no meetings were held. The fact that these counties were organized, county seats designated, and county officers appointed, is proof that they had a population, and county business to be done. The vote against the Lecompton constitution in thirteen of these disfranchised counties, where no census was taken under the pro-slavery census act, was, on the 4th of January last, three thousand three hundred

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and sixty-one votes; and, for the reasons I have stated, no vote was polled in the distant counties.

But, Mr. Chairman, another significant fact in this disreputable history is, that a list of voters was returned from five counties where no census of population was taken or returned. Now, how were these names procured? If the census-takers went through these counties and hunted up and recorded the name of each voter, how easy it would have been for them to have taken a census of the population, as the law required; or are we to infer that after registering the names of all the men they were driven out by the women and children? But, sir, these five counties were not perambulated by the sheriffs or their deputies, to register the names of voters only. The object in taking the census was to ascertain the population of Kansas, preparatory to admission into the Union; and they would not, without a tangible object, set aside a portion of their own law in these five counties, and execute a portion. The truth is, they disregarded the law entirely, and executed no portion of it in these counties. They took the old poll-books or check-lists, that had been through the border-ruffian wars, and copied such names as suited their purpose, and none others. No decent excuse has been attempted for this clear neglect of duty, and open violation of their own law. These nineteen counties were unquestionably disfranchised by design. It was a part of the plan of the plotters to get control of the convention. As none could vote except those whose names were registered under this census law, they took care that a majority of the names registered were of their own party. When Kansas fell short of making out the number, the old poll-books showed them who were to be called in from Missouri. They were very choice in their selection, declining to register thousands of free-State men, and adding a great multitude of non-residents and strangers to the lists of their own friends, to place their success beyond a peradventure.

But, sir, this is not all. The capacity of the oppressors of Kansas for crime seems to be inexhaustible. The election districts were formed by the census law, and each was to be represented in the convention in proportion to the number of votes returned, so that the usurpers knew precisely how many voters of their own stripe to throw into the districts to give them the convention. An example of their skill at this kind of calculation is shown by the fact that the voters were so registered as to give six counties, all stretching along the Missouri boundary line, *thirty-three*, a majority of six, out of the sixty delegates. These counties are Doniphan, Atchison, Leavenworth, Johnson, Lykins, and Linn, and have only about one quarter of the population of the Territory, and yet had six majority in the convention that adopted this constitution. This was done that the aid of Missouri could be easily called in, and in any event make sure of the convention. These census-takers did not pay the slightest attention to either law or justice, but rambled over the country, picking out men here and there, or sat in some border shanty, manufacturing returns just as the wants of their party required. Else why were the nineteen counties purposely and deliberately disfranchised, and allowed no voice or vote in the convention that was to form the constitution under which they were to live? Why were more than half the actual inhabitants of Kansas turned out of the convention, and treated as strangers and aliens? Why, in the counties where they pretend to have gone, was "one taken and another left?" Why did they, sitting in some Colonel Boon's store, across the border, manufacture voters for five counties from the old poll-books of the ruffian invasion? Why did they so contrive the registry and census as to give six border counties, laying along the Missouri State line, a majority of six in the convention based on about one quarter of the population? There is, there can be, but one answer to these questions. It was done to give a small minority of not one fifth of the actual population, the molding of the institutions of Kansas. These extraordinary proceedings have not even the forms of law to stand upon, and taken as a whole hardly have a parallel for crime in American history.

The free-State men perfectly understood the design of their oppressors; they knew that but few of their names were allowed to go upon the registers, and that they *could not* be entered there in sufficient numbers to be of the least service to the cause of freedom. They could not, therefore, with any manliness and self-respect, participate in a contest already determined against them. What could those steadfast, but cheated and oppressed, men do but stand silent and sad spectators at the grave of freedom, while their oppressors went through the forms and mockery of an election? This mock election for delegates was held, at which about two thousand two hundred votes were polled, about one thousand seven hundred of which, legal and illegal, were for the successful candidates, being about one half the number thrown in thirteen of the disfranchised counties against the Lecompton constitution, on the 4th of January last. With only these one thousand seven hundred votes to stand upon, these representatives of faction within, and power without the Territory, met in convention to form a constitution for a new State, against the known wish and the determined opposition of the great body of the people of Kansas. These delegates, the mere instruments of a relentless power that stood behind them, met in convention and adopted, with slight modifications, the constitution prepared for them in this city, and submitted to the people the single question of taking it with the external slave trade open to them, or with the slave trade confined within the limits of the State. The people could not vote against the constitution as a whole. The question of slavery even, was not submitted. It was only the introduction of slaves from other States that they were allowed to prohibit, while each voter, by an odious test oath, administered at the polls before voting, could be made to swear that he would *forever* protect slavery as it existed within the limits of that State.

The free-State men, aside from the fact that the great body of them were disfranchised and expelled from the polls, declined to take the oath of tyranny, and vote for the Lecompton constitution. They well knew that if they sanctioned slavery as it existed, and bound themselves by oath to support it, the *natural* increase would be enormous, and extend to all the slave-breeding States in the Union; and that all who desired it would find a way to get slaves into Kansas, in spite of the prohibition on the external slave trade. Such of them as the usurpers had condescended to admit to the registers, could not vote under the hateful conditions imposed on them, without disgrace to themselves—without divesting themselves of the rights and character of American freemen, and sinking their manhood into the basest servility. You ought to know them better by this time than to expect they would have voted under the scourge of such a hateful tyranny. You ought to honor them for their strong, manly character, and their steadfastness to the great principles of American liberty. Yet, confronted by this long catalogue of wrongs, you continue to ask: why did not they? why did not they vote? and because they would not become your tools, obey orders, and march up with bowed heads and tardy step, to place the yoke upon their own necks, you denounce them as rebels. Rebels, indeed! Whatever may be their fate, or the fate of the Republic—whether it is preserved, as I trust it will be, as a guiding star to the nations of all time—whether, like all its predecessors, it shall go down in blood, or sink into servility, its manhood lost beneath the tramp of despotism, or a slave-expanding oligarchy, the "rebels of Kansas" will have a bright and luminous page in the history of liberty. Their four long years of patient suffering, of hardy endurance in the cause of freedom, will be remembered and cherished by patriots, while the authors of their wrongs, in and out of Kansas, will be known only as the oppressors of man and the enemies of liberty.

Many of the friends of the Lecompton constitution, in and out of Kansas, had a gathering there on the 21st of December last, to go through the form of adoption. Many non-residents were there in person, but more by proxy. They did their best to poll a large vote, because it was necessary to show by some means that their pet had some friends in Kansas as well as in Washing-

ton; for they could not expect to establish a State government without people to support it. The entire pro-slavery force in Kansas was, therefore, got to the polls, and the powerful aid of their Missouri friends again invoked to come to their rescue, in their last great blow at the liberty of Kansas. The judges of elections at the several voting places returned six thousand two hundred and twenty-six votes for the constitution as formed, and a few hundred against the external slave trade. A portion of this vote was conclusively proved to be fraudulent. On the 13th of January last, the Territorial Legislature of Kansas, now for the first time free-State, appointed a board of commissioners to investigate these election frauds. These commissioners had not time to make investigations at all the precincts or places of voting, because they wished to lay the facts brought to light before Congress, to show, as far as practicable, the real vote for the Lecompton constitution, before the vote on the admission of Kansas was here taken. For this reason they had time to pursue their investigations at only four precincts, and the number of illegal votes, shown to have been returned at these places, is as follows:

At Kickapoo.....	700
At Delaware City.....	145
At Oxford.....	1,200
At Shawnee.....	675
	<u>2,720</u>

They had the original returns before them; the judges of elections, the clerks, and other actors in these fraudulent transactions as witnesses, and the proof is strong and overwhelming. By deducting the illegal votes, proved to have been returned from these four places, the vote for the constitution is reduced to less than three thousand five hundred. Had the commission found time to pursue its investigations at other places, I have no manner of doubt but that the real vote for this constitution would have been reduced to less than *two thousand*. Now, sir, does the small vote by which the delegates who formed this constitution were elected, and the almost equally small vote by which any portion of it was sanctioned by the people, form a decent excuse for the attempt here making to force this obnoxious constitution on the people of that Territory? No, sir; no apology can be found in this small vote, the condition of the Territory, or her insignificant population. The reason is purely political, and has no connection with the wants or prosperity of Kansas.

I have thus attempted—and I think successfully—to answer the question, "why did not the people vote?" so often put with an air of triumph on this floor, and elsewhere; and to show that in no case connected with this Lecompton constitution have the people of Kansas been allowed the rights of suffrage, or the privileges belonging to American citizens; that, in every case of an election connected with it, they have been either driven from the polls by multitudes of armed ruffians from without the Territory, and outvoted by illegal and foreign votes, or completely disfranchised by having their names excluded from the check-lists; sometimes cheated by long rolls of false returns, made up to order, and at other times kept away by such hateful test oaths as no American can submit to without a sense of degradation. Throughout all these persecutions the General Government was sovereign in the Territory, and sanctioned and upheld, with the military power of the Union, the lawless freebooters who seemed to be congregated there for the work of oppression and plunder. I have also attempted to trace down the history of this Lecompton constitution, and show that it did not originate with the people of Kansas, or grow out of the action of any legally-organized body of men there. The Legislature that passed the law to take the sense of the people on the question of forming a State government was brought into being by invasion, fraud, and violence; and did not receive a majority of the legal votes polled. One branch of this same Legislature (the Senate) was in power, having been chosen for two years, when the census and convention law was passed; and it will hardly be contended that an illegally-constituted body can make valid laws: besides, the people were prevented from electing the lower branch by the facts and circumstances I have before described. The elec-

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tion of the delegates that formed this constitution I have shown to be a most pitiful farce and mockery, and the convention itself a band of vile conspirators, brought together at the bidding of their masters, to go through the ceremony of adopting a constitution they had received orders from headquarters to indorse.

But, Mr. Chairman, the ruffians collected from South Carolina, Georgia, Alabama, Missouri, and other States, were not the most powerful enemies of Kansas. They could burn, rob, murder, and leave desolation and mourning along their Vandal march. But these alone patience and bravery would soon conquer, time restore their desolate fields, and industry build anew what the torch of the incendiary had destroyed. The strong and relentless enemy of freedom in Kansas has been the executive department of this Government, pushed on by the ever-watchful and never-yielding power that stands behind and controls it. From the very hour of the inauguration of the territorial government there, she has been the victim of oppression by this Government; its power and influence have been exercised to sustain the oppressors and violators of her rights. Instead of protecting her weakness, and encouraging her to build cities and make fertile fields in the wilderness, you have let loose upon her bands of highwaymen to rob, destroy, and lay waste. You have held her citizens in chains and loathsome dungeons by scores, guarded by your troops, for imaginary offenses. You sent your Governors, judges, and secretaries there, not to administer wise and impartial laws justly, but, like Persian satraps, to rule a conquered province. If a Governor, a judge, a secretary, or a marshal, faltered in the work marked out for him; if he would not disregard law, cover up fraud, permit murderers, incendiaries, thieves, and robbers to walk abroad undisturbed, or perhaps take them into favor and confidence, they were immediately discarded at the White House, and dismissed from office. Such was the fate of Reeder, Geary, Walker, and Stanton. These noble men scorned to be your instruments of evil. When they saw the infamy of the work required at their hands, they shrank back in disgust, and preferred your frowns and vengeance, with honor unstained, to your smiles and patronage, with troubled consciences and tarnished reputations. These four Democratic Governors are now living and terrible witnesses against the oppressors of Kansas.

Of the five judges appointed there, Lecompte, who has so justly acquired the title of the American Jeffries, and Cato, his worthy compeer, are alone considered worthy of the smiles and confidence of the appointing power. Many agents of the General Government, employed in the land department, were active leaders in the bandit war on Kansas, and made themselves special favorites, it would seem, by their active partisanship and cruelties. Some of these men have been promoted to offices of more responsibility in the Territory, more than one of whom has the stain of blood upon his soul. The people of Kansas have had the constant and persistent "intervention" of the General Government to contend against from the start. It has sent cold-hearted and unjust men, who had no sympathy with them or their institutions, to rule them. It has sanctioned invasions, disfranchisements, destruction of their property and lives, and almost every species of crime that bad men can commit against society. It has kept up a worse than Austrian espionage on the correspondence not only of the people, but of all Governors not of the blue lodge school. Governor Geary made formal complaint to the President that his own correspondence, as well as the citizens, generally, was usually inspected by the agents of the Government before leaving the post office, and declared it unsafe to send anything of value, or information of importance, through the mails. But the complaint was unheeded, and the spy system continued. It rudely stripped Governor Geary of all control and influence over the army in Kansas, because he would not use it against "free-State men" alone. And when plots were formed against him, and assassination threatened, he was not allowed a guard to secure his own safety or to quell open riot. It has sent secret spies among them to dog their footsteps, and report their words of confidence,

and the Army of the Republic to force obedience to Draconian laws; and is now exercising all its imperial power to fasten upon them, against their earnest protest, a constitution, charged by the public press, and as yet uncontradicted, to have been carefully prepared in this city under the very eye of the national Executive. And yet, with this black catalogue of aggressions against the liberties of Kansas, and many more that time will not permit me to enumerate, standing out boldly upon every page of her painful history, the authors of her wrongs have the hardened audacity to talk about "non-intervention," and letting the people "form their own institutions in their own way."

And now, sir, we are told that we must hurry through this measure that her troubles may be ended and forgotten. This system of final subjugation, then, is your only offer of conciliation—the olive branch you hold out for her acceptance. It is an offer to atone for a long catalogue of injuries and crimes by another so much more monstrous than all its predecessors that it throws them into partial shadow. Does any one here seriously expect peace in Kansas as the result of an outrage like this? The cause of all the troubles there was the oppression and cruelties done and permitted to be done by this Government, to enforce upon her laws and institutions against the will of her people; and you propose to cure these troubles by doubling the oppression. Your warriors have looked calmly on and permitted brigands, with naked swords and flaming torches, to run riot over that most unfortunate Territory, and protected them in their fiendish work. And now, sir, when she implores you to take your steel-clad hand from her aching brow, that she may enjoy a season of repose, you call for more steel and more war-horses, that you may tame her spirit, bend her to your will, and force upon her institutions and laws she detests. Humane and just master, surely! Do your four years of experience in trying to conquer that brave people teach you that you will find them such base suppliants, such willing slaves, as to come quietly beneath your yoke and lash? No, sir, no! There will be no peace in Kansas as long as a fragment of this Lecompton constitution is sustained there against the popular will. It will be a living and ever-present memorial of the intolerable oppressions through which they have passed—a symbol of the victory of their oppressors; and they will never endure its presence while the power of resistance lasts. You hope not only for peace but for forgetfulness—an equally fallacious hope, for the memory of monstrous wrongs will never fade away. They will live in the oral tale and on the historic page. The sad but heroic story of the war for liberty in Kansas will become household narratives for its people and their descendants to the latest generations. That story has become historical; it is a part of our history—a foul blot upon its records, and there it will stand as long as the memory of the Republic itself shall endure.

ADMISSION OF KANSAS.

SPEECH OF HON. I. T. HATCH,
OF NEW YORK,IN THE HOUSE OF REPRESENTATIVES,
March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. HATCH said:

Mr. CHAIRMAN: I come into this discussion late, because I had intended to avoid it. I was willing to rest the vindication of the vote I intended to give upon the two messages of the President; but I find my silence is misconstrued. The various expositions in relation to the question now under consideration on this side of the House, to which I cannot subscribe, and the misrepresentations on the other, which I feel bound to repel, must furnish my apology.

In the first place, sir, I have a word to say to that portion of the northern Democracy who so flatteringly notice us who are steadfast in support of this Administration. I regret to find that they are so much disturbed at being read out of the Democratic party, as they say they are, although as yet, I believe, they have not named one

Democratic obituary reader. None knew so well as they did that the only way they had to prevent their being read out was to remain in the party.

Again, sir, whilst we are willing to accord to their motives all the conscientiousness and patriotism that their modest pretensions claim, they certainly have no right to be offended if we deny that, when they leave the party, they do not carry out with them all the public virtue and patriotism of the Democracy of this Union. And we, sir, think we have a right further to say to them, when they form new political associations—enter into new partnerships—their first duty is to pull down the old Democratic Tammany sign. They are mistaken if they suppose they can carry Democracy into the camp of its enemies; it would be as fatal to the Republicans as the ark of God's covenant was to the Philistines in their camp.

The question now before Congress is the reception or rejection of Kansas, as a State, with the Lecompton constitution. I shall only briefly refer to the circumstances preceding the application of Kansas to be admitted as a State, the policy and constitutional right of that admission, and the wisdom of the act at this time.

I believe, sir, through all the territorial stages of this Kansas application the forms of law have been complied with, and abundant evidence has been given of successive recognitions of the authoritative action of the territorial governments by the free-State party. But few dispute the regularity of the convention that formed the constitution, and none can dispute the recognition of the constitution by the free-State men in their action on the 4th of January in voting for State officers. None doubt but that the constitution is republican in form, and that, in the main, it is a good constitution. None allege but that the slavery clause was submitted. None charge that the free-State party were intimidated from the polls. None charge that the alleged frauds in the ballots on the 21st December could have changed the result.

All, then, there is of this question is, that the free-State party, being in the numerical ascendancy, did not vote, and the slavery clause was inserted in the constitution. Who, then, is responsible for the slavery clause in the constitution? Governor Walker said those who did not vote were responsible for those who did vote. The free-State party, to-day, is responsible for the Lecompton constitution.

Let us see what the Senator from Illinois said:

"Kansas is about to speak for herself, through her delegates assembled in convention to form a constitution preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every *bona fide* inhabitant the free and quiet exercise of the elective franchise. If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution in opposition to the wishes of a majority of the people living under it, let the responsibility rest upon those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them, and upon the political party for whose benefit, and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principle of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined, and the exercise of those rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State by the votes and voice of her own people, and in conformity to the great principles of the Kansas-Nebraska act, provided all the free-State men will go to the polls and vote their principles in accordance with their professions. If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of the Union."

The free-State party, being in a large majority, did not vote. Why did they not vote? Why have they not voted, when successive opportunities for voting have been presented to them, where

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they could at once and forever have settled this slavery agitation? Look at their course briefly. When the vexed question of slavery between the northern and southern Democracy was settled at Cincinnati, and they united in favor of the right of the people to settle it in the Territories, the Republican Opposition united in favor of congressional prohibition of slavery, and against popular sovereignty. In all the territorial steps for the formation of Kansas into a State, and its early admission into the Union as a State, they have resisted. Even after a registry of voters was made, in order to remove all cause of complaint, and Federal troops were stationed there to secure an "unobstructed passage to the ballot-box," these men still resisted, and criminally refused to participate in the election. When the constitution was formed, which all concede to be a good one, and the only clause about which men had differed (the slavery clause) was submitted, they still refuse, all the time claiming a numerical majority of at least five to one. Now, when Kansas makes application with this constitution, which they had the power to make or alter, and asks us to admit her as a State, they, with impudent audacity, claim it should be rejected, because there was a numerical, rebellious majority against it, who stayed at home, and criminally refused to discharge their duties as American freemen. This is the kind of popular sovereignty they now advocate! When compelled to admit they had the power to reject slavery in the constitution, they say that is no longer an issue there. The issue now with them is, the popular sovereignty of a numerical majority in rebellion against the legal majority of the ballot-box. When President Calhoun admits "frauds" in the election on the 4th of January, in which they all participated and thus recognized the validity of the Lecompton constitution, and gives the certificates of election to a majority of the free-State party in the Legislature, in face of those repeated charges that these certificates were withheld by him to give to the pro-slavery party after Kansas should be admitted as a State, they very coolly turn around and argue that he had no authority. Their inconsistencies and fallacies are palpable. None can mistake the logical deductions from them. They oppose law, order, peace; and are always jubilant over the prospect of "anarchy, strife, and bloodshed." No sophistry can conceal the motive; it is plain; it is undeniable. They were bound to continue this strife; "that their party might profit by slavery agitation in the northern States." Why talk about "frauds" or disfranchisement of precincts, in dealing with this erring and rebellious people? To reject this Lecompton constitution is to protect this slavery agitation. It is more: it is to yield to the threats and arms of rebels. Machiavelli said to the prince, "it is better to have the hatred of your people than their contempt."

There is only one way to settle this slavery agitation, and that is to admit Kansas as a State any way, then withdraw the Federal troops, and throw upon the people there the responsibility of "regulating their domestic institutions in their own way."

But, sir, in spite of all the efforts of this free-State party in Kansas and their allies to keep up this agitation, there is a solution of those Kansas difficulties, and the President has presented it—and I will here add that it comes from one who has been selected by the instinctive wisdom of the Democratic masses as the representative head of this Republic, clothed with executive powers by their sovereign will, and one to whom earthly ambition can have no further temptation, and human obligation no tie remaining so strong as fidelity to his God and the Republic.

What does he say in his second message?

"Slavery can, therefore, never be prohibited in Kansas, except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if a majority of the people desire it, as by admitting it into the Union under its present constitution."

"On the other hand, should Congress reject the constitution, under the idea of affording the disaffected in Kansas a third opportunity of prohibiting slavery in the State—which they might have done twice before if in the majority—no man can foretell the consequences. If Congress, for the sake of these men who refused to vote for delegates to the convention, when they might have excluded slavery from the constitution, and who afterwards refused to vote on the 21st December last, when they might, as they claim, have

stricken slavery from the constitution, should now reject the State, because slavery remains in the constitution, it is manifest that the agitation upon this dangerous subject will be renewed in a more alarming form than it has ever yet assumed."

"Every patriot in the country had indulged the hope that the Kansas and Nebraska act would put a final end to the slavery agitation, at least in Congress, which had for more than twenty years convulsed the country and endangered the Union. This act involved great and fundamental principles, and, if fairly carried into effect, will settle the question. Should the agitation be again revived—should the people of the sister States be again estranged from each other with more than their former bitterness—this will arise from a cause, so far as the interests of Kansas are concerned, more trifling and insignificant than has ever stirred the elements of a great people into commotion. To the people of Kansas the only practical difference between admission or rejection depends simply upon the fact, whether they can themselves more speedily change the present constitution, if it does not accord with the will of the majority, or frame a second constitution to be submitted to Congress hereafter. Even if this were a question of mere expediency, and not of right, the small difference of time, one way or the other, is of not the least importance, when contrasted with the evils which must necessarily result to the whole country from a revival of the slavery agitation."

"In considering this question, it should never be forgotten that, in proportion to its insignificance, let the decision be what it may, so far as it may affect the few thousand inhabitants of Kansas who have, from the beginning, resisted the constitution and the laws, for this very reason, the rejection of the constitution will be so much the more keenly felt by the people of fourteen of the States of this Union where slavery is recognized under the Constitution of the United States."

"Again: the speedy admission of Kansas into the Union would restore peace and quiet to the whole country. Already the affairs of the Territory have engrossed an undue proportion of public attention. They have sadly affected the friendly relations of the people of the States with each other, and alarmed the fears of patriots for the safety of the Union. Kansas once admitted into the Union, the excitement becomes localized, and will soon die away for want of outside aliment. Then every difficulty will be settled at the ballot-box."

Now, sir, I will refer to some of the popular fallacies which are put forth by our opponents against this admission.

One allegation is, that the whole constitution was not submitted, and therefore it should be rejected. This I understand to be the position of the Senator from Illinois. This is certainly a modern test he has inaugurated. I admit it is a taking and plausible one; yet all know that a majority of the constitutions of the old States forming this Union were adopted by conventions, and never submitted to the people. A majority of new States have been admitted without submission of constitutions to the people. No instance can be found where Congress has required constitutions to be submitted to the people except Minnesota. A majority have been admitted without enabling acts; indeed, it is charged that in the very Toombs bill for organizing Kansas, the Senator consented to strike out the clause of submission. All agree that it is the wisest policy to submit constitutions to popular vote, but I contend it is only a question of expediency; it is either weakness, madness, or wickedness, in this case, to make it a test. We want no more new tests for northern Democracy; that Senator inaugurated one in 1854, and the seat of every Democratic member of this House who sanctioned it was vacated in the fall election, and the northern Democracy, though they supported it as a party measure, had no reason to thank its author for imposing on them the task of its support. The northern Democracy have had enough tests upon the repeal of the Missouri line and the Kansas-Nebraska bill; they want repose; at any rate, we want no new phase given to it by its author, and no new tests administered by him to us. Northern Democracy grew sick under them; Republicanism, perhaps, may thrive under them.

In the view I take of this question, no right of the people has been impaired or lost by the non-submission of the whole Lecompton constitution to the people of Kansas. Congress has the power "to admit new States," section three, article four. The only obligation incurred by the admission is the guarantee to every State of a republican form of government.

So, sir, Congress can even admit a State before it has formed a constitution, leaving the people in their own time and in their own way to make a constitution.

SOVEREIGNTY OF THE PEOPLE CANNOT BE LIMITED BY LEGISLATURES OR CONSTITUTIONS.

One of the main objections urged against the Lecompton constitution by those opposed to its

reception by Congress is, that it contains the following provision:

"Sec. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, and change this constitution, they shall recommend to the electors, at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention."

The Lecompton constitution specifically directs that the same may be amended, in a certain manner, after the year 1864. There is no prohibition against action before that time.

I add to this the clause from the bill of rights, which I consider forms part of the constitution; but whether it does or not, it embraces the theory of our free institutions, and is almost in the precise language of our Declaration of Independence:

"All political power is inherent in the people, and all free Governments are founded on their authority, and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

No man doubts but that, on the separation of these colonies from the British sovereign, the people of the colonies seized the crown and scepter on this continent; the people became the sovereign. If the people possess the sovereignty, then they can have no superior. Sovereignty must exist somewhere. State constitutions are limitations upon Legislatures—upon public agents. The power of the people is unlimited; the power of government is limited; it is the creature of the sovereignty of the people—always subject to their will. To admit any power of limitation above and upon the people, is to admit a usurpation of the sovereignty of the people, and there would then be no point where this usurpation would stop, except in despotism. Sovereignty in the Government is *usurpation*; in the people it is *liberty*; in the former it ends in *tyranny*; in the latter creates *equality*. The late Emperor of Russia said there could not be in time any intermediate governments between the government of one man and the government of the people. The "Holy Allies," at Laybach, in 1821, avowed that there ought not to be "any changes of government except they emanate from those whom God has rendered responsible for power."

I will now, sir, refer to authorities bearing upon these questions. They will be found sustained by the fathers of the Republic, from Washington to Buchanan.

All the writers on free government, preceding the American Revolution, avowed the right of the people to self-government in its fullest extent. Our American Constitution was only the application of these principles. Its authors applied them to free governments, as Fulton and Morse applied well-known principles in science to the uses of mankind.

Sydney said, chapter one, section six:

"God leaves to man the choice of forms of Governments, and those who constitute one form may abrogate it."

Chapter three, section thirty-three:

"Liberty being only the exemption from the dominion of another, the question ought not to be how a nation came to be free, but how man comes to have dominion over it; for till the right of dominion be proved and justified, liberty subsists as arising from the nature and being of man."

Locke maintained the theory of the social compact by express or implied assent, and placed the former in the majority of the people, without distinction of property or qualification. He further held that the legislative power derived from this compact reverted to the people when it became necessary to resume it, and that they might erect a new form as they think good. (Chapter thirteen, section one hundred and forty-nine.)

The early Presidents of the Republic, who studied government in the school of the Revolution, recognized the fundamental principle of the right of the people to make and unmake constitutions.

Washington, in his first inaugural address, (April 30, 1789), began with his "fervent supplication to that Almighty Being who rules over the universe, that His benedictions may consecrate, to the liberties and happiness of the people of the United States, a government instituted by themselves." (Hickey's Constitution of the United States, page 212.) In his Farewell Address, he said, "the basis of our political systems is the

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right of the people to make and to alter their constitutions or government."

Jefferson, in his first inaugural address, March 4, 1801, declares, that "the will of the majority is in all cases to prevail;" and he thus pointedly refutes, in a single sentence, all the false theories of grants to and guardianships over the people:

"Sometimes it is said that man cannot be trusted with the government of himself. Can he, then, be trusted with the government of others, or have we found angels in the form of kings to govern him? Let history answer this question."—*Hickey's Collection*, page 276.

You will find in Rayner's Life of Jefferson, page 377:

"It is now forty years since the constitution of Virginia was formed. Within that period two thirds of the adults then living are now dead. Have these, the remaining third, even if they had the wish, the right to hold, in obedience to their will, and to laws heretofore made by them, the other two thirds, who, with themselves, compose the present mass of adults? If they have not, who has? The dead? But the dead have no rights. They are nothing; and nothing cannot own something. Where there is no substance there can be no accident. This corporeal globe and everything on it belongs to its present corporeal inhabitants during their generation. They alone have a right to direct what is the concern of themselves alone, and to declare the law of that direction; and this declaration can only be made by their majority. That majority, then, has a right to depute representatives to a convention, and to make the constitution what they think will be best for themselves. If this avenue be shut to the call of suffrage, it will make itself heard through that of force, and we shall go on, as other nations are doing, in the endless circle of oppression, rebellion, and reformation; and oppression, rebellion, and reformation again; and so on, forever."

Mr. Madison (page 150, *Federalist*) used this denunciatory language of monopolists:

"It is essential to a republican Government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their Government the honorable title of Republic."

I might add, from cotemporaneous writers, repeated authorities sustaining these positions. But, it is said, this doctrine is revolution. Be it so. It is the revolution of the ballot-box. It is the peaceful remedy of American freemen to change their Government. Such a revolution as this takes place every four years in the history of this country. Such a revolution as, in any other country, could only be achieved by violence and blood.

It is the easy working of our popular system—it is the exchange of the sword for the ballot. The swords of patriots achieved our liberties; the ballots of freemen must preserve them.

The supreme court of New York, in 1846, decided that the power to change existing constitutions "was above and beyond the Constitution." They said:

"A change in the fundamental law, when not made in the form that law has prescribed, must always be a work of utmost delicacy. Under any other form of government than our own, it could amount to nothing less than revolution."

Justice Wilson, a signer of the Declaration of Independence, and one of the earliest judges, said:

"This revolution principle—that the sovereign power residing in the people, they may change their constitution and government whenever they please—is not a principle of discord, rancor, or war; it is a principle of melioration, contentment, and peace."

The distinction between revolution and the right of the people to change their government is fully explained in the great debate in the United States Senate, in 1837, on the admission of Michigan. Mr. Calhoun there said "he had never denied the right of revolution. All our institutions rest on that right. A convention of the people has a right to put up and throw down every form of government; but that is, *par excellence*, revolution." (*Debates*, 1837, p. 313.) But Mr. Buchanan asked:

"Is it the position that, if in one of the States of this Union the government be so organized as utterly to destroy the right of equal representation, there is no mode of redress but by an act of the Legislature authorizing a convention, or by open rebellion? Is there no middle course? This is found only in the principle, established by the whole history of American government, that the people are sovereign, and that a majority of them can alter or change their fundamental laws at pleasure. This is neither rebellion nor revolution. It is an essential recognized principle in all forms of government."

In the case of the admission of Michigan, 1836, Congress had prescribed the boundaries with which Michigan was to be admitted, and had au-

thorized the Territorial Legislature to call a convention. That convention rejected the terms, and dissolved, and the Legislature refused to act. The people took it up, and, in convention, adopted the constitution with the boundary prescribed by Congress through the message of President Jackson, December 27, 1836, approving this action of the people independent of the Legislature. He there says:

"This latter convention was not held or elected by virtue of any act of the Territorial or State Legislature; it originated with the people themselves, and was chosen by them in pursuance of resolutions adopted in primary assemblies, held in the respective counties."—*Gales & Seaton's Debates in Congress*, vol. 13, part 1, p. 1164.

Mr. Buchanan:

"But what is the proposition which lies at the very root of the Senator's whole argument against the bill? I understand it to be, that when any Commonwealth exists under an organic law, and has by it created a Legislature, without the previous assent of the Legislature, no convention can be rightfully held within its limits; and that if such a convention should be held, the movement would be revolutionary, and its edicts, in their very nature, would be unauthorized and tyrannical."

"If this proposition be universally true, then it follows, as a necessary consequence, that, no matter to what extent the regularly organized government of a State or nation may be guilty of tyranny and oppression, this very Government must first give its assent before the people can hold a convention for the redress of grievances, or, in a word, can exercise the unalienable rights of man. The fate of the people, it seems, must forever depend upon the will of the very Legislature which oppresses them, and their liberties can only be restored when that Legislature may be pleased to grant them permission to assemble in convention. I had not supposed that any such proposition would ever be seriously contended for in this Chamber. It is directly at war with the Declaration of American Independence, which declares that 'we hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.' That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

"Mr. Calhoun, interposing, said: Certainly; it is a revolutionary right!"

"Here (re-umed Mr. B.) is a right plainly recognized in this immortal State paper which we all regard as the charter of our common liberties. Is it not, then, manifest that the Senator has taken a position where he stands in direct and open opposition to every principle of the American Revolution? Why, sir, had we not established governments at the moment our conventions were held? Was not the character of these governments, in the main, just and equitable? We went to war for a principle, for the just and glorious principle that there shall be no taxation without representation; and in support of this principle, the people of the old thirteen, without any previous legislative act, did hold conventions and Congresses at their pleasure. Our very rights to seats upon this floor rest upon what he calls revolutionary principles."

"Mr. Calhoun. Certainly; I never denied the right of revolution; I contended for it. All our institutions rest on that right; they are the fruits of revolution. That was the very proposition which led to the revolutionary war. I said that a convention of the people had power to put up and to throw down any and every form of government; but that is, *per se*, a revolution."

"The gentleman (resumed Mr. B.) did say that he gloried in the right of rebellion. Does he contend, then, that if, in one of the States of this Union, the government be so organized as utterly to destroy the right of equal representation, there is no mode of obtaining redress but by an act of the Legislature authorizing a convention, or by open rebellion? Must the people step at once from oppression to open war? Must it be either absolute submission or absolute revolution? Is there no middle course? I cannot agree with the Senator. I say that the whole history of our Government establishes the principle that the people are sovereign, and that a majority of them can alter or change their fundamental laws at pleasure. I deny that this is either rebellion or revolution. It is an essential and recognized principle in all our forms of government."

"To be sure, I would be one of the last men in the United States who would desire to see such a right often exerted. I admit that there is great propriety and convenience in having the Legislature to fix the time and place and mode of calling a convention, because it is difficult for the people to effect their purpose without some such provision. Such has been the general practice; but I insist upon the right of the people to proceed without any legislative interference or agency whatever."

"During the debate upon the admission of Michigan, in the Senate of the United States, Mr. Benton remarked that conventions were original acts of the people. They depended upon inherent and inalienable rights. The people of any State may, at any time, meet in convention without a law of their Legislature, and without any provision in their constitution, and may alter or abolish the whole frame of government, as they please. The sovereign power to govern themselves was in the majority, and they could not be divested of it."—*Gales & Seaton's Debates*, vol. 12, part 1, p. 1036.

Mr. Madison, in his celebrated report, said:

"The authority of constitutions over governments, and

of the sovereignty of the people over constitutions, are truths at all times necessary to be kept in mind."

I cannot so well give a summary of conclusions from these authorities as to add the language of Patrick Henry, in the Virginia convention of 1788, in 2 *Elliot's Debates*, page 63:

"This, sir, is the language of Democracy: that a majority of the community have a right to alter their government when found oppressive."

Again, speaking of free government:

"One of the leading features of that government is, that a majority can alter it."

"Rulers are the servants and agents of the people—the people are their masters."—Page 248.

I believe, sir, that no one can doubt, if they recognize these authorities, (and who dare dispute them?) that the people of Kansas have the right, upon their admission, whether recommended by the Legislature or not, or prohibited by their constitution, to meet in convention and make a constitution to conform to the will of the majority. It certainly is not becoming in the advocates of the Topeka constitution, which the Republican party passed through this House last session, to urge that any limitation in the constitution, or anywhere else, could prevent the people from making constitutions when they desired. The call for the convention at Topeka was signed by "many citizens," and "in mass meeting assembled," and acted, and a constitution so formed they accepted. Its only pretension to decent appearance was the mock solemnity of its opening by the Rev. Mr. Lovejoy. But, sir, now they cannot accept the Leecompton constitution because it cannot be changed until 1864. It has not been sanctioned by popular sovereignty, say these new disciples to that doctrine. They have made rapid progress in this doctrine lately; they surpass their master. If they have not already swallowed the Cincinnati platform, they certainly have the author of popular sovereignty in the Kansas bill. Yes, sir, they have swallowed the "Little Giant" as easy as the whale swallowed Jonah. But if the external evidences of mutual disgust can be relied upon, they will not remain together as long as Jonah remained in the whale's belly. In one aspect this modern adoption of popular sovereignty for the white race by our opponents is to be commended as an improvement in the *color* and *odor* of their humanity.

OUR TERRITORIES CAN ONLY BE OCCUPIED BY FREE LABORERS—CLIMATE, EMIGRATION, AND SOIL CONTROL.

Sir, Kansas can never become a slave State. Climate and soil will mark the boundaries of slavery. The laws of political economy have already determined this. Popular assent has been given to this doctrine. It is not in the power of this Government to make Kansas a slave State. The executive, legislative, and the judicial power, all combined and acting in concert, could not make and keep Kansas a slave State, or make one inch of free, slave territory. The laws of climate, production, and emigration, are supreme. These views are believed and generally acquiesced in, and I will now add the proofs. I quote from northern and southern Senators upon these points.

Senator CRITTENDEN, of Kentucky, said:

"I think there is not a gentleman here who believes that Kansas will be a slave State. Before this territorial government was made, many of the leading men of the South here argued that Kansas and Nebraska never could be slave States. By the law of climate and geography, it was said, they could not."

Mr. HUNTER, of Virginia, said:

"Does any man believe that you will have a slaveholding State in Kansas or Nebraska?"

Governor BROWN, of Mississippi, said:

"That slavery would never find a resting place in those Territories."

Mr. DOUGLAS said:

"I do not believe there is a man in Congress who thinks it could be permanently a slaveholding country."

Mr. BADGER, of North Carolina, said:

"I have no more idea of seeing a slave population in either of them than I have of seeing it in Massachusetts."

Mr. MILLSON, of Virginia, said:

"No one expects it. No one dreams that slavery will be established there."

Mr. Frederick P. Stanton, of Tennessee, said:

"The fears of northern gentlemen are wholly unfounded. Slavery will not be established in Kansas or Nebraska."

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The late Mr. Brooks, of South Carolina, said, in his speech of the 15th March, 1854:

"If the natural laws of climate and of soil exclude us from a Territory of which we are the joint owners, we shall not and we will not complain."

Mr. Butler, of South Carolina, said, on the 2d of March, 1854:

"If two States should ever come into the Union from them, [the Territories,] it is very certain that not more than one of them could, in any possible event, be a slaveholding State; and I have not the least idea that even one would be."

Mr. KEITT, of South Carolina, in his speech of 30th March, 1854, quoted Mr. Pinckney, of his own State, that

"Practically, he thought slavery would not go above the line of 36° 30' by the laws of physical geography, and, therefore, that the South lost no territory fit for slavery."

Senator DAVIS, of Mississippi, and Senator MASON and Senator HUNTER, of Virginia, confirmed the above.

Senator KENNEDY, American, of Maryland, said:

"Mr. President, this agitation of slavery, upon which so much has been said—this harp of a thousand strings, which has been vibrated from one extreme of the country to the other—has no practical political bearing on the institution of slavery in the South to-day. It is a matter of political economy simply; and if gentlemen will turn to the tables with which your departments are filled, they will find that with your three million two hundred thousand slaves, taking the very strongest view you can possibly admit, you cannot get more than half that number—some one million six hundred thousand slaves—as laborers and producers in this country. Gentlemen talk to me about creating a vast excitement over this land as to whether or not slavery is to go into Kansas and Nebraska; but permit me to say that, by the immutable laws of political economy alone, if this body declared to-day that no more emigrants should go into one of these Territories north of thirty-five degrees, I do not honestly believe that you could retain slavery there five years."

Mr. SEWARD replied by stating his course was influenced by a regard to the interests of the whole country. He knew nothing nor cared nothing for party. He thought the mistake of Mr. HALE and others was in thinking the battle was not yet over when it was. It was a struggle for numerical ascendancy between free and slave States. There were now sixteen free and fifteen slave; and whatever Administrations, or anybody else might do, there would be before another year NINETEEN to FIFTEEN.

Mr. THAYER, Republican, from Massachusetts, said:

"We of the North have too high an idea of the power of the General Government and of law, either for freedom or against freedom. Sir, this General Government has but little power over this question. It is not a motive power. It is only a registry—an exponent of power. It is the log-book of the ship of State, and not the steam-engine that propels the ship, nor the wind that fills the canvas. We would like to have the log-book kept right, to show our true position; but we do not now consider the Government as the motive power. The motive power of this nation, and of all nations, is the people in their homes; and as the people in their homes are, so is your progress. If the people in their homes in Kansas had been pro-slavery, what could the North have opposed to it? It was emigration, and emigration only, that could have made Kansas a State, either slave or free."

Here, then, sir, is the combined testimony of northern and southern Senators, Republicans, Americans, and Democrats, all concurring that Kansas will be a free State, and that climate, soil, and population, will determine that species of labor which will occupy our Territories. Why will gentlemen, in the face of this accumulated testimony, argue that Kansas can be made a slave State? Why will they persist that there is danger that the slave power will overrun our Territories, and that the southern slave dealers are even conspiring to carry slavery into free States? I know no way so conclusively to reply to these clamors as to add, from the debate the other day in the Senate, the reply of Senator TOOMBS to Senator DOUGLAS, which I beg to read. Senator TOOMBS, having stated why he had not previously participated in the debate, said:

"But that Senator having arraigned, in my judgment, and unjustly arraigned, the section of this Union from which I come, for the purpose of his own defense, I desire to be heard for a short time upon his course, and in vindication of theirs."

"The last two hours of the Senator's speech have been devoted to two single points. The first was an article in the Washington Union of the 17th of November. I should have let the Senator settle his difficulty with that newspaper in his own way, either here or elsewhere—and I think it would have been more consistent with the dignity of the Senate and of the subject to settle it elsewhere than here; still, it

would have brought no comment from me; I should have stood the infliction—if the Senator had not connected my own section of the country with that article in the Washington Union."

"Mr. President, no man in this body knows better than the Senator from Illinois that no such principle as he attacked has ever been asserted by a single slaveholding State in this Union, or a single representative of the slaveholding States. If they have, I demand of that Senator now to say so. Sir, they have not. He cannot show that one of those States, through any of its authorized organs, not even through its newspapers, through none of its Senators, and through none of its Representatives, has ever asserted the right to carry slaves into a sovereign State against its constitution. This being so, he has spent one hour of his speech in order to make capital in Illinois, and that is all. That is the beginning and the end of it. That Senator has no right to arraign my constituents, or the men of the South, for an article in the Washington Union. None, sir, none. He has not a right to make it the occasion for making capital for himself, by seeming to be the defender of the principles of the constitutions of the free States, when no man at the South has ever assailed them. He defends what nobody assails, and he assails what nobody defends."

Sir, the appeal is constantly made from both wings of this Capitol, to the free laborers of the North to rally and meet the aggressive slave power upon our Territories. These appeals come from either weak, distempered, or dishonest minds. It is imbecility or ignorance that trembles at these false alarms. None know better than our opponents that there is not an inch of territory on this continent that free labor will not occupy where our free laborers can live and thrive; their countless throngs are already pressing through the gorges of the Rocky Mountains. If they would elevate and dignify the free laborers of the North, let them pass the bill giving them homesteads from the public domain, instead of giving millions of its acres to colossal corporations to be their future landlords and masters, and perhaps in the end to be reclaimed from them through violence and blood, as the plebeians rescued the public domain, won by their blood from the grasp of the patricians in the days of imperial Rome. But, sir, this kind of practical philanthropy towards the free laborers of the North would cost something; they believe in a cheap philanthropy; long prayers of their political priests, and New England psalmody, are more to their taste and habits of economy. Underground railroads they believe in, because they can run cheap, as their employes can always be paid with checks, certified by their political priests, payable in the other world.

Slavery, sir, has constantly been receding south since the formation of the Union—not from the pressure of a popular fanaticism or increase of vital piety in the North—not from congressional interference—but because slave labor was more profitable southward, from the enhanced value of tropical productions, and their increased demand throughout the world. The gentleman from Missouri, the other day, quoted approvingly from Mr. Randolph's speech:

"The moment the labor of the slave ceases to be profitable to the master, or very soon after it has reached that stage, if the slave will not run away from the master, the master will run away from the slave."

The gentleman from Massachusetts planted his abolition on profit. He thought Yankees might own slaves South, if it would improve their social condition, especially if they found it necessary in order to marry a wife. Now, sir, those who know the Yankees well would not doubt his proposition. They, I think, would concede more to the liberality of the Yankee. They would even believe the Yankee would not object to the wife, even if she happened to own a few negroes.

So far as the issue of the rejection or admission of Kansas as a State is of any practical importance to the South, it has passed away, and they so regard it. So far as the North is concerned, I could not so well express the conclusion as to quote from the gentleman from Virginia, when, on this floor, turning to the North, he said:

"For you, there is the full fruition and the triumphant result. For us, there only lingers a naked principle:

"A barren scepter in our gripe,
Thence to be wrenched with an unlioned hand,
No son of ours succeeding!"

Mr. Chairman, my time will only permit me to add, in conclusion, that in the view I take of all these momentous issues, there is one that transcends all others in the magnitude of fearful con-

* The doctrine attributed to the Union's article by Senator DOUGLAS, was subsequently disavowed by the Union itself.

sequences. It is not whether Kansas shall be admitted as a slave State or a free State, for the latter is conceded a fixed fact; but it is whether the Democracy of this Union shall be overthrown or survive the coming conflict. To-day it is the only surviving party in the history of our Government; all others have disappeared. To-day it is the only party that carries the flag of our Union; the only party whose ranks, filled with the toiling millions, keep step to the "music of the Union." In its past struggles for ascendancy many have deserted, many have fallen; but, thank God, their places have been filled in its advancing columns. None know so well as our oft-beaten enemies on the other side that their only path to victory is over the prostrate Democracy of this Union.

We are now warned by the other side that a crisis has arrived in our political history, and that the fate of this great party is sealed. It may be so. If it be true, God knows I desire not to lift the veil which hangs over the future of my country. I am no alarmist, but I will utter the honest sentiment of my heart, that I as solemnly believe as I believe in my God, that if the Democracy of this Union goes down, the flag of the Union will go down to be trampled in fraternal blood under the feet of northern and southern hosts contending for the empire of this continent. Yes, sir, go down to rise no more—never again to float from the dome of this Capitol.

But, sir, it will not go down. The Democracy of this Union has a higher, it has a divine destiny. Its mission must and will be fulfilled. Its mission in this Republic is to maintain this Union—equality to all its sections, equality to all its citizens in their constitutional, religious, civil, and personal rights. Its mission on this earth is universal emancipation. Wirt, in his eulogy on the immortal Jefferson, the father of Democracy, said:

"From the working of the strong energies within him, there arose an early vision which cheered his youth, and accompanied him through life—the vision of emancipated man throughout the world."

In the war of the crusades, among the gorgeous ensigns which Christian knights bore on the fields of Palestine, there was one banner, plain and unadorned, containing one inscription. Wherever that banner was borne the Saracen ranks gave way, and the shouts of victory from the Christian hosts went up. That banner contained this simple inscription:

"God wills it."

ADMISSION OF KANSAS.

SPEECH OF HON. S. S. MARSHALL, OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. MARSHALL, of Illinois, said:

Mr. CHAIRMAN: I had not intended, till within the last few days, to submit any remarks of my own on the subject of this much vexed Kansas question. It is entirely exhausted. It is impossible to present anything in the way of novelty or argument, or even of declamation, on a subject which has been so long discussed before the House and before the country.

I do not propose this evening to go into anything like a general discussion of the various points that have been mooted and discussed on this floor; and were it not that this question has assumed an importance in the public mind far beyond what it is entitled to, in my estimation; were it not for the fact that the people of one section of the Confederacy are agitated, and seem to think their peculiar institutions and their constitutional rights are involved in this issue; were it not for the fact that a large portion of the people of the country seem to think that on the result of this question now before the House, depends the perpetuity of the Union; and as serious results may, in fact, follow the action of Congress, it becomes important not only that we should record our votes, but that the country should be informed what were our views and motives for so doing; were it not for these facts, I would have been content to cast a silent vote.

But, sir, as the record in reference to the con-

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duct of the members of this House will be looked to hereafter, and as the Representatives from one section of the Confederacy are charging that those who oppose the admission of Kansas under the Lecompton constitution, are doing it on sectional grounds, and for sectional motives, and that our conduct is governed by anti-slavery sentiments, I wish to place myself right on the record before the House and before the country.

Before coming, however, to any question which legitimately bears on the subject now before the committee, I wish to allude to one or two points, rather incidental than directly, bearing on the questions that have been brought up in the course of this debate.

And, first, I will notice very briefly the fact that it has been, time and again, insinuated by gentlemen coming from one section or another of this Confederation that the opposition, and the sole opposition, to the admission of Kansas under the Lecompton constitution arises from the pressure of anti-slavery sentiments. Now, sir, if gentlemen who make this charge know it to be false, their conduct in making it is scandalously unjust to those who have been, during their whole lifetime, warring against the greatest obstacles in favor of the constitutional rights of the South; and if they do not know it to be false, their ignorance is inexcusable.

I know, Mr. Chairman, that a large portion of those who are opposing the admission of Kansas under this Lecompton constitution are opposed to the admission of any more slave States, and consequently are not willing, as a general rule, to let the people interested settle this question of slavery for themselves. This is the position, as I understand it, of most of the members of the Republican party. It is well known here and elsewhere that I dissent from this view entirely. I am for the perfect equality of the people of all sections, whether they are in the States or Territories.

I think this doctrine of congressional prohibition is sectional, unjust, and dangerous in its tendency, and that if ever a party takes possession of all the branches of this Government acting on that basis, and attempts to carry out that principle, it will lead inevitably to a dissolution of the Union, and a breaking up of this great Confederacy. That is my view about it. But it by no means follows, as is charged by those who are in favor of the admission of Kansas under the Lecompton constitution, that those of us who are opposed to that measure are influenced by any intention or desire to exclude a *bona fide* slave State. I am opposing it because I will not sanction what I believe to be a gross outrage upon the very principles on which the American Revolution was fought; because I will not sanction frauds which I believe are as deep and black as ever were perpetrated in this or any other country, and because I believe that I would be sanctioning, if I were to vote for it, the miserable spawn which has come from the machinations of the Lecompton conspirators, for I look upon the authors of that constitution as nothing else but conspirators against the liberties of those whose will they ought to have regarded.

Mr. Chairman, that the Lecompton constitution tolerates slavery is not only not my main objection to it, but it constitutes no part of my objection. I state here before the House and the country, that so far as I am concerned, I hold that the people of Kansas have the same right to adopt a pro-slavery constitution, if they are in favor of it, as they have to adopt a free-State constitution. I have no right, in my opinion, and certainly I have no disposition, as a member of this Congress, to dictate or even attempt to influence the action of the people of Kansas on this or any other subject. Upon this question of the right of the people of Kansas to adopt a pro-slavery constitution, if they desire it, I have not a shadow of a doubt. If I could influence their action one way or the other I certainly should not do so. I have not a particle of feeling on the subject, one way or another.

Upon some other occasion I might have thought proper to go into this question at greater length, but I will not do it at this time. I propose hastening through the few points which I intend to present. I will remark, in justification of myself,

that I have made no preparation whatever for this discussion. I have had my mind directed to other subjects entirely, and the remarks which I shall make will necessarily be very desultory. The only proper doctrine in regard to this question of slavery is that which I supposed had been adopted and was thoroughly understood by the Democratic party of this country: the doctrine of non-intervention which was embodied in the Kansas-Nebraska bill and in the Cincinnati platform. Upon that idea the contest and canvass for President was made which carried Mr. Buchanan into the presidential chair. I think that at the time of the canvass of 1856 the doctrine of non-intervention was understood by the American people and by the Democratic party. But we are again all at sea. Since this Congress convened, for the purpose of forcing through a favorite project of gentlemen here, we are every day hearing new ideas in regard to the doctrine of intervention and non-intervention which were never dreamed of until now.

Now, sir, what is the doctrine of non-intervention? It is plain and simple, and when you present it to the mind it can be distinctly comprehended and understood. There is no difficulty about it. It is simply this: that the Federal Government shall, in no manner whatever, attempt to dictate or control the local laws or domestic institutions of any State or Territory; that "the people thereof shall be left perfectly free" to determine these matters for themselves; and if they get into a squabble or quarrel among themselves, as they have done in Kansas, that we shall keep our hands off, and have nothing to do with them until they peacefully and quietly, fairly and honestly, settled the form of their government for themselves. Congress has no power, in regard to the Territories, to legislate upon the subject of slavery. Of this, at least, I have no doubt. It is not within the legitimate province of the General Government. But it does not follow that Congress, or any member of Congress, is under any obligation to vote for the admission of new States, either with slavery or without slavery in their constitutions, when there is any other proper and legitimate objection to such admission; want of population, want of presentation by the people themselves for admission, want of fairness, or any other honest and legitimate objection. Sir, if it should appear to my satisfaction that the great body of the population constituting the people of the Territory were felons or outlaws or rebels—as the President calls the people of Kansas—that would be sufficient, in my judgment, not only to lead me, but to force me, acting as the Representative of a free people, and looking to the interests of this great country, to give my vote against the admission of any such State or any such people into this Confederacy. If the people of Kansas were felons or outlaws, or belonged to a degraded race, such as free negroes, who had conferred upon themselves, by their own action, the rights of citizenship; a population which I did not think worthy to be placed on an equality with myself and those I represent, in administering and taking part in the affairs of the Government, I should not hesitate to oppose the admission of such a State into this Confederacy.

But, sir, I will not dwell upon this. There is another point to which I wish to call attention, and that is to what I call the indecent attempt to ostracize, whip in, or read out of the party Democrats whose consciences and judgments will not sanction these frauds. I do not intend to dwell upon this, although it is a subject worthy of the gravest consideration.

There has been an attempt to brand, as rebels and as traitors—notwithstanding what might be the judgment of gentlemen, notwithstanding what their consciences and their constituents might dictate—those who will not bow down to power and lick the hand that attempts to lash them into the traces. For myself, I will say, that I have as strong an attachment for the Democratic party and the Democratic Executive as any man upon this floor or in the country, but I am not a spaniel to be whipped into the service of any man or set of men. I will think and act as the Representative of a great and free people who owe nothing to Presidents or Cabinets. In acting with the Democratic party I do so from my conviction of right

and duty, and from no other motive whatever. I will permit no man on earth to think for me, or dictate my course of action. I have the honor of representing the strongest Democratic district in this Union; a district which, with the sectional issue presented in the last presidential contest, increased its Democratic majority more than any other in the country, which swelled the majority for Mr. Buchanan ten thousand over any former vote.

Mr. HUGHES. Will the gentleman permit me?

Mr. MARSHALL, of Illinois. I will yield to the gentleman with pleasure, if he will ask a direct question, and waive his usual preamble.

Mr. HUGHES. I will try to ask a question without a preamble. It is this: who is it that has attempted to establish this test, and to read men out of the party?

Mr. MARSHALL, of Illinois. That is a very direct question for the gentleman. It is done notoriously by the present Administration. It is done by the organ of the Administration in this city. It is done by the Administration throughout the country; and it is well known that the tenure of office depends upon whether the incumbent will bow down his conscience and his judgment to this Lecompton scheme.

Mr. HUGHES. Has the gentleman been excluded from a Democratic caucus of the whole Democratic party because of his opinion on this question?

Mr. MARSHALL, of Illinois. Not at all; I do not pretend that there has been any direct action, because it so happens that a congressional caucus has no such power conferred upon it, either by the people, the Constitution, or even the Cincinnati platform.

Mr. LAWRENCE. Does the gentleman from Illinois know how soon he may be excluded from a Democratic caucus after to-morrow?

Mr. MARSHALL, of Illinois. I do not know, and I do not care. The matter does not disturb my equanimity for a moment.

Mr. LAWRENCE. Nor mine either.

Mr. MARSHALL, of Illinois. I know that a congressional caucus has no such power. This is a matter of fidelity to the party, to be settled by the conventions of the party in the States, and by the national convention. For myself, I think a man is a good Democrat who always votes the Democratic ticket without scratching, and manfully battles for the principles of his party, the rights of the people, and the Constitution of his country.

Mr. CLARK, of New York. I think if the gentleman refers to the proceedings of last evening, that he will see that this conclusion is not fairly deducible from those proceedings.

Mr. MARSHALL, of Illinois. I do not refer to that; but is it not known to gentlemen on this floor that a paper in this city, recognized as the organ of this Administration, has forgotten the Know Nothing party, the Abolition party, and Black Republican party, and has gone down into the sewers of filth and defamation for the purpose of fishing up epithets to hurl at Democrats upon this floor, denouncing them as traitors and rebels, with other similar choice epithets.

Mr. HUGHES. One more question without a preamble.

Mr. MARSHALL, of Illinois. Yes, sir; if it is without a preamble. [Laughter.]

Mr. HUGHES. Before any party tests were established, did not the gentleman from Illinois meet in caucus repeatedly with gentlemen who were opposed to the Lecompton constitution?

Mr. MARSHALL, of Illinois. The gentleman has been propounding that question a great many times, and I do not know whether he has got a satisfactory answer or not; but permit me to say that those who are in favor of the admission of Kansas under the Lecompton constitution, I do not care what they call themselves, whether Democrats or Know Nothings, have the right to adopt whatever means, after consultation, they may deem proper, which may harmonize them and best subserve the end they have in view. But that is not establishing a party test. Those who are opposed to it, and think it is fraudulent, who think it is a violation of the principles of our Government, if they really want to defeat it, may get

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together and agree upon such a course as will secure their object. For myself, I have never gone into caucus or consultation with anybody except Democrats, in regard to this or any other political question.

Mr. HUGHES. I want to say this: If I can get the floor after the gentleman has concluded his speech, I will give my views on this subject.

Mr. MARSHALL, of Illinois. I have no objection to that, and I have no doubt that the gentleman will throw much additional light on the subject.

I will resume my remarks: Who are the men against whom this crusade is made? Who are the men that are denounced as Free-Soilers, as Abolitionists, as traitors, and rebels? Of what material are they made? It so happens that the anti-Lecompton Democrats who oppose this odious measure (I speak of the measure, and not of those who support it) have to a man got a clean Democratic record. You will find none of your broken-down Free-Soilers among us. It is not in the ranks of the anti-Lecompton Democrats, but in your own that you will find your authors and advocates of the Buffalo platform. Your Hon. JOHN COCHRANES, (now, by the grace of God and special favor of Lecomptonites, chairman of the "Democratic caucus" that is to establish the test of orthodoxy,) your Van Burens, and your Dixes, and your James Gordon Bennetts, and men of that character. There is not a man among us, who, from his first vote down to the present time, has not a clear Democratic record, without spot or blemish, and beyond all suspicion. I invite any gentleman who may desire it to enter into the investigation.

Mr. HUGHES. I will do that.

Mr. MARSHALL, of Illinois. I would like to take up the record of my friend, and a few other of such immaculate Democrats, but I cannot do it to night. I cannot confer that favor upon them.

But, sir, it affords me no pleasure to pursue this line of remark. I would much rather avoid all crimination of every kind, and see our Democratic friends all move on harmoniously together. But one thing is worthy of remark. It so happens that those gentlemen who are so rampant to read us out of the Democratic party are mostly men who have, until very recently, warred against Democracy their whole lives.

It is a good illustration of the old doctrine that new converts are always more zealous than old members of the church, [laughter;] they take a far greater interest in the church than those who have been in it all their lives. I repeat—what you all know to be the fact—that a great portion of these very men, who are now so eager to read out of the Democratic party men who have been in it all their lives, are men who have gone down with other parties, and who have jumped upon the Democratic platform to keep from going to the bottom. I make these remarks in no spirit of crimination. I have no lectures to read these gentlemen for their past sins and transgressions. I was one of those, sir, who received gladly and welcomed cordially the returning prodigals into the bosom of the Democratic party. But I would advise a little more modesty in their deportment for the future. Let their conduct not lead us to suspect that they entered the party only to distract and divide. Let us not be forced to the conclusion that, Judas like, they kissed only that they might more easily betray.

Mr. Chairman, while on this subject of party fidelity, there is one other matter to which I suppose I had as well allude here. It is, I know, not a matter of much importance, and certainly not a thing which disturbs my equanimity a particle; but it has become a subject of remark, and probably deserves some notice. I refer to it the more readily because I know that my sincere regard for my southern friends will not be questioned. There is in the South a certain class of politicians—far from constituting a majority, I am happy to say—who arrogate to themselves a superior wisdom, plume themselves upon their superior Democracy, and claim the right, as if they had a patent from God Almighty for the purpose, to declare what is and what is not Democracy. These men, often as destitute of brains as of modesty, assert by their deportment, and sometimes by their language, a superiority for southern gentlemen and southern

Democrats over those who happen to hail from northern States.

Now, sir, for one, I am tired of these peacock gosterings and baseless assumptions. I wish to make no comparisons; I wish to impeach no man's motives or fidelity to his party. But truth and justice to myself and those with whom I act require that I should say, that in all the issues on the slavery question which the Democratic party have made for the maintenance of the constitutional rights of the South, you gentlemen from that section deserve no particular credit for the position you have assumed; you are floating with the current of popular opinion in your own section; you are fighting for your own interests, for your altars and your firesides, your "domestic institutions;" you dare not take any other position; you could not do so and stand before your constituents for a moment.

But how is it with northern Democrats? A more unselfish, devoted, self-sacrificing band of men have never existed in any political organization. In the face of the natural anti-slavery sentiments of our own section—in the face of the Abolition and Free-Soil waves, mountain high, which threatened to engulf us, and which were too often raised and strengthened by the rashness and folly of southern men—we have, year by year, breasted this Free-Soil deluge, and beaten back its fierce waves. We have battled for your rights, not because they were yours, but because we intend always to defend the right, without regard to section, and regardless of consequences. We have done this without a murmur, unaided and alone; for we have been more often crippled by the rashness and assumptions of southern men than strengthened by any aid from them. We have freely, without hesitation, united with you in these issues, by which our ranks have been thinned and broken, and thousands of our bravest captains overwhelmed and driven from the field. We have, without a murmur, united with you in these issues, by which you have been strengthened, until you have been able to break down all opposition, and come up here a united and unbroken column. And now, forgetting the means by which you have been strengthened and we weakened, too many of you have become arrogant and dictatorial, and claim for yourselves all the credit of the victory, and the right to set up new and unheard-of tests of Democracy.

If ever a people deserved commendation for a faithful, unflinching adherence to right and duty, the northern Democracy deserve that commendation. If any people are entitled to gratitude for an unselfish and perilous defense of the rights of others, the northern Democracy ought to have been met with that gratitude. But what are the facts? When the great sectional battle had been fought and won; when the Opposition were, by thousands, abandoning their sectional platform of congressional prohibition; we come up here, and, instead of gratitude, friendship, or even common courtesy, we are met with contumely, denunciation, proscription, insult, and injustice. We are denounced as traitors, rebels, and renegades, because we have determined at all hazards to defend the rights of the white man to govern himself, and to resist to the last every attempt to subjugate him by fraud or violence. We are proscribed because we will not basely bow the knee to power, or yield to the seductive influences of executive patronage.

Sir, I have been taught that Democracy is a glorious principle, emanating from God and having its home in the hearts of honest men. I have been taught that it is based on the golden rule of doing unto others as we would that they should do unto us; that it defends the equal rights of all men, and works injustice to none; that, "like the dews of heaven, it dispenses its blessings to all alike," and resists wrong, fraud, usurpation, and oppression, from whatever quarter they may come; that popular rights constitute its base and that its apex points to the eternal principles of truth and justice. This, sir, is what is understood by Democracy in the humble school where I was educated, and among that gallant people whom I am proud to represent here. As the representative of that principle, that people gave a cordial and almost unanimous vote to Mr. Buchanan for President.

But now, as if to add insult to injury, you have dragged into my presence a hybrid monster, conceived in sin and brought forth in iniquity; the miserable offspring of conspiracy and crime, covered with fraud and bearing with it the marks of infamy; a bastard bantling, disowned, repudiated, loathed, and despised by the people whose child it claims to be; you have dragged into my presence this fetid monster, offensive to my eyes and my nostrils, labeled it "Lecompton constitution," christened it by the name of DEMOCRACY, and ask me to bow down and worship it as my idol. *I tell you I will not do it.* With my convictions it would be dishonorable in me to do so. You may denounce and proscribe, pile epithet upon epithet, and hurl your anathemas until you are sick with your own folly, and it will all pass by me as the idle winds which I heed not. *There is no power on earth that could induce me to sanction this wrong.*

And now, let me say to my southern friends, you have carried this thing far enough. You are asking us to take a position upon which we could not and ought not to stand. Before you further heap epithets and denunciation upon us, it would be well for you to pause and study the history of the Democratic party. The sacrifices have been altogether on our side, and not yours. We have never been strengthened one particle by any act of yours. I wish to know what concession you have ever made in our party organization for the purpose of strengthening our hands? What do we owe you? When have we been strengthened in our course upon this floor, or before our constituents, by any concession you have made?

Mr. JONES, of Tennessee. If the gentleman will permit me to ask him a question, I desire to know if the southern Democracy have ever asked northern men or any other men to concede anything but their constitutional rights? If we have ever gone beyond the Constitution, we ask you not to concede it. All we ask of you is the Constitution of the country and Democratic principles.

Mr. MARSHALL, of Illinois. I am not aware that you have asked more until now. I have said before my constituents, and before the country, in public addresses, that my conviction is that as far as the legislation of the country up to this time is concerned, the South has asked nothing which is not her right under the Constitution of the United States. But I am sure, if you call this Lecompton constitution a southern measure, you are asking that which is an insult to the people both of the North and South, as I honestly believe it ought to be considered.

Mr. HUGHES. I wish to say a word right here in justice to the gentleman from Illinois. The gentleman has made an insinuation here, in reference to my record.

Mr. MARSHALL, of Illinois. Oh, I cannot yield the floor further. I do not intend to go into that.

Mr. HUGHES. I just wish to say that I challenge that gentleman, or any other gentleman, to assail that record.

Mr. MARSHALL, of Illinois. My friend must excuse me. I do not intend to go into small matters this evening. [Laughter.]

Mr. HUGHES. I do; for I expect to answer you. [Laughter.]

Mr. MARSHALL, of Illinois. The gentleman had better discuss himself, as he seems anxious to make himself conspicuous by attempting to magnify very small things. [Laughter.]

Mr. HUGHES. If I desired to make myself conspicuous, I should seek to array myself against some man of more standing than the gentleman from Illinois. [Renewed laughter.]

Mr. MARSHALL, of Illinois. This is not the first time I have seen small things trying to magnify their own importance. It is not the first time I have heard of flies buzzing around and trying to attract the attention of objects much larger than themselves. [Laughter.]

Mr. HUGHES. Buzzing around very dirty places. [Excessive laughter.]

Mr. MARSHALL, of Illinois. The very kind of places in which I should expect to find the gentleman from Indiana. [Continued laughter.]

Mr. HUGHES. It is just the place I find myself, when I follow after you.

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Mr. MARSHALL, of Illinois. Well, I hope the gentleman will enjoy his situation. But I must ask pardon of the committee for indulging in this badinage. I have been led into it unexpectedly. Let it stop here. I have no unkind feelings towards the gentleman from Indiana, and I hope he will so consider it. If he is satisfied now, I am very sure that I am. [Laughter.]

Mr. Chairman, the presentation of this Lecompton constitution to Congress offered the people of the South the best opportunity they have ever had of building up a great national and conservative party, which would have been a bulwark to the constitutional rights of the South in all time to come. And why? What was our difficulty throughout the North during the last presidential canvass, in maintaining the doctrine of the Kansas-Nebraska bill and the Cincinnati platform—the doctrine of leaving the people free to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States? What was the difficulty? It was not that there was anything in the doctrine hostile to the sentiments of the great body of the northern people. Our opponents charged that the Democratic party were not acting in good faith, and did not mean what they said, or intend to carry out the principles they professed; that the Democratic was a pro-slavery organization; that we, the men of the North, who were supporting it, were doughfaces, hirelings, doing the bidding of the slaveocracy; and that when the Democrats got into power, they would not leave it to the people of Kansas to settle the matter at the polls, but would force slavery upon them; that the Kansas-Nebraska bill was passed for that very purpose. We denied this charge everywhere, and insisted that the Democratic party was honest in its professions, and that the people would be permitted to frame their constitution and regulate their domestic affairs according to their own will. And I tell you, if we could have satisfied the people of the North that such would be the practical effect of the doctrines of the Democratic party, and of the Kansas-Nebraska bill, the Republican party would have been reduced not only thousands, but hundreds of thousands, and the Democratic representation from the North upon this floor would have been doubled.

Well, sir, here comes up, after the election, this famous Calhoun convention in Kansas; and they frame a constitution which everybody knows—there is no use discussing it—and which the members of that convention know—to be a fraud and a misrepresentation of the will of the people of Kansas. They knew, at the time they assembled, that the people of Kansas expected—for such was the impression everywhere, and many of the delegates were pledged to it beforehand—that when the constitution should be formed it should be submitted to the people, that they might decide whether it embodied their sovereign will or not. When this was done, and when this pro-slavery constitution was formed; when there was nothing to be gained by urging this thing, and when everything was to be gained by a contrary course, if the South had come up in a body and spurned and repudiated this fraud; if they had said, "as we will not submit to, so we will not insist upon, any advantage obtained by wrong or fraud;" if they had declared now, when their motives could not have been questioned for so doing, that they were determined to leave the people free to frame their constitution for themselves, and have slavery or not, as they pleased; that if there was any doubt about there having been a fair expression of the popular will they would have nothing to do with it; that they would hold their hands off until the people should settle it for themselves; if you had done that, you would have given the public confidence in the honesty of your professions, and broken down sectionalism and fanaticism forever. Oh, but this would be intervention! Surely, sir, the meaning of words, as well as the principles of parties, must be undergoing a rapid change. Mr. Calhoun brings a paper here which he calls the constitution of Kansas, but which the people of Kansas, in every mode in which they can speak, declare is not their constitution. Their Delegate upon this floor says it is not their constitution; their Territorial Legislature, the only legal legislative body existing in that Territory, say it is

not their constitution, and that they are not asking admission under it. And not only that, the people are invited and encouraged by the Governor and Secretary of State, and by the President, to go to the polls on the 4th of January; and they go to the polls, and say, by ten thousand majority, that it is not their constitution, and that they do not ask admission under it; and I, and those who are acting with me, say we are not satisfied that Kansas is asking admission into the Union at this time, under that or any other constitution. There is a dispute about it; and gentlemen pretend that to say we will keep our hands off; that we will let the people settle it; that when we have become satisfied that the people have settled the question, and have organized a government, then we will consider whether they have sufficient population, whether they are the right kind of a people to be admitted into the Union; but until they have done that, we will have nothing to do with the matter; I say gentlemen pretend that this is intervention in the affairs of the people of a Territory, and that to force a constitution upon them which they utterly repudiate, and force it, if need be, at the point of the bayonet, is *non-intervention*. Well, sir, according to my view, it would be *non-intervention* with a vengeance.

Let me make another remark or two in regard to this thing of proscription. In 1854, the issues upon which the Whig party had stood, passed away. Their great leader had gone down to his grave. After the dissolution and disorganization of that party, there sprang up in the country two great parties; and the rapidity with which they spread and gained strength appalled the heart of every national and conservative man throughout this great country.

The Democratic party seemed to be melting away like snow before them. On one side was the Know Nothing party, and on the other the Republican party, which seemed to spring into existence spontaneously after the passage of the Kansas-Nebraska bill. The Democrats were flying before them, both on the right hand and on the left, and the spaniel-like time-servers of the party were running howling back to their kennels to evade the contest, and there lurked to await the result of the fierce battle that was approaching.

Terror spread throughout the whole country. Not only the defeat, but the destruction of the Democratic party seemed to be almost inevitable. At that time, when cowards fled and shrunk in terror; when the weak and vacillating were skulking into hiding places, and when men, now loud in denunciations of those who do not act with them on this question, were hesitating to know where they should go, and doubting what should be their course for the purpose of saving themselves; at that time of darkness and terror and dread, there came on the arena two warriors who attracted the attention and eyes of this whole nation. Without hesitation, without doubt, they plunged into the contest; and wherever the clouds lowered darkest, and the battle was fiercest, their stalwart forms were seen driving among the thickest ranks of their enemies, both Republican and Know Nothing. Their war-cry and the words of fire which they breathed forth were caught up and repeated from every stump and in every paper throughout the land. Those who had fainted took courage; those who had fled turned back and began to think that there was still some hope and some chance of saving the Democratic party from destruction and dissolution. The exultant enemy began to quail before their blows. The strong-hearted Democrats rallied around these gallant and victorious captains. By degrees they began to regain the fields they had lost. The enemy, North and South, were at length beaten down, and the banners of the great Democratic party were again unfurled in triumph before the eyes of the nation.

And who were these leaders who came forward at this opportune time, and saved the Democratic party from destruction? One was a northern man, the author of the Kansas-Nebraska bill; the other was a southern man, the present Governor of the much-honored "Old Dominion." Two years have hardly passed away, and now these men, who made the issues on which Mr. Buchanan was brought into power—these men who turned the

tide and saved the party from destruction—are now proscribed and hunted down, as if they were in fact felons and traitors; and miserable time-servers are endeavoring to blacken and befoul their characters with their slime. My God, Mr. Chairman, was such ingratitude ever heard of in any country? [Several voices: "Never!"] And why are they read out of the party? One, the author of the Kansas-Nebraska bill, and who ought to know something of what that bill means, and of whose fidelity to the Constitution and to the rights of the South there ought to be no question, says he is not satisfied that the people of Kansas were left to settle and regulate their domestic institutions in their own way. He is not satisfied that this constitution is a fair and legal embodiment of their will; there is a doubt about it; and he would rather wait, keep hands off, and let the matter be settled by themselves, before he was called to act upon it. For that, and that alone, the hue and cry was raised that he has abandoned the doctrine of non-intervention, and he must be read out of the Democratic party; and that, too, by the authors of the Buffalo platform, and others of that kidney. And the great organ for the purpose of doing that is the celebrated New York Herald, the leading organ of John C. Frémont in the last presidential contest.

Mr. Chairman, I am as warm a friend of Mr. Buchanan as he has on this floor. I expended a considerable sum out of my scanty fortune, and a great deal of time and labor, for the purpose of helping to bring him into the presidential chair. From the time I left this House after the memorable session of 1856, until the polls were closed and the votes counted in my district and State, I scarcely laid my head one night on my own pillow at home. Night and day, amid storms and sunshine, where ever there was a blow to be struck and a battle to be fought, my weak arm was found attempting to strike that blow, and to assist in that contest. I am as devoted to the principles of the party, and as anxious for the success of this Administration, as any man can be. But let me tell you, Mr. Chairman, that throughout this country there are more than half a million of men who supported Mr. Buchanan with all their hearts, and who are his best friends, who never will sanction this Lecompton movement under any circumstances. Let me tell you that they are men who owe Presidents and Cabinets nothing, and who expect nothing at their hands. They will think for themselves. And, if the President wants to maintain the integrity of the party; if he wants to have the respect of those who brought him into power, and who love and venerate him; if he expects to leave a bright record, which those who love the party and those who love his name may look upon with respect and love and regard hereafter, *he must call off his hounds. He must drive his spaniels that are barking at the heels of better men than themselves, back to their kennels;* and the dirty puppies who are spewing forth their filth through their dirty sheets here and through the country, *must be muzzle.* [Laughter.]

This course cannot be followed through all time. If the integrity of the Democratic party is to be maintained, *this thing must stop.* Blows will not be always struck on one side. It is not in human nature to tolerate this thing forever. If you keep hammering a man over the head—I care not how good a friend he may be—he will at length resent the indignity, and return blow for blow. There is no doubt that such must be the result. If the President consults his own interests, the interests of the Administration, and of the party of which he is the guardian, I repeat, *he must stop this thing.*

Mr. KUNKEL, of Maryland. Does the gentleman mean to say that the President of the United States has incited what the gentleman thinks proper to denominate the little petty puppies of newspapers to make this war on any man or set of men?

Mr. MARSHALL, of Illinois. I will say this to the gentleman. I would be glad to believe otherwise; but I am sorry to say that the evidence forces me to the conclusion that the President favors this thing. The special organ of the Administration here, supposed to be in the confidence of the President, has been most bitter and vituperative. The Pennsylvanian, also supposed

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to be in the immediate confidence of the President, has been equally bitter and vituperative.

Mr. KUNKEL, of Maryland. Without any personal knowledge of the fact, I pronounce it a libel upon the President.

Mr. MARSHALL, of Illinois. If the gentleman has no personal knowledge, he ought not to speak about a matter he knows nothing about. [Laughter.] Mr. Chairman, I say this in no unkind spirit. I say it because this thing has been pursued long enough. I say it because it is unjust—unjust to men who are as true friends of the President as any man in the country, and have as little idea of abandoning his general support. Surely, sir, the President and the Administration have mistaken the relation which they bear to the party and the country. Why are we called traitors? Whom have we betrayed? To whom do we owe allegiance? Sir, we are not sent here to represent or reflect the will of the Executive. We do not come here to register the edicts of a master. We owe allegiance, first, to the Constitution, and then to our constituents; and we owe it to no other tribunal or power on earth. If our fidelity is brought in question, we appeal to our constituents to determine the matter, and their verdict is final and conclusive. If they are satisfied, who has any right to complain? The President has his appropriate functions—members of Congress have theirs. He has no right to interfere with the passage of bills through Congress, and it is a breach of the privileges of the House for him to do so. We, who aided in elevating the President to the exalted office which he holds, are his friends, not his slaves. He is our servant, not our master. If there is any treason, it must be on the part of the servant, and cannot be on the part of the master who owes no allegiance. The Democracy of Illinois, who supported him so cordially, owe him none, and have a right to think and act for themselves.

I was about to remark, when interrupted a while ago, that there is something very singular in the fact that upon every question except one, men may think and act as they please, without their party fidelity being called in question. The President has recommended a great many measures, and there is not a Democrat in Congress who supports the President in every position taken in his message. If there is such a man here I should like him to show himself. And yet there is no complaint. Men may oppose the President on his Army bill, on his Nicaragua policy, on his Treasury note bill, and upon other measures, and there is no complaint. There is something that men must notice as remarkable in regard to this, and that is that this thing of proscription and denunciation stops just as soon as you reach *Mason and Dixon's line*. It is not right, sir. It ought to be stopped. And those from the North, and from the South, who are in the confidence of the President in regard to this measure, ought to say to him to hold off his hands, for every one knows that upon the least intimation on the part of the President to these papers that are feeding and fattening on his patronage, that this thing was unpleasant to him, it would be stopped in a moment. Everybody knows that.

Mr. Chairman, there is one feature which has pervaded the discussions of this Kansas question during the entire session, that could hardly fail to have attracted the attention of the most casual observer. I allude, sir, to the extreme anxiety many professed Democrats have shown to be able to make some point, or find some plausible ground of attack, against Judge DOUGLAS, or the Illinois delegation in the House, or even the State and the Democracy we have the honor to represent. Many have seemed to think, if they could only hunt up some fact that would throw discredit upon that Senator, or weaken him in the esteem of the country, they had accomplished a great end, and all that was necessary to establish their own superior statesmanship. It is every day becoming more and more apparent, that the extraordinary bitterness and vindictiveness manifested in this contest, has resulted from the scheming of aspiring demagogues, who would move heaven and earth to break down and discredit that distinguished statesman. The war has been, to a great extent, a personal one; and, to accomplish their purpose, a course has been pursued which never could have

been dictated by sound policy, the interests of the country, or of the Democratic party.

The assaults which have been made upon the State of Illinois and her Democracy, have been treated with indifference and contempt. They deserve neither notice or consideration. I do not propose a defense of my native State now. She needs none. Her own history and her present proud position constitute her own vindication. In her natural resources; in rapid development and material prosperity; in the gallantry of her sons on the field of battle; in their devotion to the Constitution, the Union, and the rights of every section of the country; in their unyielding devotion to the Democratic party and Democratic principles; in all, sir, that can make one of her sons proud of the land that gave him birth, and that has nourished and sustained him, Illinois stands this day without a parallel, the pride of the country, the admiration of all intelligent observers. I thank my God daily, sir, that my lot has been cast among her hardy sons. And as long as I receive their approval, and retain their confidence, I can look upon the frowns of power, the denunciations of a hireling press, and the sneers of hungry sycophants, with perfect indifference. The Democracy of Illinois, sir, have never faltered or failed in the discharge of their duty. *She has never given any other than a Democratic vote for President.* When many I see around me, and who now claim to be the only "simon pure" Democrats, were battling in the ranks of the enemy; when the storm of war raged heaviest, and the Democracy of other States have been defeated and driven from the field by the fierce charges of the enemy, our forces have never faltered—our columns have never been broken. No odds what array was brought against them; no odds what obstacles presented themselves, the Democracy of Illinois have trampled down the opposition, and proudly borne their flag to victory. And these are the people, sir, that you would now read out of the Democratic party! Mr. Chairman, I find it difficult to realize the fact that such ingratitude, and such consummate folly can possibly exist among men calling themselves Democrats. But we, at least, have the consolation of knowing that if we are forced to separate, we owe you nothing—absolutely nothing. We have faithfully discharged our duty, without fee or reward. We have battled manfully for the right because it was the right, and from no selfish considerations. We have fought bravely for the Constitution and the Union; because, with all our hearts, we love the Constitution and the Union. We have battled day and night, year after year, for the constitutional rights of the South, because they were their constitutional rights, and because we wish to do justice to our brethren of every portion and section of this broad land.

Of all the States, the most true to the Constitution and to the Democratic party, always bold and prominent in the fight, Illinois has reaped none of the fruits of victory. Her sons have often been leaders in the charge, and first to scale the ramparts of the enemy; yet the spoils of victory have always been divided among others. From the moment she became a sovereign State to the present time, she has never faltered in her adherence to the national Democracy. With men of acknowledged talents and statesmanship in her midst, not one of her sons has ever, at any time, received a first-class appointment from the Federal Government. Her claims in this respect have been disregarded. Notwithstanding all this, we have adhered to our faith and battled for the right without a murmur. And now, sir, mere fledglings in the party—men who have devoted the best part of their lives to the service of the enemy, have undertaken the task of denouncing and branding us as traitors and renegades.

But the honorable gentleman from Virginia [Mr. SMITH] has made himself conspicuous by his assaults upon Illinois and her distinguished Senator. Following the example of ladies of doubtful reputation, he, too, seems desirous of patching up his own political character by assailing that of other men. He has arrogated to himself a superior sanctity, and stands up in the market-places and "thanks God that he is not as these publicans and sinners." Towards the close of his singular speech he abandons, for a time, generalities and

insinuations, and attempts by distinct charges to assail the motives of Judge DOUGLAS and his associates. One of these arraignments is in these words:

"Mr. SMITH, of Virginia. I will say this in conclusion: that the delegation from Illinois, or a portion of them at any rate, met together here, when Congress assembled, to consider the course which a certain gentleman in the other end of the Capitol should pursue, and the means he should use, in order to secure his reelection to the United States Senate. I say that much; and I will make out the case when I have the time. I say that certainly extraordinary action has resulted in a concerted movement, having an eye alone to his reelection."

I have already stated on the floor of the House, that this charge is wholly and entirely destitute of truth. It has no foundation whatever in fact. I allude to it now, for the purpose of adding that the honorable member ought to have known at the time that it could not be true. It was known throughout the whole country (the matter was discussed in the newspapers some time before Congress convened) that the Senator from Illinois was opposed to the unqualified admission of Kansas under the Lecompton constitution. Upon his arrival in this city, some days before Congress convened, almost his first act was to wait on the President, and state to him frankly his views in regard to this question. Their meeting was said to be cordial, and their conference frank and friendly, but their differences on this question were also said to be radical and irreconcilable. An account of this visit and conference was at the time published in the various papers throughout the country, and ought to have been known to the honorable gentleman. I take it for granted, however, that he had forgotten or overlooked these facts which were so well known to the whole country.

The honorable member has been equally unfortunate in the other specific charge which he thought proper to make. It is equally baseless, and equally destitute of the semblance of truth. That charge is made in the following language:

"Let me say here, also, that Mr. Calhoun wrote to Judge DOUGLAS, not as a Senator, but as a friend, stating the plan that was to be pursued, and asking his advice in reference to it. No answer to that letter was ever received, but the Chicago Times came out and indorsed the proposed plan. I state, as a fact, which will not be disputed in any quarter, that Senator DOUGLAS, not as a Senator, but as a conspicuous friend of this gentleman, was written to in the month of September, asking his advice as to the course to be pursued in the submission of the constitution, and that he never responded to that letter by dissent or affirmation. I repeat, the Chicago Times, understood to be under his influence, was published, containing an article indorsing the suggestions of that letter. I have not time to go into this question as I would like; but such are the facts in relation to this matter."

Mr. Chairman, I am utterly amazed that any gentleman, and especially the honorable member, should travel out of his path and his line of argument for the purpose of bringing forward and placing on record a charge of this character against a distinguished leader of his own party; and that leader a man who has been more prominent, open, bold, and constant in the advocacy of the constitutional rights of the South, and the principles of the Democratic party, than any man now living. If the charge were true, the propriety of that gentleman bringing it forward in the manner and under the circumstances in which he lugged it into his speech, would be at least questionable; but what will the House and the country think of it when I state, what I now do, broadly and distinctly, that in every essential particular it is utterly destitute of foundation or truth? Let me be distinctly understood. It is not contended that Judge DOUGLAS ever wrote to Mr. Calhoun on the subject. The charge plainly and distinctly insinuates, rather than directly made, is that the author of the Kansas-Nebraska act, not openly and boldly, but in an underhand and skulking manner, indicated to Calhoun, through the columns of the Chicago Times, the mode of submission of the constitution which was adopted by the Lecompton convention. I repeat, sir, that the charge is as destitute of truth as any charge could possibly be. Judge DOUGLAS is in no manner responsible for the editorial conduct of the Chicago Times. That is an independent Democratic journal, friendly, in the main, to the distinguished Senator from Illinois; but its editorial conduct is in charge of a gentleman who thinks, acts, and writes for himself, without submitting to the direction or dicta-

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tion of any one. But this disavowal is not important. The most amazing fact in reference to this calumny is, that no such article as the one indicated by the honorable gentleman from Virginia has ever, at any time, appeared in the columns of the *Chicago Times*. This fact, at least, if it existed could be easily proven, and I defy the gentleman to produce the evidence. If he fails, which he most assuredly will, the charge is not only shown to be false, but utterly desitute of foundation or plausibility from the beginning.

I do not, Mr. Chairman, charge the honorable gentleman from Virginia [Mr. SMITH] with willful falsehood or misrepresentation. Far be that from me. I have too high an appreciation of what is due to this body, and to the position of the honorable gentleman, even to insinuate such a charge for a moment. I would not believe for a moment that any gentleman occupying a seat on this floor, much less one so distinguished as the honorable member, would be guilty of so base a fabrication, or of giving it currency, knowing it to be false. But what I complain of, what the friends of Judge DOUGLAS have a right to complain of, is that the gentleman should, without investigation, pick up from the purlieus and streets of Washington anonymous slanders against a distinguished statesman, fabricated by plunder-gorged parasites, and the miserable, leprous, hungry pack who are ready to bark at the heels of any one who they may think is under the ban of power—slanders which have been floating around the streets of Washington all winter, but which the friends of Judge DOUGLAS deemed wholly unworthy of their notice. We have a right to complain that so distinguished a gentleman should lend his name to give currency to charges which before were unworthy of notice, and allow himself to become the conduit through which this miserable spawn of malice and defamation should be poured forth upon the House, and sent out to infect the moral atmosphere of the whole country.

Mr. Chairman, I shall append to my remarks, when printed [see appendix] the article which Mr. Calhoun has indicated as the one which he supposed reflected the views of Judge DOUGLAS on the question of submission of the constitution to be framed at Lecompton. Calhoun first saw it in a Kansas paper, copied from the *Chicago Times*. It appeared first in the *Daily Times* of the 14th October, 1856. I have evidence, satisfactory to myself, that Judge DOUGLAS knew nothing of this article at the time it appeared, and probably never saw it until I furnished him, a few days ago, a copy of the *Times* in which it appeared. But, be this as it may, it will be seen that the article, instead of sustaining, utterly disproves the charge made by the honorable member from Virginia; and I have no hesitation in saying, that if the mode of submission, indicated in that article, had been adopted in good faith, the result would have been satisfactory to the people of Kansas, and to the whole country, ultra factionists, North and South, alike excepted.

Mr. Chairman, I see that the time allotted to me has nearly expired. I have been led entirely out of the line of remarks I proposed to myself when I obtained the floor. I intended, when I arose, to attempt to meet the arguments which have been made and so often repeated on the other side. I think I could have shown, to the satisfaction of any candid man, that there is no application on the part or in behalf of the people of Kansas, or the Territory of Kansas, or the State of Kansas, for admission into the Union; that no such question is properly pending before Congress; that a false claim has been raised about this whole matter; that this Lecompton constitution is in no proper sense the constitution of Kansas, and in no proper sense embodies the will of her people; and that it is a miserable piece of most wretched jugglery, a most bare and unblushing fraud. But I see that I cannot now go into these questions at all. They have probably all been more ably discussed by others than I could possibly discuss them. It is probably well that I have been led out of the beaten track, for I am sure that I have thereby had more of the attention of members than I should otherwise have done.

APPENDIX.

The following is the article which appeared in

the *Chicago Times*, October 14th, 1856, which has been indicated by Mr. Calhoun as the one which he supposed reflected the views of Mr. DOUGLAS in regard to the mode in which the constitution framed at Lecompton should be submitted to the people of Kansas for their ratification or rejection:

"KANSAS—THE CONSTITUTIONAL CONVENTION.—The convention which was elected in Kansas to frame a State constitution for that Territory, will soon meet again. They cannot fail to have observed, what all the rest of the world has observed, that the voice of the people of Kansas is in favor of a free State. We know not what may be the purpose or the feelings of the delegates upon the question of slavery, but the recent election has demonstrated that nothing else than a constitution which shall exclude and prohibit slavery, will be accepted by the people of the Territory. That fact is so patent, that no man can shut his eyes to it.

"It is said that the convention, when elected, was unanimously pro-slavery; that we know to be untrue; we know that there were many delegates who were in favor of obeying the wishes of the people; and a majority in favor of submitting their action, no matter what it was, to popular approval or rejection at the polls. What that convention will do, or what it will not do, we have not the means of knowing. But we know that any attempt to force a pro-slavery constitution upon the people without the opportunity of voting it down at the polls, will be regarded, after the recent expression of sentiment, as so decidedly unjust, oppressive, and unworthy of a free people, that the people of the United States will not vote for it. It would add thousands to the vote of the Republican party in every State of the Union, and give to that organization what it has never had yet—a show of justice and truth.

"To the Democratic members of that convention the course is plain. The people have decided in favor of a free State; though they have not voted on the naked issue of free State or slave State. Two thirds of the Democratic party in Kansas have voted with the 'free-State' party at the recent election, in order to make the popular decision more emphatic. As Kansas must be a free State, even those persons in the Territory who are known as 'pro-slavery' men must recognize in the late election a decision which must not be slighted nor put at defiance. To that expression of the popular will there should be a graceful, if not a cheerful submission. Kansas is to be a free State! That fact being ascertained, let the convention frame a constitution to suit her best interests upon all other questions, and let the prohibition of slavery be put in it, clearly, and without quibble, plainly, without disguise, explicitly, broadly, and firmly. Let the convention then submit that constitution to the people. If it be adopted, Kansas will come into the Union at the next session, and the Republican party will expire for want of sustenance. If any members of the convention desire to prolong the controversy, or to have a regular, direct vote upon slave State and free State, let a free-State constitution—the Topeka constitution, divested of such of its provisions as time has shown to be unsuitable—and a slave-State constitution be prepared. Let them both be submitted to the people—the vote to be 'free-State constitution, yes,' or 'free-State constitution, no'; 'slave-State constitution, yes,' or 'slave-State constitution, no.' Let them, if they desire to vote in favor of a slave State, have the opportunity; but let the constitution be submitted to the popular vote, and at an early day.

"Let the present convention submit this matter to the people without delay, and have the long controversy settled finally, and in the only effectual manner that is possible. In six months after the admission of Kansas Black Republicanism will be no more."

ADMISSION OF KANSAS.

SPEECH OF HON. JAMES HUGHES,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. HUGHES said:

Mr. CHAIRMAN: I have sought the floor this evening for the purpose of replying to the speech delivered this afternoon by the gentleman from Massachusetts, [Mr. BURLINGAME.] I had expected and desired, some days ago, again to mingle in the discussion of this Kansas question; not that I hoped to throw any new light upon it after the very elaborate examination which it has undergone, but because some things had been said in the course of the debate which I felt impelled to answer. Owing, however, to the great competition for the floor, I abandoned the idea of speaking again; and the intention to do so was not revived until the very extraordinary speech of the gentleman from Massachusetts, delivered this evening. I have a few comments to make upon that speech. I have already addressed the House upon this subject, and have given the prominent reasons which will control my vote. And, sir, in speaking upon it, I have not spoken as a northern man, nor as a southern man, nor as a man reflect-

ing the views of any section of this country; and I hope the day may never come when, in making my record as one of the legislators of this nation, I shall give utterance to sentiments confined to any section. I addressed myself to the question in its bearings upon the whole country, both North and South; and in what I have to say this evening, I shall not forget, I trust, that this is one branch of the Congress of the United States.

I do propose, however, for a very short time, to bring before the committee a subject that, in my humble opinion, is exceedingly small. I mean the gentleman from Illinois, [Mr. MARSHALL,] and the speech which he has just delivered. The gentleman was pleased, in the course of his remarks, when I put a question to him that was pertinent to the subject under discussion, and which legitimately grew out of the positions which he assumed and the arguments he advanced, to make an allusion to my record. I am a humble man, yet my record is, to me, of as much importance as the record of any other gentleman is to him. And, sir, this is not the first time that this insinuation has been made upon the floor of this House. Sir, I owe no allegiance to southern men, or to northern men, or to any other men, except the constituency who sent me here. When I vote I shall vote the convictions of my judgment, and bid defiance to every section.

I have to say simply, that the man, be he representative or sovereign, prince or peasant, leader or follower, who, in this Hall or elsewhere, imputes to me, at the present time or in the past, any sympathy with the Free-Soil party, the Abolition party, or any other one-idea party that has ever disturbed the peace of this country, is a liar, and makes a charge which he cannot sustain. I well understand that gentlemen living outside of my district and State (I, humble as I am, have had my enemies) may gather up worn-out, refuted, and repudiated charges of the Republican party, and reproduce them upon this floor. I believe that they amount to this: that on certain occasions I have seen proper to bolt the Democratic nominations, but not when involving any question of Free-Soilism, or any other question of principle, nor when I was in any way bound by them. Sir, I plead guilty to the charge; and twice have different constituencies, one reaching from the center of the State to her western border, and the other from the center of the State to her eastern border, acquitted me of all blame arising out of that charge of bolting the regular Democratic nomination. Whenever I am not in honor bound to submit to it, and whenever principle and conscience lead me to disregard it, I shall do so; but I shall boldly give my banner to the breeze, and have no apologies to make to the men from the South, to the men from the North, or men from any other section of this Confederacy.

The gentleman from Illinois was pleased, in the form of an insinuation, to reproduce this charge, and then abandon it under the idea that it was an exceedingly small matter. A matter which is of sufficient importance to find an expression in the speech of a Representative upon this floor, which conveys an insinuation against the political integrity of any other member, is a matter of sufficient importance, when interrogated, to stand up to; and, sir, the man who will make such an insinuation, and then evade it, is like him who does the act of the coward, "who raises his arm to strike, and has not the courage to give the blow."

The gentleman from Illinois has occupied this committee with a long and rambling discourse, peculiarly bitter in its character and far below the average standard, low as it is, of congressional debate. The principal themes of his discourse were reading out of the party, consistency, and matters of that kind. I well recollect the position of that gentleman at the commencement of this session. He has alluded to newspaper reports. I remember, sir, that at the beginning of this session, that insidious and treacherous doctrine which the gentleman now is proclaiming, first manifested itself upon the surface of the politics of the country. The public press attributed to him alone, of the Illinois delegation, the position of standing aloof from it. That gentleman then felt himself called upon to come out in a card in the Union newspaper—that same debased and despised organ, as he

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would represent it, of which he speaks with so much contempt—and therein he attempted to define his position. I believe the amount of it was this: "We expect to reëlect Judge DOUGLAS to the Senate; and as for me upon this Kansas question, I am waiting for the facts." Yet that gentleman comes here to-night and speaks of the Lecompton constitution as an illegal instrument—as an instrument tainted by frauds, conceived in sin, and brought forth in iniquity, corrupt from the hour of its birth.

If he is sincere to-night, he dissembled, cloaked, and concealed his sentiments then, with all his professions of independence and honesty. He dissembled and concealed his sentiments when he published this card in the Union newspaper. Oh, yes, "we expect," "we," the Democracy of Illinois, to reëlect Judge DOUGLAS to the Senate.

The gentleman says his district gave Buchanan fifteen thousand majority. Yes, and that may account for his hanging fire when all the balance of the Illinois delegation went off against the Lecompton measure; because his constituents were loyal and true; because they stood firmly by the Administration, and true to the Democratic flag.

But "we expect to elect Judge DOUGLAS to the Senate." Yes, sir, that explains the "milk in the coconut." He wished to triumph with Judge DOUGLAS, and

"Vaulting ambition which o'erleaps itself,
And falls on t'other side,"

has given rise to all our difficulties, and now threatens to destroy the integrity of the Democratic party.

The gentleman was pleased to institute a comparison between himself and myself, and spoke of flies. The simile is the gentleman's own, and he cannot evade it. I take his own simile, and I respectfully submit to the judgment of the committee, which had the worst end of it, the flies, or the substance around which the flies congregated? I said that flies were accustomed to buzz around very dirty places. The gentleman said I was accustomed to such places. Yes, sir, politically speaking, I am. I have been accustomed for some time to make war upon, and be made war upon by, the Black Republican party, as dirty a political substance, in my judgment, as can be found; and when I find gentlemen who have heretofore called themselves Democrats, gravitating towards that party—

Mr. STEWART, of Pennsylvania. I call the gentleman to order. It is not in order to indulge in personalities.

Mr. HUGHES. I am dealing with the Black Republican party.

Mr. GOOCH. To carry out the gentleman's simile of the flies, I desire to know if the gentleman derived any sustenance from the Black Republican party with which he came in contact? [Laughter.]

Mr. HUGHES. No, sir. They took the plums all out of the pudding in the last Congress, when they plundered the United States Government to such an extent that in self-defense they had to expel some of their own members for corruption. [Great laughter.] I say that when gentlemen who have heretofore been recognized as healthy and sound members of the Democratic party organization, become identified with that party which draws around it all the flies and crows and buzzards that the political horizon affords, they ought to abstain from offensive personalities towards others.

Now, sir, let me pass from this subject, offensive as it must be to the committee. I said at the commencement of my remarks that I was induced to trespass upon the attention of the committee by the very extraordinary speech made by the gentleman from Massachusetts, upon the other side of the House. That speech contained some statements to which I would have been glad to have replied on the spot, but I could not get the floor; and I avail myself now of the earliest opportunity of giving them such notice as I think they deserve.

It was a very extraordinary speech, sir; one which contained offensive language; one which was arrogant in its manner; and one which, in my humble opinion, called for a reply—not that it contained any argument, for of that it was totally devoid; but because the speaker seemed desirous

to challenge attention, and to bring himself into notice. In short, he seemed ambitious of increasing the notoriety he already enjoys. I have some remarks to make upon that very extraordinary speech.

That gentleman was pleased to denounce as "dough-faces," the Democrats upon this floor representing northern constituencies, who, in this most trying hour to our institutions, adhere to those great principles which the people vindicated in 1856 at the polls. He was pleased to denounce these men as dough-faces. He proclaimed that the mission of the Republican party was to exterminate them; and spoke of trampling under foot with scorn certain of their doctrines! Well, sir, there has been some controversy as to the origin and etymology of this word dough-face. I believe in newspaper literature its first syllable is spelled "d-o-u-g-h"; but the correct etymology is "d-o-e," a female deer; and I think that it derives significance from the fact that that animal is exceedingly timid, and when it comes to the water and sees its own image reflected, it starts back with affright. It well becomes the gentleman from Massachusetts to talk about dough-faces—this Don Quixote of the North, this gentleman from the land of Garisons and Sumners, the land of steady habits, where Kalloch preaches, and Dalton divorce cases are tried! [Laughter.] Well it becomes that gentleman to talk about timidity, with his blustering manner, his vociferating kind of speech, throwing his arms about, &c. I called him Don Quixote; let me correct the figure, for he much more resembled the antagonist of that famous knight—the windmill. [Laughter.] Dough-faces, forsooth! Sir, this is not the first time that denunciations have been hurled at northern men who have seen proper to stand by the Administration and the Constitution.

Mr. FOSTER. Will the gentleman allow me to ask him a question?

Mr. HUGHES. Certainly; this is the gentleman who read the essay from the stand, and I will listen to what he has to say.

Mr. FOSTER. I desire to know if John Randolph did not apply the same term *dough-face* to the same class of men under the same circumstances?

Mr. HUGHES. I would ask the gentleman if he is a member of the historical society of the State from which he comes? I presume he is, and I respectfully suggest to him to pursue that question at his leisure as a member of that society. [Laughter.]

I said this was not the first time that this thing had been done. Why, sir, a gentleman upon this floor—Mr. MORRIS, of Illinois—made a remark in reference to myself some days ago, in an essay which he read upon this floor; but whether he wrote it or not, this deponent saith not. [Laughter.] He said "the gentleman from Indiana," referring to myself, "had been put forth by our southern friends to be shot down in the outposts of this controversy." Well, sir, in reference to that matter I have this to say: if I am shot down in this controversy upon the outposts, it will be an honorable death. It will be a post of honor, and it will be a death met in defense of the outposts of the Constitution; and I will say to the gentleman, in the language of the poet of old,

"*Dulce et decorum est pro patria mori.*"

But God forbid that I should ever be shot as a deserter, or that I should be captured, as the gentleman has been, in the attempt to desert the flag of my country.

Dough-faces! says the gentleman from Massachusetts. I am glad he has given me the opportunity to declare upon this floor, that the only men who, in this trying struggle, have to meet responsibility, are those men whom he is pleased to denigrate *dough-faces*. Sir, the man who represents a southern constituency has an easy task to perform in voting for any measure that savors of permitting the peculiar institution. The man who, like the gentleman from Massachusetts, represents that one idea, crazy, irreclaimable Boston fanaticism, which worships in truth "an idolatrous myth" under the name of liberty, has an easy task to perform in voting against such a measure. But those men whom he has taunted with a want of moral courage, with a want of faithfulness to the Constitution, with a want of firm-

ness, it seems to me are the only true conservative men in this national council, and who are in danger of being ground to powder between the two extremes. Will does it become that gentleman to talk to me of crouching to southern men, and of pandering to the vices and peculiarities of southern society. That gentleman made a statement here which I brand as untrue. These dough-faces, said he, come into this Hall and say one thing while they preach another story to their constituents. Sir, if the gentleman will go to my district and read the newspapers of his own party at this hour, he will find that they are publishing that which is in substance true—that I said in the presence of many of my constituents upon a temporary visit to my own State, that "if every stump in Kansas were a negro, every tree upon her soil a slavedriver, and every twig upon the trees a lash to scourge the negro to his daily toil, I would vote for the admission of Kansas under the Lecompton constitution to preserve the peace of the whole country; and if my constituents did not like it, and would let me know it, I would resign. There are those within the sound of my voice who heard me make that declaration, and I have yet to hear from my constituents that they disapprove of my sentiments or my course.

Without going into detail, and discussing or expressing the sentiments of the Democracy of Indiana, which, in my opinion, have been somewhat misrepresented upon this floor, I undertake to say, that though divisions may distract my constituents, nine tenths of the Democracy of my district will be found to indorse the course I have taken upon this floor.

Let me avail myself of this occasion to say that, come what may, I intend to submit my conduct to the verdict of my constituency, although it is a district which was represented in the last Congress by an Opposition member. I intend to face the music on this question. Those who have represented that I expect to take any other course, little know me. I will come back to this Hall approved, indorsed, sustained by my constituency, or I will go to private life, consoling myself with the reflection that—

"Truth crushed to earth will rise again!"—

and with the further reflection that, if this country is to be again cursed with a Black Republican majority in this Hall,

"When vice prevails, and impious men bear sway,
The post of honor is a private station."

A word or two more in regard to the noisy partisan from Massachusetts. Will does it become that man to say that the northern men who stand here in defense of this Administration are inconsistent, while, in the next breath, he disavows all claims to consistency, and says that he goes for the Crittenden amendment, his antecedents to the contrary notwithstanding. He disavows all claims to consistency, and goes blindly for the purpose of defeating the Democratic party. What is his logic on this subject? Why, that the Crittenden amendment is the easiest mode of making Kansas a free State. He talks about nailing doctrines and nailing parties. It is a very easy matter to nail him, on this occasion, to the counter, like a base counterfeit as he is—

The CHAIRMAN. The gentleman must remember that it is not in order to indulge in personalities on the floor of the House.

Mr. HUGHES. Politically speaking. [Laughter.] I speak in a Pickwickian and parliamentary sense. [Laughter.] He says it is the best mode of making Kansas a free State. Therein, sir, lies all his statesmanship on this question. Since this question was agitated before the masses, an authoritative exposition of constitutional law has been promulgated from this Capitol—from the highest constitutional authority—from that oracle of the Constitution which I intend to respect and to obey as long as a beneficent Government spreads around me its protection, its Constitution and its laws, protecting all, in helpless infancy and in mature age, in all the rights of person and of property. That expression says that the Constitution of the United States, *proprio vigore*, carries slavery into the Territory. That is a new reading to people in the West, because, as I have frankly said on this floor on a former occasion, we advocated the doctrine of squatter sovereignty. *Stare decisis* is my motto as a lawyer and a citi-

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zen; and standing by the decision that while the Territory remains in a territorial condition it is slave territory, and that southern men may carry their slaves there, are not the friends of freedom emphatically those who desire to hasten this Territory into the sisterhood of States, and to clothe its people with all the power of sovereignty, so that they may regulate and form their domestic institutions in their own way? In other words, if Kansas is to remain a Territory, it is a slave Territory; and its coming in as a State under the Lecompton or any other constitution is the shortest and only method by which it can be made a free State, if it is the pleasure of the people there that it should be a free State. The best enabling act for Kansas is to admit her into this Union. I do not stand on free State or slave State, but I am only answering the logic of the gentleman from Massachusetts. He says that to remand this question to the people, to throw it all again into chaos and confusion, to reopen agitation and strife, and to array the emigrant-aid-society man against the border ruffian, is the shortest and easiest way of making Kansas a free State.

Sir, I deny it. I can imagine another motive and another ground for this facile change of front amongst those who, of late, rang out throughout the country, "the times demand, and we must have, an anti-slavery Constitution, an anti-slavery Bible, and an anti-slavery God." I can account for this sudden change. It is, perhaps, the shortest road to the defeat of the Democratic party. It is, perhaps, the shortest road to the dissolution of this Union, for which those who burn the Bible and the Constitution once a year in Massachusetts have infamously prayed for, "to these many years."

I would say to that gentleman, in reply to his argument, that, instead of standing by him this day in favor of an anti-slavery Bible and an anti-slavery Constitution, I stand with the late Senator from the State of Indiana, [Mr. PERRIN], who well and conclusively replied to that declaration when he said he was in favor of the old Constitution and the old Bible.

The gentleman read the law of the party to the new converts. The Crittenden amendment! That is the shibboleth of Republicanism in these days. Singular coincidence! I have been in no caucus of late, and betray no confidences. I was not one of those deluded men who attempted to make a pile of straw to lay sick Democrats upon. [Laughter.] Singular coincidence! that while the Black Republican party, with the gray-headed gentleman from Ohio, who has received the eulogy of the gentleman from Massachusetts here to-day, were dragging their men into a unanimous support of the Crittenden amendment, the northern Democracy, opposing the Administration, were also attempting to bring the Democratic party into unanimity upon it. Why, sir, we would have a perfect unanimity in the House—a kind of political millennium, or general fusion of parties, with the gray-headed old file-leader from Ohio, whose constituents, some time ago, petitioned the Legislature of that State in favor of dissolving the Union, at its head. And all this, says the gentleman from Massachusetts, is to result in a glorious Republican victory in 1860! Let the "Douglas Democrats" take notice of the prediction, and consider within themselves what share they are to have in the feast.

My colleague from the New Albany district [Mr. ENGLISH] said that when he was asked if he was going to vote with the Republicans, he retorted, "are you going to vote with the Know Nothings?" Now, sir, I have an answer to make to that, and what I say goes before my constituents. In the platforms of 1856, there was no material difference on the slavery question between the Fillmore Know-Nothing party and the Democratic party; and throughout my district I addressed the members of the Know-Nothing party in this way: I said to them, "I repudiate your Americanism; I repudiate your secret organization; but that is not in issue in this contest; slavery is the question; and if you are true to your platform on that question, you and I agree." I spoke in my colleague's district and preached the same doctrine in the city of New Albany, and, bitter as I had been against the peculiar tenets of the American party, as to foreigners and Catho-

lies, when the slavery question came up, I received the votes of a good many of that party, for which I am duly grateful. And I say to my colleague here, I am not ashamed to avow in this Hall, what I avowed before my constituents, that I was willing, and am willing now, to stand side by side with the Fillmore or national American party upon the slavery question, while I shall ever repudiate and abhor their war upon religions and races.

But let me ask my colleague if he did not speak without his host? Is this Know-Nothing party in Congress a unit upon this question? How do they stand in this House? Divided. How do they stand in the other branch of Congress? The presidential aspirants, the leaders, the high priests and prophets of the party, including the author of this new amendment, are arrayed against the Democratic party. Let the gentleman go to his constituents and tell them that, in attempting to defeat this Lecompton constitution, he stood side by side, and shoulder to shoulder, with the Representative from Louisville, and every Democrat in his district, and especially in the principal city of it, who recollects the burning dwellings and bloody deeds of the first Monday of August, 1855, will hear him with sorrow and disappointment. Talk to me, sir, about standing side by side with the Know-Nothing party upon this question! I care not in what company I fight, so long as the flag of the Constitution waves over me. I followed that flag through the contest of 1856. I knew that the Democratic party of this Union had not only inscribed upon it their principles, but that they had intrusted it to the hands of James Buchanan in preference to Stephen A. Douglas. I am following that flag now in the hands of that same leader; and, sir, I intend to follow it even if it be to that political grave which the late member from Illinois [Mr. MORRIS] intimated was awaiting the discharge of my duty here.

But, Mr. Chairman, the gentleman from Massachusetts [Mr. BURLINGAME] went out of his way to pronounce a eulogy upon the senior member from Ohio, [Mr. GIDDINGS.] He said that that gentleman had a very warm heart as well as a gray head; and that, if the gentleman from South Carolina [Mr. MILES] knew him as well as he did, he would think so. Yes, sir; the if stands very much in the way. I have heard of this celebrated traveler from Massachusetts before—not altogether so celebrated as Captain Cook, who circumnavigated the globe—but the traveler who went all over the country making stump speeches for Fremont, and of whom newspaper accounts were published describing him minutely, and informing the world whether he wore a check neckcloth and striped breeches or not, and reaped the full measure of fame after the Republican manner. [Laughter.] I recollect very well that he made a speech at the capital of Indiana, and pronounced his eulogy upon GIDDINGS there. His memory failed him here this afternoon. In sporting phrase, he let down. He was anxious to sustain his character as an extempore speaker, but his memory failed him and he broke down. I did not hear his speech at the capital of my State; but I recollect hearing and seeing in the newspapers that he told the people to "rally round the mighty GIDDINGS;" but the people could not swallow it, for even the Republicans of Indiana have not sunk quite so low as that yet. [Laughter.]

The gentleman repeated the old eulogy to-day. Yes, sir, a man is known by the company he keeps. This new defender of the Constitution, this Union-lover, this man who objects to southern men talking about a dissolution of the Union, is at his old game, eulogizing the gentleman from Ohio, who, in the convention which nominated Hale and Julian, gave utterance to the following burst of constitutional and Union-loving patriotism:

"Mr. Giddings did not believe there was one man professing to be a Free Soiler, in this city, who had any idea of even looking back to the mass of corruption to be found in the old parties. He believed and asserted that those who slew Gorsuch were the most efficient protectors of our Constitution now living. He would assert such doctrine everywhere, but he was not ready to place such doctrine in the platform. He demanded the repeal of the law, [fugitive slave law,] but friend Smith is opposed to asking for its repeal. I have helped off as many Jerrys as he has; and I have told a fugitive, when pursued by the slave-catcher, to shoot him down; and have put the pistol in his hand. I

then told the slave-catcher to take him, but he did not wish to run any risk on that point, for I believe the fugitive would have shot him."

We have here, as the eulogist of this member from Ohio, a member from Massachusetts, a State where Killoch preaches, and where a man is elected Governor who goes into the canvass of State affairs gravely declaring that he is in favor "of the admission of Kansas with her own charter of freedom." This is the defender of the Constitution, from Massachusetts. He is going to exterminate dough-faces. I tell both him and the gentleman from Illinois, who expected to see me shot down at the outposts in this contest, that when this race of dough-faces is exterminated, the Constitution of this country and the Union of these States are at an end. Then the gentleman from Massachusetts will have an opportunity of being confronted with these southern men, and I hope that he will behave himself better than he did on a certain memorable occasion that has passed.

The CHAIRMAN. The gentleman must understand that it is not in order to indulge in personalities.

Mr. HUGHES. Then I will not do it. The gentleman has assumed to himself a kind of leadership here to-day. He announces to us, *ex cathedra*, that the Republican party has squared itself upon Crittenden's amendment. He patted the Douglas men on the back: "yes, you are patriotic men, that you are; come up and vote for Crittenden's amendment, along with the venerable and warm-hearted member from Ohio. Then perhaps we will have some of these days an anti-slavery constitution, an anti-slavery Bible, and an anti-slavery God."

Something has been said here to-night about reading out of the party. The gentleman from Illinois dodged that question. We have heard a good deal said about reading out of the party, and the establishment of tests. I admit that no man or no set of men have the power to establish a test. I admit that no Administration and no number of men can read men out of the party so long as they are sound upon principle. I will tell you what I do say; tests are matters—

[Here the hammer fell.]

SLAVERY AGITATION—NULLIFICATION—THE LECOMPTON CONSTITUTION.

SPEECH OF HON. M. W. TAPPAN,
OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. TAPPAN said:

Mr. CHAIRMAN: I rise to-day to put upon record the protest of New Hampshire against what I conceive to be the most stupendous political fraud that was ever before attempted to be perpetrated upon any people.

Not that it is necessary, in order that her position should be fully known, for New Hampshire, here and now, to utter her voice against the Lecompton iniquity, for in her recent State election she has already spoken in language more significant and potent than any words which I can utter on this occasion.

The State which but a few years ago was known as the very Gibraltar of northern Democracy, has just been carried against the Administration by a majority of five thousand; and, if the so-called "Democratic" party there had not entirely ignored this issue, or, as was the case to some extent, taken anti-Lecompton ground, instead of five thousand, the majority against it would have been ten thousand—sweeping the party into oblivion.

Mr. Chairman, it is not my purpose to discuss, wholly or mainly, the Kansas question, or to go into a detailed examination of the Lecompton constitution, as I might perhaps have done at an earlier stage of the debate. This has already been done by others, until the subject is well nigh exhausted. But while I intend to refer, in the course of my remarks, to some of the more prominent features of the great question which is so soon to be decided, I intend also to vindicate the

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people of the North from the charges which are constantly made, here and elsewhere, of slavery agitation, of aggression upon the rights of the South, and of entertaining sentiments hostile to the union of these States!

Sir, in behalf of the Republican party, for whom on this question I think I can speak, and of the people of the North, I deny all and every of these charges. And, in turn, I charge home, where I think it properly belongs, upon the nullification and disunion party of the South, or, as it is pleased to call itself in these latter days, the "secession" party, with being the real aggressors—with entertaining views and sentiments hostile to the Union, and with being the cause of all or nearly all the slavery agitation in this country for the last twenty years!

Mr. Chairman, the people of the North have no wish or design to improperly interfere with the rights of the South. They know that slavery, as it exists in the States, is beyond their control. True, they may hope, through the influence of public opinion and the progress of Christianity and civilization, to one day see the system ameliorated or entirely done away. But further than this, they have no designs upon the "peculiar institution" of the southern States. Ay, they know that that institution has its chief strength and support, to-day, in the Union of these States, and they are loyal and faithful to that Union. But at the same time, sir, they love liberty, and cherish in their heart of hearts the great principles which called this Government into being. They know, too, what the system of slavery is, and, in common with the early and great men of the South, they hold it to be a great moral, social, and political evil—a foul blot upon the otherwise fair escutcheon of our common country. They know that, at the formation of the Government, slavery was regarded by all the great and good men, South as well as North, as a temporary evil, and so inconsistent with the principles upon which the war of the Revolution was fought, that the Fathers would not allow the word slavery to go into the Constitution. They moreover knew something of the effects of the system. They knew that it impoverishes the soil, that it retards progress, that it opposes education and mental development, that it degrades labor, (which is the insignia of nobility in the North,) and brings everything down to its own level. And within a few years they have seen the early policy in relation to slavery abandoned, and in place of the doctrine, which formerly obtained, that it was a local institution, existing only by positive law, they now see an attempt made to NATIONALIZE the system, and, through the doctrines of the President's message and the Dred Scott decision, to plant it in the very heart of the free States.

Sir, one after another, we have seen the old landmarks and barriers erected by our fathers against the encroachments of this system removed; we have seen the plighted faith of the nation trampled upon, that it might find scope and verge; and now, when with bold and defiant attitude it threatens to invade our very fireplaces and hearthstones, because we resist and defend ourselves, we are denounced as "fanatics and agitators." No, sir; we of the North are not responsible for this slavery agitation; but the responsibility, as I have said, belongs to the extremists—the nullification party of the South, who, through their mad and offensive schemes of slavery propagandism, have brought about the present state of affairs.

When I speak of the disunion party of the South, I do not include the entire people of the southern States, nor do I join in an indiscriminate warfare upon all who may happen to hold slaves. I know there are thousands upon thousands of moderate, conservative, and patriotic men there, who, at heart, condemn these ultra and offensive schemes as much as we do. But I speak of that portion of them who threaten us with southern conventions, and a dissolution of the Union, in case the Congress of the United States should fail to give its sanction to one of the most bare-faced swindles that ever disgraced any age or any country! I believe that a party exists at the South, headed by violent men, who seem bent on controlling the Government to their own purposes, and, failing in this, to withdraw from the Union, and set up a southern confederacy. Whether

they mean this or not, they preach it, to effect ulterior objects; and a system of terrorism has been established, before which the moderate men of that section can make no headway.

And, what is more alarming still, this party, which General Jackson in 1833 put his heel upon and for the time "crushed out," to-day has complete control of the Democratic organization of the country! And, to the shame and everlasting disgrace of a portion of that party in the North, it seems willing, for the sake of the few miserable crumbs which may fall from the table of its master, to bow down and do its imperious bidding! Talk of "northern fanaticism!" Be it so. Something may well be pardoned to the spirit of Liberty; but for the spirit which would carry slavery into a Territory wrested from the people of the free States by a breach of plighted faith, against the earnest remonstrance of an overwhelming majority of the people of that Territory, and at the expense of every principle of truth, honor, justice, and fair-dealing among men, nothing can be said by way of excuse or palliation. It is a gross, outrageous, impudent, and unmitigated wrong. And it is a series of aggressions such as this which has driven the people of the North where they are obliged to make a stand in self-defense, or see all those principles which are dear to free-men, and which they have always been taught to cherish and revere, forever repudiated and trampled under foot. And, by the blessing of God, we will defend ourselves, and resist this great wrong. And if for this the Union is to be destroyed, I, for one, cannot help it. "Life is not so dear, nor peace so sweet," nor the Union so sacred, as to be "purchased at the expense of chains and slavery," and the humiliation of an entire people, in whose veins yet courses the blood of men who fought for Liberty on Bunker Hill!

Sir, the origin of this nullification party, and this disunion sentiment, at the South, lies deeper than the slavery question. It had its rise from other causes, and the slavery question has only been seized upon, in the language of Mr. Calhoun, to "force the issue" upon the people of the North. The Representatives of the same party which, in 1832, attempted nullification on account of the tariff, to-day threaten to dissolve the Union if Lecompton is rejected! Mr. Chairman, I do not know but that there has always been a disunion party at the South, but it never fairly showed its head till about 1830. As I have intimated, the tariff policy was then the ostensible cause of grievance, and it is not a little remarkable that the very man who did more than all others at the South in favor of the policy of a protective tariff in 1816, in fifteen years afterwards undertook to break up the Confederacy because of the very policy which he had helped to inaugurate. The ostensible cause, then, as I have said, was the tariff; at other periods since that time, and now, it is slavery. But one leading reason then and now, as I believe, is a secret discontent on the part of a portion of the South, at some fancied inequality in the working of the Federal Government, by which, as is supposed, the North have gained some undue advantage over the South. It is seen that, while the North is steadily advancing in population, in wealth, and intelligence, and in everything that marks the progress of a great and prosperous people, the South is on the retrograde; her lands run to waste, her population comparatively diminishing, and her commerce destroyed; and this state of things a portion of her people are insane enough to suppose results from some unequal working of the Federal machinery, and they see no remedy but in the bursting asunder of the fraternal bonds which have so long united the South with the North. Sir, the cause of this apparent decay of the South may be looked for nearer home. A population of ignorant, unthrifty slaves, who, according to the honorable Senator from South Carolina, "have no aspirations," is not a foundation on which to build the material industry of a nation; nor is it in the midst of such a community that manufactures and the mechanic arts will flourish, or that agriculture will be best developed. Slaves cannot build ships, nor sail nor navigate them when they are built. If, then, notwithstanding the comparative barrenness of her soil and the rigor of her climate, the North has continued to prosper, whilst decay and death are stamped upon the once fertile

fields of the South, the cause is found, not in any undue advantage which the North derives from the Government, but results wholly from the system of FREE LABOR, which, notwithstanding the contempt in which such labor is held at the South, is at once the pride and glory of the free States.

And, Mr. Chairman, have not the people of the North just cause for alarm, when they see the systematic attempt of leading statesmen to debauch the public sentiment of the country upon this question of LABOR, which forms the very substratum of society in the free States? And, in passing, I cannot help referring to some of the sentiments which have been put forth in the course of this debate on this subject. They have been quoted repeatedly before, but I desire to embody them in my remarks, that the honest, hard-working, intelligent men of the old "Granite State," may see in what estimation they are held by those who are striving to-day to push slavery into the Territory which so recently belonged to them and to their free institutions!

I quote, first, from a speech of honorable Andrew Johnson, of Tennessee, recently delivered in the Senate, and which I listened to myself:

"When you form a community out of individuals, they commence the work of production, intellectual and physical; and as society moves on through time, you find some occupying the lower places, and some occupying the higher places. I do not care whether you call it slavery, or servitude; the man who has mental objects to perform, is the slave of the servant, I care not whether he is white or black. Servitude or slavery grows out of the organic structure of man. All the talk we hear in depreciation of slavery is idle, and a great portion of it mere twaddle. Slavery exists; it is an ingredient of society, growing out of man's mental and physical organization; and the only question for us to discuss is, what kind of slavery we shall have. Will you have white or black slavery? Shall it be voluntary or involuntary?"

Also, from the speech of Governor HAMMOND, of South Carolina, delivered in the Senate on the 4th of the present month, as follows:

"In all social systems, there must be a class to do the menial duties, to perform the drudgery of life, that is, a class requiring but a low order of intellect, and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very MUD-STALL of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on this mud-stall."

"The Senator from New York said, yesterday, that the whole world had abolished slavery. Ay, the name, but not the thing; all the powers of the earth cannot abolish that. God only can do it when he repeats the fiat, 'the poor ye always have with you; for the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market, and take the best he can get for it; in short, your whole class of manual laborers, and 'operatives,' as you call them, are essentially slaves. Our slaves are black, of another and inferior race.' They are happy, content, una-spirited, and utterly incapable, from intellectual weakness, ever to give us any trouble by their aspirations. Yours are white, of your own race; you are brothers of one blood. They are your equals in natural endowments of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote; and, being the majority, they are the depositaries of all your political power."

It is said, Mr. Chairman, that the "evil which men do lives after them, but the good is often interred with their bones." Sir, these sentiments, striking as they do at the very foundation of the true sources of wealth and greatness of a nation, will live long after their authors have passed from earth, and the good they may have done shall be forgotten. And, sir, these are not the sentiments of obscure men, having but little influence, but they are the sentiments of leading "Democrats"—of men, without whose active aid and cooperation (and of others holding the same sentiments) the present so-called "Democratic" organization could not hold together a single day.

Sir, with us at the North we have no "class" which leads progress, civilization, and refinement," as contradistinguished from those who labor—and we want none. We hold that society so constituted is a false and aristocratic state of society, and we repudiate it. It is no part of true Democracy. All classes of our people are obliged to work—and yet they are capable of leading in "progress, in civilization, and refinement." From the earliest period of youth, they are taught that industry is one of the highest virtues—that labor is honorable, and idleness disreputable. We have no aristocratic class, born to luxury and ease, and who subsist upon the unpaid toil of an inferior class. Nor do we hold that the highest state of society is attained where one class is born to be

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"gentlemen," and do all the thinking and governing; while others are mere menials—"hewers of wood and drawers of water!"

Sir, as I have said, these are the deliberate opinions of leading "Democrats," touching the great question of FREE LABOR, and it is but just to hold the Democratic party responsible for the sentiments of its leading men.

But, to return from this digression. Mr. Chairman, this design against the integrity of the Union was foreseen, and we have been warned against it by some of the best and most prominent men of the earlier and better days of the Republic. In 1833, Mr. Madison, in the last year of his life, wrote to his friend, Edward Coles, Esq., as follows:

"What more dangerous than nullification, or more evil than the progress it continues to make, either in its original shape, or in the disguise it assumes? Nullification has the effect of putting powder under the Constitution and the Union, and a match in the hand of every party to blow them up at pleasure." "A susceptibility of the contagion in the southern States is visible; and the danger, not to be concealed, that the sympathy arising from known causes, and the inculcated impression of a permanent incompatibility of interests between the South and the North, may put it in the power of popular leaders, aspiring to the highest stations, to unite the South, on some critical occasion, in a cause that will end in creating a new theater of great though inferior interest. In pursuing this course, the first and most obvious step is nullification, the next secession, and the last a farewell separation."

Thus wrote Mr. Madison, in the stormy times of nullification; and what were then merely the predictions of a far-seeing and patriotic statesman, would seem at this time to be in the process of fulfillment. Nullification to-day seems to be acting under its "disguises," to use the language of Mr. Madison; but occasionally the cloven-foot will protrude itself, and the secret discontent, growing out of the supposed incompatibility of interests to which I have referred, is made to appear! Thus, in the late remarkable speech of the Senator from South Carolina, [Governor HAMMOND,] to which I have just referred, he exclaims:

"What guarantee have we, when you have this Government in your possession, in all its departments, even if we submit quietly to what the Senator exhorts us to submit to—the limitation of slavery to its present territory, and even to the reconstruction of the Supreme Court—that you will not plunder us with tariffs; that you will not bankrupt us with internal improvements and bounties on your exports; that you will not cramp us with navigation laws, and other laws impeding the facilities of transportation to southern produce? What guarantee that you will not create a new bank, and concentrate all the finances of this country at the North, where already, for the want of direct trade and a proper system of banking at the South, they are ruinously concentrated?"

This allusion to the tariff and the United States Bank is, to say the least, extremely unfortunate, when we consider the fact that both of these measures have, at one time or another, received the sanction of Mr. Calhoun and other prominent southern statesmen.

But I do not refer to this matter of nullification and secession as a cause of any very serious alarm, but only to show one motive, and, as I think, the great motive, which impels all this clamor about disunion. I have no doubt that it is used by many as a mere scare-crow, to frighten men from their political propriety, and, by virtue of it, to fasten upon the country the extreme measures of the slave power. In 1833, however, when it assumed its largest proportions, it was "crushed out" by the heroic firmness of the brave and patriotic man who then occupied the executive chair of the nation. It raised its hideous front again in 1850; but when, in the elections of that year, the intelligence and patriotism of the masses of the southern people were appealed to, it miserably failed, even in Georgia and Mississippi. And so it will be again.

And here, again, Mr. Chairman, it may be remarked that the leading disunionists of the country are also the leading Democrats of the country! Examine the speeches, both of the present and last Congresses, where disunion sentiments have been promulgated, and you will find them the speeches of Democrats. Look at the presses of the country which openly "calculate the value of the Union," and you will find them Democratic presses. Look at the men who figure at southern disunion conventions, and you will find them all Democrats! Let the Democratic party, then, repudiate these disunion sentiments, and shake off the leaders who advocate them, or be

content to rest under the load of odium and infamy which the American people always have and always will visit upon those who plot against the welfare of the Republic!

Sir, I wish the present Executive had some of the same spirit, and a little of that Roman firmness which characterized the great man who occupied the presidential chair at the time of which I speak! There was no timidity, no wavering, then! General Jackson took his stand; and although the tempest howled about his ears, and a sovereign State was arrayed in arms against the Union, yet he quailed or faltered not! Not so in the present emergency did James Buchanan. He sent his own favorite Governor to Kansas, and gave him instructions that the constitution to be framed should be submitted to the vote of the people. Governor Walker promised over and over again, in the most solemn and emphatic manner, that it should be so submitted. These promises and pledges were brought home to the knowledge of the President, and tacitly approved by him. But this cause disaffected the pro-slavery party in Kansas, and the extreme slavery party in the South; and when Governor Walker, like an honest man, rejected the Oxford and McGee frauds, the fire, that before was partially smothered, now broke out with violence, and from that moment Governor Walker, from whom so much had been expected, was a doomed man! And the President, instead of sustaining his Governor, who was clearly in the right, instead of proudly maintaining the position he at first assumed, repudiated his own instructions, turned his back upon Governor Walker, and left him to be sacrificed!

The Georgia and Alabama resolutions, and the great outcry that rang through the South against Governor Walker, were too much for the weak and shattered nerves of our President! I trust in God that there is yet virtue and intelligence enough left in the American people to enable them, at no very distant day, to choose a President, either from the North or from the South, (I hardly care which,) who will not be frightened to death every time certain hot-headed gentlemen threaten to "break things" by dissolving the Union!

Sir, I desire to trace, very briefly, some of the causes of this slavery agitation, and see who are the real aggressors. Who and what created the disturbance at the time of the Texas annexation? Sir, instead of allowing events to take their natural course, leaving Texas at some time to come into the Union (if the interests of both parties required it) in a constitutional way, that measure was precipitated upon the country in hot haste, in defiance of the treaty-making power, and, as was believed by many of our ablest statesmen, against the plain provisions of the Constitution! There must be no delay. Nothing but "immediate annexation" would answer, and all for the openly-avowed purpose of strengthening and perpetuating the system of human slavery. It is not to be wondered at, under these circumstances, that the people of the free States should remonstrate! They disliked to stand in the inconsistent attitude, before the civilized world, of a great and powerful Republic, boasting of its freedom, and founded upon the rights of man, rushing headlong into a foreign war for the purpose of extending slavery! And yet this was the whole of the Texas question. Slavery was offensively flaunted into the very faces of our people, for the purpose, as it would seem, of again "forcing the issue upon the North!" And because some of the people of the free States, true to the principles of liberty and equal rights, for which their fathers fought and bled, objected to this movement for this purpose, the nullifiers of the South got up meetings and held conventions, and again "breathed out threatenings and slaughter" against the Union, unless Texas should be annexed! Texas was annexed. War with Mexico followed, bringing in its train large acquisitions of territory and numerous evils, the end of which is not yet! And now, sir, I understand that Texas, too, after all the blood and treasure that have been expended in her behalf, threatens to retire from the Union unless the American Congress sanctions this Lecompton fraud! Sir, I feel nothing but kindness towards the State of Texas, her people, or her Representatives on this floor; but if, on such an issue, Texas thinks best to dis-

solve the bands which bind us together, and to "step out" of the Union, I say *let her go!* We managed, after a fashion, to get along before she came in, and I think we can live when she shall go out!

Mr. Chairman, there is one remarkable fact connected with this matter of Texas annexation which, in passing, I must not omit to notice; and that is, the prohibition of slavery in a portion of the new State of Texas. That part of the joint resolution of annexation, touching this matter, is in the following words:

"And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

Among those who voted for this clause I find the names of the honorable gentleman from Georgia, [Mr. STEPHENS;] of the gentleman from Alabama, [Mr. HOUTSON;] of the gentleman from Tennessee, [Mr. G. W. JONES;] of Howell Cobb, now Secretary of the Treasury; of Jacob Thompson, Secretary of the Interior; of Aaron V. Brown, Postmaster General; of Andrew Johnson, now Senator from Tennessee; of JOHN SLIDELL, Senator from Louisiana; and a great many other prominent Democrats, both from the North and South. And yet the same gentlemen who then, and in the application afterwards of the same principle to Oregon, directly "intervened" to prohibit slavery in both of those Territories, now hold that it is unconstitutional for Congress to interfere with slavery in the Territories, and make "non-intervention" a test of Democratic faith.

This only shows the rapid strides which the so-called Democratic party has made in behalf of slavery within the last few years, until to-day it stands before the country and the world having for its test measure a bill which puts the "right in slave property higher than any constitutional sanction!"

Growing out of the Mexican war was the acquisition of California, and her subsequent application for admission as a State into this Union, with a free constitution. Mr. Chairman, this was the "unkindest cut of all." The Texas annexation scheme had been got up to strengthen slavery; but, owing to the discovery of gold, and the great rush to California from the free States, the original slavery design (it would seem almost by the direct interposition of Providence) was frustrated, and our golden sister of the Pacific knocked at the door of the Union with a constitution uncontaminated by slavery!

Mr. Chairman, we all remember the terrible agitation which shook the land in 1850; how the stoutest hearts appeared to tremble and quake with fear at the "wreck of matter and crash of worlds" which seemed impending! Southern conventions were held; disunion speeches were made; and the Union itself, which had stood so many hard shocks, seemed at last to be going to pieces.

Sir, what was the occasion of this great outcry? what the cause of the new agitation which once more seemed to threaten the permanency of the Union? It was simply because the southern nullifiers were determined that California, the fruit of their own scheme of slavery extension, should not come into the Union as a free State. Sir, the whole agitation, at that time, and now, shows that the contest going on in this country is a contest for political power. It is a question whether a few thousand slaveholders shall, in all time to come, rule and govern this country, as they have, according to Senator HAMMOND, for the last "sixty years;" and whether, as a consequence, all the Territories of the nation shall be cursed by the blighting mildew of slavery, or become the abode of freemen, with free institutions and free labor. Such was the question in reference to California, and such is the Kansas question to-day. By the admission of California, the South, nominally at least, lost the balance of power in the United States Senate; and so, to compensate for this loss, it is necessary to secure Kansas, at any expense of fraud, outrage, and wrong.

Sir, it is curious, as well as instructive, to consider where prominent southern gentlemen—the same who are now urging the forcible admission of Kansas under the Lecompton constitution—stood, when California sought admission under a

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free constitution. Do we find them contending then that no enabling act was necessary? that it made no difference whether a legal census had been taken or not? that she should be admitted, though her constitution reeked with fraud, and the rights of her people had been trampled under foot by armed invaders? No! But, upon the passage of the bill admitting California as a State, a protest was entered upon the Journal of the Senate, protesting against its passage, for these, among other reasons:

"First. That it gave the sanction of law, and thus imparted validity to an unauthorized action by a portion of the inhabitants of California.

"Second. Without any legal census, or other evidence of their possessing the number of citizens necessary to authorize the representation they may claim.

"Third. Without any of those safeguards about the ballot-box, which can only be provided by law, and which are necessary to ascertain the true sense of a people.

"Fourth. As not having sufficient evidence of its (the constitution) having the assent of a majority of the people for whom it was signed."

The protest was signed by J. M. Mason and R. M. F. Hunter, of Virginia; A. P. Butler and R. W. Barnwell, of South Carolina; H. L. Turney, of Tennessee; Pierre Soulé, of Louisiana; Jefferson Davis, of Mississippi; D. R. Atchison, of Missouri; Jackson Morton and D. L. Yulee, of Florida. All Democrats.

Here was a case attempted to be made against the admission of California, which actually exists in regard to Kansas, only a thousand times stronger than was even pretended then. Then it was objected, against the admission of California, that there was "no sufficient evidence that the constitution had the assent of a majority of the people for whom it was signed." If there was no such evidence, this was a reason, and a good reason, for its rejection.

But how is it in the case of Kansas? What say Senators Mason and Hunter and Jefferson Davis to the Lecompton constitution in that respect? There is not only no pretense that it is sanctioned by a majority of the people of Kansas, but, on the other hand, although not submitted to the people by the convention that framed it, as the President pledged himself that it should be, at a submission of it by the legally-constituted Legislature of the Territory, it was voted down by a large majority of her people. And the evidence of this is not disputed or gainsayed. And yet, where are the solemn protests of Senators against the consummation of this gross outrage upon the rights of the people? Ay, more than this, these same Senators are attempting to drag Kansas into the Union now against the earnest remonstrances of her people, and over the ruins of the Democratic doctrine of popular sovereignty, which brought the present Administration into power!

But, sir, to return to this charge of slavery agitation against the North. The intense excitement in 1850, growing out of the admission of California, was allayed by the passage of the compromise measures, and the country once more settled down into a state of repose. The Democratic party, in convention at Baltimore, when General Pierce was nominated for the Presidency, resolved that the compromise measures were a finality, and that henceforth there should be no further agitation of the slavery question, "whether in or out of Congress." The Whig and Democratic parties both were pledged in the same way; and General Pierce, in his first message, after congratulating the country on the happy state of quiet which then existed on this vexed question, used these remarkable words:

"That this repose is not to be disturbed during my official term; if in my power to prevent it, those who placed me here may rest assured."

Mr. Chairman, how was that repose disturbed? And who is responsible for the reopening of this fearful agitation of the slavery question? Sir, let those who were instrumental in repealing that time-honored compact, which had stood for over thirty years, made between your fathers and mine in 1820, answer.

The repeal of the Missouri compromise was the cause of the agitation that exists to-day in reference to Kansas and the Lecompton constitution, and every intelligent person in the country knows it. It was sprung upon the country, as this Lecompton swindle is, at the advent of a new Administration, in the hope that quiet would be re-

stored before another presidential election should come round. The hope was vain. That iniquitous measure crushed the late Administration, and came well high crushing the Democratic party with it! The consummation of the scheme, by the passage of Lecompton—and I believe it will be so, whether it passes or not—will, in my judgment, not only ruin the Administration, but it will sink the party so deep that no bubble will rise to mark the spot where it went down.

But, sir, although the real object of repealing the Missouri compromise was perfectly apparent, which object was to make Kansas into a slave State or States, still the repeal was carried under pretense of inaugurating the great idea of "popular sovereignty;" and the whole design of the Nebraska bill, as it was said, was to let the people "form their own institutions in their own way." That this was a mere pretext, subsequent events, and more than anything else, this Lecompton constitution, have fully shown. As long as it was supposed that slavery would be the gainer, "popular sovereignty" was good enough Democratic doctrine; but now, when it is known that if the matter is fairly left to the people of Kansas, the result will be favorable to liberty, the doctrine of popular sovereignty is abandoned; and, in face of promises and pledges and platforms, the constitution is not submitted to the people, and they are denied the right to "form their domestic institutions in their own way."

Sir, this bill for the admission of Kansas under the Lecompton constitution, in the face of frauds the most glaring and palpable, when it is not even pretended that it has received the assent of a majority of the people, is a vital blow at the great fundamental principle which underlies all republican governments, to wit: the right of the people to make the constitution under which they are to live. It strikes at the very existence of popular rights, and, if enacted into a precedent, will become a landmark from whence we may date the overthrow of democratic institutions, and the establishment of despotic power in their stead.

So sacred and essential is this right of the people to pass upon their fundamental law regarded, that in my State not only has the constitution always been submitted to the people for ratification, but by its provisions no revision or alteration of that instrument can be made unless the same shall be laid before the people, and approved by two thirds of the qualified voters present and voting on the subject. Let the people of that and other States of this Union, who have so zealously guarded their own rights, see whither this country is tending under the rule of a false and spurious Democracy.

Mr. Chairman, it has always been contended by the Democratic leaders and presses at the North, that Kansas would be a free State, and that it never could, in any event, come into the Union as a slave State. To show how this was understood in my own State, I quote an editorial article from the New Hampshire Patriot, of October 13, 1854:

"The Whig and Abolition agitators are constantly declaring that slaves are being carried into Kansas and Nebraska by hundreds. This is undoubtedly false, for reliable accounts concur in stating that few, if any, slaves have been carried there; and this is likely to be the case, from the fact that every slave carried there becomes in law a freeman the moment he sets his foot upon the soil of either of those Territories. This is the law; and it is not very probable that the owners of slaves will run the great risk involved in carrying them where they will be now free, in the hope that subsequent legislation will give them the power to hold them as slaves. All admit that there is no law tolerating slavery in these Territories; and, in the absence of such law, slavery is illegal. The doctrine is well established that slavery can exist only by positive law; that, without a positive law permitting it, 'slavery can no more exist than a man can breathe without air.' Therefore, slavery cannot exist, not a slave can be legally held in Kansas or Nebraska, until the Legislature of the Territory enacts a law establishing slavery. That this is the law, we have both the decisions of the highest courts and judges in the land, and the opinions of the most eminent statesmen. We will quote a few of these decisions, since Abolition and Whig editors are laboring so zealously to make the people believe that this is not the settled doctrine."

The Patriot then quotes a long list of judicial decisions in support of this position.

But, sir, as I have said, this old doctrine that slavery is local—the creature of positive law, and of no validity beyond the range of that law—and which had been so decided by a long series of judicial decisions, from that of the famous Somerset case in England, down to that of the case

of *Prigg vs. The State of Pennsylvania*, decided by the Supreme Court of the United States in this country, has now been repudiated and overturned, and the dogma of Mr. Calhoun, that slavery can go anywhere by virtue of the Constitution, has been set up in its place. When this doctrine was first broached in the Senate, it was scouted by Mr. Clay, Mr. Webster, and other leading minds of the nation; and to-day it is the test question in the Democratic creed of this country! In 1854, Mr. Toombs contended, in a speech in the Senate, that slavery was a national institution; and so far as the President can go in declarations to that effect, so far as the Democratic party can go in its leading measure—the admission of Kansas under the Lecompton constitution—slavery is to-day as completely nationalized as are the great fundamental principles of liberty and republicanism, which have so long been our pride and boast!

In the last presidential campaign, it was said everywhere at the North that Kansas would be a free State, and the Democratic war-cry then was, "Buchanan, Breckinridge, and free Kansas!"

How these pledges have been redeemed, let the President himself answer by the extract from his message in which he says that "Kansas is as much a slave State to-day as Georgia or South Carolina."

Again, in his celebrated New Haven letter, he says:

"Slavery existed at that period, and still exists in Kansas, under the Constitution of the United States. This point has been at last finally decided by the highest tribunal known to our laws. How it could have ever been seriously doubted, is a mystery."

In his annual message he says:

"Should the constitution without slavery be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved. The number of these is very small; but if it were greater, the provision would be equally just and reasonable. These slaves were brought into the Territory under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country—and this upon the plain principle, that when a confederacy of sovereign States acquire a new territory at their joint expense, both equality and justice demand that the citizens of one and all of them shall have the right to take into it whatever is recognized as property by the common Constitution. To have summarily confiscated the property in slaves already in the Territory, would have been an act of gross injustice, and contrary to the practice of the older States of the Union which have abolished slavery."

No matter if the number of slaves in Kansas were much greater than it really is, the President says the principle would still be the same. And the right claimed is, that the slaveholder may take his slaves in the same way that a man may take his horse or his ox, go into any Territory which the United States may now have, or may hereafter acquire, and there hold them as property under the Constitution; and, further, that when the people of the Territory come to form a State constitution, they have no power to touch the existing relation of master and slave! This is the legitimate deduction from the doctrine of the message. Sir, if this be so, the question is already settled, and there can never be another free State added to this Union! And this doctrine reaches its culminating point in the seventh article of this Lecompton contrivance, which provides as follows:

"Sec. 1. The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any property whatever."

And this, sir, is the doctrine which the Democratic party to-day put forth as a test of party fidelity. We shall see what the people of the free States, when they come to pass upon it, will have to say in reference to this doctrine, and of the Administration which sustains it.

Sir, on the 26th day of July, 1856, in a speech which I had the honor to make on this floor, I endeavored to prove that the evident tendency of the Democratic party was to the abandonment of the doctrine of "popular sovereignty;" and I ventured to predict that if the doctrines put forth by certain southern leaders were indorsed by the American people in the election of Mr. Buchanan, there would be a decision of the Supreme Court, sanctioning the Calhoun doctrine that slavery, under the Constitution, could, *ipso facto*, go into any of the Territories, and be protected there;

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and that this would be an article in the Democratic creed.

The day but one after the inauguration of President Buchanan, Dred Scott was decided; and the position of the party to-day, on this Lecompton constitution, verifies but too well the other part of the prediction. And, sir, if the Administration, in this gross and violent outrage upon their rights, is sanctioned and sustained by the American people, I will venture another prediction: that when the Lemmon case, now before the courts in New York, shall find its way to the same tribunal which decided Dred Scott, slavery, by virtue of it, will be planted in every free State of the Union.

That this statement, Mr. Chairman, is no mere bugbear, with no foundation on which to base it, and as additional evidence tending to show which way the Democratic current is drifting in this particular, I quote from an article in the Washington Union, of November 17, 1857, but a few days before the President's message was sent to Congress. The quotation which I have made from the message contains, in effect, though expressed in terms a little more ambiguous, the same sentiments which are more boldly avowed in this article from the Government organ.

"All State laws, whether organic or otherwise, which prohibit a citizen of one State from settling in another, and bringing his slave property with him, and most especially declaring it forfeited, are direct violations of the original intention of a Government, which, as before stated, is the protection of person and property, and of the Constitution of the United States, which recognizes property in slaves, and declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States,' among the most essential of which is the protection of person and property."

"What is recognized as property by the Constitution of the United States, by a provision which applies equally to all the States, has an inalienable right to be protected in all the States."

"The emancipation of the slaves of the northern States was then, as previously stated, a gross outrage on the rights of property, inasmuch as it was not a voluntary relinquishment on the part of the owners. It was an act of coercive legislation."

Let the honest masses of the Democratic party in the free States ponder well the position occupied by their party on this most vital question!

Sir, I oppose this measure, and protest against it, because it contains this anti-republican feature, which, I believe, has never before found a place in any constitution, that the "right of property in slaves is higher than any constitutional sanction." Slavery, in other constitutions and in legislative enactments, may have been recognized as an existing institution; but never before, to my knowledge, has the attempt been made, by express terms in a written constitution, to put property in man upon the same ground of natural right as that by which other property is held. Sir, this doctrine is anti-republican—a gross libel upon the common law, and upon the progress, philanthropy, civilization, and spirit of the age in which we live. It is a wanton departure from the early faith of the fathers of the Republic on the question of slavery, and will be a stigma and a reproach upon the country in all coming time.

Sir, it is said by the gentleman from Georgia, [Mr. HILL,] who, in a very calm and moderate manner, has advocated this measure, that, in opposing it, not one word should have been said by men of the North about the institution of slavery in connection with it. Why, sir, whatever doctrine is applied to territory south of the Missouri compromise line, all north of it was, by a solemn compact, consecrated and set apart to freedom and to free labor. That territory was *ours*, by agreement of patriots South as well as North. We have seen that compromise ruthlessly violated and broken down; and there has not been a moment, since that fell measure was sprung upon the country, that the prime and secret movers in it have not lent all their energies to make it a slave State! The whole scheme was "conceived in sin and brought forth in iniquity;" it was reared and nurtured in falsehood, violence, and fraud, and it has been baptized in innocent blood, until now it is attempted to be crowned by this Lecompton constitution, which is only the concluding act in this great drama of outrage and wrong upon the rights of the people of Kansas and of the free States! Sir, when we cease to talk about slavery in connection with this Territory, it will be but with our lives!

But before I sit down, Mr. Chairman, I desire to advert briefly to one other matter relied upon by the friends of this measure, to smooth its passage through this House. It is said, that although this constitution provides the terms of its own amendment, among which is the provision that it shall not be interfered with till after 1864, nevertheless, in defiance of the mode pointed out in the instrument itself, the people of Kansas may, at any time, as well before as after the year 1864, alter, amend, or abolish it, at their pleasure! Sir, I regard this doctrine as utterly illusory, and as entirely subversive of those principles of "law and order," the championship of which is the peculiar boast of the present Democratic party.

Sir, when this constitution has received the sanction of Congress, and Kansas is admitted under it, if it has any binding force at all, it is at once the supreme and fundamental law of the new State. It is, so far as outward forms are concerned, the legitimate government; and, like all other governments and constitutions, there are but two modes by which it can be reformed—the one through the mode provided in the instrument itself; the other, by revolution.

Mr. Chairman, in all the speeches that have been made in both Houses of Congress in favor of this measure, the great burden of them all, and the gist of every argument brought forward to sustain it, amounts to just this: that the Lecompton constitution has all the "forms of legality," and that we cannot go behind these "forms," to inquire into the actual facts, however much disputed those facts may be. And here we have the singular spectacle presented, of the same men, who in one breath contend that the constitution is valid and binding because all the "forms" appear to have been complied with, in the next maintaining that it may be, at any moment, altered, amended, or absolutely repudiated, and a new one made in its place, in subversion of all "forms," and against all law.

Sir, let me illustrate this point by a reference to my own State. The people of New Hampshire have a written constitution. That constitution provides the mode by which it may be revised or amended. According to the doctrine set up here, however, the people are not confined to the mode of revision prescribed in the constitution. But how are they to accomplish their purpose outside the constitution? Through an act of the Legislature? That cannot be done, for each man is sworn to support the constitution, and a violation of its plain provisions would simply be perjury. But shall the people assemble in mass meeting, at Concord or Manchester, and take measures to the end proposed? Who and what authorizes that portion of the people, so assembled, to speak for those who stay at home? What authority have they to bind those who prefer the old constitution? Sir, the whole thing is absurd. There is no peaceable mode of reforming the constitution of a State, so that it will be binding upon all the people, except through the regular mode pointed out by the constitution itself, and the laws enacted under it. I admit the right of revolution, that the people can rise in their majesty, and by force of arms, if successful, trample their constitution under foot, and establish a new one in its place. The people of Kansas could do this, if they had the strength. But who is foolish enough to believe that they would not be shot down, as rebels and insurrectionists, by United States troops, if they should attempt anything of the kind, after this constitution is fastened upon them? And this is the reason why, by no vote of mine, shall a single dollar be appropriated for the increase of the Army, until the troops are removed from Kansas.

But, Mr. Chairman, now, as on former occasions, the hydra of disunion is dragged in here to help force this measure through Congress. Sir, let Lecompton be defeated, and then let the leaders of the Democratic party in the southern States make the disunion issue on the defeat of it, if they dare. It will, in that event, not merely be the Democratic party in the North that will be shivered to atoms, but the same party South, on such an insane issue; for such a cause would, by the patriotic sentiment of the southern States, be driven like chaff before the whirlwind. Gentlemen, you tried it in 1859, on an issue stronger than this, and

you failed. Try it again; and of two things you may be sure: first, that the Union will not be dissolved; and second, that whatever party combinations may rise on its ruins, the present "National Democratic party" will be known no more forever.

Sir, I know not how it may be, but I trust that on to-morrow this measure is to be defeated; and if it should be, I hope that those who make these threats will attempt to put them into practical operation. That, at least, would present an issue where all true and patriotic men, both of the North and the South, could stand together; and the result would be the final overthrow of the faction which threatens disunion and nullification, if every mad scheme it invents is not carried out. It would result, too, in the complete extinguishment of that sham Democracy, which, being the firm and steadfast ally of southern nullification and disunion, if not put down by the American people, will finally subvert the liberties of the country.

SPECIAL KANSAS COMMITTEE.

SPEECH OF HON. JOHN LETCHER, OF VIRGINIA, IN THE HOUSE OF REPRESENTATIVES, March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. LETCHER said:

Mr. CHAIRMAN: I do not propose to go into any general discussion of the merits of the Kansas question. My sole object in seeking the floor is to reply to some remarks made by three gentlemen in the progress of this debate, in reference to the action of the committee of fifteen, of which I was a member. The first gentleman who alluded to it was the gentleman from New York, [Mr. BENNETT,] the next was the gentleman from Michigan, [Mr. WALBRIDGE,] both of whom were members of the committee; and the last was my friend from North Carolina, [Mr. GILMER,] in the remarks submitted by him this morning. These gentlemen have undertaken to say that the majority of the committee were satisfied of the fact that these frauds had been committed in the Territory of Kansas, that great wrongs and great outrages had been perpetrated; and that, knowing this fact, the committee determined not to execute the order of the House, but to dodge the instructions which had been given to the committee at the time of its appointment. So far as I am concerned, there is nothing in my action connected with that committee which I consider requires any defense, either before my constituents or before the country. I pursued that course which my own convictions of duty pointed out as the proper one, and which, under similar circumstances, with all the lights now before me, I would pursue again.

It is my purpose to show that the majority of the committee of fifteen discharged their duty faithfully, as that duty was enjoined upon them by the order of the House. It will be recollected that, on the 2d day of February, the gentleman from Illinois, [Mr. HARRIS,] whose illness I greatly regret, introduced into this House a resolution which contained ten specifications in the nature of instructions to the committee which he proposed to raise.

I will now call attention to each one of these instructions, because I desire to have them impressed upon the minds of such as are present, and such as may read my remarks, in order that the resolution, as then presented, may be contrasted with the resolution as it was finally adopted. On reference to the Journal, it will be found that the resolution, as originally proposed, instructed the committee that he then designed to raise, in the first place—

"To inquire into all the facts connected with the formation of said constitution, and the laws, if any, under which the same was originated; and whether such laws have been complied with and followed."

"Whether said constitution provides for a republican form of government, and whether there are included within the proposed boundaries of Kansas sufficient population to be entitled to a Representative in this House upon the basis now fixed by law; and whether said constitution is acceptable and satisfactory to a majority of the legal voters of Kansas."

Now it will be recollected that my friend from North Carolina [Mr. GILMER] to-day charged the committee of fifteen with having dodged their duty in not ascertaining whether there was a sufficient population in that Territory to entitle them to a member according to the ratio of representation as fixed by the act of Congress—ninety-odd thousand. We had no such instructions before us. The instructions as then presented were subsequently withdrawn by the mover, and we were charged, therefore, with no inquiry of that sort; and if we had been, I would like to know of my friend from North Carolina how the committee of fifteen were to execute that requirement? We were clothed with no power to take a census of the people of the Territory to ascertain the fact; we were provided with no means of getting at it, unless we undertook to call upon Tom, Dick, and Harry, for the purpose of getting their impressions in regard to the population in each one of the counties which constitute the Territory of Kansas. We could have got nothing more, if we had been required to execute such an order, than the prejudiced partisan opinions of individuals—means of information which were as accessible to every member of this House as to members of the committee.

The resolution goes on:

"Also, the number of votes cast, if any, and when, in favor of a convention to form a constitution as aforesaid, and the places where they were cast, and the number cast at each place of voting and in each county in the Territory.

"The apportionment of delegates to said convention among the different counties and election districts of said Territory, and the census registration under which the same was made, and whether the same was just and fair, or in compliance with law.

"The names of the delegates to said convention, and the number of votes cast for each candidate for delegate, and the places where cast, and whether said constitution received the votes of a majority of the delegates to said convention.

"The number of votes cast in said Territory on the 21st of December last, for and against such constitution, and for and against any parts or features thereof, and the number so cast at each place of voting in said Territory.

"The number of votes cast in said Territory on the 4th day of January last, for and against said constitution, and for and against any parts or features thereof, and the number cast at each place of voting in said Territory.

"The number of votes cast in said Territory on the day last named for any State and legislative officers thereof, and the number so cast for each candidate for such offices, and the places where cast.

"That said committee also ascertain, as nearly as possible, what portion, if any, of the votes so cast at any of the times and places aforesaid, were fraudulent or illegal.

"Whether any portion, and, if so, what portion, of the people of Kansas are in open rebellion against the laws of the country."

Now, sir, as this resolution was introduced, there were ten specifications, specifically directing what that committee were to be required to do when they assembled in the discharge of the duties imposed upon them by the resolution. Those specifications are distinct, clear, and explicit, so that there can be no mistake or doubt in regard to either or all of them.

Well, now, what followed? We find no further action was taken until the 5th of February, when the gentleman from Illinois [Mr. HARRIS] proposed to strike out all the specifications thus clearly set out in his resolution introduced on the 2d of February, and to substitute the following:

"Resolved, That the message of the President concerning the constitution framed at Leecompton, in the Territory of Kansas, by a committee of delegates therein, and the papers accompanying the same, be referred to a select committee of fifteen, to be appointed by the Speaker. That said committee be instructed to inquire into all the facts connected with the formation of said constitution and the laws under which the same was originated, and into all such facts and proceedings as have transpired since the formation of said constitution having relation to the question or propriety of the admission of said Territory into the Union under said constitution, and whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas, and that said committee have power to send for persons and papers."

Now, if the House intended that we should execute the purposes indicated by the specifications set forth in the original resolution, then I desire to know why that original resolution was abandoned by the mover, and this general resolution substituted in its stead? In the original resolution, sir, we had positive instructions; everything was definite and distinct; our duties were marked out in words that could not be misunderstood. But with a resolution thus clear, thus definite, thus distinct in its language, the mover himself [Mr. HARRIS, of Illinois] proposed to strike out

all the specifications, and to insert this resolution, thus general in its terms.

What was the action of the committee when they met under this resolution? When we met, according to the journal of the proceedings, as published with the demurrer (as he termed it) of the gentleman from Illinois, the first business attempted was to introduce resolutions covering each one of the identical points which were embraced by the specifications in the original resolution, as introduced by the gentleman from Illinois. We were to go into that broad field of investigation in detail; we were not only to inquire in regard to this constitution, the law which gave rise to it, the registration of the voters, the apportionment of delegates, the election of delegates, the formation of that constitution, the submission of one clause of that constitution to the popular vote, and the presentation of that constitution here for the consideration of Congress, but we were to go into the investigation of frauds anterior to that, not connected with it in any way whatsoever, and also into frauds alleged to have been committed subsequent to that time, and in no wise bearing upon the question pending before Congress. We were to go into matters outside of the question which this House was called upon to decide. And no matter how those points might have been determined, no action which that committee could have taken would have exerted any influence upon the question of the propriety of the admission or rejection of Kansas under the Leecompton constitution.

Look at some of the specifications contained in that resolution. You will recollect that there was one specification which directed the committee to ascertain whether there is an open rebellion against the laws of that Territory by the citizens thereof. That was stricken out. But after the committee met to discharge the duty imposed upon them by the House, it was proposed to do what? Why, sir, to adopt this resolution proposed by the gentleman from New Jersey, [Mr. ADRAIN:]

"Resolved, That it is an important fact, having relation to the propriety of the admission of Kansas into the Union under the Leecompton constitution, whether or not a large part of the people of Kansas have been in rebellion against the government, and such a fact as this committee are required by the resolution of the House directing said committee to inquire into; and the committee will therefore inquire into the alleged fact."

Well, now, sir, if the committee was directed, under this resolution of the House, to make this inquiry, why was that clause of the resolution stricken out? or, in other words, why was it withdrawn to give place to the resolution, containing no such specification, which was subsequently adopted? And then, besides, sir, does it not puzzle you, does it not puzzle any member of the House, to ascertain what the fact of a rebellion in Kansas has to do with the admission of that Territory as a State into the Union? What had it to do with the organization of their convention and the formation of their constitution? What has it to do now with the action of this House in determining the question whether that constitution shall be accepted or rejected? I frankly confess, sir, that I can conceive of no earthly connection that it could have with the constitution, nor of any influence that it could exert on the minds of members on this floor, nor of any influence that it ought to exert on any question on which we are now called to act. The resolution containing this instruction being withdrawn, and a resolution adopted which did not contain it, satisfied my mind that the House did not intend that we should make such an inquiry.

That was one of the resolutions proposed, and that resolution was voted down, for the reasons I have stated, and I think properly voted down, by my vote in part.

Well, let us look a little further into the matter. Here is another proposition made in this committee:

"Resolved, That the chairman be requested to inquire for and procure the statement of John Calhoun, the late president of the Leecompton constitutional convention, relative to the number of voters in certain counties of the Territory of Kansas, where no census was taken, or registry of voters made, prior to the election of delegates to said convention, and to which Senator GREEN refers in his report of February 13, 1858."

That resolution was offered by the gentleman from Vermont, [Mr. MORRILL,] and was adopted

by the committee. At a subsequent meeting, when the statement of Mr. Calhoun was laid before the committee, what was the next thing done? Why, the very next thing done was that the gentleman from New York, who has alluded to this matter, [Mr. BENNETT,] submitted this resolution:

"Resolved, That the statement of John Calhoun, on file by the call of this committee, is not considered evidence of the facts therein stated."

If it was not evidence of the facts therein stated, why was it called for? For what purpose was it wanted by the committee? Why was the resolution adopted which declared its importance, and which was the means of bringing it to the consideration of that committee? Was it not intended to be used for some purpose? But the statement is no sooner brought in than the gentleman from New York proposes to declare that that statement of John Calhoun, called for by the committee, is not to be regarded as evidence of any fact which may be stated in it.

Can you understand what light that statement would throw upon the matter then before the committee? Still they got the benefit of it as they had asked for it; and is it not a novelty, in the action of committees, to adopt a resolution calling for a particular paper, and when the paper called for is brought in answer to the demand, then for the committee to adopt a resolution which, in my view, discredits that paper; and then presents it to the House as a part and parcel of the proceedings of the committee? Yet all this was done; and now that those who called for it have discredited the testimony by a resolution, solemnly adopted in that body, they come into the House and intimate that the majority of the committee have been faithless to their trust, and have suppressed an investigation which would have established frauds that have been charged, but not sufficiently proved to be regarded as settled.

Now, let me ask, in this connection, if the statement then called for was not to be regarded as evidence, why was it not to be so regarded? Can it have been on any other ground than the fact that the gentlemen who called for it, and who were opposed to Mr. Calhoun, regarded him as an interested partisan in this matter; thought that his feelings were controlled by the position which he had occupied in that Territory in the past, and by the position which he expected to occupy in the future, and that, therefore, his declarations were not entitled to weight? But, sir, more strange than all this, after this resolution was adopted, one of the gentlemen proposed that Mr. Calhoun should be brought before the committee for examination as a witness. I put this question to them, then: "You disregard his statement which you called for; would you believe one word he would swear to?" Two gentlemen answered promptly and distinctly that they would not; and the others sat silent, and thus acquiesced in these declarations.

Mr. WINSLOW. If my colleague will allow me. While he was upon that point, I will suggest to him that he will recollect that when that resolution was under discussion it was distinctly stated by two of our colleagues that they did not consider, when voting for the resolution, that they discredited Calhoun's statement at all, but only meant to say that the evidence was not conclusive, and should only pass for what it was worth.

Mr. LETCHER. I am very glad to be corrected by my friend from North Carolina in this particular. If they would not believe him, why did they want to cross-examine him?

Mr. LOVEJOY. To make him show that he did not tell the truth.

Mr. LETCHER. To make him show that he did not tell the truth? Here is a man who, in the estimation of the individuals calling him, is of so notorious a character, and so little to be relied upon, that those calling him ardent in advance that they would not believe him on oath, and yet the gentleman from Illinois [Mr. LOVEJOY] says that, perhaps, they wished to cross-examine him to show that he did not tell the truth—a man who, in their estimation, would swear falsely. Is not that a most remarkable position?

Well, let me say further: is it not palpable to any one that, in the present state of feeling in the House, with the prejudices aroused, if the com-

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mittee had gone into an investigation, and spread the testimony of witnesses on the record, you would have had each party discrediting and disbelieving the testimony of the other? Is it not so here now? Do we not see each side discrediting the statements made by the other throughout this entire debate?

Then it seems to me that there was nothing else to be done than what we have done. If we were to go into such an investigation as was proposed in the resolutions presented to the committee, we should have been engaged in it for perhaps six or twelve months to come. We should have had either to go to Kansas or to send there and bring here such witnesses as either of these parties desired. And where was the necessity for it? Did you not send out a committee there the summer before last, with authority to run over this entire Territory, and gather up whatever they could get with reference to frauds, murders, and atrocities of all sorts? And is not the report of that committee here in a volume of a thousand or more pages? That evidence relates to many inquiries suggested in the resolutions presented before the committee as proper inquiries to be made in connection with this constitution.

Well, sir, we adopted this resolution on the motion of my colleague at our first meeting of the committee:

"That the chairman of this committee, after inquiries made at the State Department, and the Interior Department for the same, report to this committee, at its next meeting, copies of the following papers, or such as he can obtain; and in case he cannot get copies of the whole of the same, that he report those that he cannot procure copies of, to wit:

"Copies of the law under which the convention assembled at Leecompton, and under which the constitution then adopted was organized; also the returns of the election or vote on said constitution on the 21st of December last; also copies of the law, if any, by which the sense of the people of Kansas on the question of the propriety of their applying for admission as a State in the Union was authorized to be taken, and the vote thereon; also copies of the registration of voters for the election of delegates to said convention, as well as the apportionment of delegates to the same."

Now, sir, I very respectfully submit to those gentlemen who have undertaken to cavil at the action of this committee whether that proposition introduced and adopted by the committee at its very organization, does not cover all the requirements contained in the resolution of the House as it was passed and under which this committee acted? What have we omitted? We have gone back to the very organization, the incipient steps for the gathering together of this convention, and we have come down to the close of the action in connection with that subject, when the very last act had been done in the submission of it to the popular vote, and the popular sentiment had been pronounced in regard to so much of it as has been presented to the people for their consideration. Was there anything more to be done? Could it have any influence on the action of this House to ascertain whether the first election of delegates, under the territorial organization, to the Territorial Assembly was characterized by frauds, or whether the second election was characterized by frauds, or the election of the 4th of January? And, besides all that, under what authority, under what law, would this House undertake to look into questions of this sort and to decide upon them? I grant you that, so far as the election of a Delegate to this House is concerned, in that case, the House, being the judge of the qualifications and returns of its own members, can look into his case and ascertain whether his poll has been stained by fraud—whether he has, in other words, been fairly and properly returned a member of this House by the constituency who claim the right to send him here. That is the extent of our powers. But what authority have we to look into legislative returns? None that I can conceive—none whatever. And even if you could look into them, they are matters which do not bear upon this subject, and that cannot influence the action of any one member of this House. If we had gathered up a thousand pages of testimony—as the committee did a year ago—the result in all probability would have been identically the same as it is now. I insist, therefore, that so far as this committee is concerned, they have performed their duty strictly up to the letter of this resolution. They dodged nothing; they sought to dodge nothing. But they were unwilling to

procrastinate the decision of the question by the introduction of irrelevant matter that could not enlighten the mind of any human being upon the question that is the subject of consideration here.

Having thus placed myself and my colleagues on the committee right in this matter, so that this statement may go upon the record with the charges that have been preferred against us, I leave the subject.

REVOLUTION IN THE LAW OF THE LAND.

SPEECH OF HON. E. P. WALTON,

OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

March 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. WALTON said:

Mr. CHAIRMAN: "Revolutionary" was an epithet applied, a few hours ago, to the Republicans on this floor by an honorable member from Georgia, [Mr. TRIPPE,] if I did not misunderstand the application of the word. I will take it, and bear it, and honor it. It was the honorable title of the patriots of old; it is embalmed in the hearts of the people, and bound, in your day and mine, to a swift resurrection in power. We are revolutionary, as they were, against tyranny and wrong, for liberty and right. But it is a counter revolution that we have inaugurated; it is against that other revolution, of which the whole history of Kansas and this Leecompton constitution are the illustration and example; it is to roll over that other revolution, and to roll back the governments of the nation and the States to the principles and policy of our revolutionary fathers.

We are in the midst of an attempted revolution; and we have present proof of its mighty import, in the fact that as its certain result—whether we roll it onward or roll it back—the dissolution of the Union has been gravely predicted, or passionately threatened, as suited the purpose or the temper of the man and the hour. That contingency, I think, is beyond our control. Higher than Congress and the combined powers of the Federal Government, higher than State governments or conventions, than nullification or secession, is the power of the people. I will not anticipate their will. Higher even than that of the people, is the power of Him who "fashioneth their hearts alike." In His domain, earth's grandest empires are as dust; and the eras of their history—their founding, climax, fall—are the foot-prints of the Almighty in His eternal round. We may not antedate our fate.

It were enough to say, that peers in privileges, responsibilities, and rights, must spurn intimidation; but against the power of a Christian's faith and a patriot's hope, these threats of angry men are lighter than their breath. I will smile at them—sorrowfully smile:

"Be angry when you will, it shall have scope;
Do what you will, dishonor shall be humor.
O Cassius, you are yoked with a lamb,
That carries anger as the flint bears fire;
Who, much enkindled, shows a hasty spark,
And straight is cold again."

The danger of to-day, it seems to me, is not in dissolution, but rather in that revolution whose end is despotism. Thence may come another issue. I threaten nothing; I predict nothing; but if another issue ever comes, I fear it will be only this: despotism and Union; or disunion, as the sole, sad remedy for despotism. I submit, therefore, that to-day our great duty is, to take care that by no blindness or perversity of ours, shall we doom the people to such a choice as that.

The attempted revolution, of which I come here to speak, is a revolution in the law of the land as to slavery, in the powers of Congress and the States, in the rights of the people, and in the Constitution itself. It is a revolution wrought through a new interpretation of the Constitution by the Supreme Court, with the connivance of the President and his party, and in defiance of the entire history of the Government, of legislative acts, judicial adjudications, and the universal acquiescence of the States and the people, for two thirds of a century. In short, sir, it is my conviction that the judiciary and the Executive have been guilty

of USURPATION. I have no weight of character, of learning, or experience, to give emphasis to such words as these; but, in my poor judgment, they can be proved by the record, and sustained by the Constitution, as expounded by the most illustrious statesmen and jurists, from the dawn of the Union to our own evil day. This is my task for the allotted hour.

First, as to the law of the land. It was the common-law maxim of England, to wit: Slavery legally exists by no general rule, but "only by the force of some local law." (Forbes vs. Cochran, cited in note to 1 Blackstone, p. 127.) A self-evident proposition not long ago, but now denied. I therefore observe, that true it is, that as early as Edward VI. slavery temporarily existed in England, and that for two hundred years the slave trade received the sanction of the British Government and courts; but it was only by positive law—by charters, treaties, grants of the Crown, and acts and resolutions of Parliament. This is history; and thus is history "confirmation strong as proof of Holy Writ" of the maxim of the common law. Lord Mansfield declared it in 1772, while the special slave-trade laws were still in force, in these memorable words:

"The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law."

Blackstone was the cotemporary of Lord Mansfield, and spoke of the common law—as it was then, and ever had been, and still is—in still more emphatic terms:

"The law of England abhors, and will not endure, the existence of slavery in this nation."

Sir, we have been told, in this debate, that Lord Mansfield was in error; that Lord Stowell has reversed his decision in the case of the slave Grace, and received the approval of an eminent jurist of our own. No, sir. That was a misuse of the decision of Lord Stowell. That was a misuse of the name of the American judge, who ranked, at home and abroad, in America and in Europe, and wherever you find the grace of learning and the guards of law, with the most illustrious masters, the clearest expounders, and the purest administrators, who have adorned the bench of this or any other land. I need not say that I mean Judge Story. Now, sir, in justice to Lord Stowell and Judge Story, I quote the case of the slave Grace, as pitifully described by Judge McLean:

"Lord Mansfield held that a slave brought into England was free. Lord Stowell agreed with Lord Mansfield in this respect, and that the slave could not be coerced in England; but on her return to Antigua, the place of her slave domicile, her former status attached."—Dred Scott decision, pamphlet, page 154.

And to this I add the words of Lord Stowell himself, in the case of the slave William:

"The four judges all concur in this—that he was a slave in Granada, though a freeman in England; and he would have continued a freeman in all other parts of the world except Granada."—Same, page 166.

Sir, these decisions of Lord Stowell were within our own time, and they confirm the common law. Lord Mansfield's decision was in 1772, and almost cotemporary with the Revolution. The special laws of England brought slavery to the American colonies under her jurisdiction, and sometimes against the remonstrances of her American subjects; but when British jurisdiction ceased, the old thirteen States all recognized Lord Mansfield's maxim of the common law. Be it right or wrong, it is not important to my present purpose. It was recognized as law in America. The old Thirteen States all tolerated or abolished slavery, each within its jurisdiction; and many of them abolished slavery. They permitted or prohibited the slave-trade, each at its own will; and of the thirteen, there were but three that permitted the importation of slaves when the Constitution was adopted. They, in equity, permitted the master to bring his slaves from other States, and to recapture fugitives; or, by their clear and undisputed right, and of their own free choice, they denied all comity at all. Such is American history previous to the Constitution; and that, too, is "confirmation strong" of the maxim of the common law.

I come to the Constitution, and I find it distinctly recognizing, and palpably based upon, the maxim of the common law. Turn to the clause on the slave trade, and there see the recognition

of the power of the States to admit or reject imported slaves, and the power of Congress to prohibit, after 1808. How? Through sovereignty, both in the States and nation—not by special grant; through that Federal sovereignty which simply resulted to the Federal Government, when State sovereignty, in 1808, should be surrendered. What was this but a recognition of that common-law maxim, which leaves the sovereignty to prohibit or permit, by positive law? Turn to the clause in respect to fugitives from service, and tell me, how is it? Redolent of the common law; redolent, all over it and all through it, in the beginning, in the middle, and in the end. Persons are "held to service or labor in one State under the laws thereof;" that is the beginning. Fugitives in any State are not to be discharged "in consequence of any law or regulation therein;" that is the middle. And service is "due," by virtue of the laws of the State from which the persons escape; that is the end.

Sir, here is Lord Mansfield's common-law doctrine, couched in equivalent words—in words embracing the entire doctrine; and it is incorporated into the organic and supreme law of the land.

I come to the Supreme Court of the United States, and here I give you the words of Judge Story himself, uttered as the organ of the court. It was imprudent, to say the least, to quote the authority of his great name against Lord Mansfield's. Judge Story said:

"The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial laws."—16 *Peters*, page 611, *Prigg's case*.

In respect to this point, a member of the court (Judge McLean) who sat upon the case, has declared:

"There was some contrariety of opinion among the judges on certain points ruled in *Prigg's case*, but there was none in regard to the great principle, that slavery is limited to the range of laws under which it is sanctioned."—*Pamphlet Report of the Dred Scott case*, page 140.

Among the judges, who thus are compromised by their associate, was the present Chief Justice.

So much for the law of the land as it was, from the Revolution to the Constitution, and from the Constitution, and under the Constitution, down to the opinion of a majority of the Supreme Court in the *Dred Scott case*, delivered by the Chief Justice, in March, 1857.

In the second place, as to the powers of Government, both Federal and State, over slavery.

As to the judicial power: the fundamental law recognized in the States and in the nation being that slavery can have no legal existence except by the authority of the Government having jurisdiction, the courts emancipated slaves whenever and where ever they had been brought from the bonds of local law into the liberty of the common law. That was the legal and logical conclusion from the fundamental principle, and I give you two judicial decisions as the type of hundreds, from every section of the Union—slave States and free:

"The taking of a slave to any country, by the owner, where slavery is not tolerated, operates on the condition of the slave and produces immediate emancipation."—*Ninth Louisiana reports*, 475.

As late as 1851, the court of appeals of South Carolina declared that a slave, being taken to a free State, is free. (*Commonwealth vs. Pleasants*, 10 *Leigh Reports*, page 697.)

Such was the judicial authority recognized and exercised, even in slave States, and in States where the civil law originally prevailed; and such authority, I take it, would have been recognized in every court in the land, Federal or State, down to the opinion of the Supreme Court in the case of *Dred Scott*. It was a judicial recognition of Lord Mansfield's maxim of the common law.

As to the political power: the logical conclusion from the fundamental common-law maxim was, that all governments have exclusive political control over slavery, each within its own jurisdiction. No other authority can give legality to slavery; no other can regulate it, define the rights of master and servant, and give the remedies appropriate to those rights. Such was the theory; and the facts correspond. On this ground many of the old States abolished slavery; and Vermont, from her very birth, excluded it. On this ground the slave States tolerated slavery, previously established through British "positive laws," and have ever since defended it against all assaults

from without. "Touch me not!" "mind your own business!" such were their maxims, and these were their shield and defense.

On the same solid ground rests the power of the Federal Government, within its own exclusive jurisdiction—that is, outside of the States. We differ widely, in these latter days, as to the source and the extent of Federal power over Federal Territory. Never was there a doubt that it was in Federal sovereignty, and exclusive and perfect, until these latter days; never did the fathers and founders of the Union doubt it. Never, indeed, was there a political power which rested on a more solid foundation, and rarely was there one sustained by so many "pillars of strength." In 1823, Chief Justice Marshall—venerable name!—with the concurrence of the Supreme Court, declared the power to be "unquestionable" in fact, and equal to "the combined powers of the General and of a State government," in extent. (1 *Peters*, 546.) Sir, there was no dissenting opinion in that court. Strange that a Taney should reverse the opinion of a Marshall. Passing strange, if the unbiased and unanimous opinion of John Marshall and Bushrod Washington of Virginia, William Johnson of South Carolina, Gabriel Duval of Maryland, Joseph Story of Massachusetts, Smith Thompson of New York, and Robert Trimble of Kentucky—(five of the seven, mark it, from slave States)—is now to be cast into utter contempt, by a pro-slavery majority of the present court, on a case improvised for a political purpose, in the heat of a political revolution, and tainted all over with partisan zeal.* Chief Justice Marshall placed the power upon four grounds, each being deemed sufficient; and among them was "the general right of sovereignty, which exists in the Government." These words assert both the existence and the power of sovereignty "in the Government." Twenty-five years before, in 1803, John Randolph had claimed for the Federal Government "all the military, civil, and judicial powers" over the Territory of Louisiana, on this identical ground of SOVEREIGNTY. (3 *Benton's Abridgment*, page 73.) Sovereignty, sir, what is it? Sovereignty "exists," said John Marshall. It was born, not merely made. It is the sum of more than written powers, the attribute of all governments, with or without the machinery of constitutions, or the recorded forms of law. On our American theory, sovereignty—springing from the people as springs the soul from God—rules all the States; the people guide it, as God guides man, by written supreme laws. The people are the source of sovereignty, but sovereignty is the soul of government. Charters, constitutions, all organic laws, are hindrances of flesh and bones to hedge it in. We say the sovereignty is in the people, and goes not into governments except by right of grants. In all our States, however, the grants carry more than the specific powers—all incidental, necessary, proper powers, essential to the true end of government—to guard the people's interests or rights from exigencies unprovided for, and dangers unforeseen. Without a specific grant, no man doubts, no man can doubt, that it was and is competent for any State to take control of slavery. By the implied consent of all the people, though it were not written in the organic law, by virtue of the universally accepted principle of the unenacted common law, that power was in the sovereignty of the States. From necessity it was there, as well as there in fact. From necessity it was in Federal sovereignty, and it was there, too, in fact, to the precise extent of exclusive Federal jurisdiction—that is, outside of the several States.† The Constitution is a hindrance on Federal sovereignty. You cannot touch the internal affairs of States. The article on the slave trade was a hindrance, preserving State sovereignty and limiting Federal sovereignty until 1808. Moreover, there is no specific grant to prohibit the slave trade; and the power only

exists, and was presumed to exist, in the sovereignty, as the limitations prove. The article on fugitives from service is a hindrance both to the State and Federal Governments: neither can discharge them from service. Moreover, it is noticeable that Congress has no specific grant of power as to fugitives in Federal territories,* and the claimant, therefore, has no specific right; both exist in Federal sovereignty, or do not exist at all. But, above all, the fifth amendment is a hindrance to Federal sovereignty, a shield to every "person," irrespective of color or condition. The power to prohibit slavery in Federal territory remains unlimited; but, thanks to our fathers, it is limited as against the liberty of the poorest, weakest, lowest living soul. You cannot establish slavery on Federal soil, and, by act of Congress, that was never done. The whole history of the Federal Government, from 1789 to 1850, is of prohibition; prohibition by almost every Congress; prohibition with the assent of every President; prohibition with the approval of statesmen of every school, and jurists in every court; and prohibition with the acquiescence of the people and the States. So much for the past.

The new ideas, so radically different as to deserve the epithet "revolutionary," have been of rapid growth. They sprang not from the Constitution; for they were never dreamed of by those who made it, and never known to those who, for the first half century, administered it. The late distinguished Senator from South Carolina, Mr. Calhoun, was their father; and the errand on which they were sent was rather sectional and political, than peaceful and patriotic. So long as there was slaveholding territory to make slaveholding States, these new ideas were never known. Until the acquisition of a vast domain from Mexico, in which slavery did not exist, they were never known. With that emergency came the necessity—purely a political one—for a new scheme of constitutional law, which would admit slavery into free territory in spite of congressional intervention, without any act of Congress, and against any. Mr. Calhoun devised the scheme; and on the 19th of February, 1847, he submitted it to the Senate in a series of resolutions, which were consigned to sleep upon the table, without the formality of a vote. As the very origin of the late decision of the Supreme Court, almost in the words of the court and of the President, I recall them here. They were as follows:

"Resolved, That the Territories of the United States belong to the several States composing this Union, and are held by them as their joint and common property."

"Resolved, That Congress, as the joint agent and representative of the States of this Union, has no right to make any law or do any act whatever that shall directly, or by its effects, make any discrimination between the States of this Union, by which any one of them shall be deprived of its full and equal rights in any Territory of the United States, acquired or to be acquired."

"Resolved, That the enactment of any law which should directly, or by its effects, deprive the citizens of any of the States of this Union from emigrating, with their property, into any of the Territories of the United States, would make such a discrimination, and would, therefore, be a violation of the Constitution and the rights of the States from which such citizens emigrated, and in derogation of that perfect equality which belongs to them as members of this Union, and would tend directly to subvert the Union itself."

Here was a distinct proposition to obtain a legislative declaration of the right to take slaves, as property, into all the Territories; and a legislative denial of any right in Congress to forbid. But it failed. Mr. Benton denounced it as a "fire-brand," and it failed.

In the next year, 1848, an attempt was made to effect the same purpose by a judicial declaration from the Supreme Court. To effect this, a clause was inserted in one of the bills for the government of Territories, allowing slaves to enter court by way of petition for liberty, with the right of appeal to the Supreme Court of the United States. That bill passed the Senate by the combined votes of Senators of entirely different opinions—some believing that the court would be for freedom, and others for slavery; but the House, on the first

* The court was divided, as follows, on the validity of the Missouri compromise act: against it, Judges Taney of Maryland, Wayne of Georgia, Catron of Tennessee, Daniel of Virginia, Grier of Pennsylvania, and Campbell of Alabama, five from slaveholding States. For it, Judges McLean of Ohio, and Curtis of Massachusetts. Expressing no opinion, Judge Nelson of New York.

† Said Judge Taney: "Undoubtedly, the powers of sovereignty and the eminent domain were ceded with the land."—*Dred Scott*, pamphlet, page 40.

* The right was accorded in the ordinance of 1787, coupled with a prohibition of slavery, and was limited to the Territories embraced in it. The Constitution embraced that ordinance in the word "engagements," in Article 6.

† Mr. Foote, of Mississippi, feared that the decision of the Supreme Court, as now constituted, would be against the South.

* Mr. Reverdy Johnson, of Maryland, believed in the ex-

appearance of the bill, promptly nailed it to the Speaker's table. In March, 1857, when Mr. Calhoun's scheme was precisely ten years and one month old, the court adopted it as its own, and President Buchanan pledged himself "cheerfully to submit." The court adopted as law what Congress had ever denied from 1789 to 1854; what Mr. Calhoun and Mr. Buchanan both denied, by excluding slavery north of 36° 30', in the Texas resolutions of 1845; what Congress refused to declare as law in 1847; what Mr. Calhoun himself denied in 1848, by his vote to extend the Missouri compromise to the Pacific ocean; what the southern Democratic Senators denied at the same time, by the same vote; what Congress denied in the territorial bills of 1850; and what Congress also denied, by retaining the Missouri compromise, down to the 30th of May, 1854.

In view of these facts, so utterly irreconcilable with any settled conviction that Congress had not constitutional power to prohibit slavery, I hesitate not to say, that the purpose which Mr. Calhoun conceived, and which the President and the judiciary have attempted to execute, was purely political, founded upon no express provision of the Constitution, and no previous interpretation of it; founded upon nothing but a determination to extend slavery, without the consent of Congress or the people; and excused by nothing but those shallow, sectional, and therefore mischievous, notions of an "equilibrium of free and slave States" in number, and "equality of rights," which have not a shadow of support, either in the Constitution or the history of the Union.* The politicians of the pro-slavery school—the President and the court—are one; it is for the future to show whether Congress and the people shall withstand or submit. The Congress of 1854 was a party in the scheme; the Congress of 1858 may be a party in the scheme. The country looks to the next.

Let us look for a moment at the legislative and judicial politicians of 1854, harmoniously blending to give us a new Constitution without the process of formal amendment, or so much as saying to the States and the people, "by your leave." In the month of April, 1854, the Dred Scott case was argued in the United States circuit court for Missouri; and in that same April, 1854, the Kansas-Nebraska bill was argued in Congress. In May, 1854, the court decided the case for slavery; and in that same month of May, and on the 30th day thereof, Congress passed the Kansas-Nebraska bill. What was it? Every way a most remarkable act—remarkable for its fullness of promise; more remarkable for its fullness of failures; most remarkable for the fate of its prophet. He is not entirely without honor, save in his own party. His party has read him out; but with tolerable assurance that he will read his party out—out of the favor of the people, out of the next Congress, and out of the next Presidency. A fitting climax to the unexpected accidents of the Nebraska bill. It promised quiet, and has given us agitation; peace, and we have had the sword; non-interference, and we have had interference; fairness, and we have had fraud; law and order, and we have disorder and defiance to all law; freedom, and we have slavery; the rights of the sovereign people, and the peo-

ple have been defrauded of their first, their dearest, and most sacred rights. Why should it not defeat its party? But in one point, and the chief one, the Kansas-Nebraska bill has not failed. It repealed the Missouri compromise, and swept our wide domain north of 36° 30' of the statute against slavery. Thus it prepared the way for the South to bring in its legions of slaves; and the court has decided that they can go in "under the Constitution of the United States." The design of the politicians has been confirmed by the court, and now it stands out in characters far too bold to be blinked. Slavery the supreme law in Federal territory! Slavery the general rule! Freedom the exception! That is the revolution. Let us see how it was to be achieved.

I will consider the edict of the court as it comes to us, officially declared and illustrated, by the President of the United States. Let us consult his official announcement to the country, in the first blush of gratitude to a confiding people, and the freshest sanctity of his official oath:

"A difference of opinion has arisen in regard to the time when the people of a Territory shall decide this question [of slavery] for themselves."—*Inaugural Address, March, 1857.*

It is of the rights of the sovereign people he speaks.

"This is, happily, a matter of but little practical importance."—*Id.*

To be sure, it concerns the rights of the people and the liberties of men; to be sure, it is a mere question of time—one year or ten; a petty question, whether they shall be half buried, or wholly buried, beneath the black flood of slavery, before they can decide whether they will be buried at all or not. To be sure, this is a very small matter, or the President is very much mistaken. But he goes on:

"And, besides, it is a judicial question, which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled."

"Before whom it is now pending!" The President "understood" that. It is true, then, that the Nebraska act was a mere tender to the Dred Scott decision, and Congress the very humble servant, to sweep the path in which the court would tread. And it is a "judicial question"—not political! for the court, which is hardly responsible to anybody; and not for Congress—not for the Representatives of the States and the people—whose responsibility is direct and inevitable. It is the Executive, too—one of the three coordinate branches of the Government—who thus exalts the one at the expense of the other! But, again, said the President:

"To their decision, in common with all good citizens, I shall cheerfully submit, whatever this may be."—*Same.*

Sir, it is not fit that I should stand here to harshly judge the President of the United States—a venerable old man, whose very age demands our homage and respect—now sinking from the topmost place of all the dignities of earth, by weight of years, and toils and cares; but no light words will serve, through any skill of mine, to express the sentiments I hold of that inaugural pledge. There are those who take that pledge as proof of collusion between the President and the court, against the powers of Congress and the liberties of the people. I take it as it stands: a total surrender of the independence of the President; a surrender of his constitutional right of judgment on a high official act, involving as well his own powers as the powers of another coordinate branch of the Government; and a pledge in advance, without examination, without judgment, without a why or wherefore, of unconditional submission to the court. Highest in dignity, as the President is; equal in power with each of the other two great constitutional branches of the Government, as the President is; and bound by his very oath to preserve his independence perfect and intact in the very least official act, it strikes me that the servility of that declaration was complete; that it implied a total surrender of the dignity of his position; a neglect of the high duty of his office, and an impeachment of the very independence that we are alone bound to respect.

Not so have other occupants of the presidential chair demeaned themselves and the dignity of their place; not so mistaken their duty, privilege, and right.

Said Mr. Madison, in founding the Constitution, and long before he reached the highest post created by it:

"If it be a fundamental principle of free government that the legislative, executive, and judiciary powers should be separately exercised, it is equally so that they be independently exercised."—*5 Elliot's Debates, 337.*

Said Washington, in his Farewell Address:

"The habits of thinking, in a free country, should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism."

The submission of the executive to the judiciary, is submission to an encroachment; the subordination of the executive and legislative branches to the judicial, is but to "consolidate the powers of all the departments in one, and thus to create a real despotism." I believe in Washington.

Said President Jackson:

"The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve."—*President Jackson's Veto Message on Bill to Charter the United States Bank, July 10, 1832.*

Sir, I thought, and honestly thought, that declaration of President Jackson arrogant, then; I think it admirable now. It contains the constitutional rule.

I pass to the next announcement of the President, five months after the inaugural address, and the decision of the court. It is in that remarkable document, then unofficial, but since made official—the President's letter of August 15, 1857, to Professor Silliman and others, citizens of Connecticut:

"Slavery existed at that period, [the passage of the Kansas-Nebraska bill], and still exists in Kansas, under the Constitution of the United States. This point has at last been decided by the highest tribunal known to our laws. How it could ever have been doubted, is a mystery."

Behold the advance! In March, only five months before, it was a mere question of time that was submitted to the court; in August, it was a grave constitutional principle that had been asserted. In March, it was merely a question "when the people of a Territory shall decide this question of slavery for themselves;" in August, they cannot decide it at all! In March, it was squatter sovereignty or State sovereignty; in August, it is neither—slavery "exists under the Constitution of the United States." In March, it was "a question of little practical importance" that was submitted to the court; in August, the court had asserted a supreme rule of law, and a rule utterly subversive of all the ideas and intentions of the framers of the Constitution, and of the practice of the Government; a rule of law never even dreamed of until 1847, and then consigned, by common consent, to quiet sleep upon the table of the Senate. The dream of the South Carolina Senator has been realized by the court. It has received the lineaments and power of a new divinity from the breath of the court. The President "ignorantly worshipped" it in March; but in August, his faith was fired by sight, and, in all the glow of a new conviction, he shouts, I BELIEVE! THE WONDER IS THAT I EVER DOUBTED! And what is the new Democratic creed imposed by this new Democratic divinity? It is a reversal of the common law as to the Territories. It is, that slavery went into Kansas, and goes into every new Territory, "under the Constitution." It is, that Congress cannot exclude it, and the territorial people and government cannot exclude it. It is, that slavery must go there, and stay there—at least until the people, by virtue of their sovereignty as an organized State, shall turn it out. It is, that we are to have no peace, but an ever-recurring struggle in the Territories on their settlement, and in Congress on their admission as a State. No peace! no more peace! but strife and heart-burnings; a dearth and death of patriotic sentiments, fraternal affections, and mutual respect; passion responding to passion, and threats to threats—in this Capitol, in the States, and among all the people; struggle upon struggle, and conflict upon conflict, involving, at last, the Territories, the States, and the

istence of the power in Congress to pass a law to prohibit slavery in Territories; and if such a law was presented to the Supreme Court for a decision on its constitutionality, it would be in favor of the law. As a judicial question, the decision would be against the protection of the South."—*Benton's Examination of Dred Scott Case, note, page 26.*

*The ratification of nine States was required to form the Union; and thirteen was the whole number at the adoption of the Constitution. You cannot divide these numbers by two. Moreover, eight of the thirteen were regarded as free, to only five slave States; and six new free States (including Vermont) not exceeding four new slave States, were provided for. So much for "equilibrium." In Federal Convention, August 29, 1787, Gouverneur Morris moved to strike out from the clause on the admission of new States, the words—"The new States shall be admitted on the same terms with the original States." Mr. Madison "did not wish to bind down the Legislature to admit western States on the terms here stated." Mr. Langdon "did not know but circumstances might arise which would render it inconvenient to admit new States on terms of equality." Mr. Williamson was for "leaving the Legislature free." Mr. Morris's motion was agreed to—nine States voting "ay," and two States (Maryland and Virginia) voting "no." (Madison Papers, 5 Elliot's Debates, 493, 493.) Thus, Congress was left with the simple power to admit new States, restrained in nothing except that they shall be "republican." (Constitution, article 4, section 3.) So much for "equality."

nation, in all the horrors of civil war. These are the promised fruits of this bud of revolution.

Transmigration is the new article of Democratic faith, and trouble is the inevitable result. Transmigration is the doctrine declared by the President; and he quotes upon us the authority of the court. As well might he quote the ancient Greek, and hope thus to force us all

"To hold opinion with Pythagoras,
That souls of animals infuse themselves
Into the trunks of men."

Transmigration of slavery is the new Democratic doctrine: transmigration from State to Territory, and Territory to Territory, till all your broad domain is doomed to bear the taint of slaves; to bear the wrongs, the wrath, and I know not but the revenge, of slaves; and with all these, and because of all these, the hatred of freemen and the scorn of the world.

But we have had a further revelation from the President, in the annual message transmitted to the present Congress:

"The slaves were brought into the Territory [of Kansas] under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country—and this upon the plain principle that when a Confederacy of sovereign States acquire new territory at their joint expense, both equality and justice demand that the citizens of one and all of them shall have the right to take into it *whatsoever is recognized as property by the common Constitution*. To have summarily confiscated the property in slaves already in the Territory, would have been an act of gross injustice, and contrary to the practice of the older States of the Union, which have abolished slavery."—*President Buchanan's Annual Message, December, 1857, p. 23.*

The plot advances—the consequences advance; and again we have the testimony of the President that the advance is by the authority of the court. In August we learned that slavery went into Kansas "under the constitution;" in December we learn a harder lesson: *property in slaves is recognized by the common constitution*; and the common property in land (*i. e.* in the Territories) *was acquired by and belongs to the States*, in their confederated capacity. The consequences are, that slavery goes there, and stays there, through all the years of territorial pupillage, and that a new-born sovereign State cannot eject it *without making compensation*. All this, too, upon the plea of "equality and justice." Slavery extended by "equality and justice;" and freedom—the common property of each living soul, by the "equality" of a common birth, and the eternal "justice" of a common God—is forgotten! I think now we have gained a tolerably clear idea of the doctrines of the court and the President, which constitute the three prime articles of the new Democratic creed in respect to all the Federal Territories; and I express them as follows:

1. Slavery is to go there; Congress cannot prevent.
2. Slavery is to stay there until State organization; neither Congress nor the people can prevent.
3. Slavery cannot be excluded, even by the new State organization, without compensation.

Thus Federal sovereignty is ignored; squatter sovereignty is ignored; popular sovereignty is ignored; and State sovereignty itself is circumscribed. Call all that by what name you choose; I call it—*REVOLUTION*.

But is there no mistake? Look at the history of Kansas and the Lecompton constitution—the illustration and the example of this entire revolution. Two points in the history of the Territory are conceded by everybody: slavery went there and *staid* there. How is it now in the State of Kansas? The President permits no mistake, no misapprehension in the matter; and I therefore introduce the Lecompton constitution as he introduced it to us on the 2d of February last—in accordance with the authority of the court.

"It has been solemnly adjudged, by the highest tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States. Kansas is therefore, at this moment, as much a slave State as Georgia or South Carolina."—*President's Special Message, February 2, 1858.*

"Article VII.—Slavery.

"SECTION 1. The right of property is before and *higher than any constitutional sanction*; and the right of the owner of a slave to such a slave and its increase is the same, and as inviolable, as the right of the owner of any property whatsoever.

"Sec. 2. The Legislature shall have no power to pass

laws for the emancipation of slaves *without the consent of the owners, or without paying the owners, previous to their emancipation, a full equivalent in money for the slaves so emancipated*. They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State."—*Lecompton Constitution*.

Kansas is "as much a slave State as Georgia or South Carolina"—"by virtue of the Constitution of the United States!" These are the President's words. I stop not to say that the common-law principle is abrogated by these words—revolutionized, indeed—and that slavery is *nationalized*. Perhaps the President's language was not well weighed. Nor do I stop to ask whether the purpose of the Kansas-Nebraska act was to make independent States, *outside of the Union*; or to suggest that the Union is dissolved already—our Territory, our common property, our new-born State of many woeful throes, already gone. The point is this: Kansas has been made a slave State by the new revolutionary doctrine, without act of ours, without Federal consent, and without the act or consent of its own people, and against them all; and, by the same new revolutionary doctrine, it can never get rid of slavery *without paying for the privilege*! This is the illustration and example of Kansas; plain, pointed, unmistakable, and undeniable. What says the Lecompton constitution? Slaves are *property*; so said the court and the President. Slaves cannot be "confiscated" without compensation, says Lecompton; so said the President. The right in slave property is "as inviolable" as the right in any other property, says Lecompton. Yea, more; a little more inviolable. It cannot pass "on tick." "No trust!"—a full price!"—cash down, or no trade!"—that is the rule of the Lecompton constitution; and the President recommends it to us. We are bound to believe that he at least thinks it is all right.

Now, sir, I think we can begin to understand the exact meaning of that very pretty and very fashionable phrase—"the equal rights of the people and the States in the common domain." The slave-State man goes there and takes his "institution" with him. He plants it all over the land; he guards it with laws and guns; around it all he puts the Constitution of the United States, and on this triple wall he mounts the Federal Army. He takes his "institution" there; he keeps it; and calls on us to defend it, *at the common cost*.

That is one picture. How fares it now with the liberty-loving and hard-laboring free-State man? "Equal rights" is the doctrine. You invite him with the promise of "equal rights;" you flatter him with the hope of "equal rights;" and he goes to your "common territory," expecting there to find that the common government of a common people, under a common constitution, on a common soil, will give him at least common and "equal rights." How fares the free man when he goes? He finds himself despised, degraded—cut off from the amenities of social life, the common civilities of society, and the power of rising, by superior industry and virtue, to the dignity he had left in his old northern home, and the dignity he had lost by contact with your slaves. Through all the territorial term he cannot even *buy back his birth-right*! Does he talk of his common rights? he is seditious! Does he resist infringement on his personal rights, or refuse obedience to unjust and unconstitutional acts? he is rebellious! Does he attempt to frame a government after his own pattern, and put into it guarantees for the free institutions he loves—all in submission to your authority? it is treasonable! And you treat him as a seditious, rebellious, and dangerous man—an alien and an enemy. Such has been the territorial condition of the free-State men of the Territory of Kansas. And now how is it in the State of Kansas? Sometime or other—perhaps in 1864, but nobody knows exactly when—the free-State men may have the privilege of trying to get free institutions—on conditions! SLAVERY IS CERTAIN—FREEDOM IS CONDITIONAL! And the conditions—what are these? Why, sir, the free-State men can have free institutions when, and only when, they are able to *out-vote and buy out* the pro-slavery men. Slavery goes in at the common expense of the whole nation. Slavery goes out at the expense of the new, half-settled State, poor from the very burdens of its youth, but rich in

noble souls, endued with all the grace and glorious hopes of freedom. SLAVERY SCOT FREE—FREEDOM BY PURCHASE! That is the exact result.

Sir, the President and the court use honeyed phrases, and give them magic power—the absolute power of constitutional grants. The President talks of "equality and justice," and the court talks of the "common and equal benefit" of all the people, and the "common use" of all the Territories. These pretty phrases badly suit the actual picture I have drawn; far worse suit the end designed. As the Territories are the common property of all the people of all the States, and subject to their "common use," what rule is just, is equal, is practicable, but the harmonious rule that none but common property of all the people of all the States can enter there? He who takes uncommon property, takes more than is his common right. He who takes property that others cannot take or hold, makes more than "common use." What, then, is the fact? Slaves are not the common property of all the citizens of all the States. A majority of the States forbid it, and the consciences of their people forbid it. They hold, and their States hold, that property in slaves exists by no right at all—no common, general law. God gave to man "dominion over the fish of the sea, and over the fowls of the air, and over every living thing that creepeth upon the earth"—not over man. (Genesis i., 28.) There may be, and there is, legal dominion; but only by force of arbitrary power, expressed in governmental law, having no sort of force beyond the governmental line. Property in slaves is therefore special—limited to a moiety of the States, and to some four hundred thousand men, out of the millions of this land. This is the great and undisputed fact. Give us, then, the equal, just, and common rights of equal owners in the common soil. The humblest freeman of Vermont demands an equal right with any southern man, in all your broad domain. He never did, and never will, concede to any other man one hair's breadth beyond. "Equal rights"—no patent of nobility—no special privilege of property—no privilege of caste; on these he stands, and will forever stand. Equal you may go—equal you shall stand—and the brave Green Mountain boy will be your brother and your friend. On any other ground, in ballot-box or field—by Allen's blood, by Allen's pride, by Allen's scorn of danger or of wrong—you meet a foeman worthy of your steel.

Such was the law; such were the common rights of all the citizens of all the States. How is it now? Sir, I have tried to understand the position and the opinion of the court, and I think I have not mistaken it. It had a task to perform, not necessarily included in the case of Dred Scott. It seems to me it had a task to perform, set by the politicians. It was to construct a bridge from the slave States to free Territories, by means of which to carry the slaves of the one to cover the acres of the other. The process of construction I think I understand.

"The right of property in a slave is distinctly and expressly affirmed in the Constitution," said Judge Taney. Now I am not sure of the full force intended by this rule; but, taking it in the most limited and least exceptionable sense, it means that the Constitution "recognizes" (a word once used by the court) the right of slave property in the slave States. There, then, is one abutment of the bridge—in the slave States. Now for the other:

"The territory was acquired by the General Government, as the representative and trustee of the people of the United States; and it must therefore be held in that character for their common and equal benefit."

* "Moveth," in the common version; *creepeth*, in the Hebrew.

† It is now claimed that citizens of slave States are entitled to take their slaves to Federal territory, and hold them there, by virtue of the common interest, or common property of the States, says the President, or of the people, says the court, in the Territory; yet, the fact is, that Congress, in the constitutional power to admit new States, was expressly authorized to ignore utterly, the property, or the interest, of the States, or the people, in territory out of their jurisdiction. Vermont was claimed as the property of New York, and of citizens of New York, and as being within the limits of New York, and Congress so recognized the fact to be; yet, the Federal convention expressly provided for the admission of Vermont to the Union as an independent State, without the consent of New York. In the clause of the Constitution on the admission of new States, the word "limits" originally stood in place of the word "jurisdiction." Mr.

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Revolution in the Law of the Land—Mr. Walton.

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So said Judge Taney. There, then, is the other abutment—in the Territory. Now for the connecting beams:

"The Territory being a part of the United States, the Government and the citizens both enter it under the authority of the Constitution, with their respective rights defined and marked out."

These are the words of Judge Taney. Sir, the venerable Chief Justice speaks of the constitutional rights of citizens and Government as being "defined and marked out." I find no "defined" rights in the Constitution that will take slavery into free territory; I find no statesman or jurist, in all the noble line from the Revolution to our day, who has ever found such a right "defined." Mr. Calhoun inferred it, in 1847, and to him belongs the merit—if merit it be—of that almighty inference. I find no beams "defined." Must we imagine them? Does the stated fact, that the Territories "are a part of the United States," bridge the unfathomable gulf? Then, what a bridge! the bridge of many bridges—reaching from all the slave to all the free Territories and States! No longer sovereign States; no longer "free and independent States." The free States are "parts" of the United States. In lands, in forts and arsenals, in navy-yards and warehouses, there is not one which has not, within itself, some common public property. We cannot so make slavery national—so blot out every free State. I charge the court with no such crime. We must find better beams than these, and long and strong, to bear the weight of wrong and woe, involved in that word "slave." The President has supplied them in "equality and justice;" and the court has supplied them in the "common and equal benefit." These are the beams—the real beams. They are full strong enough for the real design; but weak as shadows for the false. These beams will bear the common property of all the States, and all the people; and that is all they bear. That only is for "the common and equal benefit;" that, and that alone, is "equality and justice." Add but one ounce of special property, of "a peculiar species of property, over and above the species of property common to all the States"—I say, add but one ounce of this peculiar property, add one single slave, and the beams of a "common and equal benefit," of "equality and justice," will break beneath the unlawful weight. Now, sir, if I am right; if I have justly appreciated this piece of judicial and executive mechanism, I submit it as good law, that the slave-owner, or the slave-driver, who puts his load through the bottom of that bridge, cannot require any Government—Federal, territorial, or State—to respond in damages.

Mr. Chairman, it is time, and it is but fair, to turn to the declarations of the court. The President charges all to the court. Three times has he spoken in the name of the court. I give you, now, the declarations of the majority of the court, declared by the Chief Justice, barely remarking that they are, substantially, copied from Mr. Calhoun's resolutions, of 1847.

As to territory, Judge Taney says:

"It was acquired by the General Government, as the representative and trustee of the people of the United States, and it must, therefore, be held in that character for their common and equal benefit; for it was the people of the several States, acting through their agent and representative, the Federal Government, who, in fact, acquired the territory in question, and the Government holds it for their common use until it shall be associated with the other States as a member of the Union."—*Dred Scott Decision*, pamphlet, page 54.

As to slaveholders, he said:

"The territory being a part of the United States, the Government and the citizens both enter it under the authority of the Constitution, with their respective rights defined and marked out."—*Same*, page 55.

As to slave property, Judge Taney said that the Constitution "makes no distinction between that description of property and other property;" that "the right of property in a slave is distinctly and expressly affirmed in the Constitution;" that "no word can be found in the Constitution which gives Congress a greater power over slave property, or

Madison gave the reason for this change, as follows: "This also was meant to guard the case of Vermont—the jurisdiction of New York not extending over Vermont, which was in the exercise of sovereignty, though Vermont was within the asserted limits of New York."—5 *Elliot*, page 495.
George Mason, of Virginia, thus described slavery in the Federal convention.—5 *Elliot*, page 296.

which entitles property of that kind to less protection than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights." (Same, pages 57, 58.) As a conclusion, the judge said:

"Upon these considerations, it is the opinion of the court that the act of Congress, which prohibited a citizen from holding and owning property, of this kind, in the territory of the United States, &c., is not warranted by the Constitution, and is therefore void."—*Same*, page 58.

The burden of the court is, that slaves are property, and that the title to the Territories is held by the Federal Government as a mere trustee, leaving the use to the States and their people. But not one word of all this is found in the Constitution! The court gives them to us as fundamental principles of constitutional law; and, as conclusions, strips Congress of a power exercised from the very foundation of the Government, and opens all our Territories to slavery! Is it not strange that principles so great as these were entirely omitted from the Constitution? strange that they were left to mere implication or interpretation? and strange that no Congress, no statesmen, no jurists, and not even this court itself, ever discovered them, until two thirds of a century had elapsed? Now, sir, I do not believe that the whole country hath been in ignorance until this day. I do not believe that these principles were ever put into the Constitution, or designed to be drawn from it. That instrument puts no limit to the power of Congress over Federal territory, but rather grants the power to "make all needful rules and regulations respecting" it. I see nothing in it like a guarantee of the use of all the Territories for slavery, or even a use of it by citizens or States for any purpose whatever, without Federal consent. The title and the sovereignty are both in the Federal Government, as Judge Taney himself has said—"the powers of government and the right of soil," as the Supreme Court has said, (8 *Wheaton*, 543)—and Federal sovereignty has heretofore excluded both property (liquors) and citizens (traders) from Federal territory, and alienated the very land itself to foreign Governments. It seems, then, that the court has revolutionized the Constitution in this respect. Nor can I believe in—nay, I utterly reject—the new doctrine that the Constitution affirms the right of property in slaves. Four times does it speak of them as "persons," not once as property. Indeed the very record shows that all countenance to the idea of property in man was carefully and designedly excluded. Thus:

"Mr. Sherman was against this second part [sec. 9, vol. 1, the tax on importation of slaves] as acknowledging men to be property."—5 *Elliot's Debates in Federal Convention*, vol. 5, page 478.

"Mr. Gorham thought that Mr. Sherman should consider the duty, not as implying that slaves are property, but as a disencumbrance to the importation of them."—*Same*.

"Mr. Madison thought it wrong to admit in the Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not, like merchandise, consumed," &c.—*Same*.

Thus in the case of the solitary word in the Constitution which could possibly convey the idea of property in man—"importation"—the inference was promptly and plainly repelled upon the first suggestion. The true design, then, of the framers of the Constitution is defeated by the court. It is the court, then, which is responsible for this new and sweeping dispensation. It is the court which affects the power of sovereignty, and grants, of its own will and pleasure, a new constitution! It is the President who interprets it, who accepts it for the States and the people, and who attempts to bind it upon their Representatives here, with all the weight of supreme law! And with what fruits?

The law of the land was, that slavery is local; the new is, that it goes wherever the Constitution goes, unchecked by the sovereignty of the new States. The common law, then, as to Federal territory, has been abrogated.

The judicial power was, to emancipate a slave when taken beyond the jurisdiction of the local law; the judicial power is, to enslave him where ever the Constitution goes, unchecked by the sovereignty of a free State.

The power of the States was complete; it is now circumscribed. No emancipation without compensation!

The power of Congress over slavery in Federal territory was complete; now it is annulled.

The Constitution was for freedom; now it is for slavery.

The old idea was, that slavery was the exception; the new one is, that it is the general rule—extending through all the slave States, and over all the unorganized territory. You have enough of it already to double the organized States of the Union, and are preparing to-day for the annexation of Cuba, of Mexico, and of Central America.

Sir, if I understand the doctrines of the President and the court, there is no half-way house for slavery—no bound to stay the advancing flood—no home, no resting-place for freedom, in all your broad and grand domain. If I understand them truly, then is our proud boast of liberty a miserable lie; and then that song of ours—doubly inspired by the deities of poetry and patriotism, and born beneath the very portals of your Capitol—that melody of glory, that fires our souls and nerves our arms for

"The land of the free, and the home of the brave,"

is but the sharpest, saddest sarcasm, that ever flashed from human lips.

Mr. Chairman, this is the revolution: how swift! how sweeping! Sweeping away high powers of Congress, and of the new States; sweeping away the ancient laws of our fathers; sweeping away the ancient landmarks of our fathers; sweeping away that ordained "blessing of liberty" which was the reward of their sore trials, the crown of their great victory, and their legacy to us. What is our heritage, and what shall our children's be? All this is wrong; it is not right, nor wise, nor safe. We are false to our fathers if we believe it, and false to their honor and ours if we do not reject it.

I believe that a great wrong has been committed upon the Constitution itself, and a wrong that will tell with terrible power upon the future destiny of the country. In the exercise of my right here, on the convictions of my judgment and the obligations of my oath, I have attempted to expose it. Incidentally and inevitably, I have spoken freely of a coördinate branch of the Government, whose rightful powers I am bound to respect. Incidentally and inevitably, I have condemned the Supreme Court of the United States; but not intentionally to detract from its dignity, or bring it into contempt. Taught to reverence it from my youth, and habitually reverencing it through life—respecting it still, and meaning to respect it hereafter, whenever and so far as it revolves in the appointed line, harmonious with other equal spheres in the Federal system—I have lived to learn, alas! that this exalted court can err. And with what wreck! as if some central sun, the source of light and life, should quit its pathway in the skies, and leave its worlds to die.

I shall fail of my conceptions of my duty if I do not add a denial of the right of the judicial department to infringe upon the province of the political department; if I do not deny the right of the court to revise the political acts of Congress, or to bind a single member of this body by the authority of its opinions. Its judgments are final between all the parties before it in every judicial "case;" but it has no power over Congress or the Executive, and can claim no respect from them, beyond what is due to the reasoning of the court. I give you my justification:

"Every member of the legislative body is bound to examine and decide for himself, whether the bill or resolution is within the constitutional reach of the legislative powers confided to Congress."—*Story's Commentaries*, sec. 374.

But, let us look to the very source of the Constitution itself:

"IN CONSTITUTIONAL CONVENTION,
August 27, 1787.

"Dr. Johnson moved to insert words so as to give the Supreme Court jurisdiction over 'cases' arising 'under this Constitution.'"

"Mr. Madison doubted whether it was not going too far to extend the jurisdiction of the court generally to cases arising under the Constitution, and whether it ought not to be limited to cases of a judiciary nature. The right of expounding the Constitution, in cases not of this nature, ought not to be given to that department."

"The motion of Dr. Johnson was agreed to nem. con., it being generally supposed that the jurisdiction given was constructively limited to cases of a judiciary nature."—*Madison Papers*, 5 *Elliot's Debates*, page 483.

Said Judge Story, in his *Commentaries on the Constitution*:

"In measures exclusively of a political, legislative, or ex-

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entire character, it is plain, that as the supreme authority, as to these questions, belongs to the legislative and executive departments, they cannot be reexamined elsewhere."—*See 374.*

Let us go to one of the apostles. Said Mr. Jefferson:

"You seem to consider the judges as the ultimate arbiters of all constitutional questions—a very dangerous doctrine, indeed, and one which would place us under the despotism of an oligarchy." * * * "The Constitution has created no such single tribunal, knowing that, to whatever hands confided, with the corruptions of time and party, its members would become despots."—*Jefferson to Mr. Jarvis, September 28, 1820.*

Were those words prophetic? Is the court a despotism?—tempted, tainted, with "the corruption" of these times, and a "party" of our day? Representatives of the people! judge ye. To whatever motive, whatever purpose, you now charge the judgment of the court—be it high or low, patriotic or partisan, right or wrong—its fruits must be the test. The President has three times tendered you these fruits; three times he tells you—"it is the court!" What are these fruits? Revolution! reversal of ancient and honored law! denial of the high privilege and power of Congress, and annulment of our acts! Judge ye—truly, fairly, faithfully judge. Above us all—above Congress, the President, and the court—stand the sovereign people of this land; and to that mightier court this mighty case will be appealed.

Mr. Chairman, I warn the Representatives of the South. You count the court upon your side in this mad party strife. You dream of triumph through the court; you dream of safety in the court; you quote its words; you call them law; you try to bind us by their power. Are you safe? What mean these words: "The right of property in a slave is distinctly and expressly affirmed in the Constitution; it makes no distinction between that description of property and other property?" What is the interpretation of your President? "Slavery exists by virtue of the Constitution!" What is the actual effect that has been given, and that you are fierce still to give, to this doctrine? Slaves, as property, not as "persons," pass from States to Territories. Do you not see that "property" thus passed, by sale or otherwise, is a commercial matter between the States? Do you not see that the court has reversed the opinion of Judge Barbour, to wit: that slaves, as "persons, are not subjects of commerce?" Do you not see that it has reversed a late decision of this very court, to wit: that slavery did not come within the power of Congress to regulate commerce, both external and internal, because it was "A STATE INSTITUTION?" Do you not see, then, that, as property, undistinguished from other property, Congress has the clear right, by specific grant of the Constitution, to regulate the slave trade "among the several States" and Territories, and "with the Indian tribes?" Ay, do you not see, that as mere property, undistinguished from other property, slavery falls within that other constitutional attribute of Federal sovereignty—the power to take private property for public use, on making just compensation?

Representatives of the South, is it not even so? If it be so, then has your strong wall of State sovereignty crumbled to the dust; then Federal power will rightfully touch your slaves within your very citadels; then will it touch your slaves with death, to give your men to liberty and life. If it be so, a single generation shall not pass—the half of a generation shall not pass—ere your slave system falls; ere not one slave remains, save here and there a battered wreck—a few lone servants, superannuated and sad, standing by your lintels, like the tottering pillars of some old Egyptian temple—the melancholy monuments of a past slaveholding age. Are you safe? Is this the lesson of the court? Is this the lesson you are teaching us to-day? If the dicta of the court do stop short of this, then tell me where is the line? It is not marked in the chart the court has given you. But if there is a line, what then? What is the lesson that you teach, as to the power of the court? Run that lesson out to its inevitable result. One day will come another court; one day will come another opinion of a majority of the judges; I will not say another revolution, but a movement forward—a very slight advance, compared with the recent stride—some new installment of judicial law; some

new investment or new denial of Federal power, to bring to its very end the system you now so desperately sustain. Are you safe? And when that day comes—and by your present teaching it may quickly come—will you not call it despotism? Ay! you know it, and I know it; and by that token let me say that the powers that you have invoked, the powers which you have so unscrupulously used for your unscrupulous schemes of dominion or disunion—the excesses of power, of the court, of the Executive, of the Army, all unwarranted by authority of law—can bear no softer, smoother, courtlier name. It is despotic power. It is irresponsible power. It is unconstitutional power.

Rejecting, as I wish to do, the hitherto unknown and abominable doctrine, that the right of property in slaves exists "by virtue of the Constitution," I would also reject the logical consequences that flow from it; but if, on the authority of the court and the Executive, we are compelled to take the doctrine, the South certainly must not complain, should we carry it rigidly out to all its consequences. I prefer the teachings and the policy of the fathers. I prefer to act up to their sentiments. I prefer a prohibition of slavery in all Federal Territory; a rigid exclusion of the slave trade, in all its old and all its new disguises; and encouragement to all the slave States for the amelioration and ultimate extinction of slavery, within their own limits, by their own voluntary acts. All this would be in harmony with the spirit, the principles, the expectation, and the acts of the fathers of the Union. All this, undertaken with kindness, and prudence, and wisdom, I believe to be yet possible: in the face of the madness that rules the present hour, I yet believe it. Undertaken in such a spirit, and pursued in such a spirit—though the struggle be long and the foes many—no good thing has ever failed. Sir, I hope the crisis of to-day is the crisis of the disease; and that coming days will be the happy days of health and peace. Are there not symptoms warranting hope?—in the fresh example of Russia, and even in your own new voluntary movements. You of the South to-day are calling for laborers to till your golden fields. Why, then, do you not cease to weaken your strength and impoverish your States, by expanding your already incompetent force? Some of your States are seeking, even now, fresh hordes of barbarian Africans, and even more dangerous hordes of the corrupt, but intelligent, Chinese—all, nominally, as voluntary servants. Why, then, not make all your labor voluntary? You tell us that the difference between free labor and slave, is but in name. Why quarrel on a word? Why foment dissension—why light the torch of civil war—why break the bond of union—upon a paltry phrase. Another phrase will sound as well, and voluntary labor will do as well. Why, then, not give us what just now you speak—FREE, VOLUNTARY LABOR? That phrase—adopted in good faith, pronounced in laws, and sealed in honest deed—may heal the trouble of our time. If anybody is to object to that, I think it is the people of the North. If anybody is to reap peculiar advantages—in wealth, in numbers, and in power—I know it is the people of the South. The question for the South is whether to elevate her people and her States. The question for the North is, whether to envy you, I think—not oppose—the blessing of so grand a work, or, in the fullness of a brother's heart, to pray for all—"God speed." But you give us here no such alternative as that. You press us to the wall, and you break over it, or through it, if we do not unyieldingly resist. If we do not resist, you break down the wall of 1820, and plant slavery forever on freedom's consecrated soil. We do, and we will, resist. You seek to extend your peculiar institution over all the Territories which are the common property of the Union; and by virtue of our common rights, we do, we must, we will resist. You are the assailants; it is for us to defend. You start the revolution; it is for us to roll it back.

One word, sir, as to the bill which is the subject of this long debate. It involves the Lecompton constitution, which is itself the example and illustration of the revolution I have condemned. I am for defeating that bill, as an embodiment of this revolution. I will strangle it here if I can;

and if I cannot, I will commit it to the people of Kansas, to receive an ignominious death upon the very soil it would pollute. But whatever be the event, as I now resist the revolution which is involved in this bill, so do I intend to resist it hereafter, in all the shapes which it may be made to assume. Your revolution dates in 1847, from the rejected resolutions of John C. Calhoun; you revived it in the Kansas-Nebraska act of 1854; nursed it through the dubious crisis of 1856; rooted it in the Supreme Court in 1857; and now you dare to show the budding of its despotic fruits in the Lecompton constitution. Our counter-revolution is but just begun; here and to-morrow, on this bill, we strike the first blow. God and the people willing, it shall not be the last.

Mr. JONES, of Tennessee. I suppose that it is about time for the committee to rise; and I suppose that, on the rising of the committee to-night, the debate will be closed upon the Kansas question, and that, when next we go into committee, the merits of the deficiency bill will be open for discussion.

The CHAIRMAN. The Chair stated that it was his intention, on the last day of the debate, to give the floor to gentlemen who desired to discuss the bill, in preference to others.

Mr. JONES, of Tennessee. I desire to make a few remarks upon the bill, and I move that the committee rise.

The motion was agreed to.

And then, on motion of Mr. BOCKOCK, the House (at twenty minutes to one o'clock, a. m.) adjourned.

ADMISSION OF KANSAS.

SPEECH OF HON. W. BARKSDALE,
OF MISSISSIPPI,
IN THE HOUSE OF REPRESENTATIVES,
March 20, 1858.

[REVISED BY HIMSELF.*]

The House being in the Committee of the Whole on the state of the Union—

Mr. BARKSDALE said:

Mr. CHAIRMAN: The third section of the fourth article of the Constitution of the United States declares that new States may be admitted by the Congress into the Union; and the fourth section of the same article provides that the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive when the Legislature cannot be convened, against domestic violence.

Under these clauses of the Federal Constitution, Mr. Chairman, from the beginning of the Government to 1820—in its purer and better days—in the days of Washington, Jefferson, Madison, and Monroe, of the great men who fought the battles of the Revolution, and achieved our independence, free States and slave States were admitted into the Union without any discussion as to their domestic institutions. During that period Vermont, Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, and Alabama, were all admitted into the Union on terms of perfect equality with the original States that formed the Confederacy. In 1820, however, when Missouri applied for admission, her application was resisted, not because her constitution was not republican in form, not because there was any objection to her boundaries, not because she did not have the requisite population, not because she had not undergone a territorial pupillage, but because her constitution recognized slavery.

Here, sir, commenced the agitation of that fearful question of slavery, which, though presenting at different times somewhat varying aspects, remains unchanged in its essence and character, and is to-day what it was then—a contest for sectional aggrandizement on the one hand, and existence on the other.

This fierce struggle was finally ended by the admission of Missouri; but in order to secure it, the South was forced to yield to an unjust and unconstitutional restriction, by which slavery was forever prohibited north of 36° 30'.

* For the original report, see page 1214 Cong. Globe.

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It is unnecessary for me, sir, to repeat the events of that period. They have been often depicted during the present session of Congress in the discussion of this Kansas question, and are well known to the country. And from that period to the present, whenever a slave State has applied for admission into the Union—as in the case of Arkansas, of Florida, and of Texas—the country has passed through the same scenes of agitation, of excitement, and of turmoil, through which we are passing now.

Mr. Chairman, when a State applies for admission into the Union, what are the inquiries to be made by Congress? First, whether the constitution is the act and will of the people of that Territory, or inchoate State; and secondly, whether her constitution is republican in form. To arrive at a satisfactory solution of these questions, as connected with the application of Kansas, I propose to call the attention of the House to certain facts, the authenticity of which no one can successfully controvert.

On the 3d of February the President of the United States, in the patriotic discharge of his duty, transmitted to Congress a constitution formed by Kansas, at Leecompton, with her application for admission into the Union, accompanied by a message marked with extraordinary ability, urging her admission. The question for us to ask is, is this the constitution of the people of Kansas? Have they made it? Is it their act and deed, and are they applying for admission into the Union under it?

The objects of the Kansas-Nebraska bill, introduced into the Senate by Judge DOUGLAS, who was its avowed champion, were to organize these Territories; to confer upon the people whatever powers of legislation were possessed by Congress; to leave them perfectly free to form and regulate their domestic institutions in their own way; to banish the slavery question, with its accompanying evils, from the Halls of Congress, and to repeal the Missouri restriction, thus establishing the principle of non-intervention, upon which patriotic, national men, of all sections, could stand. That bill became the law of the land. The Missouri restriction was repealed, and Kansas and Nebraska became organized Territories. A Governor of Kansas and other officers were appointed. A Territorial Legislature was elected by the people, and all the machinery of a territorial government put in operation. It has been charged, however, that there were frauds practiced in the election of the first Legislature of the Territory of Kansas. I do not know how that may be. I do know, however, that before the Kansas-Nebraska bill passed—after it became evident that it would pass—an organization was gotten up in the State of Massachusetts, with a capital amounting to \$3,000,000, for the purpose of sending emigrants into Kansas, with a view, *not of becoming citizens*, but of shaping and controlling its institutions, and defeating the objects of the law. Now, sir, what does Judge DOUGLAS say with reference to the organization of this Emigrant Aid Society, in an official document, in his report to the Senate, made before he had formed an unhallowed combination with the Black Republicans to defeat this bill?

Mr. DAWES. The gentleman is mistaken in what he says about a society organized, as he says, in Massachusetts.

Mr. BARKSDALE. I understand, sir, what are the facts in connection with the organization of this society. Its objects were to defeat the law; and many of those who went to that Territory under its auspices, left it, never to return, immediately after the first election.

Mr. DAWES. Will the gentleman let me correct him?

Mr. BARKSDALE. No, sir. I do not mean to treat the gentleman discourteously, but I cannot yield.

Mr. DAWES. I wish to say to the gentleman that no such society was organized in Massachusetts as he has described.

Mr. BARKSDALE. Why, sir, it has never been denied before, to my knowledge.

Mr. DAWES. It is denied now. He is mistaken about the society.

Mr. BARKSDALE. The Senator from Massachusetts [Mr. SUMNER] boldly avowed it in the Senate, and it was admitted upon this floor by the

gentleman from Indiana, Mr. Mace, a member of this House in the Thirty-Third Congress.

Mr. SINGLETON. Mr. Mace acknowledged that he was president of the association.

Mr. DAWES. The gentleman says that the Legislature of Massachusetts incorporated such a society.

Mr. BARKSDALE. The gentleman is mistaken. I did not say the Legislature incorporated the society. I said there was an organization formed with a capital of \$3,000,000.

Mr. DAWES. And formed in Massachusetts, I understand you to say.

Mr. BARKSDALE. Yes, sir; that is my understanding.

Mr. DAWES. The gentleman is mistaken. There was no such society formed in Massachusetts.

Mr. BARKSDALE. I repeat, sir, that I have never heard the fact denied before. It has been gloried in by the Representatives from Massachusetts heretofore. I recollect that the Senator from Massachusetts avowed it, and exulted in it on the floor of the Senate. I allude to Mr. SUMNER, in that celebrated speech of his, which gentlemen on the other side of the House will remember, perhaps, forever.

And let me state here that the candidate of the anti-slavery party for Congress, in the first election, left the Territory immediately after the result was made known, and never returned.

The object of that organization, I repeat, was to defeat the purpose of the law, and to prevent slaveholders from enjoying their property in that Territory. Here is what Judge DOUGLAS says:

"The passage of the Kansas-Nebraska act was strenuously resisted by all persons who thought it a less evil to deprive the people of new States and Territories of the right of State equality and self-government than to allow them to decide the slavery question for themselves, as every State of the Union had done, and must retain the undeniable right to do, so long as the Constitution of the United States shall be maintained as the supreme law of the land. Finding opposition to the principles of the act unavailing in the Halls of Congress, and under the forms of the Constitution, combinations were immediately entered into in some portions of the Union to control the political destinies, and form and regulate the domestic institutions of those Territories and future States, through the machinery of emigrant aid societies."

Here, I have quoted the language of your great leader, in his war upon Kansas and the South, in regard to these emigrant aid societies—

Mr. DAWES. If the gentleman will permit me, I will in a moment set him right in this matter.

Mr. BARKSDALE. I only have an hour, and the gentleman will see that I have no time to spare. Judge DOUGLAS continues:

"In order to give consistency and efficiency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the Legislature of the State of Massachusetts, when a powerful corporation, with a capital of \$3,000,000, invested in houses and lands, in merchandise and mills, in cannon and rifles, in powder and lead, in all the implements of art, agriculture, and war, and employing a corresponding number of men, all under the management and control of non-resident directors and stockholders, who are authorized by their charter to vote by proxy to the extent of fifty votes each, enters a distant and sparsely-settled Territory, with the fixed purpose of wielding all its power to control the domestic institutions and political destinies of the Territory, it becomes a question of fearful import how far the operations of the company are compatible with the rights and liberties of the people. Whatever may be the extent or limit of congressional authority over the Territories, it is clear that no individual State has the right to pass any law, or authorize any act, concerning or affecting the Territories which it might not enact in reference to any other State. It is a well-settled principle of constitutional law in this country, that, while all the States of the Union are united in one, for certain purposes, yet each State, in respect to everything which affects its domestic policy and internal concern, stands in the relation of a foreign power to every other State. Hence, no State has a right to pass any law, or do or authorize any act, with a view to influence or change the domestic policy of any other State or Territory of the Union, more than it would with reference to France or England, or any other foreign State with which we are at peace. Indeed, every State of this Union is under higher obligations to observe a friendly forbearance and generous comity towards each other member of the Confederacy, than the laws of nations can impose on foreign States."

I have thus established the fact of the organization of this society by the testimony of Judge DOUGLAS, who was eloquent in denunciation of its objects.

The fact that there was such an organization in existence, I repeat, has never been denied before, to my knowledge.

Mr. DAWES. I do not deny that.

Mr. BARKSDALE. There may have been frauds in that election. I do not pretend to know how the facts are. If there were frauds on one side, there were frauds, doubtless, on the other; and if Missourians invaded that Territory, it was for the purpose of counteracting that which had been improperly and illegally done by the Emigrant Aid Society of Massachusetts.

But, sir, how was it? Members of that Legislature were commissioned by Governor Reeder himself. He issued their commissions and he did not object to that Legislature upon the ground of its illegality, until after it removed the place of its meeting. The Territorial Legislature of 1855 passed an act, submitting the question to the people, whether they desired a convention to be called to organize a State government or not. That question was submitted to the people. Every man in that Territory had the right to vote; the United States troops were there to protect them in that right, if they did not have the courage to protect themselves. If the anti-slavery party of the Territory were opposed to organizing a State government, why did they not say so? They refused to obey the law; to exercise the privilege which had been guaranteed to them under it; a large majority, almost a unanimous vote, was given in favor of calling a convention of the people to organize a State government. Armed with Sharpe's rifles, with cannon and ball, and all the implements and munitions of war, the object of those who were sent into the Territory of Kansas by these emigrant aid societies, was to set at defiance the authority of the Federal Government and the Territorial Legislature, and headed by such miscreants and demagogues as Lane and Robinson, they have been but too successful in accomplishing it.

They not only refused to obey the law, but property was rendered insecure, and human life itself was put in constant peril. The country was ever and anon shocked with accounts of murders and assassinations committed by the abandoned outcasts who were gathered from the dens and purlieus of northern cities, and transported into that Territory by these emigrant aid societies. Arson, robbery, and murder, and every crime known to the black catalogue of crimes, were committed by these outlaws and traitors. Yet we are told that, because they did not vote, this constitution is not the will of the people of Kansas. Sir, are we to be influenced by conduct like this? The true people of Kansas, those who had fixed their homes and cast their destiny in that Territory, and whose interests were identified with it, decided, under the forms of law, that a convention should be held; the succeeding Legislature passed an act requiring all the voters of the Territory to be registered preparatory to the election; officers were regularly appointed to register the names. But these men refused to obey the law, or avail themselves of the rights which had been so carefully secured to them. Law-abiding citizens of the Territory, however, did observe the law, to the number of more than nine thousand.

After this opportunity had been given to every man in the Territory to register his name, an election was held for delegates to this convention—the apportionment having been made by Mr. Secretary Stanton himself. Here, again, was another opportunity afforded to the free-State men of that Territory to have secured a majority in that convention, and thus to have made a free-State constitution, or a constitution prohibiting slavery, if they desired to do so. They did not vote; or, if they did vote, they were in a minority, and hence a large majority of pro-slavery delegates were elected to that convention.

In due course of time—the time specified by law—the convention met, having been elected by the people at the ballot-box, every man in the Territory having had an opportunity of participating in the election of those delegates. The validity of this convention was recognized by the President in his instructions to Governor Walker, and by Judge DOUGLAS himself in a speech delivered by him at Springfield, Illinois, in which he declares that:

"Kansas is about to speak for herself, through her delegates assembled in convention to form a constitution pre-

paratory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every *bona fide* inhabitant the free and quiet exercise of his elective franchise. If any portion of the inhabitants, acting under the advice of the political leaders in a distant State, shall choose to absent themselves from the polls, and withhold their votes, with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution, in opposition to the wishes of a majority of the people living under it, let the responsibility rest upon those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them, and upon the political party for whose benefit and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State, institutions repugnant to their feelings, and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitations than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principle of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined, and the exercise of these rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State by the votes and voice of her own people, and in conformity to the great principles of the Kansas-Nebraska act—provided all the free-State men will go to the polls and vote their principles in accordance with their professions. If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union."

Governor Walker and Mr. Stanton, who are now reaping the rewards of their treachery to the South, in the adulation of their Abolition friends at the North, both repeatedly acknowledged the validity of this convention. In his inaugural address, Governor Walker says:

"The people of Kansas, then, are invited by the highest authority known to the Constitution, to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage, authorize those who do vote to act for them in that contingency, and the absentees are as much bound, under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

He not only admits the validity of the convention, but declares that those who refuse to exercise the right of suffrage are as much bound by the act of the majority of those who do vote, as if they had participated. But, sir, it is proper for me to say that I attach no importance whatever to any position that may be assumed, or any declaration that may have been made by Robert J. Walker.

When his appointment was first made, many of the friends of the Administration in the South, while they did not question the purity of the President's motives in making it, believed that he would betray his trust, throw the influence of his position against the South, and thus court the favor of those who are warring upon her institutions.

His subsequent conduct shows that these apprehensions were well founded; for he had scarcely reached the Territory before he commenced to interfere in its affairs, and to dictate to the people the manner in which their constitution should be formed. And, having been rebuked by the President, and forced to resign his office by the just indignation of those whom he had betrayed, he is now leagued with the Black Republicans to defeat the passage of this bill, and to rekindle the fires of civil war in that Territory.

As I said, the convention met and proceeded to form a constitution for the people of Kansas. That constitution recognizes slavery, and throws around it protecting sanction. But it is said, in reference to this constitution, that there ought to have been an enabling act, and that the Territorial Legislature had no right to call this convention.

Now, sir, let us look into that matter. When, sir, did the author of the Kansas-Nebraska bill, and the leader of the forces in opposition to the

admission of Kansas, become a convert to the doctrine that it is necessary that there should be an enabling act in order to the admission of a new State into the Union? Why, sir, if it is necessary to have an enabling act, the Kansas-Nebraska bill is itself an enabling act. Now let me read the language of that bill.

The sixth section declares that the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act. That calling a convention to form a constitution, when, by a vote of the people, it had been authorized, and their interest demanded it, was a rightful subject of legislation, it seems to me, cannot be questioned; and hence, by the organic act, the amplest power was conferred on the Legislature to call the convention; and, by the fourteenth section, the people are left perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.

Here, sir, was the enabling act, if one was necessary. But Kansas is a portion of the territory which we acquired from France; it is a part of the Louisiana Territory; and, by the treaty under which we acquired it, Kansas has a right to be admitted into the Union.

By the third article of the convention with France, the inhabitants of the ceded Territory were to be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution to the enjoyment of all the rights, advantages, and immunities, of citizens of the United States.

Then, sir, two enabling acts have been passed already for the people of Kansas to form a State constitution; and, acting under this authority, the people of Kansas, through their Territorial Legislature, called a convention to organize a State government.

But, sir, was it necessary that an enabling act should be passed at all? What has been the practice of the Government? Why, sir, seven out of eighteen States, which have been admitted into the Union since the foundation of the Government, came in without enabling acts: Vermont, Maine, Arkansas, Iowa, Tennessee, Michigan, Florida, and California. In the case of Tennessee, a convention was called, a constitution framed, and an application was made to Congress for the admission of that State, without any enabling act, or without any authority from Congress. And it is a fact worthy of note that General Jackson himself was a member of that convention, and that General Washington urged upon Congress the importance of admitting Tennessee into the Union without delay.

What were the facts in relation to California? Acting under the authority of a military commander, an election was held, and delegates chosen to a convention to form a State constitution, when no census had been taken, when no registry of votes had been made. The inhabitants of the Territory at the time, whether Mexicans, Chilians, Frenchmen, or Dutchmen, were allowed to march up to the polls, and usurp the political sovereignty of that vast Territory. Thus it was that California, with its one thousand miles of sea-coast, its one hundred and fifty thousand square miles of territory, its boundless resources, and vast treasures, was forbidden to the South, and appropriated for the purposes of free-soil.

Mr. TAYLOR, of New York. I would say that Florida was admitted under a constitution adopted by the people, who were not in the State when it was admitted, but nine years prior to its admission, and against the protest of the Territory at the time when it was admitted.

Mr. BARKSDALE. That is true, I believe. Why, sir, it has not been the practice of the Government to require an enabling act, nor was an enabling act necessary in the case of Kansas.

But it is said, sir, that this constitution should have been submitted to the vote of the people, and that it is not their act because it was not so submitted. Sir, I would ask, have constitutions been formed in this way alone, by the people of this country in organizing States? A portion of the States have submitted their constitutions to the people after they were framed; but in eighteen States of the Union the constitutions were not

submitted. And why? Because here the people do not act *en masse*. They act through delegates elected by themselves. Ours is a representative Government. The convention of Kansas embodied the sovereignty of the people, carried out the will of the people, spoke the voice of the people, and was, in fact, the people. The Constitution of the United States was never submitted to a vote of the people. The delegates to the convention that framed that Constitution were not even elected by the people. They were appointed by the Legislatures of the States. And after they had finished their great work, it was indorsed and ratified, *not by the people* at the ballot-box, but by *conventions* of the States, acting for them in their sovereign capacity. Vermont, Tennessee, Louisiana, Mississippi, Alabama, Arkansas, Kentucky, Ohio, Indiana, Illinois, Missouri, and Wisconsin, were admitted into the Union with constitutions that were not submitted to the people. Kentucky presented herself for admission before her constitution was formed or her convention had met; and hence was admitted into the Union without any constitution.

But, sir, while this constitution was not submitted as a whole to the people of Kansas, the only question in dispute—that of slavery—was submitted. It was submitted to a vote of all the people of Kansas. It was submitted, too, in such a way as to secure a fair vote on that article of the constitution. Now, sir, what do the gentlemen on the other side of the House care about the school question, or the bank question, or the internal improvement question, in the Territory of Kansas? Has there been any agitation of these questions? I ask my friend from Illinois [Mr. HARRIS] if he is interested in these questions in that Territory? The only question in dispute was the slavery question; and that, I repeat, was submitted to a vote of all the people in that Territory. Now, I believe that that convention acted unwisely in submitting it to a vote of all the inhabitants.

In my judgment, a residence of three or six months should have been required as a qualification for voting; but it was the province of the convention to prescribe the qualifications of voters, and they allowed all to vote who happened to be there on the day of election, claiming to be residents. If an individual arrived in that Territory five minutes before the polls closed, and came up with the sweat and dust of travel upon him, and claimed to be a resident of Kansas, he was allowed to vote on the question whether this slavery article in the constitution should be retained or rejected.

Mr. CURTIS. The constitution says "inhabitants."

Mr. BARKSDALE. All were allowed to vote, as I have already said. And what was the result? More than six thousand votes were given to the constitution with slavery, and but a few hundred against it.

But it is said that the majority of the people of that Territory did not vote. That the right to vote, however, was given them, and every safeguard provided, cannot be and has not been denied. If they desired Kansas to be a free State, and did not so vote, that is their own fault. But it is said that the application of Kansas must be rejected, because a majority of the people are opposed to her admission. Where, I ask, do you ascertain that fact? Do you find it in the election returns of the 4th of January? The question had then been settled. The pro-slavery clause of the constitution had already been ratified by the people. Those who were in favor of its insertion did not vote at the election, because it was a question which had been settled, and which perished with the settlement of it.

Where, then, do you find evidence that the constitution framed at Lecompton is not acceptable to the majority of the people of Kansas? I think I have shown that it is the constitution of the people of Kansas; that they have made it; that it is theirs; and that under it they are applying for admission into the Union.

Now, the next question is, is this constitution republican in form? I hardly suppose there is any dispute with regard to that fact. It is a republican constitution. It is founded on the will of the people. Under its provisions the Governor

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is elected by the people; the Legislature is elected by the people; even the judiciary are elected by the people. All the officers are so elected. If the constitutions of the other States are republican in form, no objection on this ground can be urged against that of Kansas.

Then, sir, I have endeavored to answer the only questions that Congress ought to ask in the admission of new States; first, that it is the will of the people; and next, that the constitution which they present is republican in form. What, then, is the ground of the opposition to the admission of Kansas? The true ground, sir, disguise it as gentlemen may, is that her constitution recognizes slavery. I see near me the gentleman from Indiana, [Mr. COLFAX,] who is one of the leaders of his party in this House, and I desire to ask him now whether, if all the people of Kansas desired to have a pro-slavery constitution, he would vote for her admission into the Union?

Mr. COLFAX. The gentleman from Mississippi asks me a question. I have listened very attentively to his speech, and I desire to say to him that if I get the floor when he concludes, as I hope to, I intend to answer every point he has made in his speech.

Mr. BARKSDALE. I do not know that I will be here. I should like to have the answer now. I ask you, gentlemen on the other side of the House, of the Black Republican party, would you vote for the admission of Kansas into the Union with a constitution tolerating slavery, if a hundred thousand people there wished it?

Mr. GIDDINGS. Does the gentleman ask me?

Mr. BARKSDALE. I ask all of you.

Mr. GIDDINGS. Then I answer the gentleman that I will never associate, politically, with men of that character, if I can help it. I will never vote to compel Ohio to associate with another slave State, if I can prevent it.

Mr. BARKSDALE. I desire to ask the gentleman from Ohio if he speaks for his party?

Mr. GIDDINGS. I speak for the thinking, reflecting, humane portion of mankind generally. [Laughter.]

Mr. BARKSDALE. Black Republican mankind you mean. [Laughter.] I have no doubt of it. I repeat that the true ground of opposition to the admission of Kansas is, that her constitution tolerates slavery, and I now have indubitable evidence of the fact in the declaration of the gentleman from Ohio. Why, sir, gentlemen on the other side of this Hall voted for the admission of Kansas into the Union under the Topeka constitution; a constitution framed not only without authority of law, but in violation of law; a constitution which did not embody the will of the people; a constitution which, notwithstanding their professed philanthropy and devotion to the negro, as I am told by a friend near me, [Mr. KEITT,] prohibits the immigration of free negroes.

Mr. BINGHAM. If the gentleman will allow me for a moment, I wish to say that the statement which I have heard made before, that the Topeka constitution excluded free negroes from Kansas, is an entire mistake. It excludes nobody from that Territory. On the contrary, so far from excluding free negroes, it provides that no person shall be transported from the State, not even for crime.

Mr. BARKSDALE. Was that constitution ever submitted to the people, and voted on by them?

Mr. BINGHAM. It was submitted, and I believe voted on, though the vote was not a large one.

Mr. BARKSDALE. Was it ratified?

Mr. BINGHAM. Yes, sir.

Mr. BARKSDALE. The gentleman is mistaken; it had not been submitted before it was sent here. While the gentleman from Ohio is on the stand, I desire to ask him if he would vote to admit Kansas into the Union with a pro-slavery constitution if the people of that Territory all desired it?

Mr. BINGHAM. Certainly not.

Mr. BARKSDALE. I repeat, then, sir, that the opposition to the admission of Kansas into the Union is based upon the ground that her constitution tolerates slavery.

Mr. STANTON. I will say, if the gentleman

will allow me, that the Republican members of this House, so far as I know, will never vote for the admission of any slave State north of 36° 30'.

Mr. KEITT. Will you south of 36° 30'?

Mr. STANTON. A good many of them will. Mr. BARKSDALE. The gentleman speaks for himself, I suppose, when he makes that declaration. He certainly did not speak for his colleague over the way, [Mr. GIDDINGS.] Then, sir, that question involves the rights, the equality, and honor of the southern States of this Confederacy. Upon the floor of the Senate it has already been avowed by the Senator from New York, [Mr. SEWARD,] that no more slave States shall be admitted into the Union. I will read the language of the Senator:

"Free labor has at last apprehended its rights, its interests, its power, and destiny, and is organizing itself to assume the government of the Republic. It will henceforth meet you boldly and resolutely here; it will meet you everywhere, in the Territories or out of them, wherever you may go to extend slavery. It has driven you back in California and in Kansas; it will invade you soon in Delaware, Maryland, Virginia, Missouri, and Texas. It will meet you in Arizona, in Central America, and even in Cuba. The invasion will be not merely harmless, but beneficent, if you yield seasonably to its just and moderate demands. It proved so in New York, New Jersey, Pennsylvania, and the other slave States, which have already yielded in that way to its advances. You may, indeed, get a start under or near the tropics, and seem safe for a time, but it will only be a short time. Even there you will find States only for free labor to maintain and occupy. The interest of the white races demands the ultimate emancipation of all men. Whether that consummation shall be allowed to take effect, with needful and wise precautions against sudden change and disaster, or be hurried on by violence, is all that remains for you to decide. For the failure of your system of slave labor throughout the Republic, the responsibility will rest not on the agitators you condemn, or on the political parties you arraign, or even altogether yourselves, but it will be due to the inherent error of the system itself, and to the error which thrusts it forward to oppose and resist the destiny, not more of the African than that of the white races. The white man needs this continent to labor upon. His head is clear, his arm is strong, and his necessities are fixed. He must and will have it. To secure it, he will oblige the Government of the United States to abandon intervention in favor of slave labor and slave States, and go backward forty years, and resume the original policy of intervention in favor of free labor and free States."

This, sir, is not only a declaration that no more slave States shall be admitted into the Union, but that slavery must yield even in the fifteen slave States where it exists. He must have the whole continent. That is his declaration.

And, sir, with this formal and well-considered proclamation by the leader of the Black Republican party in the Senate, reiterated by chiefs and subalterns of the same party here on this floor, can there be any misapprehension as to the purposes and the inevitable end to be accomplished by this opposition to the admission of Kansas?

Mr. Chairman, it is time the North and South understood each other. If this is the position of the North, we of the South desire to know it. If no more slave States are to be admitted into the Union, our people should be informed of your determination. In the language of one of the noble statesmen of the South, [Mr. TOOMBS,] delivered in the Senate a day or two ago, I, too, have counted the cost of this Union; and I think I understand something of its value. Sir, this Union was made by slaveholders. The battles of the Revolution were fought by slaveholders. A slaveholder headed your armies, and led them on to victory. Slaveholders laid deep and broad the foundations of this great Republic. The Declaration of Independence was published to the world in behalf of thirteen colonies—all of them slaveholding. The Union which they afterwards formed—"the more perfect Union"—was a Union of equality, of equal rights, and of equal privileges. If you intend to deprive the southern States of their rights, it is well for us that you have so frankly and unreservedly avowed your purpose. In every period of our history, when dangers impended over us, the South has been true and loyal to the Union. When, sir, in the hour of danger, has she ever faltered? The bones of her sons are bleaching upon the very soil from which her people are excluded, and the achievements of her heroes adorn the brightest pages of your history. But, sir, that same patriotic devotion which inspired them to bare their breasts, and shed their blood for our Union when it was a glorious Union of equals, will arouse their hearts and nerve their arms to resist its aggressions upon their rights and honor.

ADMISSION OF KANSAS.

SPEECH OF HON. SYDENHAM MOORE,
OF ALABAMA,
IN THE HOUSE OF REPRESENTATIVES,
March 25, 1858.

[REVISED BY HIMSELF.*]

The House being in the Committee of the Whole on the state of the Union—

Mr. MOORE said:

Mr. CHAIRMAN: The message of the President, the reports of the committees of the two Houses, and the many able speeches which have been already made in favor of the admission of Kansas, have fully exhausted the subject, and swept away all the flimsy pretenses and excuses of those who oppose that measure.

Some have the candor to admit, what all know to be true, that if her constitution did not tolerate domestic slavery, no serious opposition would have been made to her admission. Those who advocated the adoption of the Topeka constitution, as the Black Republicans all did, cannot, without the grossest hypocrisy, pretend to have serious scruples on account of any irregularities in this of Lecompton. I should not, at this late period, have engaged in the discussion of this question, important as I regard its decision, but for the allusions which have been repeatedly made to Alabama, and more especially in the speech of the honorable gentleman from Illinois, [Mr. FARNSWORTH,] the other day, who, not satisfied with indulging in the tirade against the institution of slavery, which has been heard from day to day from that side of the Chamber, saw fit to single out Alabama, and, with a view to disparage her people, instituted a comparison between that State and his own.

First, he says, Alabama has not increased as rapidly as Illinois in population. Is not that easily explained? The census returns show that Illinois had, in 1850, of her then population, 111,860 foreigners, while Alabama had but 7,498. The former being in close proximity to the old and densely-populated States of the North, would also account in part for this.

Next, as to the number of children at school; he says, in Alabama there are 62,846 pupils and students at school; while in Illinois there were, at the same time, 182,292. Out of about 190,000 white persons between five and twenty years of age, Alabama had, in fact, 100,000 at school; while in Illinois there were 350,000 white persons between five and twenty, and of these only 140,000 at school. But the gentleman, very adroitly, dropped the comparison between Alabama and Illinois when he came to speak of the number of persons over twenty-one years who could not read or write, and then contrasts Alabama with Massachusetts. I prefer to continue the comparison which he commenced with Illinois. In 1850, there were in Alabama 33,757 persons over twenty-one who could not read or write, while in Illinois there were 40,000. In Illinois there were 978,855 acres of public land appropriated for educational purposes, while in Alabama there were 902,775; and the lands of Illinois, it is well known, were far richer. Alabama had, in 1850, 1,375 churches, while Illinois had but 1,223.

The gentleman from Illinois sneeringly comments upon these results of the census as to the education of the masses in Alabama, and asserts that there are multitudes in all the slaveholding States who "cannot even read their ballots, nor sign their names to a poll-book." Does he not know that a large portion of the population of many of the States, at the period of our Revolution, were unlettered men? And yet what nobler examples of heroism and intelligent appreciation of popular rights has history anywhere afforded us? Was Rome much indebted to the literary cultivation of her masses for the sturdy virtues and practical wisdom which secured to her, for so many ages, the conquest and government of the world? Did not some, even, of the feudal barons who wrested the great charter from King John make their marks, being unable to append their signatures?

* For the original report, see page 1343 Cong. Globe.

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The gentleman ventures these sneers against the hardy yeomanry of the South, with whom it is at other times the favorite policy of his party to claim an affiliation against what they call the slaveholding aristocracy of the South. The scorn with which the masses of the South have ever rejected these insidious appeals is a sufficient proof of the intelligent and unselfish patriotism of those free and independent citizens. Though they may have been denied the advantages of early education, by living in a new and sparsely-settled country, this comparative want of education and of book-learning is less to be regretted if they have thereby escaped the follies of free-love associations, of spiritualism, and the thousand infidelities which prevail in New England. Remote from crowded cities, engaged in agricultural pursuits, compelled, in their solitude, to study the great book of nature, gathering information at church, in the jury-box, at the political hustings, and in the practical business of life, their store of knowledge is not always scant; but this, above all, they have not been contaminated even by the suspicion of corruption, and always make the best, the bravest soldiers in the world.

The gentleman who has just taken his seat [Mr. THAYER] taunts us with the want of that commerce and manufacturing industry which we have so long assisted the North in establishing. It is also another illustration of our freedom in the past from sectional jealousies, as it is also of our fond illusion that we had yet a part in David, and an inheritance in the son of Jesse.

And why, let me ask, should there be perpetual strife between us? Why should this relentless war be waged against the South? Does not the chief product of our slave labor keep in motion the spindles of Massachusetts, and create there an increased demand for your labor? We offer you a market for your manufactured goods, employment for your ships, and encouragement to your ship-builders. Every additional plow which is driven into the soil of Alabama, and each cargo that is landed at Mobile, gives an increased impetus to your various manufactures.

The time was, Mr. Chairman, and at no remote period in our history, when the Representatives of the people, from the various sections of this Union, were wont to meet together to consult, to deliberate for the welfare of a common country. Party feeling might, at times, run high; differences might arise as to questions of domestic or foreign policy, or as to the true construction of the Constitution; but in these things all were agreed—namely, in recognizing the binding obligations of the Constitution in all its parts, in attachment for the Union, and in reverence for the decisions of our judicial tribunals. What a change has taken place in a few years! Now, sons of one common and glorious lineage are here seen pitted like gladiators, or ranged apart as delegates of hostile nations. But little has been heard during the four months of the session save violent philippics, day after day, against the South, her people, and her institutions, and occasionally recrimination and retaliation on the other side. The stormy sessions of the National Assembly of France scarcely indicated more hostile feeling between the different parties than has been manifested here.

If what we see here is a reflex of the state of feeling among the masses of the North, then it requires no prophet to tell that this Union cannot much longer endure. The crusade, so long preached against the South, has, it seems, maddened and estranged the North, and has at last aroused the South to the dangers that menace her. A little while ago the young adventurer from the North would often seek his home in the South, and, when deserving, never failed to meet with friends, with promotion, and advancement. The distinguished gentleman who sits before me [Mr. QUITMAN]—the Chevalier Bayard, “without fear and without reproach,” and whose military and civil services have won for him a national fame—stands a shining example of this; so do the honorable gentleman from Missouri [Mr. CRAIG] and the honorable gentleman from Tennessee, [Mr. MAYNARD,] and many in distinguished positions all over the South.

Then the southern man and the northern man could kneel at the same altars, and meet around

the same communion table; but now the slaveholder is accused in the estimation of these Pharisees who “have stolen the livery of the court of heaven to serve the devil in,” and his presence would pollute their altars. Then kindly intercourse existed, and the mutual interchange of friendly, if not fraternal feeling. In those days, we of the South felt that the Hancocks, the Otises, and the Warrens of the North, belonged alike to us; and that their glory was also a part of our inheritance. Our youths then went to your renowned institutions of learning, without feeling, as they now would have too much cause to do, in some of them, at least, that they were the veriest hot-beds of treason and fanaticism. Then the southern man felt, as he stepped his foot upon the free soil of the North, that he was still within his own land and among his brethren. He wandered over her battle-fields, read the monuments of her heroes, and exulted in their glorious achievements.

Our pulpits, our work-shops, our factories, our legal and medical professions, our school-houses, all were open to, and many were filled by men from the North. They often married and dwelt among us, thus adding new links to the chain that bound the Union together. Some, after being treated with kindness and hospitality, and encouragement and patronage, in their youth, have returned to the North to stir up strife and ill-will between the sections. Prominent among these is a distinguished Senator of New York, who in early life was thus kindly treated and patronized while pursuing the honorable profession of a teacher in a rural district in Georgia. But all kindly recollections of those early days, if any he ever had, have long since been effaced from his memory; and his life has been spent in fomenting sectional strife and ill-will, and in seeking to overturn the institution of slavery, which, he knows, if successful, would result in ruin to the black as well as the white race, and in disruption of the ties that bind together the States of this Union.

I chanced to hear him recently exulting that there was a North side and a South side in that Chamber and in this, a northern party and a southern party, and expressing the hope that he might live to see the day when the footsteps of a slave would not be seen on this continent. Sir, no love of country prompted that exultation; for he knew too well that, wherever tried, emancipation had proved to be a failure; either bringing speedy destruction and ruin upon the land where they had been thus emancipated, resulting in the massacre of both races, regardless of age or sex, or, by their slower, but not less sure decay and ruin in the lapse of time. I never see him, with his bland smile and Oily Gammon manner, that I am not reminded of Milton's description of one of the fallen angels:

“BELLAL, in act more graceful and humane;”
“he seemed
For dignity composed and high exploit:
But all was false and hollow; though his tongue
Dropt manna, and could make the worse appear
The better reason, to perplex and dash
Maturest counsels; for his thoughts were low;
To vice industrious, but to nobler deeds
Timorous and slothful.”

A few—a very few—persons, like the ill-used individual mentioned by the gentleman from Illinois the other day, who was banished from the city of Mobile, abuse the kindness which had been extended to them, and, viper-like, turn upon their benefactors. How well it becomes that gentleman to express such heartfelt sympathy for the slaves of the South, when his State will not even allow a free negro to tread upon her soil! If one should do so, he may be seized and sold into servitude. He sympathizes deeply with the hard lot of our own sleek, well-fed, contented, and happy slaves; but the free black, as, hungry, naked, and friendless, he stands upon the borders of Illinois, looking wistfully upon her well-filled granaries, might exclaim: “I was an hungered, and ye gave me no meat; I was thirsty, and ye gave me no drink; I was a stranger, and ye took me not in; naked, and ye clothed me not; sick and in prison, and ye visited me not!”

What has brought about this great change to which I have before alluded? Upon whom rests the heavy responsibility? Is it upon those who

wage this unjust, unholy, sectional war against their own countrymen? or is it upon those who have stood up and defended their section when assailed, opposing argument to argument, meeting taunts and insults with scorn, and threats with defiance?

The Abolition party was for years few in numbers, and altogether contemptible; but wicked and ambitious men united with it, and drew together in one solid mass the odds and ends of all the old parties; proclaiming for their watchword—hostility to the South and its institutions. They seek to array one section against the other; hoping, when that is accomplished, from being superior in numbers, to get the control of the Government, and hold us in complete subjection. To effect their unholy purposes, we are abused and misrepresented. Their orators, their presses, and even their pulpits, are employed in fomenting strife and ill-will, by continual denunciation, ridicule, taunts, and threats towards the South; a fair sample of which we have just heard from the gentleman from Massachusetts, [Mr. THAYER.]

These bad men, to gain their ends, have shown that they do not hesitate to trample under foot the Constitution, and nullify the solemn enactments of Congress made to carry out its express provisions, and wholly indifferent to the consequences which may flow from their rashness. The President of the United States, for daring to oppose their unholy designs, notwithstanding his venerable years, his eminent position, his unsullied public and private character, is traduced and vilified, his motives aspersed, his patriotism questioned, and he openly and falsely charged with resorting to corruption and bribery to influence the legislation of Congress. The Supreme Court, too, of the United States—the highest judicial tribunal known in our country—composed of men distinguished for their learning, their exalted wisdom and virtue, whose luminous decisions have added to the national reputation; whom the people reverence and respect for their firmness, their impartiality, and the unsullied purity of their lives, because they will not perjure themselves and mold their decisions to suit this fanatical party, is to be annihilated, or reformed, as they say; while the individual members, including the venerable Chief Justice, are denounced as vile, corrupt, and debased.

For years we of the South have patiently borne these wrongs and injuries. We have warned the people of the North of the inevitable consequences which must follow these attacks; but, with reckless indifference, they still pursue their course of madness, folly, and wickedness. They are arrogant enough to believe that we will tamely submit, and declare that if we shall resist they will “*whip us into submission.*” The gentleman from Illinois [Mr. FARNSWORTH] intimated the other day that hemp would be used to crush out this spirit of resistance, if any should be manifested. Great Britain threatened this against the thirteen colonies, all of them, be it remembered, at that time holding slaves; and the gallant Hayne, of South Carolina, was actually hung; but was the proud spirit of the colonies thereby subdued?

Talk about subduing a sovereign State of this Confederacy! of whipping her into submission! What folly! What kind of a Republic would that be, I should like to know, where one portion of it had to hold the other in subjection by force? A Republic it might be in name, but in fact it would be a pure, unmitigated despotism.

Mr. GILMAN begged to interrupt Mr. Moore, by asking how it happened that all the threats of separation have proceeded from the South?

Mr. MOORE. Sir, I deny the correctness of this assertion; and point to the fact of the Hartford convention, assembled during a war waged for the protection of New England citizens, and in the face of an enemy threatening our coasts. It has never been under such circumstances that the South has chosen to vindicate her violated rights. When the defense of your country, the honor and glory of your empire, were involved, you have nowhere found more obedient and more emulously patriotic citizens. Do you ask me for instances of northern insubordination? Look to the nullification of the laws of Congress by Massachusetts and her surrounding States. When

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South Carolina threatened to resort to this remedy, she was to be dragged into submission; when the boasted land of Pilgrims exerts it, it is perfectly consistent with law, order, and constitutional obligations.

It is openly proclaimed that they intend, under no circumstances, to vote for another slave State. They would crib and confine us to our present limits, saying to us, "thus far shalt thou go, and no further;" knowing that ruin must thereby, if not speedily, yet sooner or later, overtake our fair land. Growing more insolent of late, they boldly proclaim that they intend to rule and govern the South; and thus allow her people none save a mere nominal participation in the administration and control of public affairs. Some, more daring than the rest, openly declare that their purpose is to destroy the institution of slavery and crush out the South, making her a dependent province; her sons "hewers of wood and drawers of water" for northern task-masters. And this is to be the doom, if their designs are consummated, not only of the slave owners, but of all the freemen of the South.

James Watson Webb, who conducts one of the leading Republican presses at the North, hitherto claiming to be moderate and conservative, in his paper of February 20, says:

"If any State should attempt to secede, she will be whipped into subjection. Should they continue refractory, the United States would be compelled ultimately to hold such refractory States as colonies—just as Spain and other European powers hold their slave colonies—until such time as it might be safe to rely upon their obedience."

And again, listen to his fierce bombast. It is rich. He says:

"If a southern State should attempt to resist, she will be made to submit, and bear herself with deference and respect thereafter to those who are morally and socially her equals, and politically and physically her superiors, and when provoked to demonstrate it, if needs be, her masters."

Such is the language now employed by the Black Republican presses throughout the North—seemingly to verify the old adage, "whom the gods wish to destroy they first make mad."

Contrast this insolent bravado with the wisdom of Edmund Burke:

"Your instructions and your suspending clauses are the things that hold together the great texture of this mysterious whole. These things do not make your Government. Dead instruments, passive tools as they are, it is the spirit of the English Constitution which, infused through the mighty mass, pervades, feeds, unites, invigorates, vivifies every part of the empire, even down to the minutest member. It is the love of the people; it is their attachment to their Government—from the sense of the deep stake they have in such a glorious institution—which gives you your Army and your Navy, and infuses into both that liberal obedience without which your Army would be a base rabble, and your Navy nothing but rotten timber."

That gentleman [Mr. FARNSWORTH] spoke sneeringly of the republic of Alabama. Let me tell him that Alabama has not yet decided upon her course. She has indulged in no threats; but by the unanimous voice of her Legislature has determined, in case Kansas is rejected, to hold a convention to determine what her honor, her safety, and independence may seem to require. She came into the Union as an equal; and her equality she will never surrender.

Mr. PALMER wished to know by what process it was proposed that Alabama should be withdrawn from the Union.

Mr. MOORE. She has decided, sir, in a contingency which involves the loss of her equality and honor, to assemble a convention to decide upon her course. It is not for me to anticipate that decision; but, if she deem it necessary to dissolve a compact, of which it is openly declared that she shall no longer participate in the advantages, I have no fear that she will not have the intelligence and unanimity to devise the means of her long deferred, reluctant, but compelled withdrawal.

But she still cherishes the hope that her constitutional rights may be respected; that Kansas may be admitted, and peace and quiet restored to the country. I know the sentiments of her people, and especially of those who have honored me with a seat on this floor. They are a law-abiding though proud-spirited people, content with the Constitution and Union which were made and handed down to them by their fathers—attachment to that Union having been a cherished principle of political faith throughout the South. What

but this caused her people to submit for so many years to a high protective tariff, by which her industry was taxed to enrich the North? What but this caused her to submit to be robbed of her slaves annually to the value of thousands of dollars? What but this induced her to acquiesce in those measures by which the North obtained all of those vast territories which we acquired from Mexico by, to say the least, an equal expenditure of blood and treasure on her part.

I tell these Black Republican leaders, I tell the North, that they may, when it is too late, exclaim, as a celebrated English historian did in reviewing the causes that led to the loss of America to Great Britain: "What demon of folly got possession of our councils? What malignant star shed its influence on our arms? Where were our statesmen?" All we ask is to be left alone; to be permitted to manage our own affairs; to be protected in the enjoyment of equal rights and equal privileges with the people of the other States of this Union, as well in the Territories as in the States. Believing that all the signs around us point to revolution, that the danger of dissolution is imminent, and ardently desiring to preserve it, if it can be done consistently with the honor, self-respect, and independence of the people with whom, for good or ill, my lot is cast, I should have a serious responsibility to discharge to my constituents if I did not warn you of the Black Republican party on this floor; and if my humble voice could penetrate even the furthest extremity of the North, I would warn her people not to be deceived by those bold, bad men, who, to gratify their insatiate ambition, would subvert this Government and deluge this land in blood. The people of the South see the dangers that menace them, and they are ready to meet them as becomes the sons of noble sires.

The sentiment, the conviction of the South, is that its safety consists in its unity. Seeing how fiercely we are assailed; that our property, our equality, and independence are boldly threatened, we have, day by day, forgetful of past differences, been drawn more closely together, until the proud spectacle is now presented to the world of a free, intelligent people, all united as a band of brothers, in the unalterable determination to stand or fall together in defense of their rights. And this I may say, without boasting, that if the madness of fanaticism shall at last compel us, in defense of all we hold most dear, to imitate the example of our great forefathers, when chains and slavery were forged for them, we will so act our part that our future historians will not be ashamed to record our deeds.

By what standard do they judge us? by what examples in our past history, in that of the Anglo-Saxon race, do they conclude that the South will tamely submit to occupy, in this Union, the position of inferiority and degradation to which the Black Republicans would subject her? We are the descendants of that sturdy race of patriots who were willing to expose "their lives, their fortunes, and their sacred honor," rather than submit to so much as a tax of three pence per pound on tea. But you think, perhaps, that we are degenerated. It did not appear so in the war of 1812. It did not appear so with that little band of Texans, who, in defense of their rights and liberties, bravely dared to meet the powerful armies of Mexico. What though we be few in numbers, we still possess all the elements of strength to sustain ourselves in peace or in war; and profane as well as sacred history teaches us that the race is not always to the swift, nor the battle to the strong.

The North is as much, if not more interested in preserving this Union than are we of the South. Its destiny is in her hands. She now threatens to conquer and subdue us if we dare resist her encroachments. Remember that the same was done by Lord North and his minions towards our forefathers. See what that old Tory, Dr. Johnson, said in an article, "Taxation no Tyranny," written about that time:

"When subordinate committees oppose the decrees of the general Legislature with defiance, thus audacious, and malignity thus acrimonious, nothing remains but to conquer or yield; to allow their independence or reduce them by force." * * * "It seems determined by the Legislature that force shall be tried. I would wish that the rebels may be subdued by terror, rather than by violence; that such a force may be tried as might take away not only

the power but the hope of resistance. Their obstinacy may perhaps be mollified by turning the soldiers to free quarters, forbidding any personal cruelty or hurt." * * * "Since the Americans have made it necessary to subdue them, may they be subdued with the least injury possible to their persons and possessions."

You of the North ridicule the idea of a dissolution for any cause. So did then the ministers of England. You presume upon your strength, and our supposed weakness. So did they with the colonies. The tyrants of old England sought to tax them while they had no voice, no representation in Parliament. Our brave forefathers determined to put all to the hazard rather than submit even to the smallest tax thus imposed. The Black Republican party proclaim their determination to rule the South by their overwhelming sectional majorities. We, it is true, might have a nominal participation in the legislation of the country, but would be powerless to protect ourselves, and the heaviest burdens might, and, judging by the past, would be imposed upon us. Would the South submit? Would freemen ever submit to occupy such a position?

We do not believe that the North would submit to this under similar circumstances. We have the declaration of Mr. Fillmore that they would not, and his opinion that they ought not. I have much mistaken the proud spirit of those with whom I dwell, if they shall prove themselves more submissive. Our fathers were loyal to the mother country—so have we ever proved to this Government, discharging all of our constitutional obligations.

The tyrants whom our fathers then opposed, sought to excite insurrection among our slaves—it is so declared in the Declaration of Independence. So do these Black Republicans. See what Dr. Johnson, in the same article from which I have already quoted, said:

"It has been proposed that the slaves should be set free, an act which the lovers of liberty surely cannot but commend. With fire-arms for their defense, utensils for husbandry, and settled in some simple form of government, they may be more grateful and honest than their masters."

Men of the North! remember, that these words were applied to your ancestors, as well as to ours! But again, says the same author:

"We are told that the subjection of America may tend to the diminution of our liberties, an event which none but very perspicacious politicians are able to foresee. If slavery be thus fatally contagious, how comes it that we hear the loudest yelps for liberty among the drivers of negroes?"

Our fathers bore long the oppressions of the mother country. The minions of power fondly dreamed that, as they had submitted so long, they would never resist. So think our enemies now. Says the gentleman from Illinois, [Mr. FARNSWORTH,] why do not these braggarts put their threats in execution? It is all threat and gasconade. Sir, we make no threat—it is not our aim to frighten anybody; nor can you frighten or deter us from doing our duty.

In times like these, Mr. Chairman, when sectional feeling is so intensely excited, it is impossible to tell what a day may bring forth. And what does all this portend? Is it, or not, the beginning of revolution? We short-sighted mortals are not permitted to lift the veil and see what the future has in store for us. Could we do so now, it might serve to check those who are rushing headlong upon unseen dangers. If "coming events cast their shadows before"—if effects still follow causes—if history, that tells us how other republics have risen, flourished for a time, and then passed away; how empires, once hoary with age, and mighty in prowess, at last fell—if she teaches any lessons for our guidance in the story of the past, then ought not gentlemen to be warned?

Our fathers met to consult in the first American Congress in 1774. They separated with no movement made for independence. Again they met, consulted, and went to their several homes, and still no serious talk of independence. Blood had then been shed, too, at Concord, Lexington, and Bunker Hill. They met again in 1776, deliberated, and at last determined on that memorable Declaration of Independence. The Abolitionists and Black Republicans repeat in our ears every day one passage contained in that instrument, and affect to believe that it was intended to include the slaves as well as whites, and therefore sustains their nefarious purposes. I beg to call their at-

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tention to another passage, which has not, perhaps, wholly lost its significance:

"That whenever any form of government becomes destructive of these ends (for which it was created) it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles and organizing it in such form as to them shall seem most likely to effect their safety and happiness."

Our forefathers were not unsustained in the trying times of the Revolution. They had friends in England who boldly and eloquently defended their cause, and warned the British ministers of the consequences of their rashness. Among them were Lord Chatham, Burke, Fox, Pownall, and Colonel Barré.

Said the latter gentleman, on the floor of Parliament:

"I prophesied, on passing the stamp act, in 1765, what would happen thereon; and I now, in March, 1769, fear I can prophesy further troubles; that if the whole people were madly desperate, finding no remedy from Parliament, the whole continent will be in arms immediately, and perhaps these provinces lost to England forever."

In February, 1769, said Governor Pownall, in Parliament:

"The Americans do universally, unitedly, and unalterably declare, as I have before told the House, that they ought not to submit. The slightest circumstance will now, in a moment, throw everything into confusion and bloodshed. That spirit which led their ancestors to break off everything which is near and dear to the human heart, has but a slight sacrifice to make at this time; they have not to quit their native country, but to defend it; not to forsake their friends and relations, but to unite with and stand by them in one common union. They will abominate as sincerely as they now love you. In one word, if this spirit of fanaticism should once arise upon the idea of persecuting these people, you will not, for the future, be able to govern with a rod of iron.

"If it be not the humor of the House to believe this at present, I only beg that they will remember that it has been said, and that they were forewarned of it."

How applicable to our own times!

Lord Chatham said:

"When the resolution was taken in this House to tax America, I was ill in bed; if I could have endured to have been carried in my bed, so great was the agitation of my mind for the consequences, I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it."

Again spoke Lord Chatham:

"America, if she falls, will fall like the strong man. She would embrace the pillars of the State, and pull down the constitution along with her."

Again, when he spoke those words that made the tyrants tremble:

"America is almost in open rebellion. I rejoice that America has resisted."

But all these warnings were unheeded to the last.

I know not upon what to rest the hope that the North will at last yield to wiser and more moderate counsels. All the old national parties are broken up, save the Democratic party, and that is weakened by desertion and torn by divisions. I do yet fondly hope that this old party will be found strong enough, patriotic and self-sacrificing enough, to meet boldly this question, upon which its fate and the fate of the Union depend, and once more restore peace and quiet to a distracted country. It has received accessions of late from the old Whig and the American parties, and forms a nucleus around which the conservative men of the whole country may still rally. Though deserted by those once recognized as its leaders, a portion of the old guard—the true-hearted northern Democracy—still stands firm. Though their motives may be maligned, their names threatened to be cast out as despised, and public honors denied them, still, unmoved, they go on to the discharge of their duty to their country. I listened with delight to the manly and eloquent speech of the gentleman from Connecticut [Mr. BISHOP] the other day. While the spirit which he exhibited survives among the northern Democracy, though they may for a time be in the minority, we may yet have hope for the perpetuity of our institutions. All honor to them! They will yet be honored and sustained at home, cherished and respected at the South; while they will ever be cheered with the pleasing consciousness of having, like patriots, discharged their duty boldly, notwithstanding the desertion of the Douglasses, the Walkers, the Forneys, the Bancrofts, and others—once honored leaders. One of these was but yesterday the idol of every southern heart; the hero of many a forensic contest; the example first on the lips to refute the charge that the north-

ern Democracy were not to be trusted. All remember how, like Saladin's, his keen Damascus blade shone so brightly on many a field in defense of the constitutional rights of the South. Admiring friends looked forward to the day when they could elevate him to the Presidency of the nation—an honor which had only been delayed yet a little while, as they deemed, for an older, though not, as they then knew, a better soldier. That he should so suddenly turn his back upon his ancient friends, and join his long embittered foes, is strange, unaccountable, unnatural.

A striking example in our early history is recalled to my mind. It is of one who was among the boldest and bravest in the early days of our Revolution—daring, resolute, and zealous in the cause of liberty. His blood was freely shed for the great cause. The Father of his Country trusted him, leaned upon him; and yet he, at last, from ambition or some secret griefs, proved himself a traitor to his country. Remembering the past as I do, I will not call him, to whom I have referred, by so harsh a name; but from present appearances, from his quick nomination in the West for the Presidency, with the faithless Robert J. Walker on the same ticket for Vice President; from the indications given out by his organ at Chicago, and from his late speech in opposition to the South, in which, to make friends, as it seemed, with the Black Republicans, he joins with them in grossly misrepresenting the positions of our section; it will not surprise me to see, very soon, the mask thrown off, and this unnamed chief fighting in the ranks of his late revilers.

We of the South are represented as desirous of extending slavery to the free territory of the North. This is not so. We claim the right to carry our slaves into territory belonging alike to all the States. The gentleman from Illinois [Mr. FARNSWORTH] says he admits this principle, as regards all property save that of slaves. He denies that slavery exists by the common law, but contends that it is by statute law only; and denies that this property should be taken to any of the Territories of the Union.

I tell that gentleman that this is no longer a question for dispute. It is the law of the land, so pronounced by the highest judicial tribunal in our country. It was also decided by twelve of the ablest judges in England, among whom was Lord Holt, "that negroes were merchandise." I refer the gentleman to Burges's Commentaries, vol. 1, page 735; Chalmers's Opinions of Eminent Lawyers, vol. 2, pages 262, 263, 364; and Colquhoun on Roman and Civil Law—not having time to read them now.

We do not ask you to regard slavery as we regard it. It is not suited to your northern clime, but it is suited to ours. We of the South believe that it is recognized and sanctioned by the Almighty in his revealed Word. We think its introduction into our country has been the efficient means of civilizing and Christianizing the African race. We know them to be happy and contented. Agriculture, commerce, and manufactures, have all derived benefits incalculable from this institution. By it the world has been clothed and fed. Think of it as you will, but deny to us none of our constitutional rights; cease to molest us, and we may yet live on in peace. We are content to assume all its responsibilities, both here and hereafter, and are willing to abide the enlightened public opinion of the world. And may we not hope that there is sufficient virtue, intelligence, and patriotism, at the North to correct this unsound public sentiment? or shall treason, folly, and fanaticism, be permitted to rule the day, and this Republic, with all its present greatness, and its glorious promises, be destroyed, merely to gratify the thirst for power of those Black Republican leaders, in whose hearts, as I believe, there lurks treason as dark as ever actuated the blood-bound associates of Catiline's conspiracy. They, too, meditated an insurrection of the slaves in the Roman territories, as one of their means of effecting their unholy purposes. Cicero, after detecting their plot and arresting their persons, boldly asked: if they deserve praise who laid the foundation of the Republic, do not we also who preserved it from its enemies? May not those now (and I allude particularly to those residing in the North) who

unite to restore peace to this distracted country, by preventing the triumphs of treason and rebellion in Kansas, and by thwarting the designs of the enemies of the Constitution and the Union, ask in the same spirit if they, too, have not deserved well of their country?

AUXILIARY GUARD.

SPEECH OF HON. W. O. GOODE, OF VIRGINIA, IN THE HOUSE OF REPRESENTATIVES, April 19, 1858.

[WRITTEN OUT BY HIMSELF.]*

The House being in the Committee of the Whole on the state of the Union, and having under consideration the bill to establish an Auxiliary Guard for the District of Columbia—

Mr. GOODE said:

Mr. CHAIRMAN: The few suggestions which I propose to offer will be expressed briefly as I can. I have no essay to publish. If I had the weight of character or power of language to command the attention of the House, I should not indulge in inflammatory declamation. I should employ my strength to impress the House with a just perception of the measure on which we are called to decide.

Several days have passed since this question was opened for discussion. The debate has taken a wide range, and gentlemen have felt themselves called upon to go forth into the wide field of partisan warfare. I shall not follow their example. I shall endeavor to call back attention to the true pending question. It was just announced from the chair. The committee are called upon to pass on the comparative merits of the bill I have proposed, and the substitute for the Senate bill offered by the gentleman from New York, [Mr. DONO.] The general objects and provisions of these plans are nearly identical. They provide for the same force, the same number of officers, and for nearly the same expenditure of money; but the regular expenditure, under my bill, will require a sum smaller, by about \$2,500, than the plan of the gentleman from New York—and to that extent I am entitled to the argument of economy, but I admit the advantage is inconsiderable. There are, however, important differences in the two propositions. My bill establishes a police court, by which offenders against the law and police regulations may be summarily tried and punished, which I regard as an actual necessity in the administration of justice in this city. At present, the prosecution of the most petty offenses is by a regular criminal prosecution, requiring an indictment by the grand jury—the minimum expense being about forty dollars, often ranging above one hundred dollars, and requiring from the Treasury an annual appropriation far exceeding one hundred thousand dollars for the prosecution of petty offenses in the District of Columbia. A large proportion of this would be saved by the provision of my bill—a sum, perhaps, equal to the whole cost of the contemplated police force.

But the distinguishing characteristics of the two propositions are to be found in the different modes of appointment. The gentleman from New York proposes to constitute a board of commissioners to organize this police force—the board to be elected by the qualified voters of the city of Washington. Not only to be elected, but chosen in equal numbers from contending political parties. The scheme contemplates the election of two Democrats and two Know Nothings or Americans. Thus will be introduced into the organization antagonistic elements, in equal forces. The nature of the service of a police force demands promptitude, secrecy, and energy. It is indispensable it should be directed by unity of will, and executed with concert of action. The plurality of will and antagonism of purpose or of object, are utterly inconsistent with the efficiency of the police. The discrepancy of views, the conflict of opinions, and consequent delay in the deliberations and decisions of the board must effectually destroy the usefulness of a police appointed under the scheme of the gentleman from New York. There would

* For the original report, see page 1670 Cong. Globe.

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be no more probability of accord and agreement in the consultations and decisions of such a board, than if those functions were to be performed by the gentleman from New York and myself.

Mr. BURROUGHS. May I ask the gentleman from Virginia a question?

Mr. GOODE. Not many questions.

Mr. BURROUGHS. I desire to ask the gentleman from Virginia if he does not know that the best governed cities and villages in America, to-day, are governed by men chosen in this way from the two parties?

Mr. GOODE. I do not. I should deem it impracticable for such a board to agree on anything; and the whole scheme seems utterly inadmissible. It has been recommended as calculated to free the police from partisan influences. To accomplish this you provide, in the first instance, for a partisan election, which is to be repeated annually. You provide that Democrats and Americans shall vote together, and yet require that equal numbers of each party shall be chosen; and it is requisite that these equal numbers of unfriendly and hostile forces shall act in concert and harmoniously, to produce results at all beneficial. I can hope for nothing good or efficient from this discordant, double-headed monster. It is, verily, a double-headed monster, with no precedent in history, no prototype in nature, no similitude in the regions of fancy—except the triple-headed Cerberus, placed by mythologists as a guard at the gates of hell.

This nondescript board is obnoxious to the further objection of violating the spirit and principles of the Constitution. The power of appointment is undoubtedly executive in its very nature. And this scheme of the gentleman from New York provides for carrying into effect this executive power through the agency of a legislative commission.

With deference I submit that these objections to the plan of the gentleman from New York are unanswerable. They are entirely avoided by my plan, which I shall now proceed to explain.

My bill provides that the chief shall be appointed by the President of the United States, by and with the advice and consent of the Senate; that the captains and lieutenants shall be appointed by the Secretary of the Interior, and the men by the chief of the auxiliary guard; which I hold to be in strict accordance with the principles of the Constitution. The Constitution provides that

"The President, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

If, then, these be officers of the United States, the Constitution determines the appointing power. But to avoid the force of this argument, gentlemen deny that these are Federal officers; but that proposition cannot be sustained. They are certainly officers. They certainly satisfy the definition of that term. But if officers, they must be Federal officers, because they are created by act of Congress. Their duties are prescribed by act of Congress, and they are paid from the Federal Treasury. It is therefore impossible to resist the conclusion that they are Federal officers, and therefore must be appointed by the Federal Executive—by the President—by and with the advice and consent of the Senate. It is true that Congress may by law provide that such inferior officers as they think proper may be appointed by the President alone, to avoid the necessity of applying for concurrence of the Senate in so vast a number of appointments, and we may provide that the courts may appoint their own officers; and still further to relieve the President, we may provide for the appointment of inferior officers by the heads of the Departments, which is accordingly proposed in my bill. With the exceptions thus enumerated, all Federal appointments must be made by the President, by and with the advice and consent of the Senate.

The Constitution places all executive power in the President of the United States. The power of appointment is an executive power, and therefore vests in the President. In framing the Con-

stitution, our ancestors adopted the British Constitution as their model. In England the appointing power vests in the executive Government. It is, indeed, a royal prerogative, and to attempt to usurp it, is to impinge on the prerogatives of the Crown. In this country, by the wisdom of our fathers, the appointing power is reposed in the Chief Executive of the Confederacy. Even if this be unwise, it is ordained by the founders of our system. It is not denied that the President must appoint the superior officers of Government, your military and naval commanders, the judges of the Supreme Court and of all the Federal courts; and yet it is held to be dangerous to confide to him the appointment of the chief of the police of Washington city!

Mr. MAYNARD. I want to know whether, under the act of 1850, the commissioners were appointed by the President, or by the courts of the District, in which they were to act?

Mr. GOODE. Did not the gentleman hear me say that Congress had power to provide by law for the appointment of inferior officers by the courts or by the heads of the Departments? It was precisely the proposition which I announced.

Mr. BLISS. I would like to be enlightened on one point, for it is an important one. I understand the gentleman to claim that the officers of this District are Federal officers under the Constitution.

Mr. GOODE. The officers of the corporation are municipal officers; but it is competent for Congress to create other officers in the District, who are not municipal officers, but who are, of necessity, Federal officers.

Mr. BLISS. I ask whether, under the Constitution, any difference was made between any of the local officers of the District, such as Mayor, and policemen, or any other officer?

Mr. GOODE. The office of Mayor, under the charter, is elective by the people. The office of chief of police is proposed to be regulated by this bill. If he could be deemed a municipal officer, he would be appointed by the Mayor, according to the terms of the city charter. If he be a Federal officer, as appears to me to be unquestionable, then, by the terms of the Federal Constitution, the appointment is vested in the Federal Executive. We may, by law, provide for the appointment by the Secretary of the Interior, or the head of any other Department, or in the courts; but if there be no such special provision, the appointment attaches, *ex vi termini*, in the President of the United States.

Gentlemen insist it is dangerous to invest the President with the alarming power of appointing the head of the police of a petty municipality. Under the genius of the Constitution they can trust him with the supreme power of negotiating treaties with foreign countries; they can confide to him the appointment of the whole diplomatic corps—consuls, ministers, envoys extraordinary and ministers plenipotentiary to represent the country at foreign Courts; they can trust him to appoint our Federal judges, the commanders of the Army and Navy of the United States, with the whole roll of their subordinates; they can trust him with the actual command of the Army and Navy of the United States and of the embodied militia of the several States when called into actual service; but they are thrown into a tremor when called to invest him with the dangerous and alarming power of appointing the chief of the police of the city of Washington! Verily, it seems a strong illustration of the proverb, that you "strain at a gnat and swallow a camel."

Sir, when gentlemen denounce this as an alarming usurpation; when they denounce the President of the United States as an unsafe and dangerous repository of the appointing power, I decline, myself, to offer the reply. I refuse to place my own authority, my own humble and unknown name, to be weighed in the balance against those distinguished gentlemen; but I call upon the framers of the Constitution to answer; I call upon James Madison to answer; I call upon Alexander Hamilton to answer; I call upon Gouverneur Morris, upon James Wilson, to answer; I call upon John Rutledge, upon Charles Pinkney, Charles Cotesworth Pinckney and Pierce Butler, to answer; and last, though not least, I call upon Benjamin Franklin and George Washington to

answer. These, and all these, and such as these, if, indeed, there could be such, have placed it in the Constitution, have inscribed it upon the enduring records of their country, that they regard the President of the United States as the true and safe and wise and proper repository of the power of appointment. Such are the names which I bring forward to weigh in the balance against the authority of honorable gentlemen.

Sir, I pray the House to examine deliberately and dispassionately the nature of the objections urged against vesting this appointment in the President. It will be found that they rest in a great degree on personal hostility to the incumbent. Most of the Opposition have denounced him as corrupt. True, there are honorable exceptions, and among them I am happy to distinguish the honorable gentleman from Tennessee, [Mr. MAYNARD.] Sir, I have never professed myself the peculiar champion of James Buchanan; but I was pained to hear him the subject of these unjust and cruel attacks; I was pained to hear the denunciation of a man who has spent a long and honorable and distinguished life in the virtuous exercise of the social faculties, and the faithful discharge of his duty to his country—a man who has been borne by public favor through the regular gradations of public honors till he was eventually installed in the elevated and exalted position which he now adorns. I was pained to see him made the subject of attack and denunciation and vituperation, if not of slander.

Mr. BURROUGHS, again interrupting, was understood to remark, that it was not to the former life and bearing of Mr. Buchanan that exception had been taken, but to his present conduct and character.

Mr. GOODE. Let me say to the member from New York, that any man who brings himself into voluntary comparison with James Buchanan, as a man of virtue, honor, intelligence, distinction, and honorable bearing, will have occasion to deem himself fortunate if he should not suffer severely from the contrast. Sir, I call upon gentlemen to bear in mind it is now openly avowed that the objection to place the power of appointment in James Buchanan is, that he is unworthy the confidence of the country—that he is said to be the head of a rotten and repudiated Administration, to use the elegant and refined language of the member from Massachusetts, [Mr. COMINS.] Before Mr. Buchanan became the standard-bearer of Democracy, he was exempt from these unjust imputations. Since he was elevated to his present position he is made the shining mark for the poisoned arrows of his enemies. I demand it of the House to shield an honorable man and a faithful public functionary from these rude and unhalloved assaults. I ask no member of the House to support a measure which his judgment condemns; but, in arranging this power of appointment, I call upon the House, and especially the Democracy of the House, to shield the President from aspersion and obloquy. Gentlemen can vote for my proposition over that of the gentleman from New York without being committed to its provisions. Such vote will be a mere expression of preference, and not a declaration of approval.

It was argued by a gentleman from Kentucky, [Mr. MARSHALL,] that by the charter of the city the power of appointment is vested in the Mayor of Washington, and that it will be usurpation to exert it through the President. I confess I was surprised at such an argument from such a source. The charter of the city was designed to enable the people here to manage their own local interests, and regulate their own municipal affairs. It never could have been conceived that by its enactment the Government of the United States surrendered the right and power of self-protection and self-preservation, and the rights and power of eminent domain within the limits of the District. The authority of the corporation is concurrent with that of this Government, and only concurrent as to subjects affecting particular interests of the people here. There is no point in this broad Confederacy in which this Government does not exercise a jurisdiction, either concurrent or exclusive. The several States are sovereign and supreme. They exercise supreme authority on subjects confided to their charge in our scheme of polity. Yet this Government

exerts its constitutional authority within the limits of the States, on all subjects intrusted to our charge, according to the provisions of the Constitution. I have seen the illustrious John Marshall dispensing law and justice, executing the powers of a Federal judge in the same room and from the same seat, which but a day or so before were occupied by a venerable chancellor of Virginia. The States are sovereign and supreme. We derive our powers from their grant. We exercise a divided and concurrent jurisdiction with them, within the limits of their several boundaries. The corporation is subordinate and municipal; all its powers are the gift of Congress. Yet it is gravely insisted that, by the creation of this petty municipality, Congress has deprived itself of the right to organize a police here for the purposes of self-protection and self-preservation. Thus, by this argument, are we reduced to dependence on the city for the power to exercise the functions of Government.

Sir, I deny that Congress has the right to deprive itself of the power to protect itself, to protect the Government, and persons and all things dependent on the Government, or connected with it. Government cannot divest itself of the power to accomplish the purposes of its creation. It cannot absolve itself from the obligation to protect itself, the Government, its members and employes, with the citizens of the Confederacy resorting lawfully to their seat of Government. Its obligation to protect the public property and the diplomatic representatives of foreign nations, the power to accomplish these high objects, the power to exert or to exercise the functions of government, the power to accomplish the purposes of its creation, are vested in Government by the Constitution, and imposes a binding obligation, from which Congress cannot be absolved by any act of legislation. If it had been designed by the charter of incorporation for the city of Washington to absolve the Federal Government from the force of its obligation, the act would have been simply nude.

Sir, it has been urged that Congress is under no obligation to support a police here, for the benefit and protection of the citizens of Washington, relieving them from the expense and necessity of providing a police for themselves. This argument must be respected, because it is urged by respectable gentlemen. In itself it is utterly untenable, and will be regarded by many enlightened men as founded on a very narrow and a very small prejudice. Might not the corporation retort that it is under no obligation to provide a police here for the protection of Government, and its numerous members, dependents and interests and connections? Sir, the police is not designed to secure any exclusive or even peculiar advantage to the citizens of Washington. It is intended to enable the Government well and faithfully and securely and conveniently to discharge its duties and redeem its obligations to the country. It is right the corporation should do this within its proper sphere. It is right the Government should accomplish this within its own proper sphere.

There is another view of this subject which must commend itself to every fair and candid mind. It is undeniably true that the lawlessness which prevails here is occasioned, for the most part, by the presence of the Federal Government. Our presence here congregates within the ten miles square the rowdies and ruffians who set society at defiance. I put it to the candor of every gentleman—does he not believe that if the seat of Government were removed, the city would subside into the quiet and repose of a country village? Is it not just we should provide the police, the necessity for which we create?

Mr. Chairman, I maintain it was the purpose of the framers of the Constitution to locate the seat of Government in a position to exercise exclusive jurisdiction, and to invest it with authority adequate to its own protection. It was intended to avoid the ills and avoid the possibility of conflicting jurisdiction.

Gentlemen are familiar with the history of establishing the seat of Government at Washington. At the close of the war of the Revolution, when our arms were triumphant, when the power of Britain was overthrown, and victory had perched upon our banner, the army which achieved this

glorious triumph was left in a state of destitution. The time had come when that army was to be disbanded, and the veteran citizen soldier return to his long neglected home. But he was without pay—without a cent of money in his pocket—far away from his home; all tattered and torn—all wearied and worn—he was to be disbanded and turned loose upon the world, without even a settlement of his accounts. He knew not what allowance would be made for him by the country whose enemies he had conquered, and whose liberty he had achieved. Great and extensive discontent prevailed, and there was danger of a general mutiny. Never was the address of General Washington put to severer trial, but he firmly essayed the task, and his efforts were crowned with success. The spirit of patriotism was diffused through the army as an emanation from his soul. Order was restored, the army dispersed, the liberties of America established upon a lasting foundation.

At Lancaster, Pennsylvania, there was a canton of raw recruits, who refused to be appeased, and who refused to submit to be disbanded, on the terms which were rendered indispensable by the actual poverty of Government. And venting their rage, and vowing vengeance, they took up the line of march for Philadelphia, where the Continental Congress was in session. Their approach was known at Philadelphia. Congress called on the corporate authorities to provide the means of resistance and protection. The corporate authorities referred the question to the State authorities, and, pending the delay which intervened, the mutineers had reached the city. The house in which the sessions were held was surrounded by the enraged soldiery. The passways were blockaded with fixed bayonets, and a demand was made on the Council, who assembled in the same house, that the accounts should be settled in twenty minutes; and this message was accompanied with the threat that, unless their demands were satisfied, the soldiers would be turned loose, with arms in their hands, free from all the restraints of law.

By some means, of which I am not distinctly informed, the members effected their escape; and, before they dispersed in confusion, they agreed to reassemble in Princeton; and for some time their future sessions were held there. After this mortifying outrage and flagrant insult, Congress resolved that it was necessary to establish the seat of Government in a locality and under circumstances where they might exert a power and authority adequate to their own protection without dependence on municipal or State protection; and this determination seems very generally to have settled down in the public mind. At an early stage of the proceedings of the Federal convention which framed the Constitution of the United States, a resolution was adopted instructing the committee to insert a clause insuring an adequate authority in the Federal Government for all the purposes of self-protection, which resulted in the clause now found in the Constitution establishing an exclusive jurisdiction within this District.

This clause is the result of the deliberate judgment of the public mind; the deliberate purpose of the country to clothe the Federal Government with power to protect itself, and carry into effect the great purposes of its creation. And when this District was established as the seat of Government, Maryland and Virginia were severally required to surrender the rights of eminent domain, and invest Congress with power of exclusive legislation; and now it is gravely maintained that, by the chartering of the petty municipality of this city, we have created a rival authority here, with power superior to our own; depriving Congress of the indispensable power of self-protection, and reducing the Government of the United States to a condition of dependence on the city of Washington. Sir, I cannot believe that such an argument is of force to convince the mind of the House.

Sir, it seems to be generally agreed that the appointing power should be free from all partisan influences. All profess to desire this. Surely it is desirable; but how shall it be attained? In this free country every citizen is a politician; every public man is a partisan. Can you avoid partisan influences? Sir, to accomplish this desirable object of excluding partisan influences, the gentleman from New York provides, as the first step,

to resort to a popular election for the choice of a commission, to consist of four partisan leaders—two to be chosen from each of the political parties of Washington—and this process to be continued from year to year; whilst the gentleman from Ohio, [Mr. LEITER,] in the eager pursuit of the same object of excluding partisan influences, proposes for our adoption a legislative commission, in which he names as commissioners the two partisan candidates for the mayoralty. The name of a third commissioner is quite providently inserted, whose political connection will insure the decision of every question on the side of the political party of which the honorable gentleman from Ohio is himself a distinguished, ornamental partisan leader. Other gentlemen insist that, notwithstanding the history of the past, the Mayor of the city is the best repository of the power of appointment. To this I reply the argument of a bitter experience. Through the future it will be as it has been through the past. The Mayor to select the officers and men—and they with power to elect the Mayor—remissness and relaxation of discipline will necessarily obtain, and inefficiency and worthlessness will mark the character of the police force. This is, of all the modes suggested, the most objectionable in practice.

And now, sir, I approach the close of the few remarks I proposed to offer. When I rose to explain the provisions of this bill, the House will bear me witness, I came forward coolly and deliberately, without passion or excitement. I made no appeal to party spirit or party prejudice. I confined myself strictly to a simple exposition of the provisions of the bill; and I was content to rely on the intelligence of Congress to give effect to the measure. My brief discourse was a passionless narrative. No sooner had I taken my seat than a member from Massachusetts rose in his place, and launched forth into the boisterous discussion of party politics. With slight allusion to the question of police, he felt it to be his duty to denounce the President of the United States; to arraign and denounce the Cabinet as rotten and unworthy of public confidence; to denounce and threaten the Supreme Court of the United States, and the venerable Chief Justice of this country.

Mr. COMINS. I beg to correct the gentleman from Virginia. In speaking against this bill, I made no allusion to the Supreme Court of the United States, or to the venerable Chief Justice of that court. I said justice was at fault in this city through the inefficiency of the criminal court of this District, more than from the remissness of the police in the discharge of their duties. I in no way assailed Judge Crawford; but I alluded to the inefficiency of his court. Neither did I allude to the Cabinet of the President; but I did allude to his Administration.

Mr. GOODE. I beg pardon; I thought it was he who alluded to the decision in the Dred Scott case. It may have been some one of his companions. I absolve the gentleman *quo ad hoc*; but only as to the Supreme Court and Chief Justice. By his own admission, he assailed the criminal court of this District; and it appears from his printed speech that he had the indelicacy to assail, by name, the honorable judge who presides in that court. I have no personal acquaintance with Judge Crawford. He has not approached me on this occasion to place me in possession of facts, on which to ground his defense here to-day. But honorable gentlemen of the legal profession—men of undoubted standing, whose good opinion is worthy to be coveted by the best of us frail human beings—men at the head of the Washington bar, distinguished ornaments of an honorable profession, and who stand opposed to Judge Crawford in his political association—have voluntarily come forward to defend him against this unjust and indelicate assault, and to authorize me to speak of him in the presence of the American Congress as an amiable man, an accomplished gentleman, a pure, a just, an able, and an upright judge, enjoying, in an eminent degree, the confidence and affection of the community in which he lives.

Gentlemen have objected particularly to the action of the court in the case of a member of Congress who was tried here for murder during the last Congress. It is painful to introduce into this

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discussion these delicate and distressing topics. No man could have regretted the occurrence more than did the unfortunate man himself. None more than his intimate friends. But, sir, what would gentlemen demand? The offender submitted himself to the laws of his country. He was subjected to rigorous criminal prosecution, tried and acquitted by a jury of his country, and of course discharged by the court. Would gentlemen require he should be hung by the court in defiance of the finding of the jury? But objections are taken to the opinion of the judge in expounding the law of the case. I understand the judge ruled the law to be, "that if, in a case of *mutual combat*, the jury believed the circumstances were such as to justify the prisoner in considering that his own life was in imminent peril, or that he was in danger of great bodily harm, at the moment when he struck the fatal blow, the jury would be justified in rendering a verdict of homicide *se defendendo*." Is the gentleman prepared to object to this ruling? and is he prepared to sustain such objection? I believe this has been adjudged to be law in most of the States of this Confederacy—and long, long years since, was adjudged to be law in Massachusetts.

Exception has been taken to the supposed opinions of Judge Crawford touching the abstract, speculative doctrine of capital punishment; and it has been objected that his opinions are supposed to encourage crime within the range of his jurisdiction. I have no knowledge of his speculative doctrines, and I am not at all authorized to speak in his behalf; but, in discredit of the alleged objection, I have been informed that he has always pronounced judgment of death, when justified by the finding of the jury; and in one case especially, when a pardon was granted by President Fillmore. And, after all, Mr. Chairman, the exception is founded in a ferocious and blood-thirsty spirit, demanding the relentless punishment of death. For myself, sir, I candidly admit I shall be ever willing that the capital code shall be administered in the spirit of humanity and clemency, and that its judgments may be tempered with mercy, as far as public safety will allow. I should far more admire the mild and gentle glories of a Hale than the ferocious notoriety of a Jeffreys.

Sir, some gentlemen have alluded to a painful topic, which I cannot be provoked to discuss. Even the fierce and bitter spirit of party might be expected to relent and to soften when the grave has closed upon its enemy. Let the green grass grow around the grave of one who has passed away from sublunary scenes. Let the sod remain untouched by the polluted tread of malice and revenge. Sir, I refuse to desecrate the sanctuary of the dead. I refuse to disturb the sanctity of the grave. Several gentlemen have fiercely mingled in this bitter war of party politics. I decline to follow their example. If they be content with the exhibition which they have made before the country, few can have occasion of regret.

And now, sir, in conclusion, I call upon the House to rise for once superior to the littleness of party prejudice, and adopt a measure demanded by the necessity of the times. For myself, sir, I have perhaps as little personal interest in the subject as any one member of this body. I am always safe and secure from violence. Secure in the fact that I am rarely abroad under circumstances of exposure. Always secure, and doubly secure in a firm reliance on myself. Doubly and triply secure in

"The might which slumbers in a peasant's arm."

ADMISSION OF KANSAS.

SPEECH OF HON. GEO. E. PUGH, OF OHIO,

IN THE SENATE, April 28, 1858,

[REVISED BY HIMSELF,]*

On the bill reported from the Committee of Conference for the admission of Kansas into the Union as a State.

Mr. PUGH said:

MR. PRESIDENT: I have already stated to the Senate that, in my judgment, the regular method of taking a vote on this question, is to wait until

we receive a message from the House of Representatives inclosing the bill itself. Still, I have no objection to voting to concur in the report of the committee of conference; because that will be, as the Senator from Louisiana [Mr. BENJAMIN] said on day before yesterday, an expression of my individual opinion. Nor do I mean to say that, if the Senate should take a different course, the bill would not be legally passed; for I suppose we have a right to prescribe our own forms of proceeding, although the regular form hitherto has been to vote on such a report only when the bill is in our possession. But, sir, as I intend, in some form and at some time, to give my support to the proposition submitted by the committee of conference, I shall now assign the reasons for that, in answer to several allegations made by Senators on this floor, and particularly by the Senator from Michigan, [Mr. STUART,] who has just taken his seat.

I shall pass over two considerations in a very few words. My colleague [Mr. WADE] yesterday arraigned the course of Senators from the slaveholding States, and imputed sinister motives to them. I shall engage in no crimination of that sort. If I believed what my colleague said, if those were my opinions and sentiments, instead of standing in the Senate of the United States, to beat the air and indulge in harsh epithets, I would go home to the people of Ohio and tell them to take arms in their hands for the redress of injuries. The fact that gentlemen restrain all their wrath for expression in the Senate, satisfies me there is no great sincerity in their complaints.

So with the Senator from Michigan. If I believed a thousandth part of what he has said here to-day; if I believed that a large majority of the representatives in Congress of the political party to which I have been attached were scoundrels and knaves and tricksters, that they would practice fraud and deceit and outrage; if I believed all that, or any of it, instead of insisting here, like the Senator from Michigan, upon my title to membership in the party, I would walk out of it, and congratulate myself on the loss of such associates.

Mr. STUART. Allow me to say to the Senator that I have said nothing of the kind. I have not said one word about any man in Congress being a scoundrel; nor have I said one word about any test being applied to me. I have never touched that subject, and never mean to do so.

Mr. PUGH. Let us see. The Senator coined a new word for the occasion, not to be found in our dictionaries, or any book on English grammar: he said this was a "scoundrelly" proposition; he said it was a trick; he said Congress was behaving in a trickish manner; he said Congress was practicing a fraud on the question and the people. Sir, there is no word of abuse, there is no harsh adjective or adverb in the English language which the Senator could apply to this proposition, that he did not apply to it. He slaps us in the face, but declares that he does not mean to insult us; he says to thirty or more of us, acting from the best lights of our judgments and our consciences, who have determined to give our votes for this measure, that he imputes nothing personal to us, but that, nevertheless, in his opinion, we propose to behave in a fraudulent and dishonest manner.

So with the subject of tests. When the Senator addressed us in December last, and again on a later occasion, he begged his political friends, as he called them, for conciliation. After listening to him, and doing all we felt authorized to do toward conciliating him and those who act with him, we yet hear, not alone from him, but from others, and throughout the country, one continued tirade against an alleged attempt of the Administration and the majority of the Democratic party in both Houses of Congress to establish a test. I agree with a celebrated gentleman who styled the Democratic party a free-love association. A man can drive himself out from it, but nobody else can drive him out; and I say again, whenever it is my opinion that a majority of the Democratic Senators on this floor give their adhesion to a fraudulent proposition, one which includes villainy and all the acts which base men commit, I give notice that I shall not wait to be expelled from the party: I shall go out of it.

I come now to the proposition. Of course every bill reported by a committee of conference is a compromise. Almost every bill which passes the two Houses of Congress is a compromise. Each of us cannot obtain what he thinks best; we must yield in matters of detail; we must surrender, if necessary, all but the vital principle involved. So the Senate has acted; and so, I imagine, the House of Representatives has acted. In my judgment, the best measure would have been the admission of Kansas into the Union by a bill in the usual form. That would have silenced all controversies. That would have left the people of Kansas to settle their own affairs; to revise or amend their constitution, or make a new one whenever they chose; have left them to their own pleasure, and clothed with the sovereignty of a State. We found that could not be accomplished. It was denied that, when admitted as a State under this constitution, Kansas could proceed to revise or amend it; and it was alleged that, after such an admission, Congress and the President would prevent any amendment. Then we adopted a provision to the effect that Congress and the President never should interfere. The bill passed this body, and went to the House of Representatives. The House, in lieu of our bill, sent us a proposition requiring the constitution of Kansas to be submitted to a direct vote of the people. I have said to the Senator from Michigan to-day, that I never will vote for such a bill, whether in the case of a slaveholding or a non-slaveholding State. I consider it a gross usurpation of power; a breaking down of the barriers which divide the Federal and State governments; ten times more disastrous in its consequences to the peace of the country and to the liberties of the people, than all the civil wars which have raged in Kansas. This was my objection to the House bill—my great objection. I believe it was the objection of those with whom I have heretofore acted on this floor.

The House of Representatives adhered to this proposition. A majority of the House entertained opinions adverse to our opinions. A committee of conference was therefore appointed, and we have now before us the agreement of that committee. What is it? I do not yet understand how the Senator from Michigan means to interpret the bill now proposed. If he understands it as submitting the constitution of Kansas to a vote of the people by act of Congress, I tell him that such is not my interpretation at all. We have not the power to make a constitution for Kansas; we have not the power to alter one which has been made; and how, therefore, can we prescribe after the people have acted, the manner in which their constitution shall be ratified? How can we change the method of its ratification? That is as much the act of the people as the constitution itself; and if Congress should change the method of ratification, it would assume the right to make or unmake the constitution. That, therefore, we cannot do.

But over what question have we ample and complete authority? Over the question of admission. That is our question; it is confided to us by the Constitution of the United States. And, consequently, when it was stated, at an early period of this debate, that Kansas came hither with a petition in her hands, I stated truly the prayer of the petition. Not that we should approve her constitution, or ratify her constitution, or amend her constitution. Such was not the petition. What was it? To be admitted into the Union as a State: that was her petition—nothing else. We can grant the petition, or we can refuse it. We could refuse it without any reference to her constitution. We may refuse it because she has not the requisite population. We may refuse it because the boundaries proposed are improper. We may refuse it because the admission of the Territory as a State would disturb the peaceable relations of the other States. Why, sir, we have on your table a proposed constitution for Utah; and if it were on its face entirely unobjectionable, I would not vote to admit that Territory into the Union as a State. I would vote on that question wholly regardless of what the constitution contains or omits. I would vote against Utah because I do not wish to admit into the Union as a sovereign community those who debase themselves to the level of the brutes. I would reject her without any reference to her con-

*For the original report, see page 1847 Cong. Globe.

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stitution. The right of admission, or the power of admission, is reposed in Congress. It is a power not to be abused. It is a power to be used rightly, to be used with due discretion; and therefore, although I claim it as an absolute power reposed in us, I agree that to establish any test of discrimination between the States already in the Union, would be a gross abuse and outrage. At the formation of the Federal Constitution, some of the States were slaveholding and some non-slaveholding States; and I believe that to reject a new State because she is either a slaveholding or non-slaveholding State, would be to abuse the power vested in Congress by the Constitution.

This, however, is not alone my distinction. It is the distinction of the Senator from Michigan himself. I have before me an interesting document—"Speech of Hon. C. E. STUART, of Michigan, on Kansas affairs, delivered in the Senate of the United States, December 23, 1857," from which I propose to read a paragraph:

"The power of Congress to admit States into the Union is the question which, in my judgment, lies at the very foundation of this discussion. The Constitution of the United States, in the third section of the fourth article, provides that 'new States may be admitted by the Congress into this Union.' The only limitations to the exercise of the power are found in the language that follows: 'but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.' It was well said by Mr. Attorney General Butler, in the Arkansas case, that the power of Congress over this question is plenary. From the very nature of the question, it must be. It is subject only to the limitations provided in that article; and whenever a question is presented as to the admission of a State into this Union, it must necessarily be determined by the circumstances which surround and govern that particular case. Why, sir, it is a power which authorizes the admission of foreign States, as well as those carved out of our own dominion; and this single statement will show to the mind of any gentleman, at a glance, that precedents, former laws of Congress, never can, and never ought to be, resorted to for the purpose of determining the power or the propriety in a particular case. I use the term 'propriety' with a purpose. The power to admit a State necessarily carries with it the power to decline to admit; and when I hear gentlemen talking about the necessity, the imperative obligation that rests upon Congress to admit a State under a particular specified set of circumstances, I confess, sir, it is a doctrine that is not in accordance with my views of the Constitution. It may be very proper, for instance, to refuse to admit a State to-day, and it may be quite the reverse one year from to-day. Congress, and Congress alone, under the power conferred upon it by the Constitution, is to determine, not only the question whether a State shall be admitted at all, but it is equally clothed with authority to determine when it shall be admitted."

Here is another paragraph:

"The power of Congress is to 'admit' a State into the Union, not to coerce it. Congress would be but the veriest tyrant that ever existed on the face of the globe if it had a power to coerce a State into the Union contrary to the will of the people comprising that State. It lies, then, at the foundation of the question, as it does at the foundation of personal liberty, that Congress shall be satisfied—satisfied beyond a reasonable dispute—that the people composing the State ask to be admitted. It should never be forgotten that it is a mere consent on our part—nothing more. The State proposes admission and Congress gives its consent."

Not a word about the constitution of the proposed State from the beginning to the end of that. Yet another paragraph from the same speech:

"That we have the power to admit, or refuse to admit, a State, according to our sound discretion, cannot be denied. Having that power, if there be a doubt as to whether you are proposing to admit a State into the Union, or to coerce it into the Union; nothing can be lost by taking time to ask the people in a plain, safe, unmistakable manner, whether they desire it or not. The people of a Territory, which is about to be formed into a State, have a right—and, so far as my examination has gone, Congress has never violated this right—to say, in the first place, whether they desire to form a State Constitution now, or not. They have a right to say whether they will take upon themselves the burdens and expenses of a State government. Where Congress has passed enabling acts, as in the cases of Ohio, Indiana, and other States, and in the celebrated Toombs bill, which has been so much talked of, an express provision was incorporated, that when the convention was assembled, it should vote, in the first instance, whether it is expedient and proper to proceed to form a State constitution at this time. The people of Kansas have never had a chance to say this, and although they might say 'we are willing to live under this Lecompton constitution, when we get ready to be a State; we are not ready to become a State now.' That is a right, a sacred and inviolable right, which belongs to the people of a Territory when they are invited to become a State."

Now, that is my opinion. It was so before the Senator spoke, and he aided to fasten conviction upon my mind. I have already said that we pass no judgment upon the constitution of Kansas except to declare that it is republican in form. Our act is the admission of the State; and we could admit her without any constitution if she had only

a form of government in actual operation. What did the Senator affirm to be our duty in the case? He said if there was any dispute as to the desire of the people of Kansas to be admitted into the Union, to be admitted now, it was our duty to refer that question—the question of admission—to a plain, safe, unmistakable manner of decision by the people of Kansas themselves. The committee of conference, therefore, has answered the Senator's own demand when he spoke on the 23d of December last. The question of fact disputed, the only question is, whether the people of Kansas desire to be admitted now. That is the question referred to them by this bill.

In a very able argument delivered by one of my colleagues in the other House, [Mr. GROESBECK,] it was suggested that the people of Kansas might have been desirous, in June last, to come into the Union, but still had a right to change their opinions and vote otherwise. He said that, as they had a right to present us a petition, they had a right to withdraw it at any time before acceptance.

Well, sir, I concur in that. Admission is the act of both parties. They must ask, and we are to grant. And when we were about to grant, the Senator from Michigan said we ought to be sure that the people desired admission now. He expressed it as strongly as I have said. He declared that although the people might say, "we are willing to live under this Lecompton constitution when we get ready to be a State," they had also a right to say, "we are not ready to become a State now." The House bill proceeds on the same idea. It provides that when a new convention shall be assembled in Kansas, the first question decided shall be whether they will come into the Union at that time. Let me read it:

"When so assembled, the convention shall first determine by a vote whether it is the wish of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government," &c.

I relate this to show that the question of admission has no necessary connection, so far as Congress is concerned, with the constitution of the State, and to show that the Senator from Michigan himself drew the distinction; that he insisted upon it; that it expressed the burden of his objection to the Senate bill.

The constitution of Kansas had been formed when she applied for admission. In the case of an enabling act that specifies the terms of admission before the constitution is made; but, in the present case, the constitution was first made. The constitution was brought to us, and the Senator, by the terms of his argument, acknowledged that the constitution might be perfectly acceptable, and yet the people of Kansas might not desire to be admitted; and, therefore, he insisted, and I agreed with him, that the question of admitting the State was a proper one for Congress, and totally different from the question of referring the constitution to the people for ratification.

Now, I say the bill reported by the committee of conference is a bill to ascertain, in a plain and unmistakable manner, according to the Senator's own demand, whether the people of Kansas desire to come into the Union now. I read from the first part of its first section:

"That the question of admission, with the following propositions in lieu of the ordinance framed at Lecompton, be submitted to a vote of the people of Kansas, and assented to by them, or a majority of the voters, voting at an election to be held for that purpose."

That the question of admission be submitted to the people of Kansas. Again, let me read in reference to the vote upon this question:

"At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may please, 'proposition accepted,' or 'proposition rejected.' Should a majority of the votes cast be for 'proposition accepted,' the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation, and thereafter and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States in all respects whatever, shall be complete and absolute."

And again:

"But should a majority of the votes cast be for 'proposition rejected,' it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition, and in that event the people of said Territory are hereby authorized and empowered to form for themselves a constitution and State government."

So in reference to the convention to be called

hereafter under the conference bill. That convention when assembled, is first to determine by a vote whether it is the wish of the people of Kansas to be admitted into the Union at that time. So in the preamble:

"Whereas, The said constitution and ordinance have been presented to Congress by order of said convention, and admission of said Territory into the Union thereon, as a State, requested; and whereas, said ordinance is not acceptable to Congress, and it is desirable to ascertain whether the people of Kansas concur in the changes in said ordinance hereinafter stated, and desire admission into the Union as a State as herein proposed."

The bill provides no submission of the constitution—no submission of any part of it. We have no power to submit it; but we have the right to pass on the question of admission, and without any reference to the constitution, as the Senator himself has claimed. Inasmuch, therefore, as it is denied, as the Senator has denied, that the people of Kansas desire to be admitted now, we remit that question, and that only, to a vote of the people of Kansas. To be sure, the question of admission thus submitted will necessarily involve, in the mind of every voter, the question whether he approves or disapproves the constitution. Nobody can object to that. I never heard a man in this Congress, who objected to the people of Kansas voting for or against their own constitution, if they wished; but our ground was, that, speaking by their representatives in the Legislature, in the passage of the convention act, and by their delegates in convention, elected by themselves, the people had forborne to vote upon any part of the constitution except the seventh article. We said that was the expressed will of the people through all their representatives in the Legislature, and in the convention, and that we could not alter it; that if these delegates or representatives had not truly expressed the will of the people, it was unfortunate, but that we could apply no remedy, because we had no power. We never objected—certainly, at least, I never did, for a moment—to any claim that the people should have a right to vote for or against their constitution. We denied that Congress had the power to require it. That was our position, and it is so plain that he who runs may read.

Although we cannot, and do not, remit the constitution to a vote of the people, because that would be to violate its own terms, I never heard it denied, that, in voting upon the question of admission, which we had a right to remit, they might, or might not, be governed by the terms of the constitution itself. That is their own question; that is not our question; and, therefore, it is no objection that they can themselves, if they choose, pass upon the whole of their constitution, whilst voting upon a question which we have the power to submit. That is the reason why I declare this bill a fair and honest compromise between the Senate bill and the House bill; preserving what is essential in each, the Senate declaring that Congress has no power to remit the constitution to a direct vote, and the House of Representatives insisting that the people ought to be enabled to vote for, or against it, in some form. By the bill now before us the people can have that advantage, although we do not submit the constitution to them in terms. We give them the right to vote whether they will be admitted or not. I say, then, this proposition, while it avoids a great constitutional objection to the House bill, contains all that is material in it.

Nor is the question relative to the grants of public land more than one element, and that very insignificant, in the question actually submitted. We reject the ordinance passed at Lecompton, November 7, 1857; we might have left the matter thus, and admitted the State, retaining all the public lands, and allowing her, when admitted, to assert her power of taxation over them. I say we might have done that, and we did it in the Senate bill. But here we have proposed, not a bribe of any sort, but the usual grants in the case of every new State—the same which were made to Minnesota—as a mere incident, a collateral element in the question of admission. That, however, as my colleague has said, is no part of the controversy; and so says the Senator from Michigan. Well, if it be no part of the controversy, it will exercise no influence in determining the question. I agree to that. It is wholly immaterial. Wherefore, then, do these Senators de-

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Admission of Kansas—Mr. Pugh.

SENATE.

clare that it is a bribe? Was it a bribe in the case of Minnesota? Did we not provide in the Minnesota act that if her convention of delegates would vote to come into the Union, she should have these very grants; but if they voted otherwise, she should not have them? Was that a bribe? I imagine no man ever thought so. This certainly cannot be a bribe; for it is much less than the convention at Lecompton asked, and much less than the late convention at Leavenworth asked.

Of course, sir, if the people vote in favor of admission upon the question now submitted, the constitution framed at Lecompton will be the constitution of the State of Kansas. Undoubtedly that will be the case; and why not? It was framed by a convention of delegates of the people, chosen in due form of law, delegates chosen fairly, delegates chosen unanimously; and its seventh article was ratified by an almost unanimous vote of the people—of all who chose to vote. Is that not a sufficient ratification? Why, sir, let us see how circumstances alter cases. On the 9th of April, 1856, the Senator from New York [Mr. SEWARD] urged us to admit this Territory of Kansas as a State under the Topeka constitution; and here is what he said:

"The President objects that the past proceedings by which the new State of Kansas was organized, were irregular in three respects: first, that they were instituted, conducted, and completed, without a previous permission by Congress, or by the local authorities within the Territory. Secondly, that they were instituted, conducted, and completed by a party, and not by the whole people of Kansas; and thirdly, that the new State holds an attitude of defiance and insubordination towards the territorial authorities, and the Federal Union. I reply first, that if the proceedings in question were irregular and partisan-like and factious, the exigencies of the case would at least excuse the faults, and Congress has unlimited discretion to waive them. Secondly, the proceedings were not thus irregular, partisan-like, and factious, because no act of Congress forbade them; no act of the Territorial Legislature forbade them directly or by implication; nor had the Territorial Legislature power either to authorize or to prohibit them. The proceedings were, indeed, instituted by a party who favored them; but they were prosecuted and consummated in the customary forms of popular elections, which were open to all the inhabitants of the Territory qualified to vote by the organic law, and to no others; and they have in no case come into conflict, nor does the new State now act or assume to engage in conflict with either the territorial authorities, or the Government of the Union. Thirdly, there can be no irregularity where there is no law prescribing what shall be regular. Congress has passed no law establishing regulations for the organization or admission of new States. Precedents in such cases, being without foundation in law, are without authority. This is a country whose Government is regulated, not by precedent, but by constitutions."

That applies to every objection urged here, by the Senator from New York and others, to the Lecompton constitution, with this addition: that the election, in which everybody could have participated, was called in due form of law, and had an authority which the Topeka movement never had. Besides, the people of Kansas by voting for admission, will have voted that the Lecompton constitution shall be ratified, not because that is the question submitted, but because it is necessarily involved; and if they ratify the constitution, by what right does the Senator from Michigan protest against it? What more does "popular sovereignty" require? And the whole Free-Soil phalanx are foreclosed forever and a day, as to the objection that Kansas may be a slaveholding State; because they waived that in voting for the House bill. If the constitution be objectionable in any feature, if it require revision or perfection, let the people amend it hereafter. They might vote for admission, knowing that Lecompton would be their constitution, but with the express purpose of altering it. They might say, "Here is an opportunity for us to enter the Union; we do not admire all the features of our constitution, but once enfranchised as a State, we shall have absolute control of our own affairs; and, therefore, we vote in the affirmative." If they choose to do thus, whose business is it to call them to account? They have a right to amend their constitution. I shall not debate that question; a majority of the Senate has said so; a majority of the House of Representatives has said so; the President of the United States has said so. So far at least as the Federal Government is concerned, in both branches of the Legislature, and in the executive department, there can be no obstacle to any amendment which the people of Kansas may desire.

The Senator from Vermont, [Mr. COLLAMER,] said, however, that the Supreme Court of the United States might interfere. I say, as I said before, the Supreme Court of the United States has solemnly determined that it has not power to decide which of two instruments is the constitution of a State, and it has no such power.

Now, sir, when Senators talk about approving or disapproving the Lecompton constitution, they fall into an old blunder. They forget that Kansas has no other constitution. She must have a constitution or form of government. All that is absolutely required is, that she shall have a republican form of government; that is the phrase of the Federal Constitution. That form of government may be expressed in a constitution or an ordinance, or, what they call in Mexico a plan, or it may rest in usage; but to rest in usage, requires, perforce, that it shall have been in actual operation. Such was the case of Rhode Island. Her government was in actual operation; and, although it stood entirely upon usage, yet that was deemed sufficient, and she was admitted into the Union; but Kansas has no State government in operation; we cannot stand on usage in her case; and, therefore, she must present us a constitution, or a fundamental law, or a plan, or something of that sort, containing her form of government. She has presented none to us but the constitution framed at Lecompton. She makes no other application as a State. The people of Kansas ask to be admitted with the distinct understanding that this is their form of government; and, therefore, it is a mere perversion of language—for there can be no mistake in such a distinction—to say that Congress, in admitting the State of Kansas, approves or ratifies the constitution framed at Lecompton, or forces it upon the people of Kansas, in any sense or to any extent. She has no other constitution; she asks admission knowing the fact that she has no other; and, therefore, if you admit her, you admit her with that; and if you reject her, that falls, of course, for there can be no constitution without a State.

But my colleague asks: why not remit the question of the admission of Kansas into the Union, with the understanding that the Topeka constitution may be in force? The answer is, that Topeka is no constitution; it is a mere pretense—illegal, revolutionary—made by the authority of no law at any stage, neither in the election of delegates, nor in the alleged submission to the vote of the people. There is nothing to distinguish the delegate; nothing to distinguish the voter. It is a baseless, unsubstantial vision which can rest nowhere. It is dead, and ought to be buried; only its ghost stalks. There is nobody but my colleague so poor as to do it reverence.

Mr. WADE. The Topeka constitution received the unqualified acceptance of one branch of Congress, and was rejected by the other, in the same way that Lecompton has been admitted by one and rejected by the other.

Mr. PUGH. If the bill for the admission of Kansas should not now pass both Houses, Lecompton will be dead, also.

Mr. WADE. The Senator did not understand me. I did not ask the question, why not accept the Topeka constitution? I merely asked the question why, when both these constitutions had been acted upon and received equal countenance from Congress, and there was a dispute about the validity of them, did not this committee, meeting with full power to make a just conclusion of the whole matter that should be satisfactory to everybody, agree to submit them all, or to lay both aside and do what was right?

Mr. PUGH. I do not wish to misrepresent my colleague. I attach no importance to the fact that Lecompton has been recognized by the one House or the other. I am willing to treat it as a proposition to which neither House has ever agreed. I attach no importance to the fact that one House passed a bill for admission, and the other did not. That does not make a law; nor do I admit that Congress could give any validity to one constitution more than another. My objection to the Topeka constitution is, that it was never formed by the people of Kansas; that there was no law authorizing the election of the delegates who framed it; that there was no law authorizing a convention to be assembled; that there

was no law authorizing anybody to vote for or against it; that there was no law to secure the protection of the ballot-box. It is idle to talk of that as a constitution. It is no more a constitution than if my colleague had written it with his own hand, and offered it to Congress—not a whit.

So as to the constitution lately proposed by the convention at Leavenworth. I say that was an illegal proceeding. The bill for calling that convention never passed the Legislature of Kansas. Legislatures must pass bills according to the form prescribed in the organic act; and yet this Legislature, which is said to have been the representative of the friends of peace, sat sixty days, and took good care not to pass the most important bill proposed. The law requires, for the protection of the Legislature, and the protection of the people themselves, to secure deliberation, that every bill which has passed both Houses shall be presented to the Governor for approval or rejection, and that the Governor shall have three days to consider it; to consider before he approves or rejects it, and returns it to the Legislature. Well, sir, they took good care to send the bill to the Governor at so late a period of the session that the Legislature had dissolved, and expired, and was dead by the provisions of the organic act before the expiration of the period during which the Governor could examine it. He is allowed three days by the organic act. I know it is pretended that by counting the day on which the bill was presented to the Governor, three days could be eked out; but it is too late to make any such question. It was settled during the first Administration of this Government, in the most solemn and decisive manner, that the day on which a bill is presented to the President of the United States shall not be counted. The question arose in the case of the first Bank of the United States I have the decision here, and ask the Secretary to relieve me by reading two letters which I send to his desk.

The Secretary read the following letters:

WEDNESDAY NOON, February 23, 1791.

SIR: I have this moment received your sentiments with respect to the constitutionality of the bill to incorporate the subscribers to the Bank of the United States.

This bill was presented to me by the joint committee of Congress, at twelve o'clock on Monday, the 14th instant. To what precise period, by legal interpretation of the Constitution, can the President retain it in his possession, before it becomes a law by the lapse of ten days?

GEORGE WASHINGTON.

TO THE SECRETARY OF THE TREASURY.

FEBRUARY 23, 1791.

SIR: In answer to your note of this morning, just delivered to me, I give it as my opinion that you have ten days, exclusive of that on which the bill was delivered to you, and Sundays; hence, in the present case, if it is returned on Friday, at any time while Congress are sitting, it will be in time.

It might be a question, if returned after their adjournment on Friday.

I have the honor to be, with perfect respect, sir, your most obedient servant,

A. HAMILTON.

TO THE PRESIDENT OF THE UNITED STATES.

Mr. PUGH. It appears that the bill to incorporate the Bank of the United States was presented to General Washington on the 14th day of February. It was approved on the 25th day of February, as the statute-book will show, ten days afterward, excluding the day of presentation, and excluding a Sunday which intervened. Is that a precedent of any authority? The first President of the United States, himself the president of the convention which framed the Constitution of the United States; and Mr. Hamilton, then Secretary of the Treasury, and one of the authors of the Constitution; these are the persons who made the decision. Thus, at the earliest period at which the Federal Constitution could receive an interpretation, it was interpreted; for General Washington retained that bill during the full term of eleven days, one of them being a Sunday, exclusive of the day on which it was presented. It is idle to pretend that the bill calling the Leavenworth convention ever passed the Territorial Legislature. It was not a law. There was no authority to prescribe the alleged vote to be given upon the constitution by the people. It is all void—no more respectable than the Topeka movement. I say, then, there is no constitution from Kansas but that framed at Lecompton.

But even if the Leavenworth constitution were legal, it is worse than either of the others. Even

if the bill had passed, it was not complied with. It expressly provides that the constitution shall not take effect until it has been ratified by the people. These delegates have not been elected, as the Lecompton delegates were, with authority to form a constitution themselves. They were elected with authority to propose one to the people; and the law requires that it shall be submitted to the people, and be voted on by the people. But, sir, to whom has it been submitted? To the people? Not at all. It is submitted to the negroes of the Territory.

I admit that any State of this Union can authorize negro suffrage. If the constitution of Kansas had been once legally established, and she had become a State, indubitably her people, by an amendment of the constitution, or in any other proper form, might enfranchise the negro, the woman, the alien, or even the idiot. Once admitted, once elevated to the dignity of a sovereign, any State has the right to define its elective franchise; but it cannot make citizens of the United States. That was the distinction recognized in the Dred Scott case.

Mr. WILSON. Will the Senator allow me a word?

Mr. PUGH. Certainly.

Mr. WILSON. The Senator from Ohio is altogether mistaken in regard to this matter. The Leavenworth constitution in this respect, is exactly like the Lecompton constitution, word for word, and comma for comma.

Mr. PUGH. Except the word "white," in the schedule of the Lecompton constitution.

Mr. WILSON. The word "white" is not there. It is a precise and exact copy of the Lecompton constitution in this respect—nothing more, nothing else.

Mr. PUGH. Does the Senator from Massachusetts mean to say that under this new constitution negro suffrage is not to be admitted?

Mr. WILSON. I mean to say that so far as negroes are concerned, the Lecompton and Leavenworth constitutions are, word for word, comma for comma, precisely, exactly alike, Leavenworth being a copy of Lecompton.

Mr. PUGH. I will show that the Senator is incorrect in that, but I propose to show it after a while. Whatever the language of one particular clause, the other clauses of the Lecompton constitution exclude slaves and free negroes—exclude free negroes from the State; but the Leavenworth constitution, as I shall show, makes provision for them to become voters. I wish, however, to dispose of the other question first. I admit that a State once formed and erected into a sovereignty may enfranchise the negro; it is a question to be decided by each State for itself. I am no enemy of the negro. I would not abuse him. I have always voted for what I thought would benefit him. I voted to repeal the black laws of Ohio, and have always been proud of the vote. I would not oppress the negro; but I never intend that he shall be elevated to the rank of citizenship, or enjoy the right of suffrage; and the people of Ohio entertain the same sentiments.

But, sir, when you come to gather citizens of various States into a Territory, and to form a political organization for the first time, the negro finds no place of entrance. I said that was decided in the Dred Scott case; and here is the language:

"The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word 'citizens' in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them."

"It is not the province of this court to decide upon the justice or injustice; the policy or impolicy; of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignty

and framed the Constitution. The duty of the court is, to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning, when it was adopted."

"In discussing this question, we must not confound the rights of citizenship which a State may confer within its own limits and the rights of citizenship as a member of the Union. It does not by any means follow, because he has all the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all of the rights and privileges of the citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State. For, previous to the adoption of the Constitution of the United States, every State had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights. But this character of course was confined to the boundaries of the State, and gave him no rights or privileges in other States beyond those secured to him by the laws of nations and the comity of States. Nor have the several States surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each State may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet he would not be a citizen in the sense in which that word is used in the Constitution of the United States, nor entitled to sue as such in one of its courts, nor to the privileges and immunities of a citizen in the other States. The rights which he would acquire would be restricted to the State which gave them. The Constitution has conferred on Congress the right to establish a uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so. Consequently no State, since the adoption of the Constitution, can by naturalizing an alien invest him with the rights and privileges secured to a citizen of a State under the Federal Government, although, so far as the State alone was concerned, he would undoubtedly be entitled to the rights of a citizen, and clothed with all the rights and immunities which the constitution and laws of the State attached to that character."

"It is very clear, therefore, that no State can, by any act or law of its own, passed since the adoption of the Constitution, introduce a new member into the political community created by the Constitution of the United States. It cannot make him a member of this community by making him a member of its own. And for the same reason it cannot introduce any person, or description of persons, who were not intended to be embraced in this new political family, which the Constitution brought into existence, but were intended to be excluded from it."

The court acknowledges that any State may authorize a negro to vote; but he cannot be made a voter otherwise, nor do his rights of citizenship and suffrage extend beyond the limits of that State.

The Senator from Massachusetts contradicted me in regard to the Leavenworth constitution. I say the constitution formed at Leavenworth is not submitted to the people. It is submitted to the ordeal of negro votes. It is not even required that the negroes shall be free; they may be slaves. It submits to the slave whether he will emancipate himself by his own vote, by adopting the constitution; and to the free negro the question whether he will raise himself to the rank of citizenship; and all this contrary to the good old rule that no man shall be allowed to vote in his own case. Thus the white men of Kansas are to have a government made for them, not through popular sovereignty, but through negro sovereignty. That is the last invention.

Now, did I tell the truth about this Leavenworth constitution? I do not see the Senator from Massachusetts in his seat any longer. If he were here, I should like to inquire of him as to the authenticity of this document. I find it in what is called "The Quindaro Chindowan." Who can tell me what sort of a paper that is?

Mr. WILSON. It is a free-State paper in the Territory of Kansas.

Mr. PUGH. The editor appears to have been one of the delegates at Leavenworth, and chairman of the committee which drafted the address of the convention. That address is here, but I shall not read it. Let us see how the constitution is to be ratified. The second section of the schedule provides:

"Sec. 2. This constitution shall be submitted to a vote of the people for approval or rejection, on the third Tuesday of May, 1858. The vote shall be by ballot; and those in favor of the constitution shall write or print upon their ballots the words: 'For the constitution;' and those opposed to the constitution, shall write or print upon their ballots the words: 'Against the constitution.'"

You observe there is no definition of the right of suffrage here. But, in the first section of article second, on the elective franchise, they provide:

"Sec. 1. In all elections not otherwise provided for by the constitution, every male citizen of the United States, of the age of twenty-one years or upwards, who shall have resided in the State six months next preceding said election, and ten days in the precinct in which he may offer to vote, and every male person of foreign birth, of the age of twenty-one years or upwards, and who shall have resided in the

United States one year, in this State six months, and in the precinct in which he may offer to vote ten days next preceding such election, and who shall have declared his intention to become a citizen of the United States conformably to the laws of the United States, ten days preceding such election, shall be deemed a qualified elector."

Here are negro suffrage and alien suffrage together.

Mr. HARLAN. It seems to me that provision excludes negro suffrage.

Mr. PUGH. Wherein?

Mr. HARLAN. Under the Dred Scott decision negroes are decided not to be citizens of the United States. As I understand this provision in the Leavenworth constitution, it is that all male citizens of the United States over the age of twenty-one years may vote. Then, if negroes are not citizens of the United States they are not enfranchised by this provision.

Mr. PUGH. I agree with the Senator that negroes are not citizens of the United States; but the question is, whether it was intended that they should vote for or against this constitution; and to determine that it is necessary to inquire whether the convention recognized or overruled the Dred Scott decision. I say the Leavenworth convention determined to overrule it. I find under the editorial head of this paper—

Mr. DOOLITTLE. Will the Senator allow me?

Mr. PUGH. Certainly.

Mr. DOOLITTLE. I beg leave to read from the Lecompton constitution precisely the same words:

"Every male citizen of the United States above the age of twenty-one years, having resided in this State one year, and in the county, city, or town, in which he may offer to vote, three months, next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections."

Mr. PUGH. Where does the Senator find that?

Mr. DOOLITTLE. In the Lecompton constitution.

Mr. PUGH. What article and section?

Mr. DOOLITTLE. In section one of article eight, the title of which is, "elections and right of suffrage."

Mr. PUGH. That is the definition of suffrage after Kansas shall have been admitted into the Union.

Mr. DOOLITTLE. You read from the same provision in the Leavenworth constitution.

Mr. PUGH. The distinction is obvious. The schedule of the Lecompton constitution only allows "white male inhabitants" to vote upon its adoption or rejection. The Leavenworth constitution refers to itself (article second, section first) for the qualification of voters at the election by which it is to be ratified or rejected. Besides, as I have said, the Lecompton constitution excludes free negroes from the State.

But, sir, I ask, in what form was the Leavenworth constitution intended to be ratified? Did the convention mean, in point of fact, to allow negro suffrage at the election for or against the constitution? My allegation is, that, knowing themselves to be a minority; knowing that most of the free-State men in Kansas abhorred them as much as the pro-slavery men, these Leavenworth delegates invented a scheme to secure the adoption of their pretended constitution by the aid of ballot-boxes stuffed with negro votes.

It must be observed that the Legislature and State officers are to be chosen at the same election with the vote upon the constitution. I can see no difference in principle between this scheme and the alleged attempt of certain people in Missouri to impose a constitution and State officers upon Kansas. I confess, for one, as a matter of personal taste, I would rather have a constitution imposed on me by white men, than by negroes, as the Leavenworth scheme proposes. The last section of the schedule provides:

"Sec. 12. The first General Assembly shall provide by law for the submission of the question of universal suffrage"—that is, negro suffrage—

—to a vote of the people at the first general election of the members of the General Assembly: *Provided*, That the qualifications of voters at that election shall be the same as at the vote on the submission of the constitution."

The delegates have not even obeyed their own pretended convention act; they have not remitted their constitution to the people; and after all that has been alleged here and elsewhere, on the subject of votes from Missouri, given under the Lecompton constitution, the very worst does not

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equal this deliberate attempt to palm a constitution on the people of Kansas by the aid of negro votes.

I repeat, therefore, when we remit the question of the admission of Kansas to her people, inasmuch as she has no constitution except the one formed at Leecompton, such admission, perforce, recognizes that as the organic law. We are not responsible for this juxtaposition and intimate connection of the questions. We, as I have said, cannot remit the constitution to a popular vote, but we do submit the question of admission by this bill, as we have a right to submit it. That does involve in the mind of every voter, and in a manner wholly unobjectionable, so far as we are concerned, the question whether he is or is not satisfied with the Leecompton constitution.

But the honorable Senator from Vermont, and my colleague, complained that there would be fraud practiced at this election; they said there would be false returns, there would be fictitious votes, and thus the people would be cheated.

Mr. COLLAMER. I hope the Senator will do me the justice to say that I spoke entirely from history. Having been done before, and encouraged, have we not a right to suppose that it may be done again?

Mr. PUGH. I must hold the Senator to what he has done. Admit all the frauds alleged heretofore: what new provision did he adopt in order to prevent false votes and false returns? Where did his wisdom culminate? It culminated in the fourth section of the House bill, and that section is copied into this bill. We have adopted his own remedy.

Mr. COLLAMER. I said on that occasion that our security was founded in the appointment of the board who were to conduct the election, being composed of an equal number of officers chosen by the people and by the President.

Mr. PUGH. I shall come to that directly. I say the Senator's wisdom and the wisdom of those who voted for the House amendment, is expressed in its fourth section. That section is in these words:

"SEC. 4. And be it further enacted, That in the elections hereby authorized, all white male inhabitants of said Territory over the age of twenty-one years, who are legal voters under the laws of the Territory of Kansas, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said elections. And if any person not so qualified shall vote or offer to vote, or if any person shall vote more than once at either of said elections, or shall make or cause to be made any false, fictitious, or fraudulent returns, or shall alter or change any returns of either of said elections, such person shall, upon conviction thereof before any court of competent jurisdiction, be kept at hard labor not less than six months, and not more than three years."

The conferees copied that section literally into their bill. They have taken the safeguard proposed in the House bill for the punishment of illegal voting and false returns.

Mr. COLLAMER. Did I not state that our great security was founded on the construction of the board?

Mr. PUGH. Yes, sir, I understand that. I have become acquainted of late years with the tactics of the party with which the honorable Senator acts. Whenever they are defeated at any election, they affirm that it was done by fraud. They never admit themselves fairly beaten; they are defrauded, forsooth, in some manner. What is the difference between one board and the other—between the board constituted by this bill and the board constituted by the House bill, for which the Senator voted? By the House bill, the Governor and Secretary of the Territory, with the President of the Council and the Speaker of the House of Representatives in the Territorial Legislature, constituted the board to receive the returns and publish the result of the election. This bill adds the district attorney to those four officers. How can that make any difference? The Senator must have relied on the Governor and Secretary before, because he could not have a majority of the board without one of them. The utmost he could expect otherwise would be an equal division of the board, and then nothing is decided. The Governor and Secretary remain as members of the board; and as to the district attorney, he is an officer confirmed by our votes, and whose successor must needs be confirmed by our votes. It is too late to pretend that, merely because the district attorney is nominated by the

President and confirmed by the Senate, he cannot be trusted. You have already agreed to trust two officers nominated by the President and confirmed by the Senate, to wit: the Governor and Secretary. My colleague asks, why is the district attorney introduced? I answer, that there shall be a majority in case of division; because, under the House bill, if there should be an equal division, the board would be powerless, and nothing accomplished.

But my colleague says that the Governor and Secretary are appointed by the President of the United States, whereas the President of the Council and the Speaker of the House represent the people. Indeed! They can be trusted, he affirms, because they represent the people! How do they represent the people? Each of them was chosen Councillor or Representative, as the case may be, by the people of his county; and his associates in the Council or the House chose him to the chair. My colleague thinks that a man who derives his title in that way can be trusted; that a man who has been elected by the people to represent a district of country, and then chosen to the chair, is the proper man to receive and count the votes and declare the result. Why, sir, that is the case of John Calhoun. He was elected almost unanimously a delegate to the Leecompton convention from the county of Douglas; he was elected president of the convention; and yet, from the first day of the session, this Chamber has been filled with denunciations against him. At last, however, we are told that the safety of the House bill consisted in two John Calhouns. Was ever an excuse more preposterous?

The Senator from New Hampshire [Mr. HALE] made a suggestion yesterday which has been repeated to-day in a diluted form by the Senator from Michigan. He said that if Kansas has a population sufficient to be admitted as a slaveholding State now, she has a population sufficient to be admitted as a non-slaveholding State. Undoubtedly; nobody denies that; but the difficulty is that she has only applied for admission as a slaveholding State; and the Senator, with all his friends, stands committed to that; for they received her, by the House bill, as a slaveholding State—just as we now do.

And so, sir, the opponents of this bill have answered themselves at every stage, in regard to every complaint, every pretense which they make here. It is a measure which, while it preserves the constitutional limits of the Federal Government, and forbears to invade the rights of the States, does, in an unobjectionable manner, by submitting the question of admission to the people, enable them, if they do not like the Leecompton constitution, to prevent it from taking effect.

But it is asked why, in case the people of Kansas vote in the negative, we do not offer them the alternative of another constitution? Well, sir, they have no other, and therefore cannot be admitted. What is the question submitted? As I stated, under this bill, the question to the people of Kansas is, "will you come into the Union now?" If they answer in the affirmative, well; if in the negative, why ask them the same question again? Since they do not choose to be admitted at present, and have no other constitution, there is an end of the case.

But the Senator from Michigan, and the rest of these Senators, declare that if the people of Kansas do not accept this proposition, they cannot be admitted for an indefinite time. Well, sir, where is the injustice of that? Kansas is to remain a Territory until she has a population sufficient, according to the ratio, for a Representative in Congress. The Senator from Michigan affirms that she has now forty thousand inhabitants. I believe the Senator from New Hampshire said so yesterday; and all these Senators are now eager to proclaim the fact. I suspect they speak the truth, and fear that we committed a great mistake, in July, 1856, when we so far yielded to their clamor as to introduce and adopt the Toombs bill. Having so yielded, however, on the report of these Senators, as to the population of Kansas at that time, and having consented that a constitution might be formed upon the basis of the Toombs bill, I stand here to-day, in redemption of my promise, to vote for the admission of Kansas under the Leecompton constitution. But I never agreed to vote

for her admission otherwise; and if she has no more than forty thousand inhabitants I will not vote that two Senators shall come hither to represent a less population than eight wards of Cincinnati contain.

But, sir, with what face can those Senators now say that Kansas has not ninety-three thousand inhabitants? Does the Senator from New York [Mr. SEWARD] say so? If he does, it ought to admonish us all that no dependence can be placed in his statements of fact relative to Kansas. On the 9th of April, 1856, the Senator addressed us in support of the Topeka bill; and on that occasion said:

"The constitution does not prescribe ninety-three thousand seven hundred, or any other number of people, as necessary to constitute a State. Besides, under the present ratio of increase, Kansas, whose population now is forty thousand, will number one hundred thousand in a few months. The point made concerning numbers is, therefore, practically unimportant and frivolous."

This was on the 9th of April, 1856, two years since. Where are the one hundred thousand inhabitants of Kansas? The Senator from Massachusetts, [Mr. SUMNER,] on the 20th of May, 1856, delivered a speech on the same subject; and here is his statement:

"It is objected that the population of Kansas is not sufficient for a State; and this objection is sustained by under-reckoning their numbers there, and exaggerating the numbers required by precedent. In the absence of any recent census, it is impossible to do more than approximate to the actual population; but, from careful inquiry of the best sources, I am led to place it now at fifty thousand"—it was forty thousand on the 9th of April, and, before the 20th of May, had increased to fifty thousand—

"—though I observe that a prudent authority, the Boston Daily Advertiser, puts it as high as sixty thousand; and while I speak, this remarkable population, fed by fresh immigration, is outstripping even these calculations. Nor can there be a doubt that, before the assent of Congress can be perfected in the ordinary course of legislation, this population will swell to the large number of ninety-three thousand four hundred and twenty, required in the bill of the Senator from Illinois."

That was said two years ago. Well, sir, where are all these inhabitants? Such was the pretext made for the admission of Kansas under the Topeka constitution. There was then no limit to the Senators from New York and Massachusetts in their assertions of fact, or their prophecies. Then Kansas had forty, fifty, or sixty thousand inhabitants; she was to have ninety-three thousand before the bill could even be passed in Congress, and one hundred thousand in a few months. But now, sir, when the Leecompton constitution is before us, two years after these statements and prophecies, we are assured that Kansas contains not more than forty thousand inhabitants. Had she forty thousand? Has she ever had those magnificent numbers promised us by the Senators from Massachusetts and New York two years ago? If so, she has been decreasing in population of late, and at such a ratio of decrease, unless soon admitted, never can become a State.

This shows that whenever an assertion of fact is necessary for political purposes, there will be somebody to manufacture it, and that even Senators, representing the sovereign constituencies of this Union, will be so far misled as to affirm here, solemnly, what is, after all, a mere and gross falsehood. If Kansas has but forty thousand people, she ought not to come into the Union; and I excuse my vote solely on the ground that the Leecompton constitution was formed under the provisions of the Toombs bill. We agreed on those provisions. It was no question whether the bill should pass Congress or pass the Legislature. The question was whether, if, under the safeguards and upon the principles developed in that bill, a convention of delegates should be chosen by the people, we would abide by the result? I said that I would. I made no condition to the effect that all the qualified electors should attend the polls. I supposed that those who absented themselves would be bound by the action of those who voted. I will follow the Toombs bill to the end; but I will follow no other. If it be true, in spite of representations made here in April and May, 1856, on the faith of which I voted for the Toombs bill, as others did, that Kansas has not now more than forty thousand inhabitants, I will not authorize her to make any other constitution with a view to her admission as a State.

Who is to complain of this? We inquire of Kansas, "will you come into the Union now?"

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Suppose she says, "no; I will not. I will not come in because I do not like my present constitution;" or "because I demand the thirty millions of public lands claimed in my ordinance;" or "because I have not enough population to bear the expenses of a State government;" or for any other reason: then why authorize her at once to form a new constitution, or seek admission into the Union? I will authorize her to do that whenever she has a sufficient population. We should have required it in the first place. From that, in my opinion, most of the troubles in Kansas have arisen. I said here two years ago that I did not believe the question of slavery could account for all those troubles: they result from the conduct of mere speculators and rival aspirants to office in the Territory, who have been anxious to stimulate a small community into the proportions of a full-grown State. It is quite remarkable that free-State partisans, so called, should be so industrious in voting whenever there is an election for officers. They could vote at the election for members of the Territorial Legislature in October, 1857, and for members of the Legislature and State officers in January, 1858; but whenever the question of slavery was involved, whether at the election of delegates to the constitutional convention, or the vote upon the seventh article of the constitution in December last, they were industriously absent.

But, sir, does my honorable friend, the Senator from Illinois, [Mr. DOUGLAS,] complain of the population required by this bill? I have before me another bill:

"In the Senate of the United States, March 17, 1856:

"Mr. DOUGLAS, from the Committee on Territories, reported the following bill: 'A bill to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union when they have the requisite population.'"

This bill of the Senator from Illinois provides—

"That whenever it shall appear, by a census to be taken under the direction of the Governor, by the authority of the Legislature, that there shall be ninety-three thousand four hundred and twenty inhabitants (that being the number required by the present ratio of representation for a member of Congress) within the limits hereinafter described in the Territory of Kansas, the Legislature of said Territory shall be, and is hereby, authorized to provide by law for the election of delegates by the people of said Territory to assemble in convention and form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States in all respects whatsoever."

That is the very provision of this bill. We have taken his own proposition, as reported from the Committee on Territories. If this be too ancient, let us read the amendment to the Arizona bill, presented on the 8th of April, 1858, by the Senator from Illinois, from the Committee on Territories. The fourth section of that amendment or substitute is:

"Sec. 4. And he it further enacted, That whenever said Territories [New Mexico and Arizona] shall contain a sufficient population to constitute a State—to wit: the number required by the then ratio or representation for a member of Congress, to be ascertained by a census taken in pursuance of law—the Legislature of said Territory may proceed to call a convention for the purpose of forming a constitution of State government; which constitution shall be submitted to the people for ratification or rejection; and if ratified by a majority of the legal voters, in the limits of the proposed State, but not otherwise, may be sent to Congress in the form of an application for admission into the Union on an equal footing with the other States, with such boundaries as Congress shall prescribe. This section shall be, and is hereby, incorporated into and made a part of the organic law of each of the Territories of the United States, except the Territory of Utah."

So that if we should strike out the alternative proposed by the committee of conference and leave this a bill for submitting the question of present admission to the people of Kansas, the Senator's bill for Arizona would supply the rest.

Mr. DOUGLAS. My friend from Ohio is under some slight misapprehension in regard to my views upon that question. I say to him now that if he will strike out all about the Lecompton constitution, and provide that neither Kansas nor any other Territory of the United States shall form a constitution and State government and come into the Union until it has the requisite population for a Representative to Congress, I will vote for it. My objection is to saying to Kansas, "you may come in with forty thousand if you take a constitution you do not like; but you shall wait until you have one hundred thousand unless you vote for that particular constitution." If you will make

the rule general, apply it to Kansas and all other Territories, I will vote for it to-day or any other day.

Mr. PUGH. Mr. President, I have said before that the Lecompton constitution is not submitted to a popular vote; we do not propose to "force" the people of Kansas one way or another. Every Senator knows that these grants of public lands, which are said to be bribes, are grants made in the case of every new State, and that they will as certainly be made when Kansas comes into the Union two, six, or ten years hence, as if it were so provided now. She must be a State before we can give them to her, and that is the only reason why we do not now give them in any event; and hence I say that is an immaterial element in the question. The real question is as the Senator from Michigan stated it at the beginning of the session. He said the people of Kansas might not desire to come into the Union, and this without the least reference to the Lecompton constitution. That question we now propound to the people: do you desire to come in? If so, as you have no other constitution but that formed at Lecompton, we must recognize that or none.

I bound myself—and so did my friend from Illinois—by voting for the Toombs bill, that upon any constitution framed under the provisions of that bill, I would waive the question of population; but I never agreed to that waiver in any other event; and now, since the Toombs bill has been executed, all its force spent; now that it has failed, if you please, by reason of the fact that some of the people of Kansas would not vote at an election where they could have fairly and truly expressed their wishes; now that every argument of peace and conciliation and compromise has been made and rejected; now when another opportunity is given for the people of Kansas to become a State, with full power and authority to rectify and amend all their institutions in their own way; if they refuse that, I throw aside the Toombs bill, and follow the lead of my honorable friend from Illinois in his bill to authorize a constitution and State government when Kansas shall have the requisite population. That is my position; and I state it to the Senate in defense of the report of the committee of conference. I stated, when the House bill was before us, that I was willing to give the people of Kansas, in any form in which I could constitutionally do it, a right to vote for or against Lecompton. I cannot remit the constitution to them directly; but I will do whatever else I can. If they reject this bill, let them wait until they have a right to admission, and then demand it.

The Senator from Michigan declares that we do not settle the question, and all these Senators have prophesied civil war. Mr. President, I am tired of such prophecies. I can only declare this, in my opinion, a fair and honest proposition; and if the people of Kansas consult their own interests, they will at once silence all agitation. If they are sufficiently numerous to take upon themselves the burdens of a State government, they should come into the Union, and, if there be anything amiss in their constitution, proceed, in a regular, orderly manner, to reform it. If they have not the numbers sufficient to justify admission, they should peaceably go about their business, tilling their farms, until they have a population sufficient to bear such burdens.

But, sir, how much do circumstances alter cases! When the Topeka constitution was before us, in April, 1856, we were urged to admit Kansas at any hazard, no matter what her constitution, no matter how irregular, no matter how formed. We were told that her case was so urgent, her distress so great, that the mere admission of her as a State, the mere elevation of her to sovereign dignity, without anything else, would heal all her wounds and infirmities. The Senator from New York said so in his speech of April 9, 1856, from which I before quoted:

"Congress has power to admit new States thus organized. The favorable exercise of that power will terminate and crown the revolution. Once a State, the people of Kansas can preserve internal order, and defend themselves against invasion. Thus, the constitutional remedy is as effectual as it is peaceful and simple."

"This is the remedy for the evils existing in the Territory of Kansas, which I propose. Happily, there is no need to prove it to be either a lawful one or a proper one, or the only possible one."

He urged the immediate admission of Kansas upon a constitution acknowledged to be irregular. He contended that the urgency was so great we should overlook all the requisites of law. He said that, once a State, Kansas would instantly be relieved from all her troubles. The Senator from Massachusetts [Mr. SUMNER] took up the wondrous tale. In his speech of May 20, 1856, that Senator said:

"Next, and lastly, comes the remedy of justice and peace, proposed by the Senator from New York, [Mr. SEWARD,] and embodied in his bill for the immediate admission of Kansas as a State of this Union, now pending as a substitute for the bill of the Senator from Illinois."

Not the admission of Kansas as a free State—not the admission of Kansas with any particular constitution—but the mere admission of Kansas in any form. He continued:

"Rarely has any proposition, so simple in character, so entirely practicable, so absolutely within your power, been presented, which promised at once such beneficent results. In its adoption, the crime against Kansas will all be happily absolved, the usurpation which it established will be peacefully suppressed, and order will be permanently secured. By a joyful metamorphosis, this fair Territory may be saved from outrage."

Sir, the Senator ascended into rhyme, and here it is:

"Oh, help," she cries, "in this extremest need,
If you who hear are deities indeed;
Gape, earth, and make for this dread for a tomb,
Or change my form, whence all my sorrows come."

Two years ago, admission, in any form, in any circumstances, would relieve Kansas at once. It was her territorial form which caused all the trouble; and if she could be relieved of that by Congress, she would be instantly quiet. Well, sir, we now offer the boon—that which can lift from the earth her pale and bleeding form, heal every wound, hide her nakedness and shame. We offer it with a declaration by the President and both Houses of Congress, that her people shall henceforth, if admitted into the Union, be their own masters, make and unmake their constitution at will, retain Lecompton, or amend or abolish it, as they please. But, withal, the Senator from Michigan warns us—perhaps in behalf of his new allies—that this controversy will enter into the next presidential election. Be it so. If the people of the United States—the people of the northern States and the people of the southern States—have not the virtue, the self-command, the patriotism, to restrain so disgraceful an exhibition as we have seen for the last three years, one which sacrifices everything to the aggrandizement of mere partisan leaders, they have not the virtue longer to maintain a republican form of government; and it can make little difference what ensues.

Here is a Government, formed by wise and patriotic statesmen, who established its foundations on a principle of equality as between the States and the people of the States. They believed that non-slaveholding and slaveholding States could remain together in union, upon terms of equality, peace, and justice, under the protection of a common Government. From a few feeble colonies on the Atlantic, we have risen to be the mightiest empire in the history of time. Our emigration has crossed the Alleghenies, and new communities, new sovereignties, are gathered along the Mississippi, from its sources near the lakes to its mouth in the Gulf of Mexico. This Government has protected us in the days of our youth and until now. It has been full of blessing to us and to all our constituents. If it is to be sacrificed, if this Kansas game of foot-ball is to be played every four years, at the expense of all our peace and safety, and as a means whereby this man or that man or the other man shall be elevated to the presidential chair and have the disposition of office and patronage, then our liberties are lost, and the form of our Government is immaterial.

But, sir, I hope otherwise. The people of Kansas may act unwisely now as heretofore. Experience is a hard master, and they have learned his discipline. I trust they will seek redress in this peaceable manner; but if not, if they persist in a disturbance so causeless in subjugating the vital necessities of thirty millions of people to their miserable disputes and quarrels, I believe we have yet wisdom enough, outside of Kansas, to let them alone, and turn our attention to other and more important affairs. I am sorry to have taxed the indulgence of the Senate at such length.

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Legislative, etc., Appropriation Bill—Mr. Mason.

SENATE.

LEGISLATIVE, &c., APPROPRIATION BILL.

DEBATE IN THE SENATE.

THURSDAY, May 13, 1858.

The Senate having passed the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1859, and having proceeded to consider the bill to repeal the laws allowing bounties to vessels engaged in the cod fisheries, on which Mr. HARLAN was speaking,

Mr. DOOLITTLE. Mr. President, if the Senator from Iowa will yield me the floor, I desire to make a motion to reconsider the vote on the appropriation bill which has just been passed. I do so for this reason: on examining the bill, I find that there is an appropriation made in relation to the reporters of the House of Representatives, and no appropriation made in relation to the reporters of the Senate.

Mr. HUNTER. I suggest to the Senator, if he wishes to move on that subject, he had better wait until the miscellaneous bill comes up, and move on that. We have got through with this bill now. He will have another chance when the miscellaneous bill comes up.

Mr. HARLAN. I give way.
The PRESIDING OFFICER. (Mr. Foor.) Does the Senator from Wisconsin insist on the motion to reconsider?

Mr. DOOLITTLE. I will enter the motion.
Mr. HUNTER. I hope the Senator will not enter the motion, because we had better go through with it. I think, though, he had better accept the suggestion, and wait until the miscellaneous bill comes up. It cannot be more than ten or twelve days.

Mr. DOOLITTLE. I think the matter might as well be settled now, and put the reporters on a footing of equality. That is the best mode of sending the subject to the House of Representatives.

Mr. HUNTER. I hope that, as the reconsideration is a question which has precedence, it will be taken up; but I trust the bill will not be reconsidered, because, if anybody desires to accomplish the purpose of the Senator who moves to reconsider, it can be done in the miscellaneous bill. I hope the Senate will not reconsider it. We had better let it go.

The PRESIDING OFFICER. Will the Senate reconsider the vote by which they passed the appropriation bill making appropriations for certain legislative, executive, and judicial expenses?

Mr. TRUMBULL. It is so manifestly proper that our own reporters should be on the same footing as those of the other House, that it seems to me this motion ought not to be objected to. We passed a deficiency bill the other day, by which we paid the reporters of the House of Representatives an additional compensation. That compensation was not paid to our own reporters; and if there are any men connected with this Government, of whom I have any knowledge, that earn their money, it is the men who do the reporting for the Senate. So long as we employ them we ought to pay them. I know I heard it suggested on one occasion, by the Senator from Georgia, [Mr. TOOMBS,] that he did not want any reporting. Very well; if we adopt that plan, then we get rid of them; but the Senator from Georgia does not wish to have them employed, and work all night without paying them, of course. If he employs them, he will pay them—no doubt about that; we all agree to that, the work being done. Now, I see in this bill an appropriation in these words:

"For the usual additional compensation to the reporters for the Congressional Globe for reporting the proceedings of the House of Representatives for the next regular session of the Thirty-Fifth Congress, \$800 to each reporter, \$4,000."

Certainly, we ought to place the reporters of the Senate upon the same footing. As I said, there are no men connected with the Government, of whom I have any knowledge, that work so many hours and perform so much labor—and so faithfully, too, I will add—as the reporters of the Senate. I have been astonished to see the accuracy with which our proceedings are reported. I think it is improper to suffer an appropriation bill of this kind to pass without providing for our own

officers; and I trust the vote by which the bill was passed will be reconsidered.

Mr. TOOMBS. The Senator from Illinois makes a very strange statement of this case, which I think must arise entirely from his not having examined it. He says, if we employ these people, we ought to pay them. I say so, too. That is the case he states. But we do not employ them, they never have been employed by the Senate of the United States, or by the House of Representatives. They are not officers of this House—not one particle more than they are officers of the executive department. We made a contract with Mr. John C. Rives to report and to publish the proceedings of the Senate. We first agreed to pay him for that, \$7 50 a column; then we threw him the binding; and then we gave him a cent for every five pages, which is fifty per cent. more than his contract price; and there have been two or three additions to it. We have no more right, and no more business, to pay his reporters, as we do not employ them, than we have to pay the men who set up the types.

Mr. FITZPATRICK. Move to strike out the House reporters.

Mr. TOOMBS. That is not up. These bills are pressed so closely that I have not time to examine them thoroughly, and I generally have to rely on the Finance Committee in regard to them; for no human being can look through all the appropriations of this Government in the time allowed us. We have to rely on our committees. I had not supposed an abuse of this kind would have escaped the vigilance of the Committee on Finance of the Senate. It ought not to have done so, because it is paying persons not employed by the two Houses at all, and that never have been employed by the two Houses. You are paying money that ought to be paid by the man whom you engage to do this business. You pay about one hundred and thirty thousand dollars a year for this business to your Public Printer; and then, under the pretext that these persons are your officers, you are asked to pay those whom you have employed him to pay. Is there one man in this Senate who considers it just and right, or dealing fairly by the public Treasury?

I speak nothing of the merits of these men; they may be the best reporters in the world; they may be entitled to \$8,000, for all I know or care; but is this job to be given to the Public Printer any longer? I consider it infamous. That is my judgment of it. You ought to dismiss your Public Printer, or else make him comply with his contract. Why do you not go and pay his printers? They work at night, too. Why do you not pay other people? Why should you pay the employees of a person whom you employ? You might just as well, when you employ a man to build an extension to your Patent Office and Post Office, go and pay every one of his workmen. You are to pay these men because they happen to have access to Senators, and probably write out speeches for them, and do little jobs of that sort for those who are unable or unfit to do it themselves. These poor devils who go along here and work for \$1 50 a day, and are at work on the public buildings, are employees of your employe—and they are doing your work as much as these people. Is not Mr. Rives's compensation enough? It is nearly twice as much as you first employed him at; throwing in the binding, certainly fifty per cent. more. You gave him, at first, \$7 50 a column, and have increased it one cent for every five pages; and you have added to the number of copies allowed each Senator from twelve to ninety-three, to give an additional profit. You have made three specific departures from the original contract, giving great and permanent additions to it; and he now calls on you to pay the workmen that he undertook to pay himself, and for which you appropriate to him in this very appropriation bill. They are not our workmen.

Mr. SEWARD. It strikes me that the argument of the honorable Senator from Georgia is a very effective argument in favor of this motion, which, as I understand, is to reconsider the appropriation bill which we have just passed. The object, to be sure, of the mover of the proceeding for reconsideration, is that he may procure to be inserted in this bill an appropriation to pay the reporters of the Senate, so that they shall stand

enjoying the same compensation which the bill gives to the reporters of the House of Representatives. The honorable Senator from Georgia argues that the compensation given by the bill to the reporters of the House of Representatives, and proposed to be given here, is unjust. If so, the bill ought certainly to be reconsidered, for the purpose of striking out the appropriation which has been wrongfully made. If the Senator who moves the reconsideration is right, then the bill ought to be reconsidered, for the purpose of making a right appropriation for the reporters of the Senate. I hope we may have the question; and I do not know whether there will ever be a more appropriate time to consider this question than now.

Mr. FESSENDEN. Before the vote is taken I wish to say a word. This matter escaped my attention before the bill passed. The chairman of the Finance Committee will recollect that when we went over the bill in committee, the first time, we marked this item for consideration afterwards; but I do not remember that it was called up afterwards at all. I know that at the time the bill was before the committee, and we were reading it over, I proposed to amend the bill as proposed now by the gentleman who has moved the reconsideration, for the purpose of putting in the reporters of the Senate. It is certainly nothing more than reasonable that it should be done. As suggested by the Senator from New York, if this appropriation ought not to be made at all, the Finance Committee should have stricken out the clause for the House reporters. There are four in the Senate—I understand that is the number—and the reason why it was not considered at first in committee, was that we did not know what the exact number of reporters was in the Senate, and it was postponed for the purpose of ascertaining; and, if I recollect aright, the chairman was himself to ascertain what the number was before we acted upon it. I understood it so. If not, at any rate, I undertook to ascertain; but when the bill came up the second time it escaped my notice; for the reason that my copy of the bill, on the margin of which I had made some memoranda, was lost, in some way or other. As I before said, and as was suggested by the Senator from New York, either this clause ought to be stricken out, as it stands in the bill, or else we ought to put in something for our own reporters.

Mr. TOOMBS. I am for the reconsideration to strike that out.

Mr. FESSENDEN. Then I have only to say in addition, that I have myself come to the conclusion, on examination of the subject, that we ought to pay our reporters, under the circumstances, the sum which they have asked for, and which we have paid heretofore; and I shall vote for it if I have an opportunity to do so. I believe they had no pay from us for the last session, while the reporters of the House had their \$800 apiece. If they did not get it then, we provided for it in the deficiency bill at this session; and when the deficiency bill was up, it was suggested, as a reason for not putting on our reporters at that time, that soon the appropriation bill would come up, on which they had been usually placed. We then passed it over, to be considered at some future period. If the appropriation for the House reporters had not been put into this bill, I would not move to put the Senate reporters in this bill, but let it go to the omnibus bill finally. I think now it should come in here; we should either strike the House reporters out or put in ours—put them on an equality.

Mr. MASON. If we are to have the debates of the Senate reported at all, it is certainly a matter interesting to the Senate, and to the country, that they should be reported accurately. I recollect that amongst the first measures of interest presented, when I came into the Senate, now some years ago, was a proposition, that was then new for the Senate, to appropriate for a corps of reporters. My opinions, at that time, were adverse to it. I thought it was a matter that should be left altogether to private enterprise, to the newspapers who were to diffuse the reports, and that it would be an improvident and unnecessary interference with private enterprise for the Senate to take part in the matter at all. But it was done; a contract was made for reporting upon certain terms—I do not remember what. That contract

was thrown up at the end of two years, upon an experience that the contractor did not comply with its provisions, and that his reporters were very inferior. It has gone on by a system of contract and engagements, from that time up to the present. I am sure I have the concurrence of all Senators who have looked at it, in the opinion which I am now to express, that there are at this time to be found in the Senate as efficient, laborious, and accurate a corps of reporters as can be found anywhere. None can look at the paper which we get daily, and see there the amount of reporting, and the accuracy of reporting, given to us the day after a debate transpires, without being impressed with the perfect organization of that corps; and yet I am not satisfied with it. I confirm altogether what came from the Senator from Georgia, that we commenced by paying the contractor a certain amount per column, and we have gone on adding sops, and more sops, from time to time, until the amount of the original engagement has been very much increased—how much I do not know, for it has been done in various ways, and amongst the latest was a provision that was passed here a few years ago making his paper transmissible, free of postage, through the mails.

My attention was drawn to this during the present session, and very recently by having read a circular note that was addressed by the editor of the paper which is the reporting paper, the *Daily Globe*, I suppose to all Senators, which impressed me with the idea that he in some way presumed upon his position here, as the official reporter of the Senate, to indulge in a license to write a note impudent, intrusive, and insolent. The substance of it was, that Senators had taken the liberty, after their remarks had been made, to correct the report of them before it went to press—a liberty which he would not thereafter indulge them in; and coupled with this was the intimation that they had not only availed themselves of the privilege which he had extended to them to correct their own remarks, but that they had at the same time perverted remarks made by other Senators, interrupting them in the course of the debate. I laid the note by for future use. I have it not here, but I dare say other Senators—

Mr. SEWARD. Will the honorable Senator allow me to ask him, as I suppose he desires to be very accurate, whether he is not in error on one point—whether the intimation was, not that Senators had perverted the remarks of others, but that, by altering their own, they deprived the remarks of others of effect?

Mr. MASON. I have not read the note since it was first sent to us. I laid it by—and I have no doubt I could find it again—intending to produce it to the Senate when this question came up. It has come up incidentally on an appropriation bill, and therefore I have not an opportunity of referring to it. I do not think the Senator from New York is correct in his recollection, though he may be, ("He is!") but it is perfectly immaterial. The idea conveyed by it was, that a Senator availed himself of the opportunity to correct his remarks, to pervert the meaning of the remarks of others connected with his, by altering the report of others, or altering his own—perfectly immaterial which. It was ascribing to a Senator the idea of an evasion, an escape from a committal which he might have made, by availing himself of the privilege of a revival of the notes to alter his own remarks or those of the interjector—I care not which.

This struck me at the time as evidence of the fact that, if the Senate were to have a reporter of the debates, which I believe is useful and proper, the system must be changed in some way; and I became impressed with this, (which I am rather disposed to think is the fact,) that this system of reporting, originating at first some ten or eleven years ago, with a purpose of the Senate to have their debates reported for general information and for future history, has degenerated into the abuse of making it the mere support of a newspaper—I ought not to say a newspaper, for there is very little news in it, but the support of a daily press. I see no reason for that whatever; and I am free to say that I think the time has come when, in some way, the Senate should avail itself of the great improvement—almost perfection—which has been attained in reporting; for it has been

attained here, without having the incubus of a press to be carried by it. I have no grievance with that press, none whatever, that induces me to make these remarks; but I make them from a consciousness that it has degenerated into an abuse that has carried that paper free through the mails—a provision against which I voted some three or four years ago. I do not recollect the amount of the subscription to this register of debates which the public pays, but it is very large on the part of each Senator. I think the time has arrived when we shall find it desirable to avail ourselves of the skill which has been attained by the reporting corps, for the advantage of the Senate and of the country; but at the same time to rid us of the abuse of making that skill sustain a press without value of any kind whatever.

Mr. HAMLIN. I have a distinct recollection of the circular letter to which the Senator from Virginia refers, but my memory of its contents is very different from that which he has stated. I think the contract which is made with Mr. Rives provides in terms for an accurate and correct report of the daily proceedings of the Senate. That was the design and object when this system was entered into. I know many instances—I could refer to them; I presume there is hardly a Senator who will not call to his own mind frequent occasions; where words had been uttered upon this floor, and had been successfully answered, and then the Senator, whose argument had thus been refuted, under the old system, went to the press and changed entirely the substance of what purported to have been said here. That was the state of things in existence. It was the object of the publisher, first to comply literally with the contract that he had made with the Senate, to report truly and accurately what Senators did say; and if a proposition was advanced by any gentleman, the scope of that letter was to prevent his changing it entirely, so that what had been said in reply should be inappropriate.

Now, I understand that circular to have been intended and designed to remedy that evil—for it was an evil. I know very well that I so understood it; and I recollect distinctly saying to him, one day, after I had received that circular, that I, as a Senator, rejoiced that he had adopted that rule; because what a Senator says deliberately here he ought to be responsible for, and he ought not to be allowed to say one thing here, and then go to the press and say an entirely different thing in the printed report. That, I think, was the object. I cannot doubt it; because I apprehend the recollection of every Senator will agree with mine, that we received still another circular letter, stating to us that we could have the opportunity of correcting, and revising, and changing, in any way we pleased, whatever was transferred from the *Daily Globe* to the Congressional Globe. By that arrangement, then, the contract was carried out. We were reported precisely as we spoke; and if we saw fit to change it afterwards, on our own responsibility, and make another thing of it, we had the opportunity of so doing; and certain times in the second circular letter were prescribed within which we were to do it, so as not to delay the publication in the Congressional Globe. So I understand it.

Well, sir, I have never had occasion to correct, in any material manner, what the reporters have reported me as having said. It is a marvel to me this day, how these young men sitting here can, after long hours of toil, report with that accuracy which is almost mathematical. Still, under that arrangement, and under the contract made, I do not understand now that we are precluded from making any correction of the matter as it first appears, provided we do not change the sense. I take it, no man, certainly very few, speaks with that accuracy which does not sometimes require the change of a word for the purpose of better expressing the idea without varying at all the sense; and there are few men who speak so accurately as always to select precisely the very best word to convey the idea. All these changes, as I understand these circular letters, may be made; all immaterial changes that do not vary the sense, may be made in the first instance; and all that the circular to which the Senator refers contained, and all that it designed, was to prevent a Senator from changing what he did say into what he did not say. That

is my impression, and I am stating from recollection.

Now, sir, I pass to say one word in relation to these reporters. If I am not wrong, the first compensation that was ever made to them by the Senate, was made on my own motion. I never made a motion more cheerfully in my life. I believed it was right then; I believe it is right to-day. Your Constitution provides that you shall keep a journal of your proceedings. The framers of our Government thought it of so much importance to have our proceedings made known, that they incorporated that provision into our fundamental law; and yet how little of our proceedings is known, when we read the simple journal of our daily transactions! Of how much more importance vastly are the debates relating to those proceedings, giving the views of the various Senators upon them! I think what takes place in the Senate outside of its mere Journal, is indeed more important in many particulars than the Journal itself. I would not separate them; we cannot separate them. We ought not to do away with the Journal; but still the motives which control the action of the Senate, you must learn from the debates. These debates should be accurately reported; and I think I hazard nothing in saying, that in the whole world, in England, in this country, or anywhere else, a more efficient, a more accomplished, a more accurate set of reporters cannot be found; and they are gentlemanly in their deportment besides.

I think they are just as much the employés of this body as very many others to whom we have for a long period of time made compensation. It has been an old practice to give twenty per cent. and other allowances to your employés. You say that they are not in the employment of the Government. Grant it; they may not be directly; you make your contract with Mr. Rives, and he employs the reporters. So you appoint your Superintendent of Public Buildings, and he engages his employés. They are just as much in the employment of the Government in the one case as they are in the other. But, for the purpose of preserving such a good corps of reporters as we have here, I shall, if we can have the opportunity, vote to give them the same compensation the reporters have in the House of Representatives. If, however, it shall be the sense of the Senate that they ought not to receive it, then I shall most cheerfully vote with the Senator from Georgia to strike out the provision for the House reporters, and put them upon precisely the same footing in that way. I do not want to see the reporters of the House of Representatives receive this compensation while it is denied to ours, who, I know, do vastly more labor and service than the House reporters do.

Mr. BROWN. I listened to the speech of the Senator from Georgia [Mr. TOOMBS] with interest and some instruction, but he failed to convince me that this additional pay ought not to be granted to the Senate reporters. It is true that we employ Mr. Rives to have the reporting done, and that he engages the reporters for the Senate; but it is also true that, when we entered into that engagement with him, we did it upon terms that were stated, upon a calculation, that it would cost him so much to have the reporting done, so much to have the printing done, and there would be a certain amount of profit left. We know very well that wages have been increasing in every department of labor for several years past. In reference to this precise matter of reporting, I think the compensation for such reporters as we have has always been too small. The labor is vastly increased; and the accuracy of the reports is vastly greater than formerly. When I first came to the House of Representatives, I never dared to allow a motion made by me to go upon the record without casting my eye over it after it was taken down by the reporters, lest there should be some mistake. In the last two winters I have never consulted the notes of any speech that I have made in the Senate, except twice; and I think my experience is that of every Senator. The reports are almost *verbatim*. Where there are slips of the tongue, as we all know occur here every day, the reporters correct them; they have the intelligence and the skill to do it, and they relieve us of a vast amount of labor. During this winter I am sure that, but in

a single instance, I have never seen the report of any remarks made by me.

For such labor, I think the present compensation is inadequate. Can Mr. Rives, under his contract, afford to pay more? I think he cannot, because if he pays more, he pays it out of his own pocket. When we entered into the engagement with him, it was on condition that he would pay so much to his reporters; that the paper would cost him so much; that the printing would cost him so much; that the binding would cost him so much; and, therefore, that he would execute the whole job at a particular price. It is true, that we have, from time to time, added to his pay, as the Senator from Georgia says; but it is equally true that we have, from time to time, been having the work improved. The style of reporting is better, the style of binding is better, and if you get a better article you must expect to pay a better price. That is all there is of it.

Now, for such reporting as we had in the House of Representatives when I was a member of it, I think the present compensation is quite high enough—too high; for if the reporters be so inefficient that you cannot allow a single remark to go to press without casting your eye over it, I think a moderate compensation is quite enough; but if they report with so much accuracy that you can allow a speech of three or four or five hours to go to press without casting your eye over it, it is evidence of a high degree of skill, and I would no more think of putting such a reporter on a par with a mere bungler than I would put an artist—one of the masters in sculpture or in painting—upon a footing with a mere pretender. If you want the highest order of skill, you must pay the highest price for it. You have that skill here in the reporting corps, and I want to compensate it; and I do not want to siphon the money from the pocket of Mr. Rives. You have got a higher order of skill than was proposed in the beginning. He has brought it and tendered it to the Senate. He is unable to pay it without taking money out of his own pocket. He ought not to be required to do that. The Government ought to pay for it.

I should have been glad in the beginning if the Senator who moved this reconsideration had adopted the suggestion of my friend from Virginia, and let the subject pass over, and moved this amendment to what we sometimes call the omnibus bill—the miscellaneous bill; but since the question is up, I suppose we might just as well settle it here. When we had up the deficiency bill, I moved a proposition to pay our reporters—to put them on an equal footing with the reporters of the House. It was objected to there, because it was said we had better pass it over until we took up one of the regular bills. It was not done then. The House insisted, brought it to a conference, and they finally succeeded in having their reporters paid some eight hundred dollars a year more than we pay ours. Our reporters will necessarily feel degraded if the Senate consents that the House reporters shall be paid \$800 more than they get themselves. How would Senators like to have it said that members of the House were paid so much more than they get? I do not stand upon a point of honor. The Senate consented to that to save the deficiency bill; you consented to allow the House reporters to be paid \$800 more than the Senate reporters are receiving; and I do not think any one who will look over the reports will pretend that they were not less entitled to it than our own reporters. I think the reporters here are entitled to a higher compensation. I do not think it ought to be exacted from Mr. Rives, because, as I stated before, he agreed to do your reporting upon a calculation. He has given you a higher degree of service, and is entitled to higher compensation. I shall vote for the reconsideration with a view to putting this amendment in here; though, if, upon the suggestion of the Senator from Virginia, the Senator who moved it had withdrawn the motion, I should have preferred that course in the beginning; but the discussion has gone on, and I think we might as well settle it right now, and be done with it. I was, in the beginning, have continued to be, and shall be now, in favor of this increased compensation to our reporters.

Mr. MASON. I do not think it is a matter of sufficient importance to reconsider the appropri-

ation bill to put this provision in, whether it be right or wrong; but I want to bring to the notice of the Senate the fact to which I first alluded. I have been unable to get the circular, but I may take it for granted that the substance of the circular is what was put out by the publisher of this paper in an editorial, at the commencement of this session. It is the paper of Monday morning, December 7, headed "Debates in Congress."

"It is our intention to publish the debates and proceedings of Congress henceforth in the Daily Globe, as delivered, without permitting any material alterations; and therefore we shall not send the manuscript copy to members for revision, as has been our custom heretofore. We shall be glad, however, if members will call at our office, and make such verbal corrections of their own remarks as they may think proper. Experience has taught us that when we have sent out copy for revision, some members have withheld it, and thus left our report incomplete, while others have so altered what they have said as to make those who have relied to them appear ridiculous to readers of the debates."

That is the account this man, who is employed to report the debates in Congress, gives of the members of Congress whose debates he reports. Now, I do not know whether he is right in his facts or not. It has never come within my observation that any member of Congress has availed himself of the opportunity to revise his remarks to change them or to pervert them in such a manner as to make those who differ with him appear ridiculous, or to take away the point of the reply. But if it be so, I utterly deny that the reporter is the party to intervene, that he can say "I will not permit this, or I will permit that;" it is a question between the members concerned; let them settle it. If any member of the Senate should avail himself of the opportunity to revise his remarks to do it in such a manner as to take away the effect or destroy the point of the reply, it is a question between the interlocutors; but for the reporter of the Senate to undertake to say "I will permit this, and I will not permit that," is to place the Senate under the control and the supervision of the reporter. I presume that the circular which he addressed to all Senators was of a like character. I know it struck me as of the most offensive kind, because he undertook to place me under his surveillance and tutelage in my intercourse with my fellow-members of the Senate. I do not know the fact, it never came within my knowledge, but if it be true that any members have availed themselves of the privilege of revising what they have said, in the mode complained of, it is a question between the Senators concerned. But the reporter says they are amenable to him, and that he will not permit it, because either it interferes with his interest in publishing the debates, or because he is the supervising and controlling power to regulate this matter between Senators.

Now, I see no reason in the world why, in paying a corps of reporters, we should be at the same time conducting a public press. I know this editor has said—for I have seen it from time to time in his columns—that, notwithstanding the gratuities—for they are gratuities—which have been given to him in addition to his pay, the permission—and a most extraordinary one it was—allowing his paper, of all others, to go free of postage, and the very large subscription that has been made to the book of the reports from time to time, he has said very recently, that, take it altogether, he is a continual loser by the reporting. It may be true; I do not mean to controvert that fact, for I know nothing about it; but, if it be true, it still goes to confirm the position that it does not become the Senate—certainly it does not become Congress—to support a newspaper; and, if his newspaper cannot be supported without larger gratuities, I should be, as I am, decidedly of opinion something should be done for reforming the whole system.

I make no attack upon the reporters. I am more conversant with the reports in the Senate than in the House, and I do not know whether the same corps of reporters have charge of the debates in the two Houses; but I repeat with great pleasure, that I could not have conceived that reporting could have been brought to the perfection to which it has been brought, under the existing engagements with these reporters; and I should be very sorry to part with them. I think, however, we might have a reorganization by which we should have a corps of reporters who would understand their place. They are employed by

the Senate to report the debates; and if improprieties occur amongst members of the Senate, it is a question to be settled by the Senators *inter se*, not by the reporter.

Mr. JOHNSON, of Arkansas. I have listened to the remarks of the Senator from Virginia with not a little regret. That Senator takes offense at a regulation which has been made by the publisher of the reports of this body, and he presumes that it is a surveillance which is exercised over him. He does not seem to be certain that all the Senators received the same notice. I can tell him that I received it, and I have no question that every other Senator did. The reason why this regulation is made is plainly stated. It is sensible in its character, and the reason for it seems to me to be conclusive. It is not only for the protection of members of this body, but it is for his own protection too. The Senator speaks of surveillance over him, and intimates that the printer of our reports has got above his business—that is the sense of his remarks.

Now, sir, it is notorious to those who have looked into the matter, that in no land under the shining sun have the published reports of any deliberative body ever been so perfectly executed and delivered to the world. It is equally notorious, and within the knowledge of members of the Senate, that heretofore it has been the practice of some gentlemen to make tolerably long speeches, then get hold of the manuscript, keep it for days and days, and sometimes for as long a period as three weeks, thus arresting the steady regularity of the publication of the debates. Some have added to what has been spoken, that which, perhaps, they desired to say, but had not an opportunity of saying when they were upon the floor. Others have stricken out what they did say in such a way as to render absurd the intelligent answers that were given to them on this floor. These things were apparent and well known; and because it is proposed to restrict gentlemen so that what they say here shall go before the public as it is said, and thus injustice be done to no man, and the whole of the reports be brought out consecutively in order and in due time, the Senator takes offense. I think that is hardly proper.

By additions to speeches, pages have been thrown on the congressional reports at the expense of the publisher, who has been complaining all the while, at least for the last two Congresses, that the pay he receives is lower than that allowed for any other public printing done in the whole United States. From a long investigation that I made some years ago, I came to the conclusion that such is the fact, that this printing is done for a lower sum than any other public printing in the United States, or any private contract service. The publisher complains that he has had to bear the burden of all those additions, and besides, by them injustice has been done to members who have participated in debates upon the floors of Congress, and they have been placed in an absurd attitude on account of the alterations made by others.

Another good reason is given in the letter. At the first glance in reading it over at the commencement of the session, my first construction before I got through with it was that it had not been pleasantly put; but by the time I read it through, the reasons for the regulation were so apparent that I could not find it within myself to say that the publisher had gone beyond his province in the exercise of his own rights and duties, and I could not feel that in any respect it was or could have been done with a spirit of predominance, of dictation, or of orders to the Senate, as the language of the Senator seems to imply. It has not struck me as it has the Senator from Virginia.

Mr. MASON. Will the Senator allow me to interrupt him for a moment?

Mr. JOHNSON, of Arkansas. Certainly.

Mr. MASON. The position I take is simply this: if a Senator makes remarks in debate on this floor, he is responsible for them to his constituents, to the country, and to his brother Senators; he is not responsible to the reporter. If afterwards he modifies or strikes out what he says, alters, changes, or perverts it, he is responsible to those who are injured by him upon the floor, not to the reporter; and I say it is intrusive and insolent for the reporter to undertake to say what

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he will permit a Senator to do, and what he will not; and if that is to be the relation, I am for destroying it.

Mr. JOHNSON, of Arkansas. I do not dispute part of the Senator's proposition, that a member here is responsible only to his constituency and to his brother Senators for what he may say on this floor; but I dispute his right to make long and extraordinary changes in his speech before it is published, putting in words that he did not say, arguments that he did not use, or striking out those which he did use, and which were satisfactorily answered by others, thus leaving those who replied to him in a false attitude. Neither do I think there is any insolence in the declaration that a Senator has no right afterwards to alter his speech in the respects named. I can see no power that should properly exist to do that; but on the contrary, so far from anything like insult, he says that he will not send the copy from the office, which the law does not require of him, but in place of that, he will be glad if Senators will come to his office and make such verbal corrections as they think proper; and he offers the opportunity to do so—to make such verbal corrections as the amenities of this body and the proprieties of the place would seem to require, in the opinion of the Senator who makes the remarks. Is there anything dictatorial or insolent in that? I do not know what the Senator's idea of insolence may be; but if the exercise of those rights which are our own, and the proper fulfillment of all the duties which are required at our hands by the law, constitute insolence in the opinion of a lofty Senator, if I would exercise it towards him, and it would make no difference to me where the Senator came from, or how lofty his position, I would exercise it, and the American people would. I do not regard that as the proper spirit in which to meet this matter at all. I do not concur with the Senator; I see no justice in his remark on that point; and I think it bears hard upon as faithful an officer as this body ever had in the discharge of his duty, and I trust it will have no weight with the Senate.

In reference to the reporters themselves, I will make a single remark before taking my seat. I certainly think that the reporters of the House ought not to have this pay unless the Senate reporters also have it; and I have no question that the matter escaped the attention of the Senators on the Finance Committee, or else they would have moved to strike out the clause to pay the House reporters, or moved to insert a similar clause for the Senate reporters. I have no question that it was an oversight on their part, and I regret that it should have occurred; but I am not disposed to go back now, and reconsider the bill which has been passed, when there is a hope that it can be provided for in another place, as the chairman of the committee urges us to go on; but if we do not now reconsider this bill, and strike out this clause, I shall, at the proper time, when an occasion shall present itself, undoubtedly vote to give the Senate reporters the same character and standing which are given to those of the other House. The language used in argument by every member of this body is dependent on the service rendered by these men; and it is arduous and faithful. Not a single man in this body, in my opinion, does one tenth part, certainly not one half, of the hard labor they constantly perform. I believe they ought to be upon the same footing with the reporters of the other House, and I shall not be a party to make a distinction against those who serve us so faithfully, as all acknowledge; a distinction which, to my mind, very strongly conveys something like a reflection.

Mr. WILSON. Mr. President, the Congress of the United States employs Mr. John C. Rives to publish a true and accurate account of our debates. Mr. Rives chose, at the commencement of the present session, to send to the members of Congress the circular which has been referred to by the Senator from Virginia. I read that circular. I approved of it then; I approve of it now. I take it that Mr. Rives is a very frank, plain, direct, business man, and that he stated in that circular what he knew, and what we knew to be absolutely and unqualifiedly true. The records of Congress for years show this fact to be true; that speeches have been made on the floors

of both Houses of Congress, and those speeches have been replied to, and then they have been changed and modified so as to make other persons who have referred to them, appear ridiculous. It is a fact well known that great changes and modifications in past years have taken place in the reports of the debates in the Senate and House of Representatives. This has been to a considerable extent corrected by Mr. Rives at the present session of Congress, and I think the published debates now are a more accurate transcript of the doings of the Senate and House of Representatives, than in any year past. I look upon the reports under this rule adopted by Mr. Rives as a great improvement over those of past years. They are now more accurate, more lifelike, and more correct.

I differ from the Senator from Virginia in this respect. Sir, when a Senator makes a speech on this floor, I believe, under the rules, it is the duty of the reporters to report that speech as delivered; and they have a right to publish it as delivered, and it is due to the Senate and the country that they should publish it as delivered, and not as the Senator afterwards chooses to change or to modify it. That is the true and proper sense in which to speak of the debates in this body. Now, sir, I do not see any reason to complain of Mr. Rives for this circular or for this practice.

Mr. MASON. Will the Senator allow me a moment?

Mr. WILSON. Certainly.

Mr. MASON. I do not mean to say at all that it is not the duty of the reporter to report what is said; but if the speaker has a difficulty with the reporter, let the reporter present the fact to the Senate, and not undertake to control the Senate—that is all.

Mr. WILSON. Mr. President, I understood the Senator to take this ground: that it was not a question for the reporter to decide, but that if a Senator chose to alter, modify, or change his remarks, it was a question between him and his brother Senators. I think the reports should not be changed by any Senator. I think no Senator has a right to change his remarks so as in any way to affect the sense as understood in this body by others who engaged in the debate. If he chooses to change a word or add a word to his remarks that does not concern in any way other Senators, I do not think any one would have a right to complain; but any Senator has a right to complain if remarks are changed or modified so as in any degree to affect the sense of the debate or to affect what is said by other Senators.

I shall vote for this reconsideration, and I am not only in favor of paying these reporters now, but of going back and paying them in the past. I believe that our corps of reporters is the best organized corps of reporters on this continent. We have the proof before us. Why, sir, yesterday we spent six hours here in debate—not in prepared written speeches, but in a running discussion—and to-day has been laid upon our tables that entire debate; and I happened to know that these reporters were employed until an early hour this morning in preparing that long debate of yesterday for publication. They perform an amount of labor that is not appreciated in the Senate or in the country, and I think that if they do not, under the present arrangement with Mr. Rives, receive an adequate compensation, we owe it to them before the Senate adjourns, to adopt a policy that shall give them an ample compensation for the severe labors they are compelled to perform.

The House of Representatives propose to give their reporters \$800 apiece. The reporters of the Senate perform double the amount of labor of the reporters of the House. Why, sir, the discussions in this body, and especially during the present session, have been debates, not written essays prepared and written out, that save a great deal of labor to the reporters, but actual debates; and we all know that the Senate during the present session has sat more hours than probably at any session in the history of the country. In the House of Representatives, nearly all the speeches made upon public questions of importance are written speeches. The members are forced to this by the one hour rule; and it saves the reporters of that body an immense amount of labor.

Then the yeas and nays are often taken in that body, occupying nearly half an hour for each call, and relieving them in that way. It is my opinion, and I think it will be sustained by an examination of the facts, that the reporters of the Senate perform double the amount of labor performed by the reporters of the House of Representatives; therefore, I shall vote to reconsider, and to place these reporters on at least the same footing with those of the House of Representatives.

The Senator from Georgia says that we do not employ them; they are employed by Mr. Rives. I believe they are inadequately paid. I do not know whether Mr. Rives be to blame, or whether we have driven a hard bargain with him, or whether it is an implied understanding with him that we are to make up a sort of compensation to these gentlemen. It ought to be changed; it is not right as it now stands. These reporters ought to be paid an ample compensation. They ought to be employed by the Senate directly, or the arrangement with Mr. Rives should be such that they shall be adequately compensated for the immense labors which they are compelled to perform—labors that are performed, I think, to the general satisfaction of the Senate and the country.

Mr. GWIN. I am of opinion that these reporters do very heavy service, and that the proposed amendment would not more than pay them for the service they perform; but I cannot understand how it is possible for them—and, I believe, they are as good reporters as any in this country or any other country—to take down a running debate without occasionally making a mistake. Now, I am scarcely ever taken down exactly as I intend to speak; I have no doubt it is my own fault—not theirs. The objection I have to this plan of publishing precisely what the reporters take down is, that they may make a mistake, or a Senator may make a mistake himself, and thus the ideas he intends to convey may be wrongly presented to the country. If the editor were my neighbor, as he used to be, it would be very convenient for me to go to his office and correct the report of my remarks; but I live a long way off. I stated six years ago in this body, and so did the then Senator from Michigan, General Cass, that it was our misfortune, on account of our mode of speaking, the manner in which we addressed the Senate, that the ideas we intended to convey were scarcely ever reported exactly. I have ceased to correct these matters, and I think that the best plan; but I will give you an instance: I am reported as having said, yesterday, that when the Senator from Mississippi was Secretary of War, an estimate was sent in for the purchase of the property at Lime Point, California, at the price now asked. What I said, or meant to say, was that an estimate had been sent in, and that the parties claimed that price. I was on one occasion reported as saying that I was in favor of repealing the duty on iron—it was railroad iron that I said. I did not see the error until a year afterwards, when I was looking over the debates.

I think there is an error in the system. The reports are too minute. There is a vast deal of useless matter put into these books that is never read even by members. I think there ought to be a system devised by which we should have a compendium of the debates, leaving out a great deal of immaterial and useless matter now published. Frequently remarks here are made without any kind of preparation, and if a member corrects the report for the Congressional Globe after it appears in the daily paper, it is not seen perhaps for six months afterwards. I believe we have as good reporters as there are in this or any other country, but there is an error in the system, and I confess that I feel a great delicacy in speaking on any question of importance unless I write down my views in advance. I do not blame the reporters. I believe the difficulty arises from my mode of address: other Senators have said the same thing heretofore. I am in favor of the provision that is sought to be made for our reporters, but I would prefer that it should come in the miscellaneous bill hereafter. I do not want to touch the bill which has been passed. I want our reporters to get as much as those of the other House, but I think the system ought to be partially changed.

Mr. BELL. I shall vote this compensation to the reporters of the Senate with great pleasure; but, after all that has been said, I shall not dwell any farther on their merits, or their claims upon the generosity of the Senate. I rise for the purpose of interposing a word in defense of the printer of the debates of Congress against what has been said by the honorable Senator from Virginia. I shall not call it an attack, because, if I have not misunderstood that Senator altogether in his general principles and feelings as a public man and a Senator, he did not intend any such thing. I cannot suppose that he intended to convey an idea which the course of his remarks would tend to convey. The Senator has spoken of the apparently offensive and dictatorial manner the printer of the debates has assumed in penning the circular of which he complains. He is a plain, blunt man, and does not employ very courtier-like language; and I know the Senator from Virginia is capable of understanding that, and appreciating it; and there may not be a great deal in that point. As I understand the honorable Senator, however, he intends to convey the idea that there is an error which ought to be corrected in the policy of the Senate itself, with reference to the patronage we had given for the purpose of securing the printing of the debates of the Senate, and that it should not extend to the support of a newspaper. I do not know that I understood the exact impression my honorable friend had in his mind as to this paper. Is it understood that it is a party press which is supported, or a neutral press, or what is the specific objection?

The honorable Senator from Virginia says, that having, as it is admitted by all gentlemen, a very competent corps of reporters, sound policy requires that we should devise some plan by which their reports should go to the country, without making the money expended for the reports subsidiary or auxiliary to the publication of a mere newspaper. I have not been in the habit of reading the *Daily Globe* very attentively, but I have sometimes cast my eyes over the editorial portion, and I have generally regarded it as giving heads of information that all parties in the country might be interested in knowing, particularly the readers of the paper in which the daily proceedings of Congress are published. If the printer of the reports has availed himself of the patronage given by the majority in both Houses, (no matter what their politics may be), to maintain a newspaper for the propagation and support of the principles of the party to which he professes to belong, or has in any way made an improper use of the patronage bestowed upon him, I should think it objectionable; but I do not understand the *Daily Globe* to be a paper of that kind.

If I comprehend the drift of the remarks of the honorable Senator from Virginia, it is that, by paying directly a corps of reporters, we might have the proceedings of this body published without giving support to a newspaper. I do not perceive how such a policy could be put into operation. If we employ a corps of reporters to report the proceedings of the Senate, and want them printed for daily circulation in the country, how can it be done but in the sheets of some publication? And it must be in a daily journal. Would my friend from Virginia order them to be printed in a Government, or quasi Government, organ—the press, in this city, which receives the patronage of whatever party may be in power, through the Executive? I know that could not have been his idea, and yet that is the tendency of his remarks. This is not a great commercial city, and no party newspaper can be adequately maintained here without receiving some support from the Government. They usually become so impotent for the want of that sort of patronage, or become so dependent on getting some degree of support from one or the other House of Congress, or from the Executive, that they cease to be of any great value to the country. In my opinion, the policy which has been adopted by Congress, of patronizing the publication of such a journal as the *Globe*, not regarding it as a party journal at all—and I have never considered it so—sending to the country daily reports of the proceedings and debates in the two Houses of Congress, is worthy of being denominated a national institution. If I had the power, if I had the means, or if it was

proper or constitutional, I should be happy to give my vote for sending that journal to every man in the United States who can read English, because it conveys information that he cannot get through the party press. If my friend from Virginia should succeed in carrying out his policy, and putting down this publication of the debates of the Senate and House of Representatives through the *Globe*, he would necessarily, I think, be compelled to resort to the columns of whatever paper might be the organ of the existing executive Government, to whatever political party it might belong. Thus, when the debates went out to the country, containing the expression of sentiments on both sides of every question, they would be accompanied by partial comments calculated to destroy the effect of unwelcome truths which might otherwise be made to tell powerfully against the party in power. It is of the greatest importance that the truth shall go to the whole country if possible; and some of the misfortunes under which we are laboring result from the fact that the truth does not go to the whole country. When party spirit runs as high as it does now, and as it has for many years past, prejudices are deeply excited, and the minds of the zealous followers of party can scarcely be said to be rational in regard to party questions, and they will not regard as of the slightest consequence statements coming from a journal which is opposed to their own feelings; at all events they do not patronize such journals.

On these grounds, I consider such a publication as that of Mr. Rives as of the greatest interest and importance to the public to be maintained. It gives to the country daily information of the proceedings of Congress—the views of all parties. Why, sir, if the time shall ever come when one party shall have the predominance for a long period of time, it will naturally not only grow corrupt, but tyrannical and oppressive; and a few individuals, patriotic, independent members of the party, have not the power to correct and control it. The light that goes from this quarter is, more or less, under the control of the Government, in the way I have stated. It may be said the press is free in the country everywhere, and in all the principal cities displays great talent, spirit, and independence. That is true of individual journals; but, if they take sides in politics, they enlighten their own side alone; they mislead their own side; they abuse the relations they occupy to their readers. Thus the truth does not reach the country generally through the party press. Here we have a press which conveys the truth to all sides. Now, one party has the Executive patronage, has the control of a powerful corps of newspapers, diffused over the United States, given to it by a law which, according to the practice of all parties, it is understood may be properly wielded according to their subserviency. In many quarters light is shed only through the organs of the party that may be dominant. One party is dominant to-day; soon it may be a different party; and they may use their power with less discretion, less judgment, and less patriotism. I do not speak in reference to any particular party, but as a great question of principle. The fact is that, in its practical operation, our Government is departing very far from the theory of our fathers—their expectation, their hope, their confidence, as to the manner in which this Government would operate. I think one of the greatest checks upon the abuse, tyranny, and excessive corruption likely to arise in a Government of this kind, is to be found in maintaining among all parties throughout the whole reading community the circulation of such a journal as the *Globe*.

I do not enter into the objections which have been taken to the *Globe* on account of the circular which has been alluded to. I think its language is just such language as John C. Rives would be likely to use. I know him personally, though not very intimately, to be sure. He is no courtier. I am certain he did not intend to presume on his position to use language offensive to Senators; but he is a very plain, blunt man. I do not know whether he is overpaid or underpaid for his services. I happened to have a conversation with him in regard to that very circular; for I am a speaker who rise almost always, as I now do, without any preparation, and proceed off-hand,

without much order or method, to state my sentiments, and I am liable to be misunderstood, and I feared that I might not be able to correct the grossest blunder which might perhaps be made by the reporters. I suffered a little; because, when the report of some remarks made by me, in the early part of the session, got home to my State, they were capable of the very opposite interpretation from what I intended.

Mr. JOHNSON, of Arkansas. If the Senator will allow me, I wish to point him to a little matter that has been touched upon, and that it will be of service to us all to have understood. It is the contract under which this work is done. It is contained in a very short resolution, which was offered by Mr. Norris, of New Hampshire, and adopted by the Senate, in these words:

“Resolved, That the Secretary of the Senate be, and he is hereby, authorized and instructed to audit, and from time to time to settle, the accounts of John C. Rives, for the reports of the Senate proceedings and debates published in the *Daily Globe*, at \$7 50 a column: *Provided, however, That, in auditing and settling such accounts, nothing shall be allowed for the publication of revised speeches, a report of which has once been published, nor for messages and reports from executive officers of the Government, nor for reports from committees of the Senate.*”

There is the whole law under which our reporting is now done; and I will also state to the Senator and the Senate that of the \$7 50, \$4 50 is paid for reporting, and \$3 a column is all that is paid for printing.

Mr. BELL. I do not know how that is. I have never entered into these details; my friend from Arkansas, I know, understands them much better than I do, and I should be guided very much by the expression of his sentiments. I did not mean, however, to go into these questions. I rose for the purpose of suggesting something in reply to the honorable Senator from Virginia, lest his remarks might prejudice the Senate, and those who may read this debate in the country, against the *Globe*. I do not see any objection to it, unless it be a party press, either insidiously or directly taking sides on public questions; and I am sure the honorable Senator from Virginia cannot take this exception on the ground that he supposes it to be hostile to his own political bias or feelings. I meant merely to advocate the idea that it was a matter of great importance that, from some impartial source, a printed sheet, containing the debates and proceedings of both Houses of Congress, should go to every section of the country, and I would sustain the policy of letting it go free; and if it did not exceed an amount that was unreasonable, I should like to have it go to every reader in every State of the Union. I do not know that even that would be unconstitutional; but it might be an unreasonable demand upon the Treasury. It is carrying out the great idea that while the press is free, we may trust the sense and intelligence and judgment and patriotism of the country to keep this Government steadily in the track in which it was intended to move by the Constitution. But, sir, it seems to me that from the excessive party spirit by which the party press has been actuated repeatedly in my time—I do not speak of it as existing now to a greater extent than I have known it to be many times before—the Government is liable to be driven from the track in which our fathers, the founders of the Constitution, intended it should move. Such a journal as this I consider important to keep it there.

As to the provision for these reporters, I shall vote for it with great pleasure; not knowing, and not having any ground on which to found a satisfactory belief, whether Mr. Rives can afford to give them the amount they ought to have or not. As I understand the resolution under which these reports are published, which has been read by the Senator from Arkansas, he gives just what was intended should be given; and if we give them something more, by way of expressing our liberal feelings towards them, or adding, by a separate vote, to what we consider an inadequate compensation, I do not see that it affects Mr. Rives one way or the other. If we do not pay Mr. Rives enough, I should be willing to vote an additional allowance to him, if it were necessary to sustain his publication in a proper form.

Mr. MASON. I can assure the Senator from Tennessee, that, in speaking of this newspaper,

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I did not mean to characterize it at all. I do not look upon it as a party press, so far as I have observed it, in any way. It seems to me, with very little incidental matter, during the session at least, to be only the vehicle for conveying to the country the debates in Congress. I do not look upon it as a party press; but what I said was this: that it would appear that the burden of sustaining a daily paper was thrown upon the reporting of the Senate, without saying anything of the merits of the paper, one way or the other. I have never looked at the paper except as the vehicle of conveying the debates of Congress.

Mr. BELL. I ask the Senator how we could get these reports to the country unless in a printed sheet. They must go in some form of that character?

Mr. MASON. I make no attack on the paper; but what I mean is, that, according to my judgment, the conductor of that paper, on whom is thrown the responsibility for these debates, does not know, or does not appreciate, the relation that I say subsists between the reporter and the Senate; that he undertakes to prescribe to the Senate what the Senate has a right to prescribe to itself; and none outside of the Senate can do it. The contract read just now by the Senator from Arkansas I had looked at some time ago; for my attention was drawn to it by this circular, and it is nothing in the world but an order of the Senate that \$7 50 a column should be paid to this newspaper for printing the debates; and he obtains the debates by having them reported. I think the same price was paid for a time to two other papers here—the *Intelligencer* and the *Union*. After a year or two years' experience, those papers threw up the arrangement with a very respectful letter to the Senate, stating the fact that they found they could not support the burden, and that, with every disposition in the world to publish the debates, they found they were not compensated for it, and were obliged to throw it up. Now, it may be—I do not mean to controvert that fact, and have not controverted it—that the editor of this paper is not compensated sufficiently for procuring the debates and afterwards publishing them. That may be true for all that I know—I do not mean to controvert it; but I mean to say that, as long as the present contractor understands the relations which subsist between him and the Senate, as imparted by this circular, I am for changing the contractor in some way. I have got the circular since the debate arose, and, as it strikes me, it is more subject to the remarks I made upon it than the introductory matter in his newspaper. The language of it, in one of his paragraphs, is this—it is dated the 18th of February:

"Sir: Several times this session I have published in the *Daily Globe* my plan for reporting and publishing the debates of Congress; but my articles on this subject seem to have been overlooked or forgotten by members; and I now resort to this printed letter to imprint on their minds the course I intend to pursue in publishing their speeches, as long as I shall continue to publish them."

And then he lays down his rules. One of them is this:

"If a member shall desire to look over and revise his remarks as taken down by my reporters, before they are published in the *Daily Globe*, he may call at my printing office at any time between seven and ten o'clock, p. m., of the day they were made, and do so; but he must not do anything more than make a fair revision. It has been my custom, until this session, to send out the manuscript report to those members who have requested it; but the liberties that some have taken with the copy, in altering it materially, and thereby making nonsense of the speeches of others who have replied to them in the debate, or in withholding it for days, weeks, and sometimes altogether, and thus making the debates imperfect or unintelligible, have caused me to come to the resolution that such a course shall not be permitted in future, so long as I may continue to publish them. It is due to fairness, to a large majority of members, and to the whole community, that such a practice should be arrested and put down."

And then he has other rules, to which I think it unnecessary to advert, for his own government; and he concludes in this way:

"I ask the favor of members to keep this letter in their desks, so that they can readily refer to it in case of doubt; for it is worse than useless to have rules and not conform to them."

Now, what I mean to say is—that, unless I am very much mistaken, the writer of this letter does not understand the relations that subsist between the reporter and the Senate, certainly not as I understand them. I have never had any difficulty with this editor in my life. So far as my inter-

course has been conducted with his press, it has been of the most conciliatory and kind character. I never had any difficulty with reference to any remarks I have made, or to the revision of any speech of any kind; but, on the contrary, I have noted with great pleasure that, in revising them, which I have sometimes thought it right to do, I have found the report universally and extraordinarily accurate. I am, therefore, not objecting to the reports; but I say he assumes to say that he can prescribe to the Senate the rules by which they are to be governed in their official intercourse with him. He says, in conclusion, keep this letter by you, because it is idle to have rules unless they are conformed to. I spoke of that, also, in reference to what fell from the Senator from Tennessee and the Senator from Arkansas, who thought that my remarks had been of a harsh character towards this man. I certainly do not mean them in this light. He stands as any other gentleman in society, as far as I know, a fair, and honest, and honorable man. I have very little personal acquaintance with him; and there is nothing in our relations which would lead me to say anything that could justly be taken as an offense. I spoke of it as insolent. I think I used the true and correct term. It is haughty, overbearing, and out of place. That I understand to be the true meaning of the word insolent—haughty, overbearing, and out of place. It is a departure from the relations that subsist between him and the Senate who have employed him to do this work; and, if these are to be the relations, I should insist on having them severed.

The duty of reporting is one like any other occupation for which men are employed. He is to report the remarks of the Senators. He undertakes here to charge them with taking liberties. Liberties with whom? With him, or with his business? If he looks at it in that light, I should say that he does not understand the relations in which a reporter stands to the Senate. He is employed to report the speeches; and if liberties are taken in the light he means, they are liberties with the other Senators, not with the reporter; and if the fact be as he alleges that there is an unfairness, and that members sometimes change or alter or modify their language in such a way as to make the remarks of others senseless, then the offense is to the party who is thus treated, but the reporter has nothing to do with it. I should be for reforming the whole system in some way in order that we may have, I hope, the same corps of reporters, for I am satisfied we could not have better, but to have them in different hands.

Mr. FESSENDEN. I wish to add a word, though I am very sorry to do so. I disagree totally with the honorable Senator from Virginia, except in relation to the phraseology of that paper which he has read. As to the newspaper part of it, it is perfectly manifest, that if we desire to publish our debates at all, it is a very important matter to give them as wide a circulation as possible. Now, then, if we publish them separate from the idea of a newspaper, which is to be paid for, of course it creates very much greater expense for the country than it does to conduct matters in their present shape. The way that Mr. Rives manages it now, I understand, is, that he puts them in the shape of a newspaper, and that newspaper is subscribed for and paid for, and in that way the debates have a very wide circulation—I wish it was much wider. If it were not for the newspaper, or something in the shape of a newspaper, connected with it, of course we should have to make an appropriation for the purpose of giving as large a circulation as possible to our debates, and that would bring a much larger expense on the Government. It is one part of the process by which the reporter, Mr. Rives, obtains his pay, that he has the ability to send out a newspaper to subscribers which subscribers pay for what they get. If it was not for that, we should have to send it out gratis to such persons as we might select, and the number, of course, would be very much lessened, and besides, the expense of the Government would be much greater.

It is certainly not exactly the right view of it to say that it is a newspaper press, although it assumes that shape, for we all know there is very seldom anything in it except our debates. Only on those occasions when the debates are so meager

that it is impossible for him to fill up his paper with the debates, does he put in some of the current news of the day to make up a paper. Ordinarily there is nothing at all there. In my apprehension, the mode we have adopted in order to circulate the debates of Congress is the best one in the world, because the result is that a large portion of the community who subscribe to the paper, pay a portion of the expense of reporting our debates, and if it is not done in that way the Government would have to pay it altogether, or we should have to abandon the system.

Now as to the rule Mr. Rives has laid down. I differ there from the Senator, and from anybody who objects to them. When a speech is made on this floor, it ceases to be the property of the individual who made it. He has no right to change it. He has no right to change an idea in it, substantially. It is spoken to the Senate, for the country, for the purpose, as we arrange things now, of being circulated. It becomes the property of the Senate, and the property of the country; and when a gentleman replies to that speech, it becomes, also, his property so far as to entitle him to the right of having it accurately represented. I hold that no man here, whose speech is replied to, or whose speech is not replied to, has a right to alter it in any substantial particular; and that it is not for me, when I have made any remarks here which have been replied to, to say that the remarks I made are exclusively mine, and that I may change them. Mr. Rives, or whoever the reporter may be, is perfectly right in saying that he, being employed to report the debates for the Senate, will not allow one Senator to do injustice to another. That is the simple principle which he goes upon. I have just as much right to say that a speech which I have replied to shall not be changed essentially, as the person who made it has to say it shall be; and I have as full right to complain if it is done; and more, for—

Mr. TOOMBS. I will ask the Senator, suppose the reporter of the Senate reports you as saying what you did not, who is right then?

Mr. FESSENDEN. Then the right is unquestionable to have it corrected.

Mr. TOOMBS. Who judges of it? Is it judged by you or the reporter?

Mr. FESSENDEN. As all other questions.

Mr. TOOMBS. How will you settle it?

Mr. FESSENDEN. If I can convince the reporter that I am misrepresented—

Mr. TOOMBS. Is he the final arbiter?

Mr. FESSENDEN. Certainly, the reporter who has taken down my remarks is the arbiter. He takes them down, and there is the record. Otherwise there would be no rule by which to settle these matters. If we employ a man to report the debates of the Senate, and he takes down the words from my mouth, he must, if they are important, report them as he understands them to be given; and if I say he is wrong, all I have to do is to come into the Senate the next day and put myself on record, by declaring "I have been reported as saying so and so; I did not intend to say it; it is a misapprehension." The reporter certainly is the person to settle it in a contest between him and me in relation to the matter; but where a speech is replied to and commented upon, there can be no mistake in such a case as that, because the thing appears on the face of it.

I understand also from the reporter that some gentlemen were in the habit of keeping their speeches a very considerable time, sometimes not returning them at all; and in that way he was deprived of so much of his pay—so much of his profits. When he reports a speech and has written it out, it is his property; he has a right to be paid for it. He is paid so much a column, and he has as much right to that speech, and more, than the person who made it; because, having made it, there is an end of it so far as he is concerned, except to set himself right on the record if he is misrepresented. That is my understanding, and therefore I think there is no complaint to be made in this particular.

The only complaint that is to be made, in my judgment, is in reference to the language in which Mr. Rives has chosen to make his communication to Senators. I do not think that that is in the most respectful terms in the world; that is to say, it is rather peremptory. I do not believe he meant

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any sort of insult or disrespect to anybody; but he is a plain-spoken man, and he might have spoken in what seems to Senators rather a peremptory tone and manner. For my part I read the circular, and I did not take the slightest exception in the world to it. I am not easily insulted; I do not conceive myself to be insulted at anything; I wait until I am satisfied that somebody means it in reality, before taking any particular exception to the language; but I think after all that is not a matter to take any great exception to. So much for that.

I hope, really, that those who are disposed to vote this allowance to these reporters will vote it now. Let us reconsider this bill and provide for them, and I say so simply for this reason, that we have more time now, and more leisure to do it understandingly, than we shall have by and by. If this matter is put off to the last of the session, on the last night or two, there is no knowing how much debate we shall have then, and how it will be hurried over. We can consider it more understandingly, more coolly, more deliberately now, to better effect and purpose, than we can in the hurry of the last moments of the session. This bill is before us and we have time. At any rate we are not pressed as we shall be; and if there is any justice to be done to these men, if they have a claim which we ought to consider—I mean a claim in equity, in good conscience, in fairness, and good nature if the Senator pleases—any ground on which he pleases to put it—then let us take it now while we are all in the mood for it and have sufficient time.

Mr. JOHNSON, of Arkansas. In regard to the last remarks made by the Senator from Maine, I have a word to say, and that is, as to there being more time now to settle this matter, I do not think that is so. We have an appropriation bill which has already been passed, and the motion is to reconsider it. I hope very much that the Senator from Wisconsin will not urge the matter at this time; I do not feel that I can consent, now that the appropriation bill has passed, to vote for a reconsideration. It is opening the bill for too much, and I do not see that this will be an end to it at all, when it is opened, and I do not know when we shall get clear of this bill. I hope very much that the Senator will withdraw his motion for reconsideration. I shall certainly, myself, vote for the compensation, when the time comes, upon a separate bill, but I cannot vote to support a movement now, as I stated in the first remarks I made, which calls for a reconsideration of the bill. I trust very much that the Senator will withdraw it, and let this bill be passed.

Mr. DOOLITTLE. As the appeal is made to me to withdraw the motion to reconsider, perhaps a word is due from me to explain the reasons why I do not feel constrained to yield to the request. I dislike very much, indeed, not to yield to the request of my friends—those who are disposed to favor the object which I desire to accomplish myself; but I fear that if this provision be not put in this bill, which embraces an appropriation for the House reporters, it being upon a kindred subject, and necessarily connected with it, and it be deferred until the last appropriation bill—the omnibus bill—which may pass among the very last bills in the session, a debate may arise, and the result may be that it would not be put in that bill, and then we should be placed in this position: that we should have consented to pay the House reporters this extra compensation, and the Senate reporters would not be paid it at all. For my own part, I desire to see them put upon a footing of equality and justice. I have no other desire in the matter.

Now, I beg leave to say to the honorable Senator from Virginia, [Mr. MASON,] that it seems to me—with all due deference to that Senator—that the remarks which he makes in relation to the language that has been used by Mr. Rives, the publisher of the debates, furnishes no reason why we should not do justice to the reporters, who sit here and take down these debates. That is a question with Mr. Rives, in reference to the publication of the debates, and not a question with those persons who actually report the debates, and are to receive this compensation.

Mr. HUNTER. I hope we shall have a vote.

Mr. TOOMBS. I will tell my honorable friend

from Virginia that I am not inclined at all to yield even to his impatience, for all I shall get on this question is to have it discussed—I understand that perfectly well—and as the remarks I have made have been subject to a good deal of observation, I prefer replying on the spot. I did not make the remarks I did in the opening with the view to prevent a reconsideration, but in reply to the speech of the Senator from Illinois, [Mr. TRUMBULL,] and to what we heard all around us everywhere, “do justice to these gentlemen.” Since then, this debate has branched out into the propriety of this mode of reporting, and as to the good manners of the person whom we employ to report and print our proceedings. I do not intend to follow it there; but I wish to say that I entirely agree with my honorable friend from Virginia [Mr. MASON] in the manner in which he has so properly characterized the course pursued by this public printer; and I wish to enter my dissent altogether from the observation of the Senator from Maine, [Mr. FESSENDEN,] who holds that the reporters of this body have got a right to report any Senator as they please, and to print his remarks as they please. The contract is to print what he said, and nobody contends for anything else. No one has contended for the right, as the Senator from Maine intimates, of making one speech here and going and putting another in print.

Mr. FESSENDEN. It has been done.

Mr. TOOMBS. Yes; and it is done now, and it has been done since that circular was issued—done within my knowledge—done almost every day. I have heard gentlemen make observations, of which I have taken notes at my desk in order to reply to them; but on looking into the Globe the next morning, I found they were not there. Those who choose to go to the office, alter their remarks as it suits them. I recollect hearing an important debate in the House of Representatives a few weeks ago, between two gentlemen of that House, in which I felt some solicitude and some interest; but any human being who read the report of the debate next morning would not have recognized it; and that is under the new circular. I heard the debate with interest, and there was a very good reason why it was altered. One of the parties got badly worsted in the scrape, and he made his speech to fit. That ought to have been denounced.

I recollect making a speech some days ago, in regard to the Army, and said you might as well set a Highland cooter—a terrapin in my country—to catch an antelope, as set a regular soldier to catch an Indian; and these reporters, who are good ones, made me say that you might as well set a colt after an antelope; but I suppose I am bound by it.

Gentlemen have spoken about speeches being retained. Well, I suppose I have a trunk full of them now. In the variety of my engagements in the Senate here, in my office, at home, attending to my duties in this body, attending to the public interest, and trying to prevent this very thing of plundering the Treasury, I had not time frequently, especially at the latter part of a session, to read over and correct the inaccurate reports of my remarks, and so they were laid aside for some other time. I think that complaint is just as to me. I suppose there are in my document-room now at least a dozen unprinted speeches. I found it took so much time to revise them that I had not it to spare.

Now, one half the debates here are of no consequence to the country or to anybody. A great deal of them is on questions of order, and a great deal as to the priority of business. There are necessary to be said for the occasion, but there is no use in putting them in a big book to be sent through the mails. Why, sir, you would have to give a great many persons in this country ten dollars a day to read the Globe. Nobody reads it. I think it is a good burial place. I do not know a more private place on the face of the earth to put anything than one corner of the Washington Globe, and that is the security of many of the outrages and abuses of Congress. If there was a different system, if the newspapers circulated abroad the views taken on prominent questions before the country as they formerly did, the real business of Congress would be before the people, and they would decide on it; but now we bury all

in the Globe, and from there there is no resurrection. It is harmless I admit, but expensive; and that is my objection to it.

But, sir, the point I made in this case was not whether the reporting was good or bad. So far as I am concerned, it is bad; and I enter now a general disclaimer with reference to my speeches that I do not report myself—they are not accurate. It may be—I dare say it is—my fault; but such is the fact. One man may be slow of speech, like Moses; another may have the facility of speaking with clearness and distinctness; and others may be very different in their style; so that it may not be the fault of the reporters. The question I made here, is one which no Senator has thought proper to meet, except the honorable Senator from Mississippi, [Mr. BROWN,] and he has taken a very curious view of it. He almost charges me with filching money from Mr. Rives's pocket because I will not pay his workmen, when I pay him to pay them; in fact, he used that term. We employ John C. Rives at an enormous sum. We commenced with paying him \$750 a column, and we have since added a cent for five pages, which nearly doubles the printing part of it, and then an extra pay for binding and various other allowances, until it has got up to a sum between one hundred and thirty and one hundred and sixty thousand dollars a year, which we pay him to report and print, find the paper, and bind, and furnish the books as printed. Now, because we do not pay the workmen who do the work, forsooth, we are filching money out of his pocket. I say it is filching money out of the public Treasury, contrary to law and justice—I use the term of the Senator from Mississippi; I do not coin it or put it here, but I think it appropriate to say that you filch money from the public Treasury against justice and against right. I do not suppose there is a man in this body who would do it with his own money. Suppose you employ a man to build a house for you, and his workmen come to you and complain, “we only get a dollar a day, we work hard, and are entitled to two:” what would you say to them, if it was your own case? “Go to my contractor, settle the business with him; if he does not pay you enough, quit him.” “Well,” but they say, “we are excellent workmen, and it is very hard business.” That has nothing to do with it, and I undertake to say there is not a man in this body, who, if it were his own individual case, would not turn them over to the contractor, whom he employed.

It is very different, however, when you come to deal with public money—the money of those poor devils, the people, whose praises we hear so much, and yet who are so outrageously plundered. They bear the burdens; they are the asses who are to be satisfied with the compliments to the laborer which we hear frequently all around me—the nobleness of labor, the grandeur of labor, the rights of labor, free labor or slave labor, or whatever other kind of labor you please; but when it comes to voting public money, what does labor gain? Sir, you wring pence out of poverty, out of this very labor, in order to pamper wealth and insolence. You have employed this man at hundreds of thousands of dollars a year to do this work, and now you come here and say he does not pay his workmen enough, and therefore you will do it for him. That is all there is in it, and no man on this floor has denied that that is the case. Go and tell the honest laborer of Vermont, tell it to the laborer of Maine, tell it to the laborer of Mississippi, tell it to the laborer of Ohio, tell it everywhere, that you have employed a man who has been fattening and living on the public purse for a quarter of a century, bloating in wealth, that you have made a contract with him, that you have doubled it, and trebled it, and added to it, again and again, and that he comes to you—no, he does not; he is too proud for that, and I honor him for it; he does not say a word in this business; he leaves that to you and to other persons to come here and say this man does not pay his laborers enough, and therefore the Senate of the United States must pay them \$500 apiece more? Why not say \$2,000? Why put it at \$800? You say the House of Representatives give that to the men there, and therefore the Senate ought to give it here. Because the House of Representatives violate their public duty, and pay Rives's workmen, you are to do the same! I suppose, then,

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that if the House of Representatives were to pay all his workmen, and pay for his type, and pay for his paper, and for his binding, it would become the honor of the Senate to pay it too. If they take money out of the Treasury to pay those who set his type, and to pay his house rent, the honor of the Senate is concerned, that this honorable body must not be excelled in profligacy by their brothers in the House of Representatives, and therefore ours ought to be on the same basis—those who report here. That is all the argument. You do not even show that he does not pay them enough. Who knows what is paid to them?

Mr. JOHNSON, of Arkansas. Four dollars and fifty cents a column.

Mr. TOOMBS. How much does that amount to by the day, or week, or month? Do not come at me with columns, or ems, or picas. You had better come at me with Greek or Latin, for I could brush up on them a little. You had better come at me even with Hebrew, for I believe I looked at that when I was at college. Anything but ems and picas. Whenever you come at me with that, you might as well talk Choctaw to me. Nobody here understands it, and it is not intended that we shall understand it. I take it that Mr. Rives, who has been bred to this business, and has made a fortune by it, knew what he was about when he agreed to do this reporting and printing for \$7 50 a column. He knew what he was about when he got us to give him a cent for five pages. He did not make any mistake then. I do not know what it amounted to by counting his ems and ens; but I find, on looking at the items of expenditure reported to us by the proper officer, that that gave him an increase of fifty per cent. on his old terms. I could not work it out in ems, but I can in dimes. He knew how many dimes it would bring.

Now, without knowing whether his pay is sufficient or not, whether it is a good contract or a bad contract, whether he pays these people half enough or three times too much, you say it concerns the honor of this assembly of conscript fathers to pay as much as the House of Representatives pays to Mr. Rives's servants and employes—that they are not to exceed you in what you choose to call liberality, but what is really squandering the public money. Perhaps here, in accordance with the history of the world in all ages and all countries, the people will take pay in the lip service of which I have before spoken; but I am inclined to think that public extravagance is a self-limiting disease, though it oftentimes kills the patient. We speak of the corruptions of Mexico, of Spain, of France, and of other Governments, with a great deal of truth, according to all accounts; but from my experience and observations, which have been somewhat extensive, I do not believe to-day there is as corrupt a Government under the heavens as that of these United States.

Mr. HALE. Nor I either.

Several other SENATORS. I agree to that.

Mr. TOOMBS. And most of all its corruption is in the legislative department.

Mr. CAMERON. Is not the majority responsible?

Mr. TOOMBS. No, sir; the man who gives the vote is responsible; and if the people ever come to understand that, we shall have a reform, but not till then. I am responsible for my vote, and not for another's. Every tub should stand on its own bottom. If the people want to put an end to extravagance, let them punish the men who give the votes—and my whole object is to bring the subject to the attention of the country. It is my deliberate judgment, that this is a wrongful expenditure of the public money; I think it is a wasteful one. It will go out to the people, and they will take hold of it. Perhaps, if I have time, I shall write out this speech, and put it in a newspaper, or have it printed, and sent to my constituents. In that way it will get before them; but I have no idea that it will get anywhere, in the Globe, except the cellars and garrets about here. One of the complaints of this printer is, that nobody will take his books; and that when new members come in, to whom he is authorized to sell a set, our younger brethren of the House of Representatives—Young America—knowing that they are worth nothing,

commute rather than take the trash. That is one of his grievances, and I think we ought to make that up to him. By law he says he is entitled to furnish sets to new members of the House of Representatives; and that of one hundred and thirty-one new members, there was not one who appreciated his learning, or your wisdom, and therefore he says the dogs commuted and took money, or got another set somewhere else. You can make nobody take his paper except by law; it requires an act of Congress to make any human being take the Globe at all. That is one of his complaints, and it is true. I am not surprised at it. Our people are too sharp for that. Even the young members of Congress who come here are too sharp for that, and they take half the money instead of the books. I would sell you mine to-day for half the contract price. My constituents are tired of them. Nearly all the little mail carriers in my country curse me for sending these books, which break down their horses, and I lose ten votes where I make one by circulating them. I should be glad to sell them for half price, but I have no idea that I shall find a purchaser. I do not want to pay anything more than I have agreed. I will do that, but I am not willing to pay Mr. Rives's workmen in order to enable him to complete the job. If he could not print, it would be one of God's mercies, as Cromwell said after the battle of Naseby; it would be a crowning mercy if he was to break down in this printing; but I have no such hope as that. I will, then, put all the weight I legitimately can on him; I will make him comply with his contract, and pay his own men; and I will not put my hand in the public Treasury to filch money, to use the ugly word of the Senator from Mississippi, to pay his men. I am for making him to stand up to his bargain. The Senator from Mississippi intimated that I was filching money from Rives's pocket, but I think the filching is the other way.

Mr. BROWN. I want to say, in the outset, a word in reply to the Senator from Virginia, [Mr. MASON,] in reference to Mr. Rives's note. The note struck me, in the beginning, as it did the Senator from Virginia, as being a little impertinent; but never having known the author of it to say or do a palpably foolish or absurd thing, I read it again and again, and the more I read it and studied it, the more it impressed itself on my mind as proper. The conclusion to which I came in the end was this: Mr. Rives had entered into an agreement with the Government to publish the debates of Congress. He represents that he had no agreement, no engagement with you to publish what was not said here. He had no engagement to publish, at the public expense, essays and things written outside. He had no engagement with you which obliged him to publish a speech which never was delivered in Congress, nor to allow a gentleman to take back all which he had said, and publish something which he never had said. He had no engagement to make one Senator ridiculous, in replying to a speech which apparently never had been made.

He waited some six or seven years for Congress to apply the corrective. Congress did not do it. Speech after speech was published, as all of us know, which never had been delivered, and parts were thrown in which never had been made. Not only did it happen once or twice, or thrice, but very often, that Senators not only published new speeches for themselves, but published such speeches as they would like to reply to for other people. Mr. Rives interposed. His proposition was this: "If you simply want me to print what you send me as printer, I will print the manuscript you send me; but if I am employed to print the debates of Congress, and am authorized to employ men to report them, I will publish the reports, and nothing else, simply allowing verbal corrections."

That commended itself to my judgment; it does now; because otherwise the reports make great nonsense. If one man may go and alter his speech another may go and alter his; the right of one is the right of another; and you make a sort of hotch-potch—a jumble of nonsense of the debates. It is better to take them down as they are said here, allowing members to do what Mr. Rives, in his circular, said he would allow—make simple verbal corrections; not to go beyond that point; not to

alter the sense; but if you go beyond that, nobody can see the point at which it is to stop.

But it has been complained, in the course of this debate, that this is an extravagant and wasteful expenditure. How? If gentlemen will but take the pains to investigate, they will see this to be true: that the Congressional Globe and Appendix is published at a smaller price than any book that ever was printed. There is not a stereotyped edition of the Bible itself published in the world so cheap per word as the Congressional Globe. I undertake to say that the volumes are bought, counting the words, for less money than any book ever was printed for, in this or any other country. I dare say Mr. Rives makes money out of it; but how, I cannot understand. I know the fact to be, upon a critical examination, as I stated, that, counting the number of words in the Congressional Globe, it is printed at a less price than the Bible was ever printed for; and that, I believe, is considered the cheapest book in the world; it has become the object of the whole Christian world to print it at the least possible price. How the publisher makes money out of the Globe I cannot understand; but I know that his profits must necessarily be small; and that he can afford to add to the pay of the corps of reporters is not true. As I said in the beginning of this debate, he submitted his estimates, when he first undertook this job, that it would cost him so much to have the reporting done, so much for paper, so much for the composition, so much for press-work, so much for binding; and that the profits would be thus and so. Now, are we to demand from him that he shall take from his meager profits \$4,000 per annum to add to the pay of the corps of reporters? It was in that sense that I used the phrase; it would be filching by the Government from the pockets of the man whom you employ, to pay the persons who must necessarily do the work.

It has been suggested, in the course of this debate, that we had better employ our own reporters; and, if they were our reporters, then there would be no objection to paying them this extra compensation. Sir, you undertook that. Who does not recollect—I was not a member of this body, but I was in the other House—when you had a man named Houston to report for you; and a wretched job he made of it! Who ever consults his book? It is hid away in your cellars. There may be a copy in your library; but does any Senator think of sending for Houston's Debates of the Senate as a book of reference? Does anybody have the least respect for it? That was a senatorial job. You employed Mr. Houston to make a book. He made it; and when he made it, and you had paid for it, that was the end of it. You adopted this last plan—that of getting some competent man to have the reports made, to have them made accurately, to have them published by him, and then to pay him for the whole in bulk. I think the reports under this new system are better than they have ever been before. So far as I am concerned, I am in favor of continuing them.

Mr. Rives has never taken the ground, as has been charged in this debate, that he would allow no corrections. He took the ground which I stated before—that verbal corrections might be made; that sentences might be recast; that grammatical construction might be changed or altered or corrected; but that he would not allow a new speech to be substituted for one which was made in the Senate; and in that I maintain he was exactly right. Your contract was for him to report what was said, and to print the report; not to permit anybody and everybody who thought proper to write speeches out of doors to bring them in, and have them published under the sanction of senatorial and House of Representatives reports, and printed at the public cost. I have had no difficulty—I doubt if there is a Senator on the floor during the whole winter who has ever had any difficulty—on this score. As I said in the outset, I seldom ever look at the reports of what little I do say here; but when I do, I find that, while they may not be precisely accurate in all respects, they so nearly approach accuracy that there is no just reason to complain. I think I have not had occasion but once to change the phraseology in the report of what I have said at this session.

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Therefore, I think these charges that Mr. Rives has improperly and impertinently interfered are not just. He is doing what you employed him to do, reporting what is said, and printing the reports. You never employed him, I repeat again, to print what was not reported, and if he does that, where is he to stop? Is everything that every Senator and member of Congress thinks proper to write out at his leisure, to be drawn into the reports and published as part of the proceedings of Congress? Are speeches in the House of Representatives, which we all know must be confined to an hour, to be drawn out to three, four, and five hours in length and published in the reports? Must Senators and Representatives be allowed to suppress proceedings entirely, to break off the whole current of debate? Who does not know that that has been done, that a speech has been abstracted out of the middle of a debate by the Senator or Representative who made it, thus breaking the chain? Somebody is reported as having replied to this speech, but you cannot tell whether the reply is just or unjust. A man gets overturned in debate, and to recover his position, takes out his speech entirely, does not allow it to appear. Some, still bolder, make new speeches, write out something they never said, never thought of saying, and have that published as part of the debate. That was done heretofore. I protest that Mr. Rives was not employed by Congress to publish any such stuff as that. He was employed, I repeat again, to report what was said, and when the report was made to print it. He has, in the proceedings of this session, undertaken, and has, to a very great extent fulfilled his contract to the very letter, and I honor him for it.

Mr. DOOLITTLE. I desire to read two or three extracts from the Globe of 1853 on this question. I observe here, on looking into the Globe of 1853, that Mr. STEPHENS, of Georgia, in the House of Representatives, moved this amendment to one of the appropriation bills:

"I move this additional section: To enable the said John C. Rives to pay the reporters of this House for this session the sum of seven dollars per column instead of four dollars, for the reports of the Congressional Globe, the sum of \$3,000, or so much as may be necessary for that purpose, and the Clerk of this House be authorized to pay the same to the said Rives for that purpose."

Mr. STEPHENS then, in a very brief speech, stated the object of the amendment. He said:

"The committee can perfectly understand what it means from the reading of it. I will state that the object of the amendment is to increase the compensation of the reporters of the Congressional Globe in this House, three or four hundred dollars, it may be five hundred dollars, for the session. We pay them under the arrangement with Mr. Rives for reporting in the Globe at the rate of four dollars per column. The object of the amendment is to make it seven dollars per column, and simply to increase their compensation for this session."

Mr. CLINGMAN, of North Carolina, stated that he intended to support the amendment offered by the gentleman from Georgia. Mr. McMullin, of Virginia, however, following very much the line of argument which the honorable Senator from Georgia to-day has pursued, used this language:

"Mr. Chairman, I dislike very much to make opposition to this amendment, but really it does seem to me that if this committee design to deal even-handed justice to all portions of this Government, and unless they mean to interfere with private contracts, they ought not to pass this amendment. I understand that these gentlemen have been employed by Mr. Rives by contract, and here is an amendment proposing to pay them more than Mr. Rives has contracted to pay them. If I am misinformed as to the facts of the case, I desire to be corrected. If it is the policy of Congress to pay these gentlemen more than they have heretofore received, why do so. But when these gentlemen have come forward voluntarily and made a contract with Mr. Rives—"

Then interferes Mr. TOOMBS, of Georgia:

"This amendment [says Mr. TOOMBS] gives Mr. Rives an additional amount to enable him to pay his reporters a larger sum. It does not interfere with his contract at all."

Mr. McMullin says again:

"I desire information. Is it contemplated that this provision shall have a retrospective effect?"

"Mr. TOOMBS. It provides for this session only."

Now, I have but a single word to say. The speech of the honorable Senator from Georgia to-day was a very earnest speech, an amusing speech, and but for the fact that it is not altogether original, it might be regarded as a very able speech; but Mr. McMullin, it seems, gave the original of this speech when the honorable Senator, then in the House of Representatives, took precisely the other ground: that the object was

not to break up the contract with Mr. Rives in paying the reporters, but to enable Mr. Rives to pay the reporters a larger sum, and upon the simple ground that the reporters earned the money, and that is the simple question here. I know it is unfortunate for us who are engaged in the practice of law, that in the argument of legal points we are sometimes brought there on different sides of the same question. I simply desired to read these extracts.

Mr. TOOMBS. It seems that I am called upon to answer the reporters; for, doubtless, they have been speaking through the Senator from Wisconsin. I suppose that is the reporters' speech, and the Senator has not a word to say. My answer is, that since that time from fifty to seventy-five per cent. has been given to Mr. Rives to carry on this work. The Senator, however, is entirely mistaken as to the date; for I was not in the House of Representatives in 1853. It seems he cannot even read a report correctly when the reporters give it to him.

Mr. DOOLITTLE. Will you be kind enough to read the book yourself?

Mr. TOOMBS. I know that it is not true, for I sat in this body in March, 1853.

Mr. DOOLITTLE. I read from the proceedings of the House of Representatives of the 28th of February, 1853.

Mr. TOOMBS. Oh, I was there then. I came into this body in March, 1853. Since that time, however, double compensation has been given to Mr. Rives. The object then was—and it was an open object—to increase the compensation; and I supported it. You have gone further since that time, by making his paper free, for the reason I stated before, that nobody would read it unless by act of Congress; and you have given him one cent for every five pages, which is fifty per cent. on his printing. Now, I suppose the reporters sit here to prompt just such Senators as he is on these subjects, and good work they do; for the reporters have agents here. They have had them in both Houses. They keep them here. They know the men to get hold of. They know the men who suit them; and they never miss their man. There is never any mistake with them—never.

Mr. SIMMONS. They made a very good hit in 1853; did they not? [Laughter.]

Mr. TOOMBS. Then the proposition openly was to pay Mr. Rives on the ground that \$7 50 a column was inadequate; and for some time, on the various representations which were made, I believed it; but since then we have added from fifty to seventy-five per cent. to his contract price. What have the reporters to say to that argument? I hope the Senator from Wisconsin will go behind the bar and get their answer. We have added to Mr. Rives's compensation since that time sixty or seventy-five per cent. to pay the reporters. We have given him one cent for five pages; we have made his paper free through the mails; we have taken ninety-three copies of his book for each Senator, instead of twelve, the number we formerly took. We have increased him sixty or seventy-five thousand dollars on a contract of \$137,000 since that, and now you want to "enable" him again. Where are you going to stop? Because you "enabled" him when his compensation was not one half what it is now, is that a reason for doing it to-day?

Mr. DOOLITTLE. I understood the Senator from Arkansas to state that the compensation of the reporters of the Senate was \$4 50 a column—the same price that has existed ever since the contract was made.

Mr. TOOMBS. I am going to state another fact. The statement there was no doubt made by a reporter. I have no doubt now that Mr. STEPHENS's statement was inaccurate. No doubt it was just such an imposition as probably has been practiced on the Senator now, because the \$7 50 was for reporting and printing. There was no division of it in the law, and it is not there now. It was supposed, doubtless, by my honorable colleague in the other House, that Rives and his men had reported truly that the law only allowed so much to pay them, but there was not a word of truth in it, and that is a sufficient reason for the vote, because the law shows that there is not any such thing in it. My colleague stated that, by the

law, he was allowed so much to pay his reporters, whereas he was allowed \$7 50 for reporting and printing. So far as I am concerned, I believed then he was entitled to more, and since I have been in the Senate, I think, on the representation of my honorable friends from Arkansas and Mississippi, (who have uniformly stood, and do now, I am sorry to see, backing this man in every claim he makes on the Treasury,) I have voted for increasing his compensation. I am not certain that I did not vote for the cent on five pages, and one Senator here to-day, my honorable friend from Connecticut, told me that, at the time, he did not suppose it would amount to \$100, but it has turned out it amounts to thousands. It is upon these cents for pages, and ems, and picas, and unknown quantities, that the Senate and the House have been defrauded. The difference between the honorable Senator and myself is, that when I get light and truth, I no longer aid in plundering the public Treasury, and he continues it when the facts are before the public.

Mr. JOHNSON, of Arkansas. The Senator from Georgia has a very strong way of speaking. He knows very well that the personal relations between myself and him are certainly of the most friendly character. The Senator now talks of ems and picas. There is nothing in the law in regard to them, nor has anybody intruded them here but himself. The Senator perhaps aimed at a matter which has passed from this body, and I should be exceedingly sorry to hear it debated over again.

Mr. TOOMBS. I alluded to the various accounts that have appeared from time to time in the Globe showing that he lost money. I read them. Whenever the printer of Congress comes to us as he has repeatedly, and made expositions of printing, I believe every year since he has been printer, he goes on and shows how much he has lost, how much he gets by ems, how much ems are worth, and so on. What I allude to is the representations by which many persons were misled, and are now.

Mr. JOHNSON, of Arkansas. I thought the Senator was referring to the bill that passed here recently in regard to the prices of public printing. I concluded his reference was in that direction. I was sorry to suppose so, and I therefore asked this correction. In reference to the price of printing in the Globe, there is nothing of that character whatever. The resolution simply says:

"Resolved, That the Secretary of the Senate be, and he is hereby, authorized and instructed to audit and from time to time to settle the accounts of John C. Rives, for the reports of the Senate proceedings and debates, published in the Daily Globe, at \$7 50 a column."

There is a great deal to be said about this subject. There is a great deal that can be said. I must say, however, that it appears to me I have never known the Senator from Georgia, for whose extraordinarily strong and excellent intellect I have so high respect, to involve himself in so much unreasonable denunciation, and so much denunciation that is without just foundation whatever, in so short a space of time, in the course of my service in this body, as he has to-day.

Mr. DOOLITTLE. The honorable Senator from Georgia has been pleased to make some allusion to myself personally—that the reporter seemed to know his man. The reporter and the Globe seem to know the honorable Senator from Georgia; and I have no doubt that the correctness of the Globe in reference to the reports which were made, will stand, notwithstanding the impeachment which the honorable Senator seeks to make in the judgment of the country. In relation to all this denunciation against profligacy, which we hear from that honorable Senator upon this floor, I wish to say to him, once for all, that I do not take his dictation to me on the score of profligacy, or profligate appropriations. Sir, the history of that Senator is known upon various public measures; and it may be well for him not to push that matter too far.

Mr. TOOMBS. Any extent whatever, sir. I defy all scrutiny.

Mr. DOOLITTLE. Has the honorable Senator ever heard of Galphimism?

Mr. TOOMBS. I have.

Mr. DOOLITTLE. Mr. President, I do not desire to enter into a personal controversy here.

with this Senator. It is not my purpose to do it. But I give him to understand that I do not receive these lectures as addressed to myself personally. I arose simply to read the extracts from the Congressional Globe, which I supposed were correct, and to call the attention of the Senator and of the Senate to the fact that on this very question the Senator, on a former occasion, if this is the correct language he used, took a different ground from what he does now. If the honorable Senator has become satisfied since that the ground then taken was not correct, and chooses now to take a different ground, I have no fault to find with him. I simply say that, so far as I am concerned, I desire to do nothing more than to do justice to these reporters here; and I understand that, from the first commencement of this system of reporting, this has been the usual compensation which has been given, both in the other House and in the Senate; and being the usual compensation, I say that if it is to be paid to the House reporters, I insist it should be paid to the Senate reporters. I had not intended to take up the time of the Senate at any length. My purpose was simply to read the extracts.

Mr. TOOMBS. The Senator from Wisconsin asks me if I have heard of Galphinism. I desire an explanation from him on that subject. If he charges me, in connection with any branch of public service, now or at any time, with any improper action on any public transaction whatever, I wish to know it.

Mr. DOOLITTLE. In relation to the subject of Galphinism, and the claim from which that name was derived, I understand that the honorable Senator—I may be misinformed as to the fact—in the House of Representatives advocated that claim, about which so much was said at the time. I do not impugn the motives of the Senator in doing it; but if I am misinformed as to the fact, I am willing to be corrected.

Mr. TOOMBS. This is rather an extraordinary way of dealing with questions, for a Senator to make an allusion without intending an imputation. I do not understand it that way. So far as the claim of George Galphin for revolutionary services was concerned, I say that it received a unanimous vote in the House of Representatives. There are many members upon this floor who sat as members in that House with me at the time, and voted that it was just, that it was right; and the denouncers of it were miserable slanderers and cowards. The gentleman connected with it was every way one of the most honorable men in the Republic; and I undertake to say that he who assails the justice of it or the motives of my friend, then Secretary of War, cannot maintain as a gentleman what he will say as a Senator. That is all I intend to say on that point. I have said before, that claim received, so far as I know, the unanimous support of the Senate again and again; when it passed, it received the unanimous support of the other House, and the signature of the President of the United States; it was a just claim, founded upon revolutionary service. That it was assailed in the newspapers is true; but it seems that Senator now does not choose to intimate or know on what point the clamor was made. The clamor was made upon the allowance of interest by the Secretary of the Treasury of the United States, at the instance of another distinguished friend of mine, then a member of General Taylor's administration—the Hon. Reverdy Johnson. The complaint was as to the departmental decision allowing interest. The integrity and validity of the claim have never been assailed, in my judgment, by anybody; but, if there is any, I should like to hear from the Senator from Wisconsin what fact he knows against it.

Mr. DOOLITTLE. I will say that I had supposed the honorable Senator himself was instrumental in pressing the claim; not only the original claim, but that he urged that the interest should be allowed upon it, about which so much was said. If I am mistaken in the facts, I am willing to be corrected. I have not made any imputation as to motives.

Mr. TOOMBS. You are not at all mistaken in the fact. When that interest was allowed, I defended it in the House of Representatives, and I defend it here. I know that the then Secre-

tary of War came to the House of Representatives and demanded that the question should be referred to the Supreme Court of the United States, pledging himself to refund the money if the decision was not affirmed by the highest tribunal of his country; and a partisan majority in this House put it down. I suppose the gentleman got his information from his allies; and I dare say millions of dollars have been stolen in this country under the cry of Galphinism. It is the common cry when there is a desire to plunder the public Treasury. I will give a brief statement of the case now to refresh the public mind.

George Galphin was an Indian trader in the State of South Carolina. He bought from the Indians, with seven other traders, a large tract of land. The amount of his debt, £9,000, was audited by Governor Wright, at the commencement of the Revolution. The British Government were to sell the lands and to pay the traders' debts. There never was dispute anywhere about his debt. It went from Congress to the Legislature of Georgia, and from there here, the dispute being who should pay. Georgia said the United States ought to pay; the United States said Georgia. Georgia said she never used the fund; that the land had been used in the particular defense and in the general defense of the United States. This man, being a friend of the Revolution, called upon his own Government. The other seven traders were Loyalists; they went to the British Parliament and were paid. I hold that the Government of the United States were bound to pay the money, as they had, in 1790, assumed the debts of all the States incurred for the general or the particular defense. The Hon. George McDuffie, of South Carolina, reported the bill in this body, and the Senate passed it year after year. It came to the House of Representatives, and there I was its ready defender. It went to the Judiciary Committee, of which the Hon. Joseph R. Ingersoll, of Pennsylvania, was chairman, and that committee reported unanimously in favor of the bill, and it passed the House unanimously, as will be recollected by the Senator from Arkansas, who was then a member of the other House, and who was present on the occasion. When General Taylor came in, the question whether it should draw interest, according to the act of 1832, as all such claims did, was referred by the then Secretary of the Treasury, Mr. Meredith, of Pennsylvania, who now, I believe, belongs to the Republican phalanx, to the Hon. Reverdy Johnson, a friend of mine then and now, as noble and true a man as lives on the face of the earth, who had been a counsel twenty years before he came there, and, without the least knowledge of who the parties concerned were, he decided that the interest was due. That is the history of Galphinism.

This cry I know has been the common slosh of party newspapers, but I did not expect to hear it in the Senate unless from a gentleman who knew enough about the claim to point out what was wrong in it, wherein it violated public principle. I voted for it, and I glory in it as an act of justice and right, not to my own constituents, but to the constituents of my honorable friend from South Carolina. Dr. Galphin, the executor, to whom the money was paid, lived in South Carolina, and it may be that some of the parties interested lived in Georgia. That the claim was a just debt, a part of the price of the Revolution, was unanimously decided by the Senate and House of Representatives, and approved by the President, and honestly decided by the Secretary of the Treasury and Attorney General of the United States. No man, I think, is prepared to controvert it—at least I am ready to take issue with any one that does. I repeat that whoever alludes to it by way of imputation, uses his privilege as a Senator to say what he is not ready to maintain outside.

Mr. HAMMOND. I merely wish to say, as this subject is referred to, that some twenty-odd years ago this claim was put in my charge as a member of the other House, and I investigated it thoroughly. Knowing the nature of the Galphin claim, and being acquainted with all the parties, I indorse entirely everything that has been said by the honorable Senator from Georgia in regard to it.

Mr. MALLORY. I move that the Senate adjourn.

Mr. HUNTER. Let us sit out this, and finish the bill.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The motion to adjourn is not debatable.

The motion was not agreed to.

Mr. MALLORY. I moved an adjournment, because we had come to a very singular discussion. On the question of reconsidering this bill for the purpose of compensating our reporters, we have got into a discussion of the merits of the Galphin claim.

The PRESIDING OFFICER. It is in the power of a Senator to make a point of order; but the Chair did not feel at liberty to arrest the discussion, though it was rather wide of the question.

Mr. MALLORY. Much has been said, Mr. President, about the circular of Mr. Rives, and the language in which it is couched. That is a question of taste. I regard the rules it lays down as well calculated to effect the object proposed—a faithful report of the debates of this body. The last clause announces a truism, which might as well have been left unsaid, namely, that there is no use in having rules unless you abide by them. Mr. Rives has mistaken the fact that he prescribes the rule, and not the Senate for itself. But I see nothing there to take offense at; and even if there were, what has that to do with the question before us—whether we shall pay our reporters what they earn, what their services are worth? Sir, I have been exceedingly surprised, frequently, at the accuracy of our reporters. I have taken some pains to ascertain the facts; and I believe they are the best reporters this day in the world. There are, to my certain knowledge, some three hundred and fifty systems of short-hand writing; and the system which is pursued here is, I am convinced, that which is best calculated to give accuracy to the reports; and by that system it requires no ordinary man to make a reporter. It requires a strength of intellect, a range of accomplishment, an experience and acquaintance with the business affairs of life, which not one reporter in ten thousand possesses. Here the three main reporters we have, have not only practiced this system by themselves, but practiced it with each other, so that each can read the others' marks. Not only have they done that, but they have acquired a familiarity with the style of different gentlemen here; with their intonations of voice; with their emphasis; with their manner; with their peculiarities of mind; and with the range of their mind, which enables them to report us with exceeding accuracy. This is a body mainly of lawyers; and we are frequently engaged in legal investigations. We had long treatises delivered to the Senate on national and commercial law, recently, upon the fisheries. During the Kansas debate, we sat up one entire night discussing the law of slavery and points of order, congressional law and parliamentary law. A few days ago, during the discussion of the cod-fishery question, I deemed it proper to make some few remarks, which amounted to three columns in the Globe. I saw none of the notes of the reporters; I asked for none. I did not see the report until two days afterwards; and I was surprised at the accuracy of everything in it.

Now, the question is, can we retain the best reporters when we have them at the compensation we are now giving them? Do they get enough to compensate them for their labors? Compare it with the compensation we give to others. We give our messengers \$1,200; we give our clerks of committees, some of them, \$1,850; we give our pages a large amount for their services; and these reporters, upon whom the reputations of many gentlemen more or less depend, are receiving less. The reporting for the present Congress, I understand, will amount to about twelve thousand dollars, or \$6,000 a year, out of which the reporters and their assistants, copyists and amanuenses, must all be paid.

The report in to-day's Globe of yesterday's proceedings is, I think, unprecedented. You see there more than twenty-five columns reported. I do not recollect ever to have met in the history of the American Senate such a report as that. The reporters were employed from nine o'clock in the morning until four o'clock, some nineteen consecutive hours, in business connected with reporting

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and in preparing that report; and it was so done as to render it unnecessary for gentlemen to revise their remarks. Well, sir, when we have such reporters, it relieves members of the Senate of a great deal of labor; Senators are not anxious about looking at the reports; they can confide in them; but get an inaccurate set of men, a new set of reporters unfamiliar with this body, and you will find that almost every sentence you utter will be reported wrongly.

The Senator from California regretted that we had not adopted some more simple system, as he says, that of making a compendium; and the Senator from Georgia, too, regrets the publication of so much matter. Well, sir, I think if there be anything about the debates of Congress at all that is worth preserving, it is necessary to preserve nearly every word that is said. I do not say that it is necessary to print so many volumes and distribute them; but a record of a man's thoughts, and the motives of his actions, are precious to him, and they should be retained. If we look upon it in that light, we cannot dispense with good reporters. I think if gentlemen will inquire into the compensation paid to the reporters in the cities of New York and Philadelphia, paid to itinerant reporters who are sent to public assemblies and gatherings all over the world, who are the cheapest class of reporters, ours are inadequately paid.

Mr. TOOMBS. I ask the Senator whose duty it is to pay them under the contract?

Mr. MALLORY. I would ask the Senator the same question. If the Globe speaks correctly, whose duty was it to pay them before, when the increase was offered in former years?

Mr. TOOMBS. Do you show that the present compensation is inadequate?

Mr. MALLORY. I know the fact.

Mr. TOOMBS. Do you show that Rives does not get sufficient compensation for public printing to give his reporters fair wages?

Mr. MALLORY. Of public printing I know nothing; on that subject I am as ignorant as the gentleman himself; but I know what the reporters receive, and I know that in comparison with the compensation we pay others they are not compensated at all, and I know they can leave this body to-morrow, and get double what they now receive. I know that they have had offers to do so, and they will do it, unless they are compensated for their labor. I do not care for that; all I wish is to see that those who bear this important relation to us shall receive a fair equivalent for their labor.

As to Mr. Rives's statements, I believe them. I would believe Mr. Rives as soon as any man in Washington. If the life he has passed in Washington, as well known as he is, for some twenty-five years, more or less, connected with Congress, has not given him a reputation which will support him here in the simple statements he gives us in relation to this printing, then public reputation is not worth the strife of an honorable man. I would as soon take Mr. Rives's statements, unsworn to, made as a gentleman and a man of honor, as I would those of any other man of my acquaintance. Knowing the fact that we have repeatedly made attempts to have our debates reported accurately; that other gentlemen who have taken a contract to do it have had to resign it because they could not be compensated, I regard the pay we give to him as enabling him to allow no more to the reporters than he now gives, \$4 50 a column, and reserve proper compensation to himself.

The PRESIDING OFFICER. Is the Senate ready for the question on the motion to reconsider?

Mr. HUNTER. I hope the question will be taken.

Mr. PUGH called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 28, nays 16; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Davis, Dixon, Doollittle, Fessenden, Foster, Green, Hamlin, Harlan, Houston, Iverson, Johnson of Tennessee, King, Mallory, Polk, Simmons, Stuart, Trumbull, Wade, and Wilson—38.

NAYS—Messrs. Bayard, Bright, Clay, Clingman, Fitzpatrick, Gwin, Hammond, Hunter, Johnson of Arkansas, Mason, Pugh, Rice, Sebastian, Slidell, Toombs, and Yulee—16.

Mr. HUNTER. Is the bill now open to amendment?

The PRESIDING OFFICER. Not now. The engrossment must first be reconsidered.

Mr. HUNTER. I move to reconsider the engrossment.

The vote ordering the amendments to be engrossed and the bill to be read a third time, was reconsidered.

Mr. HUNTER. I now move to strike out the provision which the House have made, giving \$800 to each of their reporters. The amendment is from line one hundred and thirty-one to one hundred and thirty-seven inclusive, to strike out the following words:

"For the usual additional compensation to the reporters for the Congressional Globe, for reporting the proceedings of the House of Representatives for the next regular session of the Thirty-Fifth Congress, \$800 to each reporter, \$4,000."

It is not my purpose to make any speech about it. The whole matter has been discussed. I hope the question will be taken. Let us determine whether we shall strike it out. That will make the two Houses equal.

Mr. PUGH. I call for the yeas and nays on the motion.

Mr. BROWN. I want to say a word before that vote is taken.

Mr. HAMLIN. Let me make a suggestion to the Senator himself, and it is this: before we take the question on striking out these words, it is parliamentary to perfect them, and let us see whether we cannot insert our friends here.

Mr. BROWN. That is just what I am going to do. When we had up the deficiency bill, the Senator from Virginia took precisely this course. An amendment, a copy of which I have in my hand now, to the original deficiency bill was ruled out, and I had a sort of quasi promise from the Senator from Virginia, that if the House insisted upon paying their reporters, then that ours were to be put upon the same footing. It was not done. Now, before this motion passes to strike out, I insist upon what I insisted on doing then: that we vote our amendment in, and, then, if you choose to strike it all out let it be done; but I want to file a caveat with the committee of conference, if it comes to that, that we mean to protect our own reporters. Therefore, I want to get the amendment in protecting our reporters so as to notify the committee of conference, however it may be composed, that we mean to put our reporters on the same footing with the House reporters. I insist, again, that it is degrading to our reporters, for the Senate to agree, as we do when we pass laws by the joint action of the two Houses, that they shall receive \$800 each less than the House reporters.

Mr. HUNTER. The Senator is mistaken in supposing that he had any promise from me in relation to the matter.

Mr. BROWN. I so understood it. I put it on that ground, and I understood there was acquiescence in it; that if the amendment was not adopted, the committee of conference on the part of the Senate would take care of our reporters. The broad principle I have stated again and again, that it is degrading to our reporters that we allow the House to pay their reporters \$800 more than we pay our own, by a bill for which we vote. I want to put an amendment in, placing our reporters upon the same footing with the House reporters. If they insist that we can get the bill upon no terms except that their reporters are paid, then let ours be paid the same compensation. Therefore, I hope this motion to strike out, just at this time, will be withdrawn, until I can offer this amendment, or have it voted down, and then we can take the motion to strike out all together. I believe I have a right to perfect it. Then I offer this amendment. After line one hundred and thirty-seven to insert:

To enable John C. Rives to pay to the reporters of the Senate the usual extra compensation for the third session of the Thirty-Fourth Congress, \$800 each, \$3,200.

To enable John C. Rives to pay to the reporters of the Senate the usual extra compensation for the first session of the Thirty-Fifth Congress, \$800 each, \$3,200.

To enable John C. Rives to pay to the reporters of the Senate the usual extra compensation for the second session of the Thirty-Fifth Congress, \$800 each, \$3,200.

Mr. HUNTER. I will ask if this comes from any committee? There is a rule in regard to that matter, I see. This is for deficiencies, not only to go forward, but to go back. I ask if it comes from a committee?

Mr. BROWN. I do not move it on the recommendation of any committee, but I do it because it is germane to the subject. It is a part of the same proposition. I leave it to the Senate to determine whether I shall move the proposition or not.

Mr. IVERSON. Is that amendment in order now?

The PRESIDING OFFICER, (Mr. FOSTER.) There is no amendment that would be in order now. This is proposed as an amendment to an amendment, which must be acted upon.

Mr. IVERSON. I will read the rule, if the Chair pleases. I think the amendment is clearly out of order. Rule 30 is:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

That is the rule on the subject. I think an individual member cannot move the amendment.

Mr. BROWN. With all deference to the Senator, I make this suggestion: that this is simply an amendment to increase an appropriation already proposed in the bill; it is not a new and original proposition. I do not bring in a new proposition. I simply propose to increase the amount of the appropriation to pay the corps of reporters; and, if it be said that we must vote in the absence of a proposition which comes from a committee or a Department, without the power to lessen it or to increase it, then we had better give up the whole business of legislation to the committees and to the Departments. I do not propose anything new; but you already have a proposition in the bill to pay a portion of the corps of reporters, and I simply propose to add something to the amount—that is all—to amend an already existing proposition in the bill. I grant you that I have no power to bring in an entirely new subject without the consent of a committee, or without a recommendation from a Department; but this does not stand on that basis.

Mr. FESSENDEN. It is manifest that there is a very considerable majority of the Senate in favor of this proposition; and I really think the Senator from Virginia had better withdraw his objections on a mere point of order.

Mr. HUNTER. I have no right to withdraw a point of order. It is for the Chair to decide.

Mr. FESSENDEN. I think in a little time a committee can be found who would recommend it; and I move that the Senate adjourn.

Mr. BROWN. I hope the Senator will allow me—

Mr. FESSENDEN. If it is excluded on the point of order, you cannot put it in.

Mr. BROWN. Then I will vote for an adjournment.

Mr. TOOMBS. I hope not; let us get through with the bill.

Mr. DOOLITTLE. I appeal to the honorable Senator from Virginia to withdraw the objection, on the ground of a question of order, and to allow the sense of the Senate to be taken.

Mr. HUNTER. What right have I to withdraw a question of order? The matter of order has been forced by the rules. It does not depend on me whether the rules of the Senate shall be enforced or not.

Mr. KING. I desire to ask the Senator from Virginia a question. Does he suppose that it is not competent for a member to move to increase or diminish an appropriation in a bill?

Mr. HUNTER. He cannot move to increase it unless the increase be recommended by a committee, or an estimate from the head of a Department.

Mr. BROWN. If the point of order is insisted upon, I move to refer the proposition which I have just introduced to the Committee on the District of Columbia. I think we can settle it by to-morrow morning.

Mr. HUNTER. If the Senate choose they can overrule the point. The Chair has not decided yet.

The PRESIDING OFFICER. The Chair has not decided the point, but was about to suggest that he would take the opinion of the Senate on the question of order.

Mr. BIGLER. Let that be a test.

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Mr. DAVIS. I think the point of order is not applicable to the amendment moved by my colleague. There is a law which is found in your appropriation act, for reporting the debates of the Senate, and, under that law, he merely moves to increase the compensation, if you please to change the form of the compensation. It is a mere question of dollars and cents. He is introducing, as he says, no new subject, but under cover of law is merely proposing to change the amount of compensation.

Mr. TOOMBS. I take issue with the Senator from Mississippi. There is no law paying these reporters, and there never was a law for it.

Mr. DAVIS. The law is for reporting the debates of the Senate.

Mr. TOOMBS. Yes, sir.

Mr. DAVIS. And the mode of compensation is to pay the printer a gross sum. Now you may change the mode of compensation certainly under that law for reporting your debates. You may pay your reporters a certain sum, and the printers a certain sum.

Mr. TOOMBS. I submit that the Senator is in error. A contract to do a certain job of public work with one man cannot be changed in this way by paying money to another. That is the case here. We have got a contract with one man that he shall pay all the expenses of printing and reporting. The Senator says that under that law we can pay anybody else.

Mr. DAVIS. If the contract were made so that it could not be changed prospectively, if it were a contract which bound the Senate to the expenditures of the present and second session of this Congress, then I think the Senator would be right; but if the contract be one which we make with the printer for a certain work, and we now propose for this session and for the next session of this Congress to pay an additional sum, it is a variation of the contract, which we have a right to make.

Mr. TOOMBS. We have a law to pay Mr. Rives for this work, and now it is proposed, in violation of that law, to pay other persons for it. That is exactly the point of order, free from all ambiguity. We have hired one man and agreed to pay him. There is another more specific law than the one which the Senator from Arkansas read, but that is sufficient for me. By that law we do not pay for reporting specially, but for reporting and printing, \$7 50 a column. That has been increased by adding to the number of copies of the book you take, and by giving a cent for five pages. Now, it is proposed, in violation of that law, and without the least authority of law, to pay persons who are not our employees, or in other words to pay persons unknown to that law for the discharge of this work.

Mr. HUNTER. So far as I am concerned, I will not interpose the question of order against the sense of the Senate. My opinion is unchanged; but I will not press it.

Mr. TOOMBS. I renew the point of order.

Mr. PUGH. So do I.

Mr. STUART. I wish to have the amendment read, as I understand it is to pay the same person.

The Secretary read: "To enable John C. Rives to pay"—

Mr. STUART. That is enough.

Mr. TOOMBS. That, I think, is within the express rule of the Senate to increase salaries. My friend from Virginia is familiar with the rule; you cannot raise salaries without the report of a committee.

Mr. HUNTER. You cannot offer an amendment increasing an appropriation, except on the recommendation of a committee or the estimate of a Department.

Mr. TOOMBS. That is the rule as to the increase of the salaries of officers recognized by law. The rule is clear and plain. Gentlemen, no doubt, will get over it in some way; but I simply want to have it settled, so that we may know what the rule is.

Mr. BROWN. I hope the Senate will allow this amendment of mine to be referred to a committee, and that then we shall adjourn and we can settle it in the morning.

Several SENATORS. Pass it now.

Mr. BROWN. I am willing to do that, and I

think there is a clear majority of the Senate in favor of it.

The PRESIDING OFFICER. The Chair will state the question to the Senate. The Senator from Virginia proposed to amend the bill by striking out certain words, which he specified. Before taking the question on that motion, the Senator from Mississippi moved to add certain words to the clause proposed to be stricken out, in order to perfect it before taking the question on striking it out. The Senator from Virginia, and other Senators, have made a point of order, whether the amendment of the Senator from Mississippi is in order. The Chair is about to submit that question to the Senate to be decided.

Mr. TOOMBS. I ask for the yeas and nays on that question of order. I want to see this settled regularly as a precedent.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is whether the amendment to the amendment shall be received—whether it is obnoxious to the point of order which has been raised?

Mr. WADE. I am satisfied that we shall not get the question this evening. ["Yes, we shall."] It is out of fashion to finish anything here. We get very near it, and go no further. I do not expect that we shall finish anything until the last night of the session; and I move that the Senate adjourn.

The motion was not agreed to; there being, on a division—yeas 15, nays 26.

Mr. BROWN. I hope the Chair will state the proposition, so that Senators will comprehend it. The form I take to be this: will the Senate receive the amendment? In that form, everybody understands how to vote.

Mr. TOOMBS. I hope not. The question of order, which is made, is that it is contrary to the rules of the Senate to receive the amendment.

Mr. BROWN. How will you take the question?

Mr. TOOMBS. The Chair has determined to submit that question of order, and the question to be submitted is: is it according to the rules of the Senate to receive the amendment?

The PRESIDING OFFICER. The Chair will state the question as he supposes it to stand.

Mr. DAVIS. I understand the point of the objection is to increasing the sum to be paid for reporting for the Senate. The objection is that my colleague had no right, not speaking for a committee and not having the estimate of a Department, to propose an amendment which was in aid of the execution of the law for reporting and printing the debates of the Senate. It does not matter whether his purpose is to direct the payment of a certain portion of this money to the reporters of the Senate. I do not think it would vary his right to present the amendment if it were to provide for paying a certain sum to the reporter and another certain sum to the printer. It would still come under the general provision of reporting the debates of the Senate.

Mr. TOOMBS. I wish this question understood, and not got round. Of course I know where it is going to. This is a clear equivocation. Can the Senate receive any amendment out of order? Otherwise, why make such a question as this? The Senate voting for it is receiving it. You get rid of your rules entirely by the mode proposed by the Senator from Mississippi. An amendment is moved which the Senator from Virginia says is contrary to the rules and orders of the Senate. It is the rule that the Chair shall first decide such a question, and that then an appeal may be taken from his decision. Now, it is suggested, however, that the Chair put the question whether the Senate will receive the amendment. Has the Senate a right to receive it out of order?

Mr. BROWN. I understood the Chair to propose himself to submit the question. I only suggested the form in which it should be done.

Mr. TOOMBS. I want to put the form so as to get at the substance. I know what Senators want. It is to get in this amendment without being bound by the precedent. I wish the Senate to decide whether this amendment is in order, so that there may be one rule which shall govern the body in all its transactions. This is nothing but honesty and fair dealing. I wish the question submitted to the Senate whether this amendment be

in order or out of order; not whether they will receive it. Everybody can see the folly of putting the question in that way; because, if the Senate vote for an amendment, that vote receives it, and thus the point of order could never arise. The question of order is to defeat the majority of the Senate, who wish to violate their own rules. The object of the rules is to prevent a majority from doing what they want to do out of order. I simply ask—the Senator from Virginia having raised the question of order, but he having withdrawn it, and my friend from Ohio and myself having renewed it—that there shall be no indirection in this matter; that the question of order shall be stood up to and voted upon. I have no doubt the Senate will vote me down; but I want it done directly. I think it is right to have it done directly; and I think that gentlemen in their eagerness to do this thing should not care about how it may stand in their way in the future. I have an amendment here myself. ["Question! question!"] Never mind calling the question yet. You will not have it before I am ready. I have an amendment which I may wish to offer. It has not got the sanction of a committee; but it is very important to the public. It is to carry out some experiment made in reference to the coins of the United States, and is recommended by the Treasury Department; but has not been before a committee, owing, perhaps, to my own neglect. If it is in order without coming from a committee, I desire to move that amendment to one section of the bill. I simply ask the majority to do this thing decently, and in order.

Mr. STUART. I suppose it will be unquestionably admitted that the Chair will put the question to the Senate in such form as he thinks is right, governed by his own judgment; and I only rise for the purpose of saying that since I have had the honor of a seat in this body, a question of this kind has always been put in this form: Will the Senate receive the amendment? The question has been put a great many times in my presence, and always in this form; and I think the honorable Senator from Virginia will say so. It is a question of order, it is true; but that is the form in which it was always put.

Mr. PUGH. The objection which was made by the Senator from Virginia, and renewed by the Senator from Georgia and myself, is that this proposition is in violation of the standing rules of the Senate. In my judgment, it is in open, unequivocal violation of those rules, and that question is made to the Presiding Officer of this body. If he decides that it is in order, I shall appeal from his decision; and then I ask of the Senate the question, Shall the decision of the Chair stand as the judgment of the Senate? How is it proposed to circumvent my right as a Senator to appeal from the decision of the Presiding Officer? Why, sir, it is proposed to put the question to the Senate, not whether the amendment is in order, but whether the Senate will receive it in order or out of order? What are your rules worth? You must give one day's notice before you can amend a rule of this body. If any Senator rises to-day and moves to amend a rule, I have a right, individually, to insist that it shall go over twenty-four hours; and why does the majority undertake to trample on my right to insist that there shall be twenty-four hours' delay before the rules of this body are altered? Therefore I say—whatever may have been the usage heretofore I do not know and I do not care—the question which the Senate is to decide and put on its record, and to which I shall refer hereafter, is whether or not this amendment is in order under its rules? I say it is out of order, and this is an attempt to violate the right of every Senator on this floor to insist that the rules shall not be changed under less than twenty-four hours' notice.

Now, sir, is it pretended that because the House of Representatives have sent to us a bill appropriating money to a certain class of individuals, therefore we can appropriate to another class of individuals? Is it pretended that because, by law, or by usage, or by resolution, we have given one man \$1,000 a year, therefore any Senator can move to increase it to \$3,000 a year? Is it pretended that because, by law, the salary of the President of the United States is \$25,000 a year, 1, as a Senator, can move, on this bill, to give him \$100,000

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a year? What is the object of your rule? It is to prevent legislation, at the end of a session, in this hurried manner; to require the safeguard of an estimate; to require the recommendation of a standing committee. But, sir, I do not know that it is worth while to urge this matter. I see that this amendment is to pass, and I do not believe that all the rules that ever were made will stand in the way of it.

Mr. BAYARD. I trust the Senate will rather adjourn than violate so plain a rule of order as must be violated if we receive this proposition. I am aware that the Senate is impatient, and I shall not say more than a word or two. At the same time, I deprecate the idea that under an immediate excitement connected with a trivial measure, in some respects, a great general rule of the Senate should be violated. I am in favor of the proposition on its coming properly before the Senate. I agree that the reporters of the Senate are entitled, properly—not because a different course degrades them, but because it degrades ourselves in not doing justice to them—to the same compensation you give for similar labor in the House of Representatives. I agree to that; but for all that, or for any purpose, I am not willing to introduce a precedent which violates so plainly the order of the Senate, and puts down entirely every rule or regulation you have, at the mere will of a majority. I must vote against the proposition to receive the amendment.

Mr. TRUMBULL. I am in favor of the amendment offered by the Senator from Mississippi; but I do not think, with my understanding of the rules, that it is in order, and I shall be bound to vote against receiving it. I believe the rules, as the Senator from Georgia has said, are made for minorities; and if majorities are to set them aside they will do no good. Majorities need no rules. They are for the benefit of the minority; and if it is insisted upon, therefore, that a question of order is to be made, I move that the Senate adjourn; and let this amendment come from a committee.

Mr. HUNTER. Let us finish it.

The motion was agreed to; there being, on a division—ayes 25, noes 15; and the Senate adjourned.

DE VISSER AND VILLARUBIA—CUSTOM-HOUSE FRAUDS AT NEW ORLEANS.

DEBATE IN THE SENATE, FRIDAY, May 14, 1858.

Mr. HUNTER's motion to reconsider the vote passing the bill for the relief of Simon De Visser and José Villarubia, of New Orleans, having been agreed to—

Mr. SLIDELL. I have no disposition at all to enter into any discussion of the merits of this case. I merely wish to present a fact for the consideration of the Senate that I think will be conclusive with the majority. The purpose of the bill is to relieve Messrs. De Visser & Co. from all penalties and forfeitures incurred in consequence of fraudulent invoices of some sugar that was entered at New Orleans. I am inclined to think, in fact I am willing to concede from an examination of the testimony, that the now members of that house, the other partners of the house, were entirely innocent of all fraudulent intention; that they were the victims of a misplaced confidence in one of their partners. I shall now only move to postpone the further consideration of this bill until December next, and I will state very briefly the reasons that induce me to do so.

A full investigation of this case was had in the district court of the United States at New Orleans. De Visser & Co. were large importers of sugars and other merchandise from Havana to the port of New Orleans. There is no imputation upon the good faith of the larger portion of the members of the firm; their character is not impeached. But a person of the name of Métiéye, a full partner in the concern, having, it is true, but a small share in the profits—I think some fifteen or sixteen per cent. in lieu of salary—was employed to transact their custom-house business. A discovery was made, almost accidentally, that an invoice of two hundred boxes of sugar, which, it appeared afterwards, had been fabricated in New Orleans, was a forgery, by a simple substitution of one set of figures for another, by carrying out a false mul-

tiplication. The amount of the invoice on which duty was to be charged was reduced very considerably, so as to make on that single importation a difference of some two thousand dollars. This discovery was not made until some weeks, or perhaps months, after the entry of the sugar; and the sugar had been discharged and had passed into the warehouses of these gentlemen. When the discovery was made, the sugar was seized; all the facts were submitted to a jury, and a verdict in favor of the claimants of the sugar was rendered. If the sugar had been seized on board ship, the case would have been on the admiralty side of the district court, and there would have been no intervention of a jury. Be that as it may, the law officer at New Orleans, and his superiors here, think that the charge of the court to the jury, which probably caused their decision in this case, is obnoxious to very grave objections in point of law, and they have appealed from the decision of the district court to the circuit court, which sits, I think (my colleague can inform me, for he is more familiar with the details) towards the end of this month; or, at any rate, in the beginning of June. If the decision of the circuit court should affirm that of the district court, I shall have nothing further to say on this subject. It involves a very great principle.

The fraud which was the subject of controversy in the particular case that I have alluded to, was but one of a series of frauds, extending back for some two or three years, including some thirty or forty entries, if I mistake not, and involving a loss of revenue, if they had not been discovered, of twenty or thirty thousand dollars. The partner who made these entries at the custom-house, charged the firm with the full amount of the duties that ought to have been levied on the invoices; but by a fraudulent change in the invoices he was enabled to enter the goods at a much lower rate of duty, and he pocketed the difference between the amount which ought to have been paid, and the amount which was actually paid under these fraudulent invoices. It does not appear, I am willing to admit, that Messrs. De Visser and Villarubia, the remaining partners in the firm, had any cognizance of these frauds, or in any degree profited by the perjury and fraud of their partner; but it is a very grave question whether a commercial house is not responsible, morally, if it is not legally, to the Government for the acts of its partners, however innocent its other members may have been of any participation in them. That is the question. That question is to be submitted to the circuit court of the United States, and will be decided in a few weeks.

I admit the case is a very hard one. These gentlemen for a time suffered in reputation and character from the act of a dishonest partner; but I have a letter here from the district attorney—I will not occupy the time of the Senate in reading it—in which he points out exceptions to the charge of the district court to the jury, which I think tenable and well founded; but at any rate this case being now on appeal to the circuit court, and very soon about to be decided, involving very grave questions of law and a large amount of money—because the claim against De Visser & Co., I think, amounts to \$200,000 for various penalties and forfeitures—I consider it but right that the question should be submitted to the action of that court. If it should be decided by that court that these gentlemen are in no sense legally or morally responsible for the act of their partner, I certainly shall have no disposition to contest any measure of relief that may be brought forward, however early at the next session of Congress; but for the moment I think we should at least let this matter be considered by the appellate court. I will not enter into any discussion as to the particular facts of the case, but I move now to postpone the further consideration of the bill until the first Monday in December next. If that motion shall fail, I will then state to the Senate all the circumstances of the case, and dispute the bill upon its merits.

Mr. TOOMBS. I oppose the postponement of this case. It was referred to the Committee on Commerce, of which I am a member, and submitted by that committee to me. The facts are full, clear, and distinct beyond all sort of question, and I suppose the main difficulty is as to the

amount of forfeiture of which the custom-house officers, and probably the clerks themselves by whose omission these transactions occurred, are to be beneficiaries.

Mr. SLIDELL. In order to relieve the Senator from any embarrassment on that score, I will state that probably I should have known nothing of this case, and should not have thought proper to interpose if the officers of the custom-house had not called my attention to it.

Mr. TOOMBS. I had no doubt whatever it was a question of forfeiture with clerks who are endeavoring to visit these heavy penalties on gentlemen, whom the evidence taken before a judicial tribunal shows to be entirely innocent, to justify themselves for their own gross neglect. Any Senator who will read the petition in this case cannot doubt for an instant as to what ought to be done. It seems that these two gentlemen, Messrs. De Visser and Villarubia, bought out a concern then existing in New Orleans, as importers of sugars. The old house had a clerk who had attended to the business of passing their commodities through the custom-house. The new firm took him in at the rate of one eighth. He was really a clerk, but they gave him a compensation of one eighth of the profits, and afterwards carried it to fifteen per cent., his whole duty being to attend to the entries of the custom-house, he being acquainted with the language in which the original invoices were drawn, and familiar with custom-house business. They dealt to a very large amount through the custom-house. It is in evidence before the judicial tribunal which tried the case that these gentlemen paid to their clerk every dollar of the amount of duties due according to the correct invoices, that they checked for it, and that he went to the bank and drew the money, then went to the custom-house where he committed the frauds. In some cases they were done by the simple running out of figures, which would have been detected but for the carelessness of the officers of the Government. By a simple mistake in the figures in turning the Spanish money into our money he would oftentimes fitch three, four, or five hundred dollars. This went on for three or four years by the grossest negligence of the officers of the United States themselves—these very clerks who are pressing the forfeitures. The evidence supporting this claim is all before me judicially settled—it is not in *pais*—and I will read the decision of the commissioner and the statement of the district attorney. This man, as I said, who is charged as a full partner, had but a special duty to perform, that of passing the invoices and paying the duties, and it turns out upon examination of the evidence before the court, and by the examination of the books of these gentlemen, who seem to be as honorable merchants as their fellows from all account, that they paid every dime of the legal duties. They checked for the money and he drew it out of the bank, and by the negligence of the officers of the Government he was allowed to steal on single invoices sometimes two hundred, sometimes three hundred dollars, and again would force invoices instead of giving the true ones, thereby cheating the Government out of large amounts of duty.

When this was discovered at the custom-house, the officers did not communicate with this house; but knowing that he was in this scrape, and having confessed it to the officers of the Government, they allowed him to remain two or three days without communicating the facts to the other partners, gave him an opportunity to run away, which he did, and then arrested these two gentlemen for frauds on the United States. The case went through a thorough examination, and I will read to the Senate the admissions of the commissioner of the United States and the district attorney:

"The district attorney waiving all opposition or reply to the appeal of the defense, the commissioner said he was prepared to pronounce his opinion promptly; that he could see no evidence and no circumstance implicating the gentlemen, as they were charged in the transactions of Métiéye; and, at the request of the defense, he promised to give a written certificate to that effect for the satisfaction of the gentlemen.

"The district attorney then said, that now, as the case was fairly closed, he felt it incumbent on him, in justice to the gentlemen accused, as well as to the cause of truth, to express his entire concurrence in the decision of the commissioner. The examination, he was free to say, had resulted as he had believed it would, though he was un-

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by a sense of duty to the Government, to prosecute the matter thus far. He was gratified to find that his own private convictions were so completely demonstrated to be correct as they were by the result of the examination."

They had no participation in the frauds. They paid the correct amount of duties according to the original invoices. The frauds were committed by this man, who received fifteen per cent. of the profits, as clerk's hire, for doing this business, instead of a standing salary, he having belonged to the old house whom they purchased out, and recommended by that house to them, and not knowing anything of his character more than that. Subsequently the leading merchants of New Orleans appointed a committee to examine the books of those gentlemen, and I will read what they say.

Mr. SLIDELL. Allow me to suggest to the Senator from Georgia that I think I have admitted that there is no shadow of suspicion attaching to the character of these gentlemen, and I think, that point being conceded, he may pass it over.

Mr. TOOMBS. I want to show that the carelessness was with the Government, and that therefore the Government ought not to insist on these extraordinary penalties. They have seized a cargo of sugar, not for the duties owing to the Government, but for forfeitures to the amount of hundreds of thousands of dollars, when the duties were but a few thousand. They sue for forfeitures for the benefit of clerks in the custom-house, when the whole fraud was produced by their own carelessness; and this opposition, as the Senator very frankly concedes, comes from them. They are the people who are seeking the forfeiture to increase their pay, when it was the neglect of these very officers that allowed the frauds to be perpetrated.

Mr. FESSENDEN. Allow me to suggest that I have only one possible doubt about the matter, and that doubt arises from my ignorance of the law governing the case. This appears to have been a very large seizure; and I suppose, if the property be condemned, the custom-house officers will be entitled to a certain proportion.

Mr. TOOMBS. One half.

Mr. FESSENDEN. If Congress remits the penalties, will they not have any possible claim at all?

Mr. TOOMBS. None whatever.

Mr. FESSENDEN. I do not know the law on that point.

Mr. HAMLIN. If they do not recover the penalties they will not get any portion.

Mr. FESSENDEN. Has there not been a condemnation?

Mr. BENJAMIN. Not at all. These parties do not go into the question whether they are legally responsible; but they say it is a very cruel thing to have such a suit pending against them even if it is a legal liability.

Mr. FESSENDEN. What is the shape of this bill?

Mr. BENJAMIN. To discharge them from the pending suits. One suit has already been decided in their favor, but there is an appeal.

Mr. FESSENDEN. If a man recognized as their agent committed the fraud, it would not be right that the Government should lose the amount of the duties.

Mr. BENJAMIN. Oh, no; that is not provided.

Mr. TOOMBS. The Government loses nothing.

Mr. MALLORY. The Senator from Maine anticipated me. I desire to ask what the rights of the seizing officers are, in case of seizure? If a forfeiture had taken place, they would undoubtedly have had a portion of the proceeds, and it would have been beyond the power of the Treasury Department to release that portion coming to them. Have they any such rights now, while the prosecution of the suit is going on?

Mr. TOOMBS. No; and that is the importance of passing the bill now—that they shall not have. They have got none now.

Mr. SLIDELL. Under certain circumstances, for certain violations of the revenue laws, the Secretary of the Treasury has a right to remit; but he has no right to remit in this case. The forfeiture has either accrued, or it has not. If it has, it seems to me there is a vested right in these officers to the extent of their interest in the seizure,

of which Congress cannot divest them by legislation. I submit that point to the consideration of the Senator from Georgia. The Secretary unquestionably can remit a penalty; and in remitting it, as regards the United States, he has a right to say that the custom-house officers shall be entitled to no share of any forfeiture that may be made; but this is a very different question; I am inclined to think, a new one. If there be any rights vested in these officers by the seizure, which the Secretary cannot remit, I doubt whether, by any constitutional action of Congress, the rights of officers of the custom-house can be divested.

Mr. TOOMBS. There is no difficulty whatever in the suggestion of the Senator from Louisiana. There is no vested right in forfeitures by anybody. I take it the Senator will find that to be a universal principle of law; one practiced upon by this Government from the beginning. There is no such thing as a vested right in a forfeiture until there is a judgment of a court adjudicating the forfeiture. That is a universal principle; and there are cases running through your whole system of revenue laws showing it. The importance of present action is to defeat these very people who are attempting to obtain these forfeitures. The custom-house officers, for a series of years, by the greatest negligence—which would ordinarily amount to a connivance at fraud—allowed this proceeding to be carried on; and now they want the amount of the forfeiture, not the Government debt. The Government became satisfied that cruel injustice was done to these honest men, who had been imposed upon by their own clerk, and yet seek to obtain from them two or three hundred thousand dollars of a forfeiture. I will read—for it is important—the certificate of a committee appointed by the leading merchants of New Orleans on this subject. The books of these gentlemen were examined by a committee; and I beg the indulgence of the Senate while I read the results of that examination:

"At the request of Messrs. S. De Visser & Co., the undersigned have examined the above extracts* from the books of their firm, and on examining the statement and comparing its several items with the check books of S. De Visser & Co. on the Canal Bank and other banks, their cash book, invoice book, journal and ledger, and whatever other books and vouchers we deemed it proper to call for, the following facts are apparent to the undersigned:

"1. That for every amount in the above statement charged as deposited against entries, they produce the corresponding check duly paid and canceled by the bank on which it was drawn.

"2. That the amounts of such deposits as set forth above, correspond, in every instance, with the amount of invoices to which they relate, as their invoice book and the copies of the original invoices received by them from Havana, as far as they are in their possession, clearly show.

"3. That the items of 'excess of duties,' returned by the custom-house, in the above statement, correspond with certain memoranda in their possession, preserved by them, and which are in the handwriting of Charles Métyé.

"4. That the invoices in their invoice book, journal, and ledger, are charged with the same amounts as those named 'ascertained duties,' in the said statement.

"5. That the profits on their invoices have been duly carried to their profit and loss account.

"6. That their books are kept in the most regular and correct manner, and bear every indication of honesty and fair dealing.

"From this examination, the undersigned conclude, that they give full credit to the above statement, as furnishing a true and correct account of the course pursued by Messrs. De Visser and Villarubia, with reference to the duties on merchandise to which it refers. That the memoranda from Métyé of the sums set forth in the foregoing statement as 'excess of duties returned by the custom-house,' was well calculated to induce them to believe that Métyé, to whom the actual duties had been intrusted, had honestly used them in the payment of the duties justly due. That the books show clearly that Messrs. De Visser and Villarubia could not have intended to defraud the Government of its duties, and that the manner in which they have been kept, and their entries made, entirely negative any such suspicion.

"And, in conclusion, the undersigned cheerfully bear testimony to the commercial and social standing of Messrs. De Visser and Villarubia, to their honor, integrity and probity; and cannot permit themselves, for an instant, to believe that they would lend themselves to the commission of the frauds with which their names have been so, unfortunately, and, as we believe, so unjustly connected."

That is signed by the leading importing houses of New Orleans, including, I believe, every one of character in the city. According to the testimony of the commissioner and district attorney of the United States, and all the merchants who inspected their books, there were never more honest, fair, or correct books kept by any merchants.

* These extracts were the statements copied from the books of all the custom-house entries.

Every dollar was paid by them according to the true amount of the invoices. They paid the money to this clerk, who cheated the Government by running the Spanish reals out into dollars. He would cheat the Government two or three hundred dollars on every invoice, and the custom-house officers could have detected it in a moment, if they had made the calculation as they ought to have done.

Mr. POLK. I should like to be distinctly informed whether this house of De Visser & Co. have paid the duties to which the Government was really entitled, or whether the only thing in controversy is the penalties on the seizure at the custom-house?

Mr. BENJAMIN. The Government had the choice of suing for the duties as a debt, or for the forfeitures. Instead of claiming from this house the back duties, they have preferred to sue for the forfeiture of the entire invoices imported for a series of years, and commenced suit against them for over three hundred thousand dollars. They could not sue for both at once, and they have preferred to sue for the forfeiture of the invoices.

Mr. POLK. I understand that the house of De Visser & Co. have actually parted with the true amount of the duties.

Mr. TOOMBS and Mr. BENJAMIN. Every dollar.

Mr. POLK. And the fraudulent contrivance, by which the United States got less than they were entitled to, was one of which this Métyé, the clerk, got the advantage.

Mr. SLIDELL. A partner.

Mr. TOOMBS. I have stated the partnership. He was made a partner, first at one eighth, and then at fifteen per cent, as a mere compensation. That was the evidence.

Mr. SLIDELL. I wish to ask whether it was not in the power of these gentlemen to have deposited in court the amount of duties short paid, which they acknowledged to be due to the United States; and whether they have done so or not? and whether, by possibility, the consequences of this act may not be to release De Visser and Villarubia altogether from any debt to the United States, when it appears that the United States have been defrauded to the amount of twenty or thirty thousand dollars by their agent?

Mr. TOOMBS. The last question, I can answer very fully, and it is the only one important to the case. This bill does not discharge them from any debt due the United States; and if the Senator thinks it does, he can put it in such a shape as will prevent any such thing. There is not the least difficulty on that point. The bill does nothing but discharge them from suits for forfeitures, not only for the goods that were seized, but for sugars, on which duties had been paid years before. Under the extraordinary circumstances of this case, the frauds having been committed by the clerk of these parties, the Government has chosen to bring suit against them for the forfeiture of all sugar they had ever imported in regard to which there was fraud by the clerk. The effect of this bill is to release them from this forfeiture. The debt of the Government I have no doubt is open.

Mr. SLIDELL. Why is it not paid?

Mr. TOOMBS. I do not know. The case was presented to me as a member of the Committee on Commerce; that was the first time I ever knew of it. I took the case as presented, and as it has been judicially determined. I know nothing about it except as the facts disclosed in the testimony show, not having the pleasure of knowing the parties.

Mr. POLK. The Senator from Georgia says the bill is intended merely to release them from the payment of forfeitures.

Mr. TOOMBS. Yes, sir; it provides that the suits shall be dismissed on payment of costs.

Mr. POLK. I am inclined to think the bill may have a construction a little broader than that. Mr. TOOMBS. The Senator can add an amendment, providing for the payment of duties, though I think that would be a hard requirement. The non-payment of the full amount of duty resulted entirely from the fraud of this man, whom the Senator from Louisiana [Mr. SLIDELL] calls a partner. He was, it is true, nominally a partner, to take one eighth of the profits for doing his duty.

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It was a clerk's duty. Afterwards, on account of his fidelity, as they believed, they raised his compensation to fifteen per cent. on the profits. He had no capital, but instead of giving him a standing salary as clerk, they gave him a contingent interest in the profits of the concern. He had no other duty to do but this particular one of passing goods through the custom-house, and they took him on the recommendation of the parties whom they bought out, who testified to his ability, fidelity, and good character. He discharged this duty for the firm whom they bought out for many years, without the least suspicion attaching to him. No men have acted with more caution, more prudence, more honor, or more integrity, than these gentlemen. These are not *ex parte* statements, but they have undergone judicial investigation, and the words used by the commissioner of the United States, and the district attorney, fully justify what I have said.

Mr. SIMMONS. I hope the Senator from Georgia will agree to allow this bill to lie over until to-morrow. If he will agree to have the Government secured in the payment of the amount actually due, I shall not object to the bill. I suppose he will not pretend that these men are not responsible for the act of their partner.

Mr. TOOMBS. Not at all.

Mr. SIMMONS. I do not want to enforce a forfeiture, because I think there is a fair showing that this man was a rogue, and that they confided in him; but I would not permit them to get rid of the amount they actually owe the Government.

Mr. TOOMBS. I shall not object to such an amendment, though, according to my judgment, I would relieve them even from that. I think the bill, in its present shape, does not touch that question. I do not think it right to require them to pay these duties over again, because the frauds would not have happened if the Government officers had not been to blame. If the clerks in the custom-house had made the calculations turning the reals into our money, they might have known what the duties were. The Government officers took this clerk's statements, when the slightest attention on their part would have enabled them to detect the fraud. But, for the grossest negligence of the worthless people who are generally kept about custom-houses, the thing could not have happened three times without detection. Some of the invoices, it is true, were forgeries; but most of the frauds were in the mere running out of the calculations. If the Senate differ with me, and say these parties shall be liable to duties, at all events, let the Senate put in an amendment requiring the duties to be paid.

The petition exhibits the facts as they were tried before the court. Here is the ample testimony of the judge who tried it, of the late district attorney, and the present district attorney, and of all the importing merchants of the city of New Orleans, as to the integrity of the transaction on the part of these gentlemen. The proof is that the Government officers knew all about the frauds two days before they communicated with the partners, and gave this man an opportunity to flee the country, and after having done that, they bring a suit against these gentlemen for forfeitures. I think the course of the Government officers against them has been extremely hard.

Mr. SIMMONS. I never like to mulct anybody in damages for the fault of a partner, but I think it would be better to let this bill lie over for the present.

Mr. TOOMBS. There is importance in carrying it now.

Mr. SIMMONS. Not this day.

Mr. SLIDELL. The Senator from Georgia has entered somewhat into the merits of the claim upon the question of the postponement, which should have been answered by itself. I shall not reply to the attacks, I think rather harsh, and in some instances gratuitous, he has made upon the officers of the customs at New Orleans. I should be prepared to take the vote now, without further delay; but that the Senate may understand this question, I will state that these frauds run back four or five years. I will state the character and extent of them, and I will then endeavor to relieve the officers of the customs from this charge of gross negligence and incapacity which has been so freely indulged in.

Mr. Météyé, the person who was the active agent in committing these frauds, (and it is unnecessary for me to repeat again that I absolve his partners from any moral complicity, though they have legal liability,) has been a partner in this house five or six years. The manner in which the frauds were perpetrated is not such as the Senator from Georgia represents. I do not think he understands the particulars of the case. Sugars are sold in Havana at so many reals the arroba. The arroba is about a fourth of a quintal of sugar—twenty-five or twenty-eight pounds. It is always sold at so many reals the arroba. The weights and prices of the sugar were correctly stated in the invoices. Perhaps the invoices do not give the exact amount, and in that opinion, I think, my friend from Rhode Island, [Mr. SIMMONS,] who is so exceedingly anxious to have the mode of the valuation changed, would agree with me. These gentlemen have been large importers of sugar from Havana for many years. As I said before, we will suppose that the price given for sugar was an honest and fair price; but in the particular instance on which the court passed there was an importation of two hundred boxes of sugar. A box of sugar contains about sixteen or eighteen arrobas. Then the invoice would be in these words: "two hundred boxes of sugar, containing three thousand six hundred arrobas, at so many reals per arroba." If it had been carried out so many pounds of sugar at so many cents per pound, the most negligent clerk, in running his eye over the calculations, would at once have seen that there was a mistake or a fraud in them. But the Senate will very well understand that, unless a minute critical examination was made of every multiplication and addition in this invoice, it might very well escape the observation of a clerk.

These frauds began on the 2d of August, 1854. The first importation was three hundred and thirty-five boxes of sugar. The invoice amount was \$5,544, and the correct amount was \$6,573; the amount of excess \$1,029 72, and the duty on excess \$308 91. It is unnecessary for me to do more than state that a great many entries were made of the same character, probably forty or fifty in number, the aggregate between the invoices as carried out by the additions and multiplications being \$289,000 when it should have been \$371,000. The amount which these invoices fraudulently represented less than the real amount was \$81,725, the duty on which was \$24,517. Now this system of fraud was continued without intermission during the whole period of four years, until it was discovered under the administration of the collector who was recently appointed.

Mr. Météyé, whom it is now sought to reduce to the humble capacity of clerk, merely to do custom-house business, was a full partner of the house of De Visser & Co., authorized to use their signature in every transaction, held out by them to the public as their partner, and entitled to the same degree of confidence in the community as any one of the members of the firm. That, I presume, will not be disputed. He was, in every sense, a full, equal partner in the concern, except as regarded the participation in the profits. He had fifteen per cent. profits of the concern. In the course of four years he managed to embezzle twenty-four or twenty-five thousand dollars. I do not know what his habits were. Men very seldom steal money from their employers or the Government unless they have extravagant habits, and I think it is fair to presume that such was Mr. Météyé's character; and if it were so, his partners ought to have been cognizant of it, if they exercised proper discretion. It is very easy. It may not be so in New York, but in a town like New Orleans, containing a population of one hundred and fifty or one hundred and sixty thousand, a man who is enjoying a revenue of three or four thousand dollars a year, cannot very well spend three times that amount without attracting public attention towards his habits of extravagance, and his partners ought to be the first men to know it; but, unfortunately, too often they are the very last.

Now, the question is, whether it is consistent with public interest, with public policy, and, I may say, with good morals, to let innocent partners of a commercial firm escape, scot free, from the delinquency of men whom they have chosen

to put in that confidential position towards the general public, and towards the Government? He enjoyed this confidence at the custom-house, because he was the partner of De Visser, and went there as such. These frauds probably could not have been perpetrated by him unless he had been the partner of a great commercial firm, for all we know—

Mr. BENJAMIN. My colleague will remember that it is proven here that he had been the entering clerk at the custom-house for a long series of years for their predecessors.

Mr. SLIDELL. I think it will also appear that he has been their partner for the last four years.

Mr. BENJAMIN. I do not dispute that. I say that did not give him credit at the custom-house. He was palmed on them, as well as on the custom-house.

Mr. SLIDELL. If the Senate so understands the—

Mr. PUGH. I want to ask the Senator from Louisiana a question. I do not understand the civil law, but I ask on what principle he calls this man a partner? He would not be so at common law, but simply a clerk.

Mr. SLIDELL. I am as ignorant of the common law as the Senator professes to be of civil law. I hope he knows a little more of the one than I do of the other. But Mr. Météyé was a full, complete partner, in every sense of the word; he had as full rights towards the public as every other member of the firm. His signature bound the firm. The gentleman shakes his head. He has just declared he knew nothing of the civil law; and when I give it to him as it is, he intimates his dissent.

Mr. PUGH. I understood the gentleman to say there was no difference.

Mr. SLIDELL. I say there is no difference, under our system of laws, on this subject. But the gentleman shakes his head, after appealing to me for information.

Mr. PUGH. The gentleman said there was no distinction.

Mr. SLIDELL. I say there is no distinction. In every sense of the word he was a full and complete partner under the civil law.

Mr. PUGH. Ah!

Mr. SLIDELL. I profess to know nothing of the common law. Now, I come to the charge of gross carelessness on the part of the custom-house officers. If the Senate understand the explanation I have already given of the manner in which these frauds were made, accompanied by some other circumstances, I think that charge of gross carelessness cannot be brought home to the officers of customs. That seems to be a point very much insisted upon. The inadequacy of the force at the New Orleans custom-house has been very often represented. I was perfectly satisfied of the fact myself, and have called the attention of the Government to it on repeated occasions. I have never been able to obtain for the officers of the customs there the same degree of aid in the discharge of their duties that has been extended to other custom-houses. We live in a remote and not a very important section of the country, and we do not receive quite as much attention here as others do. At any rate it is a fact that I assert, from my own knowledge, that the clerical aid of the custom-house has been, and now is, totally inadequate to the proper discharge of the duties of the officer of the customs in the protection of the revenue.

The character of the business at New Orleans is very different from that at New York, and other large importing towns in the country. We have a very large number of small merchants who import assortments of every variety of merchandise, and our invoices frequently occupy folios, columns of entire sheets of paper, half a dozen of them combining every possible variety of articles and every variety of price. The importations at the North are almost exclusively made by large merchants, who import in packages of great value, and then sell out to the retailers. Such is not the character of the principal importing trade of New Orleans.

Now, I say it was physically impossible, with the number of clerks employed in that branch of the service at New Orleans, to have collated all the invoices that were sent to them, and gone

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through all the additions. They were obliged, to a certain extent, to trust to the good faith of the parties with whom they were acting. It would take a clerk a whole day to go over a French invoice, for instance, of a milliner from Havre, six or seven hundred articles of goods, all in small quantities and at different prices. It would, perhaps, require more expenditure, in the way of clerks, than the thing would be worth, if it were practicable; but at any rate, whether that be so or not, they had not the means of doing it. It is proved, by the documents on file in the Department here, that it was utterly impossible for the clerks of the custom-house to have gone through a minute examination of all the additions in every invoice that was presented. Since then—since this fraud has been discovered—they have relaxed in some degree from the severity of their rule, and I think they have given one or two additional clerks to this branch of the service, and it is probably better conducted now than it was then.

Now, as regards the *personnel* of the custom-house, the gentleman under whose administration this fraud was detected, and who is now accused with all the others, *en masse*, of gross dereliction of duty, of utter incompetency, of bad administration, had not been in office more than four or five weeks when the frauds were detected, and they have been running through a series of years. The Government is indebted to the vigilance of the officers of the customs for the detection of this fraud; and I think if any benefit is to be derived from the forfeiture, they are fairly entitled to their share, because, if the discovery had not been made by them, the example would probably have been imitated by others, and the revenue would have been subjected to immense loss. So far as regards the collector of the port of New Orleans, I presume, then, that he is scarcely amenable to the charge of incompetency, unfaithfulness, and carelessness in the discharge of his duty.

I do not know enough of the mechanism of the custom-house to give any precise details on the subject, but I believe the form is this: goods first go to the appraiser's office; they are there examined; one or two packages out of a certain number are opened to find if they correspond in their contents with the invoice. Then the next examination is directed to whether the prices are fairly charged. That is the duty of the appraisers. I presume the appraisers have nothing to do with the addition. They simply say, we have examined the goods and are satisfied the invoice gives a correct account of what is contained in the different packages; and as far as we are able to judge the price appears to be in accordance with that usually charged for similar articles in the port from whence they were shipped. They make their return that the invoice is correct. It goes to the collector's office. There the invoice is looked over and the calculations are made of the amount of duties to be levied. From that office they are sent to the naval officer who verifies the correctness of the calculations made in the custom-house proper. When the whole examination has been made, the amount of duties is pronounced to be liquidated at a certain sum, and the importer pays them. He generally deposits in advance an amount sufficient to cover the duties.

I repeat that Mr. Hatch, the collector of the customs—and as I said before, he had been in office but three weeks when the discovery was made—is not responsible for past neglect. I here take occasion to say that we had at New Orleans previous to the appointment of Mr. Hatch, the most incompetent collector that has ever filled any position of equal importance under the Government. I used every proper effort under the past Administration to have him removed. Everybody admitted his incompetency, but there were certain reasons why he was kept in office, to which it is not necessary for me to advert. When the new Administration came into power, they changed the collector, and one of the first fruits of that change was the discovery of these frauds that had been going on for three or four years. I think the Senator from Georgia will now acquit the collector of blame.

Mr. TOOMBS. I spoke of the custom-house officers, whose duty it was to make these examinations, and I spoke by the sworn testimony in court, from which it appears they never exam-

ined one of them until they discovered the fraud, and they swore it was their duty to do it. I spoke by the card; for I have the oath of the custom-house officers on that point.

Mr. SLIDELL. I have no doubt they did examine, but did not give that particular examination necessary.

Mr. TOOMBS. I wish to disabuse myself of having given an incorrect statement about these gentlemen. I have spoken on the sworn oaths of the men whom I charge with negligence. I think it is giving fair chance to let them give their own story.

Mr. SLIDELL. Who are the men you charge?

Mr. TOOMBS. The custom-house officers whose duty it was to examine the papers as presented. I charge it on what I have before me, the testimony of two or three of them. Joseph Genois, sr., was one.

Mr. SLIDELL. He is the naval officer. Of course, he never looked at the examination.

Mr. TOOMBS. One of them swears it was his business. Mr. John McLoughlin was another, and Mr. Capdeville swears it was his business. Mr. J. R. Conner was sworn also, and Mr. Relf. The man who discovered it, I think, was Mr. Conner. I have read through the case.

Mr. SLIDELL. What about Genois?

Mr. TOOMBS. He states that it was the first one he examined; and it was his duty to examine them all, and he discovered the fraud.

Mr. SLIDELL. If Mr. Capdeville was one of those whose duty it was to examine the calculations, he was in the appraiser's office, then it went through three calculations. As regards the naval officer, I have already said that from my own personal knowledge he had not sufficient clerical force working night and day to have been capable of all these examinations; and I think the Senate will understand that a mere ordinary cursory examination of these invoices, such as I have no doubt takes place in every other custom-house of the country, would not have enabled the clerks to discover it. It was very ingenious.

Now, to come back to the point—perhaps this discussion is not exactly in order on the question to postpone—I say that these officers of customs have a right, in my opinion, and the Government has a right to the action of the circuit court, on the writ of error that has been taken in this matter. That court sits either on the latter part of May, or the first part of June. The question then will be fully discussed. If there be circumstances of equity to recommend it to the consideration of the court, the judgment of the court will be in accordance with them. If it be not, the claims of the Treasury will be vindicated; and I think the just rights of these officers, by whose vigilance this seizure was effected, and this system of fraud which has been carried on with impunity for so many years, arrested. It appears to me that it is a very reasonable request. As regards the grounds on which the district attorney intends to prosecute his writ of error to the circuit court, they relate to the instructions of the judge, which probably acted conclusively with the jury; and to my mind are evidently palpably wrong. The judge instructed the jury that, "as the items of the invoice exhibited the actual cost of the sugar, though the extensions were fraudulent, they could not be considered as a part of the invoice, and therefore the case did not come within the provision of the act under which they were seized."

The Senate will understand what the extensions were. The weight was right; the price was right; but the difficulty was in the calculation of the amount of that price in a complicated currency—a currency not familiar to our people, and in a system of weights unknown to us. The eye, in passing over this calculation, would not detect it at once. The judge decided that as long as the price stated in the invoice was correct, no matter how fraudulent the calculations in an invoice might be, it did not operate a forfeiture under the act of 1799. It appears to me that that cannot be good law. If it be, certainly our statutes require amendment in a very important particular. I have no disposition to detain the Senate from a vote further. I think there are good reasons for postponing the consideration of this case.

Mr. SIMMONS. I should be opposed to postponing the bill until the next session; for if I un-

derstand it, the evils apprehended by these parties may have happened before then, and other rights may have intervened, so that we may not be able to prevent their losing half the forfeitures, unless we pass the bill at the present session. At the same time, I do not feel exactly clear as to the difficulty of casting an invoice of sugar coming from Havana. These are in arrobas and reals. Twenty-five pounds is an arroba, and a real is twelve and a half cents—just half as many cents as there are reals for these arrobas. It is the easiest computation in the world.

Mr. BENJAMIN. I do not know that the Senate understood my colleague fully. I think the negligence of the custom-house officers is fully shown by my colleague's statement. Sugar is sold in Havana at so many reals the arroba. Twelve and a half cents is a real, and twenty-five pounds is an arroba, so that a real an arroba means half a cent a pound, and when it is entered at six reals an arroba that is three cents a pound. For four years of forty-odd invoices, the custom-house officers testified they had never carried out a single extension. It was in the carrying out of wrong extensions that the entire fraud was committed, and in no other way.

Mr. SIMMONS. If it be critically examined it will probably turn out to be one of those cases which have been brought to my attention a great many times—every one of these invoices was under-valued.

Mr. BENJAMIN. All were full value.

Mr. SIMMONS. It may be that they were. I have looked at some of these invoices, and I think they give a pretty low price for sugar at that time; but I am not going into that, because the court have gone into it, and I am satisfied. I want to suggest to the Senator that this should lie over until an appropriate amendment can be made, requiring the amount of duties still deficient on these invoices to be paid. The Government is entitled to them; and nobody will pretend that the men who have kept this partner for four years are not responsible for his acts. I have had some inkling of what partners of that kind are; and in fact it is stated that this partner was taken in because he had a peculiar adaptation to enter goods—I understand what that means—he had a great facility for getting goods through the custom-house. I will not say that his partners had any bad design, but I am going to treat them as if they were the most honest men that lived in the world. I do not want them to lose anything, but I do not think the Government ought to lose anything by the misconduct of one of their partners. I do not think they ought to lose by forfeiture, because they happened to be unfortunate in getting a partner; but as to their invoices and prices, I suspect there is a pretty general rule that sugar shipped at Havana is undervalued in the invoices. I have heard it, at any rate. But be that as it may, if the Senator from Georgia will make a provision saving to the Government the real amount of duties, according to their own statement, that is actually due, I will consent to pass the bill and relieve them.

Mr. IVERSON. Will the Senator from Rhode Island allow me to read an amendment I have drawn up to this bill, which, if the motion to postpone does not prevail, I shall offer?

Provided, That nothing in this act shall be so construed as to relieve said parties from any amount of duties which may justly be due to the United States on account of said importations, and that this act shall not take effect until said duties are paid.

Mr. SIMMONS. I think that will answer. Mr. COLLAMER. I would suggest to the gentleman a substitute for that amendment. My idea is that whether this man was an agent or a partner makes really no difference. Partners are not answerable for the acts of a copartner *criminaliter*, but only *civilliter*; and therefore for forfeitures these gentlemen are not responsible. The honorable gentleman on the other side [Mr. SLIDELL] seems to doubt whether there be not some law beyond that; but I do not think there is. I do not know that is not so in the civil law; but it is not so in common law, nor common sense. But still, after all, he was their agent, or he was their partner, to make these entries and to pay these duties; and in all that, whether you treat him as an agent or partner, it is not material, because the

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law is the same. He was their agent or partner to pay these duties to the Government, and make the right entries and pay right sums, whether he got the money out of his partners or did not. Then all that he did not properly enter and pay, they should pay. That clearly is the law, though it may have been their misfortune. They may have settled with their consignors. It is likely they have, and closed up so that they cannot get pay from the consignors. That is their misfortune from having a dishonest partner, or dishonest agent, and the Government should not suffer. My only objection to the suggestion made by the honorable Senator from Georgia [Mr. IVERSON] is, that I have some doubt in my mind whether, when the Government, has insisted upon a forfeiture, it can now consistently claim the amount of the duty. The very ground of these suits is that of forfeiture, and I therefore prefer that a proviso should be added expressly requiring them to pay the amount of the duties, and not provide for waiving them.

Mr. TOOMBS. That is the amendment.

Mr. COLLAMER. No; the amendment is, that nothing in the bill shall be construed to waive the duties.

Mr. TOOMBS. The Senator did not read the latter portion of the amendment.

Mr. CLARK. There is a last clause covering that.

Mr. IVERSON. The amendment is:

Provided, That nothing in this act shall be so construed as to relieve said parties from any amount of duties which may justly be due to the United States on account of said importations, and that this act shall not take effect until said duties are paid.

Mr. COLLAMER. I have no objection to that, but I think it would be preferable to put it in this form:

That said parties pay to the United States Treasury the full amount of duties actually payable on goods, wares, and merchandise heretofore imported by them into the port of New Orleans.

Mr. HOUSTON. I do not know that I comprehend this subject very perfectly; but from all I have heard of it, I have come to the conclusion that these petitioners are very honest, gentlemanly men, and that the delinquency of their clerk, or partner, if you please to call him so—and, technically, I do not care what he was—should not be visited upon them. They in good faith advanced the money to him to pay the duties upon all the goods received, and he misapplied it. For allowing this to pass the first, the second, or the third time, the officers of the Government may have been excusable; but after that, I think it would be an act of injustice on the part of the Government to exact the duties from these gentlemen, when it was the duty of the Government officers to examine into the accounts, and to detect any errors; and we have the evidence of the honorable Senator from Louisiana [Mr. SLIDELL] that the individual who was in charge of the custom-house was one of the most worthless men that could have been placed there; and we have a right to infer that it was owing to delinquency or neglect on his part that this evil was continued.

Mr. SLIDELL. Allow me to say to the Senator, that if I made use of that word, I certainly do not wish it to remain in the sense in which the Senator applies it. I way he was incompetent. I said nothing against his personal integrity.

Mr. HOUSTON. Very well; that devolves the responsibility on the Government, for they are bound to select capable men to discharge the public trusts. For that reason, I cannot think of voting to tax these men when the Government had a fair opportunity to detect these frauds that were practiced upon the custom-house, and it was the duty of the Government officers to do so. When the successor of the delinquent collector came into office, he detected those frauds. His predecessor had four years in which to do it, and if he had discharged his duty, he would have done it in the course of three weeks, as this officer was enabled to do. I do not say that there was any complicity between the custom-house officers and this delinquent clerk or partner; but there is no doubt that the fault was that of the Government, and not of these partners who come forward as petitioners, and ask relief. If they have already paid the duties in good faith, as is testified, it would be a very severe penalty to make them pay them over

again. At any rate, to mulct them in the sum of two or three hundred thousand dollars, merely to give a portion of the money to the informer, is a principle that I will never recognize in legislation. If this collector, for having discovered the fraud in so short a space of time, is to receive such a recompense, what ought to be the penalty inflicted on the delinquent collector? Sir, there is none that could reach him. I am prepared to vote to exonerate these partners from all accountability to the Government, but, in good faith, to hold the officers of the Government, to whom it has confided important trusts, responsible. When they have failed in the duty confided to them, and the revenues are betrayed or defrauded, let not the injury fall on innocent individuals when it is caused by the acts of the Government, who were responsible for the protection of citizens through the public functionaries of the Government.

The PRESIDING OFFICER. (Mr. Foor.)

The question is on the motion to postpone the further consideration of the bill until the first Monday in December next.

The motion was not agreed to.

Mr. IVERSON. I now offer my amendment.

The PRESIDING OFFICER. The Chair will suggest that in the present state of the bill amendments are not in order, and cannot be made except by unanimous consent.

Mr. TOOMBS. I wish to make one statement to my colleague. It is perfectly clear that these men have paid this money. It is equally clear, from sworn testimony in the courts of justice, that these frauds were permitted to go on by the gross neglect of the custom-house officers, who had never examined a single invoice. I say, of course, in strict law they are bound, as their agent did not pay the money, to pay it over again themselves; but the Government ought not to avail itself of the negligence of its own officers, clearly and distinctly established, and running over a period of three or four years, to exact the money. Admitting the strict legality, is it just and fair, when the Government, by its paid officers, enabled this man to perpetrate these frauds for four years, to ask innocent parties to pay the money? The officers of the Government might easily have detected the frauds, but it is sworn to that they never did run out the figures. I admit the legal principle, and I am willing to consent that the amendment may be received, and that the Senate may pass upon it; but I make this appeal to Senators: I do not think the Government ought to exact these \$24,000 from these men, when, as has been said by the Senator from Texas, it was in consequence of the naked, clear negligence of the Government officers that these transactions happened. I make no objection to receiving the amendment, and I ask for a vote upon it.

Mr. CLAY. In support of what is said by the Senator from Georgia, as Senators may not understand the question thoroughly, I will make a single remark, in order to explain fully what he means. I will say, before doing so, that when this question was referred to the Committee on Commerce—of which I have the honor to be chairman—I examined it first myself; and I became fully satisfied that these men ought not to be made to suffer this forfeiture. But, not being willing to trust my own judgment on it, I did not report it to the committee, but referred it to the Senator from Georgia, knowing that he was a lawyer of more experience and ability; and he came to the same conclusion, without any conversation between us on the subject previously.

Now, he says this money has been paid. Senators may not understand how that is. The firm advanced the money to this clerk to pay the duties. Their books show it. The merchants who investigated the question say that their books show that they did advance the money. Therefore, they have advanced to the Government, as far as they could through their agent, this amount of money to pay the duties. The clerk did not pay them. He went there, and succeeded in chiseling the Government, as the Senator says, through the criminal complicity or culpable negligence of the officers of the Government. But this complicity or negligence did not result merely in wronging the Government; they went further, and did a gross wrong to this firm. They discovered the fraud; but, instead of reporting it to the

partners, or to the principals, in whichever character you regard them; instead of reporting it to them, and enabling them thereby to arrest this clerk, and to secure the funds which he might have in hand belonging to them, and which he was embezzling, they remained two days conscious of these frauds without imparting a knowledge of them, and suffered him to run away. Thereby they made themselves accessories after the fact to the fraud which he perpetrated upon his principals, or partners; and it is in that view of the case that I agree with the Senator from Georgia, that it is really taking advantage of the wrong of the officers of the Government to make the parties pay these duties over again.

Mr. SIMMONS. I should like to have an explanation on that point. When the fraud was discovered, did the custom-house officers wait any longer than was necessary to seize this man, before notifying the partners?

Mr. TOOMBS. It was discovered on Saturday, and here is the sworn testimony that they did not communicate it at all to these parties until Monday afternoon, and then the man had run away. They then went and arrested these gentlemen criminally for this very forfeiture.

Mr. SLIDELL. I have not a copy of the petition, but, as far as my recollection serves me, the Senator from Georgia is right about the day. Saturday was spent in consultation, or an attempt at consultation, with the district attorney. They did not know how to proceed. They could not find the district attorney, and on Monday they got out an order for arresting the partners, not knowing how far the other parties were implicated in this affair. They did not inform them, because they considered them equally guilty.

Mr. TOOMBS. The Senator is mistaken. It is in proof that this man Météyé was in the custom-house on Monday morning.

Mr. SLIDELL. I say the difficulty was not with the officers, but with the district attorney, for whom they could not get the necessary information to proceed. A collector has no right to take a man by the collar and arrest him.

Mr. TOOMBS. They allowed the guilty man to escape.

Mr. IVERSON. I am satisfied there was laches on the part of the custom-house officers, in allowing this fraud to be so long in existence, without detection; but doubtless that was attributable, to a great extent, to the confidence which they placed in this agent of these parties. These invoices were made for them, and the officers took it for granted that what he did was properly done, and they were probably deceived and misled by the confidence they placed in this very man. And who gave him the confidence which enabled him to impose on the custom-house officers? These parties themselves, who employed him. It is said he was nothing more than a clerk. That makes the case still stronger. If he was a partner on an equal footing with them, perhaps it would not have been so strong a case; but here they employed the agent themselves, and the employment was an indorsement of his integrity. That is the principle everywhere, both in law and common sense: if you employ an agent to transact any fiduciary business for you, you indorse his integrity and honesty. These men employed him for two or three years, and he was dishonest the whole time. To be sure, they may not have known anything about it, and I dare say they did not; but still, law as well as equity makes them responsible for the integrity of his conduct; because whose fault was it that he was enabled to impose on somebody else? It was the fault of those who employed him, and they are responsible for what he has done.

This man doubtless misled the custom-house officers to acquiesce in the proceedings which resulted in this fraud, and the Government certainly has not received the duties. That much which was due to the Government has not been paid; and these parties now come here and demand that we shall release them from obligations or penalties which they have incurred in consequence of their own misplaced confidence in their agent. They have no legal claim to this release. That is admitted. They come and appeal to our equitable and generous feelings to release them from a penalty which has been imposed on them by law.

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I think we have a right to impose conditions precedent on them, and compel them to pay what is due to us honestly and honorably, before they shall be released from the penalty which their conduct has inflicted on them under the law. I will vote against the bill unless this amendment be introduced. I will vote for the bill if its friends will allow it to be made.

THE PRESIDING OFFICER. The Chair begs to suggest to the Senator from Georgia, that unless the vote ordering the bill to be engrossed and read a third time shall be reconsidered, the bill is not open to amendment, except by unanimous consent.

MR. IVERSON. I make that motion.

MR. TOOMBS. It is not worth while. I suppose there will be no objection, even by the opponents of the amendment, to receiving it.

THE PRESIDING OFFICER. If no objection be made, the Chair will receive the amendment. [No objection.] There being no objection, the amendment is made.

MR. BENJAMIN. The Chair misunderstood the advocates of the bill. The advocates of the bill consent that he introduce the amendment without previously moving a reconsideration. We are going to take a vote on it now.

MR. SLIDELL. I took it for granted that this amendment would pass without objection. If not, I have something further to say on the subject.

MR. BENJAMIN. Is my colleague going to speak the bill out?

MR. SLIDELL. I do not know how long I shall speak. It will depend upon circumstances.

MR. IVERSON. I understood my colleague to say he would agree to the amendment.

MR. TOOMBS. I said I would not object to its introduction.

THE PRESIDING OFFICER. The rule is, that in this stage of the bill, the bill can only be amended by unanimous consent.

MR. TOOMBS. The same unanimous consent would allow the introduction of the amendment without the reconsideration of the engrossment. I was content that the Senate might vote on the amendment as though the bill had been reconsidered, to save time.

THE PRESIDING OFFICER. Will the Senate agree to the amendment?

MR. SLIDELL. I have a word to say.

MR. MALLORY. My friend from Louisiana will allow me to ask him if he can inform the Senate what the amount of these duties is?

MR. TOOMBS. Twenty-four thousand dollars. It is judicially ascertained.

MR. MALLORY. That will be the sum required to be paid by this amendment.

MR. TOOMBS and MR. BENJAMIN. Yes, sir.

MR. SLIDELL. I am glad to perceive that these gentlemen, who are certainly very honest and respectable men, find in the Senate persons who go further in advocating their interests than they themselves do, and who ask for them what they never asked for themselves; for I take it for granted that in passing this bill they would not be willing to accept the imputation of bad faith. It is proposed that they shall be released from the payment of the penalties; and now we are told the bill goes further than that. These persons have never asked anything more than a simple abandonment of the claim of forfeiture. They have always said they recognized their liability, and were willing to pay the duties. It is like being more catholic than the Pope. Gentlemen here want to be more liberal to these men in New Orleans, whom I do not think so entirely free from blame as many Senators appear to regard them, than they ask. I admit there is no moral obliquity about it, but they have never pretended that the debt for duties was not a just debt. I have here a copy of a letter, not certified, it is true, but I take it for granted it will be admitted as correct. This is a letter, dated April 13, 1857, addressed to the collector at New Orleans:

"SIR: We are informed by Mr. Benjamin that you are willing to receive the deficit of duties remaining unpaid on the invoice of sugar per schooner Mary Elizabeth, so soon as the goods have been appraised, and thereupon you will release the seizure made by you on our store. We are ready now, and always have been ready, to pay this deficit; and we beg leave to renew to you the offer made to you some time ago by Mr. Hunt, our counsel in our behalf, and

to state that we will pay whatever deficiencies may be discovered in the invoices that may have been fraudulently passed through the custom-house by Mr. Météyé, our late partner."

they do not call him clerk, but partner—"as fast as they are detected."

Now, in regard to the imputed complicity of the officers of the custom-house with Mr. Météyé, I think a very few words will satisfy the Senate that that imputation is altogether unfounded. The discovery of a fraudulent alteration of one invoice was made at a late hour on Saturday. Mr. Météyé, I believe, in the first instance—I do not know what the record may say on that point—as all men who are found in a position of that sort, disavowed his culpability. He said it was an accident, a mistake. Then the suspicions of the custom-house officers were excited; and on the following day, Sunday, they went through all the other invoices which had been accumulating there during a period of years, and necessarily required examination; and they found the same frauds had been committed in various instances contained in the paper I have before me. It took the whole of Sunday to make that examination. They were not at all aware, until Monday morning, of the extent of the frauds. The collector—I believe that appears in the evidence—endeavored to procure the advice and counsel of the district attorney, in order to have this man arrested on the spot. He did not find him. I believe the then collector and district attorney were not on very good terms, and stood on some points of punctilio. One expected the district attorney to call on him, and the other expected the collector to go to him. That is immaterial. The delay was a natural one. The collector or the naval officer could not take Mr. Météyé by the collar and carry him to jail. It required that some preliminary proceedings should be had in the court of the United States. The proper man to conduct those proceedings was the district attorney. When the district attorney was ready to proceed, the bird had flown.

That is the true state of the case. I do not see any culpability in the matter on the part of the Government officers. It is said they ought to have informed the other partners of the fraud that had been committed. At that time they had no evidence of the absence of complicity on the part of the other partners. They had a fair right to presume that in a mercantile house, in whose name so large frauds had been carried on for so many years, all the parties were equally culpable. It was only after an investigation of the case before the court, that they became satisfied of the innocence of Mr. De Visser and Mr. Villarubia, so far as any moral complicity with this matter is concerned. I think I have explained the reason of the delay.

MR. TOOMBS. I shall detain the Senate but a moment in reply to the gentleman's statement about these duties and that letter. When these parties were about to be sued for \$300,000 of forfeitures, and their business was about to be broken up, they were then willing to pay the Government the duties, for there was nothing but ruin to them in this arrangement, to their character, reputation, and business. The Government officers refused their offer, and brought suit for \$300,000 forfeiture against them, breaking up their business entirely. The Government was defeated in the courts on the forfeiture; and now they say, pay us the duty. These gentlemen were put to very great expense in defending their case; they have brought here and presented to the committee a transcript of the record, containing all the evidence; and when that came to the committee of which I am a member, my friend, the chairman, [MR. CLAY,] gave it to me to examine. It was the unanimous judgment of the gentlemen of the committee who investigated it, that they should not be charged with the \$24,000.

The Senator does not answer the allegation as to the malfeasance of these officers. The idea that the district attorney had to be consulted is not tenable. Any of the officers could have gone and made an affidavit, and had this man arrested. They knew the facts on Saturday; they waited all day Sunday; he was in the office on Monday. They might have made an affidavit in ten minutes and arrested him, and probably got this very money back; but they give him time to run off,

and then seize these innocent men, and attempt to prosecute them for fraud, as well as to hold them liable for \$300,000. They have been put to great trouble and great expense in defending the case. The Government failed before the district court of the United States at New Orleans. I have before me the report of the speech of the present district attorney, whom the honorable Senator knows very well, and I do too, an eminent gentleman formerly of this city, who said that nothing but a sense of public duty induced him, against his feelings, to prosecute the claim for forfeiture. He said there was not the slightest blame attached to these parties. I have his speech before me, in a New Orleans paper; but I shall not take up time by reading it. It entirely exculpates these gentlemen. When they stand blameless, when they have had to defend themselves against a claim of \$300,000, and a ruthless prosecution of these men to get forfeitures, I think nothing would be more just and proper in the Senate, under the circumstances, than for the Senate to say that they should not be compelled to suffer by their unfortunate connection with this partner, if you choose to call him so, thrice partner, if you please, three hundred times partner, when the fraud was permitted by the neglect of the Government officers. I think it appeals to the generosity and magnanimity of every Senator that they should not be compelled to pay one cent.

MR. KING. When this claim was first presented to the Senate, I did not suppose that the claimants asked for anything more than a release from the penalties and forfeitures; and if that was all they asked, I was not disposed to interpose objections to the passage of their bill. Upon looking at the bill, however, I find that it does in terms release them from all claims, as well as penalties and forfeitures, which would include a release from any duties that might be due. Now, I know nothing of the facts of this case except as they have appeared before the Senate to-day; but I do know that just complaints exist throughout the country of frauds practiced by false invoices and false entries at the custom-houses. I know, too—for I live upon the frontiers—that the revenue laws of the country are not popular laws upon the frontiers, and that they are not popular with the importers; and that they desire always to have them construed liberally, and that there is too much disposition to look lightly upon evasions of them. But when frauds are detected, I think certainly they should be visited with the just penalties of the law. In this case, a commercial house, which it turns out contains two respectable partners—for I have no disposition to say anything in derogation of the eulogiums that have been pronounced on the character of these two gentlemen—took a man into their firm for the purpose of transacting their custom-house business and paying their duties; and, upon an examination of their books, everything looks entirely plain and well. If there had been originally a design upon the part of this firm, through a course of years, to commit a series of frauds upon the revenue, it might be that they were prepared, when detected, to show a pretty clean record for themselves; and one of the partners runs away, thus relieving the firm from the odium that would attach to them if they could all have been obnoxious to suspicion. That might be done; I do not say it has been done here.

Now, when they come and ask not only to be relieved from the forfeitures, but to be relieved from the payment of the duties of which the Treasury of the nation has been defrauded by the act of their partner, I must say that I think the question entitled to the serious consideration of the Senate; and I am rather surprised to find the Senator from Georgia [MR. TOOMBS] advocating this claim, for in general, upon all this character and class of claims, I vote with him, and I think he is generally sound on them. Admitting these men to be entirely as innocent and as honorable as they are claimed to be, it is their misfortune that they were connected with this rogue; but he was a man of their own selection. The proofs of all the facts and circumstances of this case are unknown to us; they are in the courts. We are told that these gentlemen are not liable in the courts. Well, if they are not, they are in no trouble. If they are not liable for the penalties and forfeitures, and not liable for the criminal act of the

partner, these two innocent gentlemen have no apprehensions of anything to suffer. But the sugar has been imported into the country, and they have received the profits on these invoices, for they seem to have been carried on their books to their profit and loss account; they have received the benefit of the importations, and one of the partners certainly has received the benefits of the amount of duty of which the Government has been defrauded. Knowing nothing of the case, I would not object to this bill, and I only speak because there seems to be a disposition on the part of the Senate to exclude this amendment. Gentlemen ask to have the question taken upon it, and there seems to be nothing said upon the propriety of insisting on the payment of duties. If there is persistent objection to the payment of these duties, I hope the question will be taken by yeas and nays. I should like to vote to require the payment of the duties, and then I am willing to relieve these gentlemen from the penalties.

Mr. IVERSON. I think there are very grave objections to the passage of this bill for the relief of these parties on general principles; but still I am willing to waive my objections to this particular case, because there seems to have been some laches or neglect on the part of Government officers in permitting this fraud to go on so long as it did without detection. That is the only ground, in my opinion, upon which this claim has one particle of foundation.

Now, sir, this bill will hold out nothing but a reward for fraud and perjury if it pass. Hereafter, if a partner or a clerk employed by an importing house commits frauds of this kind, the parties have nothing to do but to come to Congress and say, "we were honest; we were deceived; we did not practice frauds; our clerk committed them; and you must relieve us not only from the penalty, but not compel us to pay one cent of the duties." It is an inducement held out to every dishonest member or agent of an importing house who enters invoices at custom-houses to commit fraud. They have nothing to lose by it, for they will argue in this way: "if I can succeed in this particular it is all well; I will put the money in my pocket; but if I am detected, my partners or employers have nothing to do but to go to Congress and set up a cry of honesty on their part, and deception on the part of their agent, and get rid of the whole payment."

The penalties imposed are intended to secure honesty; and when you release those penalties you hold out a reward to dishonesty and corruption. This very case will be an inducement for others to commit frauds under similar circumstances, and be a precedent for Congress to release parties from their obligations. That is simply the result; and my word for it, if this bill passes you will have case after case hereafter, fraud after fraud committed upon your revenues, and parties will come here and appeal to the sympathies of gentlemen to release them because they have not been participants in the frauds. It is a dangerous precedent, in my opinion; but I am willing to yield my objections in this particular case, on account of the circumstances disclosed in the testimony, showing that the Government officers themselves were somewhat in laches; it was their fault, perhaps, that this fraud was not detected earlier than it was, and that this party was not arrested and held in custody, and made to pay the penalty of his crimes; but without this amendment it seems to me very unfair that this bill should pass.

Mr. HOUSTON. I do not wish to detain the Senate, but it does seem to me that it is a most extraordinary course which gentlemen have taken. I have great respect for the kindness, good temper, and justice of my excellent friend from New York, [Mr. KING;] but it does seem to me he has not carried his suspicions quite far enough. He thinks these partners might have kept this man for the purpose of imposing on the custom-house. Now we learn from the facts stated to-day—I have never looked into the case before—that he was recommended to them as a business man, confidential and intelligent, and not for the special purpose, I believe, of transacting business at the custom-house as suggested. He was recommended by his former employers as a most reliable man, and he was made a partner to sustain and encour-

age him, and requite him for his fidelity. They gave him every encouragement necessary; and, being recommended by former business men who had him in their employment, it was natural that they should confide to him important trusts. That is, I believe, about the circumstance of his being employed by them; but it is just as probable that he had partners in the custom-house, who were sleeping or dormant partners, as to suppose that he had partners out of it. It does seem to me that four years' delinquency and perpetration of crime on his part is conclusive evidence that there must have been collusion in the custom-house, and that the collector of the customs is responsible for the deeds, and not this firm in New Orleans, of which a partner was involved in complicity. I think the securities of the collector at New Orleans were answerable for these injuries to the Government; and if it was defrauded out of customs, it was his business to prevent it; and if the Government lost, owing to any neglect of his, his securities are responsible, for their obligation was to vindicate his honesty as a public officer; to see that he performed his duties as a public officer. A man might be honest, and yet utterly neglectful in the discharge of his duties, and involve the country in ruinous consequences to its revenues; and in that event, the sureties are generally as responsible as if he had been guilty of purloining money from the custom-house at New Orleans.

I can arrive at no conclusion whatever but that these gentlemen are guiltless. *Météyé*, if you view him technically, may have been their partner, and they may be liable for his conduct; but, on principle, so far as the facts are manifested here, not a solitary suspicion can attach to them, as I apprehend the case—not the slightest suspicion. If I believed there had been delinquency on their part, or that, by collusion or contrivance with this partner, they had defrauded the revenue, I could not give countenance to any application of theirs. If they were willing at one time to compromise, and to make a great sacrifice to get out of the difficulties in which they were involved, owing to the misconduct or neglect of the collector of the customs, if they were willing when a most alarming ruin was before their eyes, to compromise, that should not be pressed against this bill now. The honorable Senator from Louisiana on my right, [Mr. SLIDELL,] did not give us the date of the letter he read; but subsequent events show that these gentlemen have been vindicated. The people in the vicinage, who understand all the facts of the case, have come to a conclusion very different from some of the gentlemen of this body; and, for my own part, I am prepared to vote against this amendment; and I am equally determined to vote for any measure that will give them this relief—avert the evils that have been threatened, and arrest the wrong. I am willing to vote for any measure that will give them relief, and visit responsibility on the officers of the Government, and direct the eye of the Government to them. It should not, in these responsible offices, place favorites on account of political claims, but men who are elevated by their moral worth, whether of this party or that party—men who have established a high character, and obtained standing in society. These are the men I want to see placed in office; and not delinquent favorites, or men who come with the clamor of friends to sustain them, and have not character to herald them to the world.

Mr. CHANDLER. I am somewhat familiar with this question of frauds upon the Treasury. In New York, American citizens have been driven from certain kinds of importations entirely through just such frauds as this. The ordinary course is to take a partner for this express purpose—a man who will swear to a false invoice. A house is established in New York, and foreign manufacturers send it a false invoice, and by that process they have driven honest, upright, and honorable American citizens entirely out of their own market for that species of merchandise. I know nothing about this case at all; I presume these gentlemen to be honorable men; but our action upon this claim will be looked to with great solicitude by a large class of the men to whom I have alluded who have engaged in this kind of business. I trust that the Senate will not offer a bribe to rationality. I trust we shall not offer a bounty upon

perjury and false invoices in our custom-houses. If this amendment should be carried compelling the parties to refund the money which they justly and honestly owe the Government, I shall have no particular objection to their being allowed to go scot free of the penalty, on account of their high character, as here represented; but to offer this bounty upon fraud and perjury, would be a most dangerous precedent, it seems to me, for the Congress of the United States to set. I hope this amendment will prevail.

Mr. BAYARD. I have entertained from the first no earthly doubt that it was shocking to the sense of natural justice that we should attempt to enforce criminally against innocent men the penalties of the law for the fault of a guilty partner. It is contrary to every principle of the common law. I doubt whether the Government could possibly succeed in any prosecution of that kind; and certainly a proceeding for confiscation or to recover a penalty for a false invoice is a criminal proceeding. My doubt has been as to whether, in passing this bill to relieve the parties from this prosecution, we ought to impose such terms as are now proposed. There are many technical questions involved; but these parties ought not to be subject to this liability, as the proof is clear that they were not morally responsible or cognizant of the acts of the partner. My doubts have been whether we ought to hold them civilly liable and make it a condition of relief that they should pay the duties which the Government has not received, in consequence of the fraud. My first inclination of opinion was that we ought to exact the payment of duties, and I think I should have retained that impression but for one fact; if I am wrong in the fact, of course I should come to my original conclusion. If I understand the case rightly there was, at least, gross negligence on the part of the agents of the Government, they having the means of discovering the fraud running through a course of years; and these partners, though the other was their partner if you please—there is no magic in the term; it means merely that he was employed by their authority—had not the means of detection; they paid the excess into the hands of this individual; and the profits of the fraud have not inured to the benefit of the firm but to the benefit of the fraudulent party, and that through the negligence of the Government.

But it did not stop there. The officers knew of the existence of fraud; they discovered it on Saturday. They then examined and found further frauds on Sunday. The guilty party was at the custom-house on Monday, the party who had the entire transactions with them personally, the only one known to the officers, and they suffered him to escape, and then turned round and, after he had escaped, arrested innocent parties, and sued them, not for the duties, but for confiscations and penalties, to the amount of \$360,000. Under these circumstances, if any benefit inured to these innocent parties from the fraudulent entries made by their copartner, beyond all question that ought to go to the Government; but if they have received no benefit, and the fraudulent party alone has received the benefit, the Government choosing to suffer him to escape, it ought not to make it a condition of remission of those penalties that the other partners shall pay that from which they have received no benefit at all. I shall vote against the amendment, with my view of the facts as they now stand, because these men have received no benefit from the frauds of their partner.

Mr. FESSENDEN. I have been exceedingly unwilling to say anything about this matter. I was very much in hopes the friends of the bill would consent to this amendment. If it be consented to by them, or if the amendment be made by the Senate, I shall be willing to vote for the bill. If not, I must vote against it. I am willing that these men shall be relieved from the penalties; but I confess I have been surprised by the mode of argument adopted to defend the objection which is made to this amendment. Just look at the case for a single instant; look at the whole argument as presented.

The gentlemen who came here as petitioners entered into partnership with this *Météyé*. No matter whether they gave him a small amount of the profits or not, they entered into partnership with this man; they indorsed him; they gave him

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character as one of their firm; they put him forth to the community as an honorable and honest man; they intrusted him with their money to make these payments of duties; they sent him to the custom-house. By receiving him into partnership, and putting their money into his hands, they recommended him to the custom-house officers, and to everybody, as an honest man, and a man to be trusted. He goes there, and he commits these frauds over and over and over again. It is not pretended that the custom-house officers are in complicity with him, that they are a party to the fraud; but that they did not exercise the vigilance they should have exercised to guard against the frauds he commits; and in consequence of those frauds the Government loses \$24,000, and finally having discovered them, seizes a part of the goods themselves, and commences prosecution. These parties come up here now, not only to be relieved of the penalty to the amount of about three hundred thousand dollars, but in addition to that, to ask that the United States abandon its claim for all it has lost, give up the goods acquired by the penalties, and also allow them to go free from the amount of which the United States has been defrauded—\$24,000. Senators say this is a hard case. These gentlemen have been persecuted and prosecuted, and have paid heavy costs, all on account of this man whom they trusted, they being honest men themselves.

Well, who enabled him to commit these frauds? They. Who gave him a character? They did. Who put the money into his hands and sent him to the custom-house? They did; and they reply to the Government of the United States, "it was the business of your officers to watch and see that our partner did not cheat you, and because you did not do it, you ought to lose the money you have been cheated out of, because your custom-house officers were not sharp enough to suspect that he was a rogue, and did not look with that degree of scrutiny they should have done into the papers he presented. You were in a degree negligent because you did not have the best officers in the world, and, therefore, our partner and our agent, who cheated you out of the money, should alone be held responsible for it, and we ought not to lose it."

That is a very singular argument, to my mind. What is the law between man and man in dealing with agents? I send an agent to deal with you; my agent commits a fraud; I give him a character—he is my partner, if you please. He commits a gross fraud by which you are defrauded of a certain amount of money, giving you a large claim on me; and when I appeal to you to remit that large claim I say, "this is very hard for me; I have been an honest man, though my partner, to be sure, is a knave. I want you to remit this claim." You say, "very well, I will remit it; I do not like to be hard on you and will let you off if you give me the money you have cheated me out of." "Oh, no," is the response, "your employe was not so sharp as he ought to have been, and therefore I will pay nothing." What sort of an answer would that be between man and man? None at all. Everybody sees it would be no answer, and the claim made in such a case would certainly be scouted at. An individual in such a case would say: "I do not insist on any penalty; I do not want to be hard on you, but I cannot allow your partner to cheat me out of money. If you ask a favor of me, do right yourself first." It would be no answer to say, "it is hard on me that I should lose the money." Very well, some one must lose it. Shall he lose it, who put the man forward, who gave him character, and enabled him to commit the fraud; or should another person, who has been defrauded, suffer the loss?

It strikes me that the obvious principles of law and justice between man and man give the answer to all this. It is, "if you want a favor of me, and apply to me to remit a penalty which you say is ruinous to you, you must first make me whole for what you, or your servants, have defrauded me out of." That is the proper course on the most obvious principles. I can see no possible answer that can be made to that; and when gentlemen say this has been a hard matter to these people who have lost money, they have been injured in character, they have been placed in an unpleasant situation, paid costs, and all that, I

reply that I am sorry for it, but such things are not unfrequent; the roguery of some men injures others; and if a person enters into partnership with another, and gives him an indorsement, he must take the consequences. These matters are followed by their evil as well as their good results. Other persons must not suffer, but he who has led to the commission of the act by forming the connection. To be sure, he may not be morally in fault; he may have been deceived himself, but the consequences must rest with him after all, because the first fault or mistake is his.

That is the law as between man and man, and it is just. But, sir, I have been principally induced to speak on the subject because these complaints are common to our whole country, and it is well known as a fact, that the revenue is defrauded in every principal city in the Union by precisely such arrangements as were made here. They are made on purpose, in some cases. I do not say it was done in this instance. I would not insinuate that it was; I am perfectly willing to say, on the evidence, that I do not believe it was; but every one can see how it could be managed for a couple of men who stand well in the community to have a partner, at a convenient rate of compensation, to make all these arrangements. It is very easy to keep the books square, and show the money paid out, and when the fellow has carried it on for years, and chooses to run away; when they have made a good deal of money, or he gets accidentally found out, everything on the face may appear fair. Though I do not believe that has been done in this instance, there is good reason to believe that similar practices have existed in many other instances. If we go the length now, not only of remitting the penalty, but of saying the fraud shall be successful, and the duties shall not be asked for in such a case, simply because innocent men have suffered by the fault of the rogue they took into their employ and indorsed and gave character to, we may just as well abandon the farce of trying to collect duties on imports.

THE PRESIDING OFFICER. (Mr. FITZPATRICK.) The amendment will be read.

The Secretary read it, as follows:

Provided, That nothing in this act shall be so construed as to relieve the said parties from any amount of duties which may be justly due to the United States on account of said importations; and that this act shall not take effect until said duties are paid.

Mr. KING called for the yeas and nays on the amendment; and they were ordered.

Mr. HARLAN. The Senator from Wisconsin [Mr. DURKEE] has paired off with my colleague [Mr. JONES.]

The question being taken by yeas and nays, resulted—yeas 25, nays 9; as follows:

YEAS—Messrs. Brown, Chandler, Crittenden, Davis, Doolittle, Fessenden, Foster, Green, Harlan, Henderson, Iverson, Johnson of Tennessee, King, Mallory, Polk, Sebastian, Seward, Shields, Simmons, Slidell, Stuart, Trumbull, Wade, Wilson, and Yulice—25.

NAYS—Messrs. Bayard, Benjamin, Broderick, Clay, Fitzpatrick, Houston, Pugh, Rice, and Toombs—9.

So the amendment was agreed to.

Mr. FOSTER. I should like to be informed, before the bill passes, whether, in the present state of the prosecution against these petitioners, the duties can be collected even with this proviso in the bill. I have an impression that goods which are forfeited in consequence of false entries, or an attempt to smuggle, are not goods on which duties can be collected. The claim, as I understand it, is that these goods are not now to be forfeited, and the forfeiture is remitted; and the design of the Senate manifestly is, that the forfeiture is remitted on the ground that the duties are to be paid.

Mr. STUART. The amendment says that the bill is not to take effect until the duties are paid.

Mr. FOSTER. That relates to duties which are by law payable; but I apprehend there is, after all, a question whether the duties can be collected.

Mr. IVERSON. The amendment is not that duties legally liable shall be paid, but those justly due to the Government, is the language of the amendment.

Mr. FOSTER. But the question, after all, would be what is justly due.

Mr. STUART. Their goods will be forfeited unless they pay what the Government thinks is right.

Mr. FOSTER. About that, I apprehend there may be difference of opinion here. I should like to have the Senator from Louisiana [Mr. BENJAMIN] express his views on the question whether, if this bill passes, these merchants of New Orleans can be compelled to pay these duties?

Mr. BENJAMIN. They must, in order to obtain the benefit of the bill, undoubtedly. I do not see how they can avoid it.

Mr. SIMMONS. The question is, are duties chargeable on goods that have been forfeited?

Mr. BENJAMIN. Undoubtedly if they want the benefit of the bill, they must pay the duties.

Mr. FESSENDEN. Let the amendment be read.

The Secretary read it.

Mr. FOSTER. Now, suppose these petitioners do not think proper to avail themselves of the benefit of the act, what becomes of the forfeiture?

Mr. TOOMBS. They have a right to do so.

Mr. FOSTER. They have a good defense in that suit. They succeed in getting the goods that are not forfeited, and the result is that they get the goods without paying duties.

Mr. BENJAMIN. Are you going to pass a law to prevent them defending their suits?

Mr. FOSTER. By no means; but I apprehend it is not the design of the Senate that such a course shall be taken as that these goods shall be imported without paying duties.

Mr. CLAY. The Government have got the game in their own hands. They will not give up the goods unless the duties are paid, I suppose.

Mr. CRITTENDEN. I should like to hear the amendment read again.

Mr. TRUMBULL. In order to make this matter perfectly clear, I think an amendment of a word or two would accomplish the object which the Senator from Connecticut has in view. As the amendment now reads, the proviso is:

"That nothing in this act shall be so construed as to relieve the said parties from any amount of duties which may be justly due to the United States on account of said importations, and that said act shall not take effect until said duties are paid."

By altering the phraseology so as to make it, instead of "which may be justly due," say "which would have been due to the United States on account of said importations had there been no forfeiture, and that this act shall not take effect," the object will be attained.

Mr. SLIDELL. I would prefer that the amendment should not be made. I think it is a great deal better as it is.

Mr. TRUMBULL. I think it would be better.

Mr. TOOMBS. There is no objection to that in the world. You can fix it in that way if you like it better.

Mr. SLIDELL. If the Senate admits the principle that the forfeiture is not to be exacted from these gentlemen, the bill is now in a satisfactory form. I shall offer no proposition to it. I prefer, however, the amendment as it stands to the suggestion of the Senator from Illinois.

Mr. TRUMBULL. I will not move it.

The bill was passed.

WASHINGTON PUBLIC SCHOOLS.

DEBATE IN THE SENATE.

SATURDAY, May 15, 1858.

The bill (S. No. 191) for the benefit of public schools in the city of Washington, was read the second time, and considered as in Committee of the Whole.

It provides that so much of the fines and forfeitures hereafter to be collected in the District of Columbia as accrue to the United States shall be surrendered to the city of Washington for school purposes, until the whole sum so received shall amount to \$50,000. It declares that the corporate authorities in the city of Washington may, with the assent of the owners of real estate in the city, levy a special tax of ten cents on each hundred dollars' worth of taxable property in the corporate limits of the city, for the benefit of public schools; and that whenever the Secretary of the Treasury shall be officially notified by the Mayor that this tax has been levied and collected, it shall be his duty to pay from the Treasury of the United States, to the persons legally authorized to receive the school funds for the city of Washington,

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a sum equal to the amount thus raised by taxation; but not more than twenty thousand dollars per annum is to be paid by the United States, and these payments are to continue for five years, unless Congress shall otherwise order. For the purpose of testing the sense of the property-owners of Washington city as to whether they will submit to this tax, the Mayor of the city is to order an election on such day as he may deem proper, to be conducted in all respects as other elections in the city, except that no one shall be deemed a qualified voter unless he owns property subject to taxation in the city.

Mr. BROWN. I suppose there will be some discussion about it, and I ask that the report be read.

The Secretary read the following report, made by Mr. Brown on the 10th of March:

The Committee on the District of Columbia, to whom were referred various memorials and petitions from the corporate authorities, the trustees of the public schools, and citizens of the city of Washington, praying congressional aid for the public schools in said city, have had the same under consideration, and report:

First. That there are no unold lots of material value in the city of Washington, and therefore it is useless to deny or grant so much of the prayer of the petitioners as seeks a donation of these lots to the public schools of said city.

Second. The policy of granting lands in aid of public schools in the new States and Territories appears to your committee to have been eminently wise, and free from all constitutional objections; but when it is proposed, as by these memorials, to extend that policy to the District of Columbia, new and grave objections arise. These objections are not only to the expediency, but, in the judgment of many, to the constitutionality of the proposed measure. Without discussing the question, your committee report that, in their opinion, it is not proper, at this time, to make a grant of public lands to aid the public schools in the city of Washington.

Third. The proposition to appropriate money in aid of these schools has engaged the attention of the committee.

It appears, according to the best data attainable by your committee, that the Government owns about one half in value of all the real estate in the city of Washington. On this it pays no taxes. The citizens are heavily taxed for the various purposes of city government, and the United States makes large appropriations for purposes of its own within said city. While the city appropriates largely from a common treasury for the support of schools, the United States never has appropriated a dollar for that object.

There are in the city of Washington more than five thousand children, between the ages of five and eighteen years, who attend no school. Of these, it is believed, more than two thirds have been attracted to this point by the Government. They are the children of persons in the service of the United States, many of whom have no taxable property in the city, and very little anywhere else.

Of these five thousand who attend no school, one half at least, perhaps more, are the children of parents too poor to bear the expense of their education, and they must grow up in ignorance, unless educated at the public expense. It would seem hardly fair to throw them as an exclusive burden on the private property-holders of this city.

There are in the public schools of this city two thousand and four hundred pupils, besides three thousand two hundred in the private schools. The public schools are maintained mainly out of the city treasury, there being paid for their support an annual sum varying from twenty to twenty-five thousand dollars.

Your committee has found a healthy state of public sentiment in the city on the subject of education; many of the largest property-holders not only consenting to, but urging, an additional special tax for school purposes. The assessed value of property in the city is a fraction over twenty six million dollars, yielding a revenue, at the present rate of taxation, of \$185,000, about nine per cent. of which is appropriated to the support of public schools. The city has a permanent school fund invested which yields \$3,000 per annum; and the poll tax, amounting to about five thousand five hundred dollars annually, goes also into the school fund. It is now proposed to levy an additional tax of ten cents in the hundred dollars for the special purpose of aiding the schools. This will raise about twenty-six thousand dollars per annum, which, added to the present sum expended, will be equal say to fifty thousand dollars a year. If the city was well supplied with school-houses this sum would go far towards meeting the desired object of placing a school within the reach of every child in the city; but there is, unfortunately, a great deficiency in school accommodations.

In view of all these facts, your committee think it expedient for Congress to pass an act surrendering to the school fund of the city the fines and forfeitures in the District courts, and hereafter to be collected, until the same shall reach \$50,000, the money to be applied to the erection of permanent school houses.

The fines and forfeitures vary in amount per annum, according to the number and magnitude of offenses against the criminal laws. In the years 1856 and 1857 the total of forfeitures was \$9,565 50, and of fines \$1,652 50. Of these sums only \$1,482 appears to have been collected. By surrendering this fund to the public schools, there will be created an additional incentive to more rigid collections in future; and thus the double benefit of aiding the schools, and punishing offenders with more certainty, will be obtained.

In addition to this provision, your committee propose an annual appropriation from the national Treasury of \$20,000, for five years, on the condition that the citizens submit to the tax above alluded to—that is, a tax of about twenty-six thousand dollars in the aggregate, for the special purposes

of the public schools, and this to be in addition to the sums now paid by them. Thus the Government will pay, for a limited time, about one part, and the citizens two parts, of the expense of keeping up the public schools; and it is hoped, with this aid, these schools, in five years, will be put on such a solid foundation that they can be sustained without aid from the Government.

In accordance with these views, your committee report a bill.

Mr. HALE. I have an amendment to offer as an additional section:

Sec. —. And be it further enacted, That all the taxes levied on the estates of colored persons, in the city of Washington, shall be devoted to the support of schools for the education of colored children, under the direction of the government of the city.

I desire to state that several of these individuals have spoken of it to me as a case of extreme hardship that the colored population here are taxed for the support of schools, (and it forms no inconsiderable amount of the taxes collected,) and, whilst they are compelled to pay taxes, their children have not the slightest benefit of the schools. I do not propose to establish any mixed schools or anything else, but to devote the taxes collected from this class to the education of their own children under the direction of the city government; and it seems to me to be a matter of such plain justice that it will hardly be denied. They are an oppressed and a degraded people, and I think it hardly comports with the magnanimity of their superiors to collect their money and to use it to educate their own children. I hope that this proposition will commend itself to the chairman of the District Committee.

Mr. TOOMBS. I think this effort of benevolence could have been directed to a much better object. I am perfectly willing that the bill should exclude their property from taxation for this purpose. I think the city could much better afford to lose the amount that this class of people pay than to have any difficulty by a proposition to mix them. I think it all very well as long as you allow them to stay here, which ought not to be done, not to tax them for other people's benefit. That is a wrong principle, and I think the gentleman had better amend the bill by excluding their property.

Mr. BROWN. I was about to say that the city authorities here have never made provision for the education of colored people, and I do not believe they ever will. I think the colored people here have schools of their own under their own control, and the control of such persons as think proper to meddle with them. I have no objection to exempting the property of colored persons from taxation under this bill if our friends generally concur in that. I understand the complaint to be, that these people are to be taxed for an object in the benefits of which they are not to participate. Then I propose to get them out of the difficulty by saying that they shall not be taxed.

Mr. HALE. I am content with that amendment.

Mr. BROWN. Draw it up in that form.

Mr. TOOMBS. A proviso will answer, providing that the property of colored persons shall not be taxed under this bill.

Mr. DURKEE. I would suggest to the Senator from New Hampshire that that will not remove the difficulty entirely, because these people will necessarily be taxed by indirect taxation to raise the money which we now propose to appropriate for the benefit of the schools. We propose in this bill to donate a certain sum of money to benefit the schools; and they contribute a portion of that money.

Mr. HALE. I do not expect to get the colored people up to anything like their rights, and I only want to make a beginning. The idea of taxing their property for the education of white people is so monstrously unjust that I hope there will be no objection to a provision such as has been suggested.

Mr. TOOMBS. That is right.

Mr. HALE. I will take the suggestion of the chairman of the committee, simply exempting their property from taxation.

Mr. BROWN. The object will be accomplished by putting a proviso to the last section of the bill providing that the property of persons of color shall not be subject to taxation under this bill.

Mr. HALE. I do not know that that will cover

all. If the chairman will let the bill lie by for a few minutes, I will endeavor to fix an amendment with him that will meet the case.

Mr. BROWN. I do not wish the bill to lose its place.

Mr. HALE. Let it be passed over informally, for the present.

Mr. TOOMBS. There are one or two sections of the bill which we might as well be acting upon while the Senator from New Hampshire is getting his amendment ready. I would ask the Senator from Mississippi what is now done with the fines and forfeitures proposed to be given in one section of the bill to the school fund?

Mr. BROWN. They go into the national Treasury.

Mr. TOOMBS. I was aware of that fact, and I want to strike out that provision from the bill. The administration of justice in this District is peculiar. The United States actually pay for administering justice to this people. This is entirely wrong. The expense of administering justice here is probably greater than in any similar community anywhere on earth. The abuse is atrocious. If there is a "muss" down here on Pennsylvania avenue, probably the costs of the justices of the peace, constables, &c., will run up to \$300. The only compensation the Treasury gets for the costs it has to pay where these "culled pussuns" are unable to pay their own, and there are from twenty to sixty always in jail, is the fines some few of them pay. The great body of these criminals are paupers; and thousands of dollars, I think between sixty and eighty thousand dollars a year, are paid as costs to all the various officers for administering criminal justice here. I am not willing to make the Treasury of the United States pay for all of the expenses of administering justice and maintaining order in Washington city. The costs of the proceedings in regard to the most petty offenses of free negroes here are thrown on the Treasury; and then, when you fine one who can respond to a fine imposed on him, you take the money and give it for schools. I would rather vote money directly out of the public Treasury than indirectly in this way. This is the only fund that remunerates the United States for the vast amount of costs they pay in the District. I move to strike out so much of the bill as gives the fines and forfeitures to the city for this purpose.

Mr. BROWN. The Senator, I think, over-estimates the present amount of collections from that source, and underestimates what would be the amount collected if there was a more rigid enforcement of the law.

Mr. TOOMBS. I think my friend from Mississippi misunderstands me. I express no opinion as to that. I have no information as to what the amount of fines and forfeitures is, but I know it is not anything like equal to the costs the Government pay.

Mr. BROWN. The Committee on the District of Columbia were at some pains to inform themselves on that precise point. They called on the marshal of the District, and upon the clerk of the criminal court, and obtained some facts in regard to this fund, which I will state. The fines and forfeitures vary in amount according to the number and magnitude of offenses against the criminal law. In the years 1856 and 1857, which, it will be recollected, were years fraught with crime, the total of forfeitures was \$9,565 50, and of fines \$1,652 50, and of these sums only \$1,482 appears to have been collected in the two years. The committee believe that if you would surrender these fines and forfeitures to the public schools of the city, then the school commissioners, the school teachers, and all others connected with the public schools, would have a direct interest in looking after them, and seeing that they were collected, and that, when collected, the money was accounted for, and thereby criminals would be more certainly punished by being made to do precisely what I am sure the Senator from Georgia would like to have them do—pay up their fines and forfeitures; and then the money would go to a very laudable and good purpose. At present, as it seems by the report, the sum amounts to very little, and if I did not think it would be greatly increased, I would as soon see this provision stricken out as not; but I think, in the end, it will

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amount to six or seven thousand dollars a year, with a rigid enforcement of the law.

Mr. TOOMBS. The objection is not answered. It is whether we should continue to pay these costs as we do? When the subject was under consideration in the Judiciary Committee last year, we reported a bill, which was passed by this body, to amend that great difficulty, but it failed in the other House, though it was a very necessary reform. This being the only money the United States get for the purpose of paying the very heavy judiciary expenses of the District, I do not think it expedient to take it away. There is, however, considerable force in the argument of the Senator from Mississippi, that it is probable criminals will be more vigilantly prosecuted, and there will be a more rigid responsibility on the part of the officers, if this provision be made; and I do not know, after all, whether it would not be as well to make it, for there seems to be very little responsibility in the matter now, and the amount is so small that the United States certainly get very little, and if the schools will make more out of it, I am content to withdraw the amendment, though I have no idea it will be done.

Mr. HALE. I will offer an amendment in place of the one which I first proposed, that I believe will meet the views of the friends of the bill. It is:

And be it further enacted, That the estates of colored persons in the District of Columbia shall be entirely exempted from all taxes levied for schools and school-houses in the District.

Mr. BROWN. I have no objection to that. The amendment was agreed to.

Mr. JOHNSON, of Tennessee. I move to strike out the following words in the second section of the bill:

"And that whenever the Secretary of the Treasury shall be officially notified by the Mayor that the said tax has been levied and collected, it shall be his duty to pay from the Treasury of the United States, to the persons legally authorized to receive school funds for the city of Washington, a sum equal to the amount thus raised by taxation: *Provided,* that not more than \$20,000 per annum shall be paid by the United States, and that the payments shall continue for five years, unless Congress shall otherwise order."

It seems to me that this is a plain and distinct proposition for the Government of the United States to take charge of the public schools in this District. I think, sir, that we have really reached a point where we ought to stop. There is no Senator here who will go farther than myself in promoting common schools and the cause of education. I have given evidence, in my own State, of my views in that regard. I may also remark, in this connection, that there is scarcely any one in the Senate or throughout the country who knows and feels the wants of educational advantages in early life more than I do. While I admit the great importance of educating all the children of the country, as far as they can be educated in the common schools and in higher schools, I want it done on correct principles; and I want those to pay the expense who are justly chargeable with it. In this case, why should the Government of the United States be taxed to educate the children of the people of the District of Columbia any more than the children in Mississippi, or Tennessee, or Georgia, or New York, or the New England States? If we look to our own States, we find that there is a great want of education there; we find that there are many children there who are not going to school; but is it, therefore, proper for us to ask the Federal Government to take money out of the Treasury of the United States to educate children in the different States? If it is not right in regard to the States, surely it is not right in regard to the District of Columbia. If we have not the power to educate children in the States, at the expense of the Federal Treasury, how can we have the power to educate children in the District of Columbia, at the national expense? Where do you derive the power any more in the one case than in the other? Where does the right exist now in the one case than in the other? This is a common Treasury; and have we any more authority, or any greater claim in right to use it for the education of children here, than for their education in the States?

I repeat there is no one who has higher regard for the children of the District of Columbia than I have, or who will go further to educate the great mass of the children throughout the whole country; but is it right, is it constitutional, to place the ex-

pense of their education upon the Federal Treasury? Should not this community bear the tax of educating its own children as well as other communities? Is it right to tax the people of the States, and devote the fund which you raise from them to educate children in this District? Is there any justice in it? This is simply a proposition to fasten permanently on the Treasury an expense of \$20,000 annually, and as much more as can be got, for the education of children in the District of Columbia. Where do you get the power? From what clause of the Constitution is it derived? I know that, at this late day, it is considered antiquated and rather old-foggyish to talk about constitutional restraints, and we are constantly met with the argument that, in the District of Columbia, Congress has exclusive power of legislation, and that, therefore, we can go into the Treasury of the United States and appropriate sums without limit for the purposes of the District. When we examine that subject closely, I think we shall find that we have no more authority to appropriate money from the national Treasury for the education of children in the District of Columbia than for the education of children in the State of Massachusetts or the State of Louisiana. It is true, Congress has exclusive power of legislation in the District of Columbia, but that does not mean unlimited legislation. Because Congress legislates exclusively for this District, Congress has no power to take money out of the Treasury of the United States and appropriate it in this District to purposes for which it could not appropriate it in the States. It has no such power. I admit that, while Congress is acting as a Legislature for the District of Columbia over the revenue or taxes derived from the District, it can appropriate them to any purposes to which the Legislature of the State of Maryland could have appropriated them; but that legislation must be in reference to taxes collected from the people of the District—not to taxes collected from the people of the whole Union. You have no more power to appropriate money out of the Treasury of the United States, for educational purposes in this District, than in the several States of this Confederacy. We not only violate right and justice, in taking a fund which properly belongs to others for the education of children here, but we violate a plain and fundamental principle of the Constitution.

I know it is stated in the report of the chairman of the District Committee—and I am a member of the committee, and know something about the reporting of this bill—that the District of Columbia has had no public lands for this purpose, and therefore we can appropriate money for it. I am free to admit that, in my judgment, Congress can appropriate the public lands to some purposes to which it cannot appropriate money out of the Federal Treasury. Congress may appropriate the public lands to aid the cause of education in the States where the lands lie, or even, perhaps, in other places. There, I think, the power is clear, and the object is national; but I do not see what power Congress has to take money out of the Treasury, and appropriate it to school purposes in this District.

If the relation that exists between the District and the Congress of the United States is simply that which exists between the people of a State and their Legislature, then, while acting as a Legislature for the District of Columbia, we have no power to appropriate the money of the people of the United States for educational purposes in this District; and where is your authority for the passage of this bill? The first section of this bill, I think, is very liberal, because it proposes to appropriate, for the benefit of the schools in this city, all the money collected by the Government from fines and forfeitures here. In my opinion, that is going far enough, and they should not, in addition to that, ask Congress to give them \$20,000 annually to sustain common schools here. We already pay the expenses of their judges and jurors; we build their jails, erect their penitentiaries, and feed their convicts. What more shall we do? The States tax their citizens for these purposes, and do not call upon the Treasury of the United States to pay these expenses. This community is as much bound in justice, under the Constitution, to pay all expenses of this char-

acter as are the respective communities in the several States. It is not right, decent, and just to impose all the expenses of this community upon the people of the United States.

There is another bill to which I may allude in this connection, proposing to appropriate money for the benefit of an asylum here for the deaf and dumb. There is no one who has more sympathy for that unfortunate class of our fellow-citizens than myself, but where do we derive the power to appropriate for them? I think the appropriation contained in the bill to which I have alluded amounts to some two hundred or three hundred dollars per scholar for the deaf and dumb. This community, after asking an appropriation of that amount to take care of the deaf and dumb here, now want an appropriation for the education of the thousands of children who are placed in the world with all their faculties—hearing, smell, sight, taste, and touch. They come to Congress for an appropriation of two or three hundred dollars a head to take care of those who are unable to speak, those whose faculties are impaired, while at the same time there are hundreds of children born with all their faculties whom they are permitting to become deaf and dumb. Their sympathies are keenly alive to restore those who have lost their faculties, and who never can be restored. It is a strange kind of philanthropy. If one portion of the community is to be lost or thrown away, I think we had better throw away that portion who cannot be restored, and try to save those who are placed in the world with all their faculties.

I do not make these remarks out of any unkind feeling toward the District of Columbia, for I will go as far to promote their interests, on proper principles, as any one can go; but I am not willing to tax my constituents, or the people of the several States, to do here those things which the people in the States are taxed to do for themselves. Let this community educate its own children; let it take care of its own deaf and dumb; let it punish its own offenders, build its own prisons, pay its own jurors and judges, as all other communities in this Confederacy do. Sir, the Congress of the United States has been exceedingly partial, to use no stronger term, toward this District from the beginning of the Government. Since this District has been under the charge of the General Government, up to 1857, we have paid to it, for purposes not connected with any Federal expenditures, \$5,120,000, and this does not include all the items—over five million dollars for the local improvements, and to promote the individual interests of the people of the District of Columbia. Of this sum \$1,150,000 was paid under an act for the relief of the several cities in the District. We have assumed debts that they created, and ought to have paid out of their own funds. Have there been no other benefits conferred on the District of Columbia by the Government being located here? As I have stated, we have expended for their individual benefit, and for the promotion of their local improvements, and the payment of their debts, \$5,120,000; and while we have been doing this, we have also gathered from the different States of the Confederacy the taxes of the people, and poured out \$12,748,000, like a fertilizing stream on this particular locality, for the erection of public buildings, and improvements of various kinds. I have obtained from the Treasury Department a statement showing the amount expended by the United States for improvements in the District of Columbia up to June 30, 1857:

During what time.	Improvements in the District for the Government.	Improvements for the District.
From 1800 to 1848.....	\$6,530,814 42	\$2,708,253 88
" 1848 to 1849.....	63,045 99	189,000 00
" 1849 to 1850.....	69,945 01	195,126 03
" 1850 to 1851.....	157,370 78	279,901 08
" 1851 to 1852.....	403,265 69	158,869 03
" 1852 to 1853.....	882,223 05	154,630 03
" 1853 to 1854.....	429,884 03	954,910 81
" 1854 to 1855.....	1,074,749 65	129,165 58
" 1855 to 1856.....	1,278,230 35	200,495 26
" 1856 to 1857.....	1,859,313 35	250,073 77
	\$12,748,842 33	*\$5,120,435 47

* Of this sum \$1,152,857 57 was paid under an act for the relief of the several corporate cities of the District, and \$1,612,249 68 for the redemption of the debt contracted by said cities, and assumed by the United States.

R. BIGGER, Register.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
February 9, 1858.

Now, a community which has had \$5,000,000 given to it, and which, besides, has enjoyed the profit and benefit which must result from an expenditure of \$12,000,000 in its midst, comes to the Congress of the United States, and says it cannot educate its children. Though you pour out millions gathered from the whole people of the United States, for local improvements here and for public buildings, still they cannot educate their children; they cannot take care of the deaf and the dumb; they cannot take care of those who are born with all their faculties; they cannot pay their own jurors and judges; and the cry is, give, give to the District of Columbia, and tax the people of the States; pour it out here; and he who does it, he who votes for these appropriations, is a liberal and expansive statesman—enlarged in his views, comprehensive in his policy! Sir, let us be just before we are liberal. Let us go upon the Constitution, and the great principle of right which requires each community to defray the expenses incident to its own organization.

It seems to me that we are doing a great deal in granting to the school fund here the fines and forfeitures. I am willing to let them have them, if they be any inducement to prosecute suits and bring persons to justice. Anything that will impart efficiency and vigor to their system, and especially to their criminal code, I am willing to go for if it comes within the scope and design of the Constitution.

But, sir, I am getting tired of the talk about their exempting the Government property from taxation. What would the city of Washington be worth without the Government being here? Remove the seat of Government, and the property of her citizens here would wither faster than Jonah's gourd, and I believe that withered in a night. The cry is, appropriate for the District of Columbia. Sir, recipients always cry aloud and press their claims earnestly and vigorously when they seek to get that which they have not earned, and which does not belong to them. I say that the people of this District, like the other citizens of the Confederacy, ought to rely on their own resources, content with the great incidental advantages which flow to them from the location of the seat of Government here. As I have said, \$12,000,000 have been poured out here for the erection of public buildings and similar works, on which laborers of every description have received employment at high prices, and in addition \$5,000,000 have been expended for the individual benefit of the citizens of the District.

I know that sometimes persons become insane altogether, and now and then become insane on a particular subject, and are called monomaniacs. Well, I may perhaps be insane on this, and perhaps on all subjects; but I desire to see where this is carrying us. Here is a proposition to increase the annual expenditures of the Federal Government, which already amount to \$70,000,000. New charges are being put upon the Treasury, and every step we advance they accumulate strength and power. The cry is, "give! give! give!" like the daughters of the horse-leech—give still. It seems to me that their own self-respect, their own appreciation of themselves as citizens of the Federal city, ought to preclude them from coming here and asking Congress to educate their children.

I have already given you the items of some expenditures in this District; but they are hardly the commencement—no more than the A B C. How much will it take to complete the improvements now in progress here? Five or six million dollars will not complete them. There are your water works, and your extensive wings of the Capitol. Appropriation after appropriation is being made, and still we have applications for more. We have already expended \$12,000,000 for public buildings and improvements here; and by the time we complete those now in progress, \$20,000,000 will not foot the bill. Where, then, may we expect the expenditures of this Government to be carried? As long as I have a place here I intend to iterate and reiterate these things. I have Shakspearean authority, at least, for such a course; and after awhile, perhaps, I shall get the people to understand me. If iterating and reiterating the facts as to the expenditures of this Government will bring the attention of the coun-

try to them, I intend to do it if I stand here solitary and alone; but I think there is a disposition in the Senate to help such movements.

In 1790 the population of the United States was a fraction less than four millions, and the expenditures of the Government in 1791 were a fraction less than two million dollars. In 1858 the population is estimated to be twenty-eight millions, and what are the expenditures? Seventy-five million dollars. From 1790 to 1858, a period of sixty-eight years, the population of the United States has doubled seven times, while the expenditures have doubled thirty-five times, showing an increase of expenditures twenty-eight hundred per cent. greater than the increase of population in the same period. When we see such results, is it not time to pause; is it not time for us to ascertain, if we can, where we are going, and what is the maximum we are to reach? If, as the Senator from Georgia [Mr. Toombs] remarked the other day, ours be the most corrupt Government upon the face of the earth, this is the most corrupt part of it. It is in the power of Congress to prevent these enormous expenditures; and if we do not interpose we are responsible for them. This Government, sixty-nine years of age, scarcely out of its swaddling-clothes, is making more corrupt uses of money in proportion to the amount collected from the people, as I honestly believe, than any other Government now on the face of the habitable globe. Just in proportion as you increase the amount collected and expended by the Federal Government, in the same proportion corruption goes along with it; and when you run the expenditures of this Government up to one hundred millions or one hundred and fifty millions a year, the Treasury of the United States will control the whole nation, and the people of the respective States will have very little part in the Government except to foot its bills in the shape of taxes.

It may be said that this is only a small amount, \$20,000 per annum, which is to be voted to the District of Columbia, and that this is not the place to commence the work of reform; we cannot get the wedge in here; it will not do to stop this expenditure; oh, no, this is not the place. If we happen to get the place, then we are told it is not exactly the time, but the effort should be postponed to some other time. We always miss either the place or the time. When will the time come? It is suggested by my friend from Mississippi that this appropriation is to last only five years. Let them get it for five years; let their system be organized, and their teachers employed, depending for payment on the appropriation from the Treasury, and who will cut it off? Who will break it up? The appeal will be made that the Government is committed to the cause of education here, and will you now stop your appropriations, turn these children out, and deprive them of the benefit of schools? Once get the Government committed to the scheme, and at the end of the five years, instead of the appropriation being stopped, the probability is that it will be continued and increased to forty or fifty thousand dollars, on the plea that they have erected their schools and employed their teachers and want more money. I ask the Senate and the country if we have not reached a point at which we should pause and see whether an effort may not be made to introduce retrenchment and reform into some of the departments of the Government? In sixty-nine years your people have doubled seven times, while your expenditures have doubled thirty-five times. The one has quintupled the other. Where will the end be? I hope that some effort will be made to stop this downward career. I think this is a fit occasion for such an effort, and I hope the Senate will agree to my amendment. I do not wish to consume time, though much might be said on this subject.

Mr. BROWN. I desire, in a few words, to state distinctly the ground, on which the feature of the bill upon which the Senator from Tennessee has been commenting is placed; and if it is not vindicated on a principle, and a principle in my judgment which every fair-minded mind must recognize, I am willing to see it stricken out. This feature of the bill is not extended to any portion of the District outside of Washington city, and it is because the Federal Government owns property inside the corporate limits of

Washington, and none outside. I want it understood that the committee thought the Government had responsibilities here like private property-holders, not only for this object, but for all objects; that the Government was as much bound to contribute to the support of common schools, to the improvement of streets, and to whatever was necessary for the proper keeping of a municipal government here, as any private property-holder. We utterly repudiate the idea that the General Government should own more than half of all the property in the city of Washington, and yet be entirely exempt from all responsibilities to the municipal treasury.

The Senator from Tennessee says you have expended here \$5,000,000 for the especial benefit of Washington city. I should be glad to see the figures which are multiplied into that sum. If any such expenditures have been made, they have not been made through the Committee on the District of Columbia, and therefore have not been made on the petition of the people of this District. I undertake to say that during no session of Congress since I have had any connection with that committee—and that has been during my service in this body and several years in the other House—have the appropriations asked for through the District Committee, ever amounted to \$200,000 per annum. The taxable property of the city yields \$195,000. If the Government owns as much, its proportion of the contribution would be \$195,000 as a matter of course. It has never, I say again, since I have been connected with the District Committees in the Senate or House of Representatives, paid anything like that sum on their petition. What Congress may have lavished through other committees, I pretend not to say.

Mr. JOHNSON, of Tennessee. The honorable chairman calls for the figures. I have here a statement made out by the Register of the Treasury, showing that in 1855 and 1856 the sum of \$200,495 was expended in the District of Columbia on their local improvements. According to his statement the whole amount expended for local objects here sums up \$5,120,000, and the amount expended for the public improvements \$12,748,000. This is the authority on which I rely.

Mr. BROWN. But if the facts were fully elicited, it would about amount to this: that a large portion of that appropriation was for paving Pennsylvania avenue, and very large portions of it for improving the Mall; and others for the triangular reservations on the avenue, which property is yours; and if you did not want to improve it, you might have let it alone.

Mr. JOHNSON, of Tennessee. The appropriations for the avenue, I suppose, came under the head of public improvements in this statement.

Mr. BROWN. I know of no \$200,000 having been spent here for local improvements; I never heard of such an expenditure, nor do I believe it has been made. I do not say what may be the view of the Register of the Treasury. He may count this, that, and the other, as local improvements, but I should probably take a different view.

Now, sir, in reference to the \$12,000,000 expended here for public buildings. Suppose you have spent that much money for them: have you not thereby increased your responsibility? When Mr. Corcoran expends his \$200,000 for buildings, does he lessen the amount of his tax bill, or does he increase it? When the youngest mechanic in the town expends his \$1,000 to build his little cabin, does he get clear of tax thereby; and is it admissible for him to come in and say, "have I not done all I could to improve your town?" If Mr. Corcoran or Mr. Riggs, who expend their \$200,000, are not exempted on the ground that they spend a large amount of money to improve the city, I ask on what principle is the Government to be exempted? If individuals build new houses, and increase the value of their property, they increase the amount of their tax bill; and just in proportion as the Government builds new houses here, it increases its responsibility to the local authorities. Why, sir, I suppose that if the Government were to buy out the whole town, all but the suburbs, the suburbs would, according to the notions of the Senator from Tennessee, be

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required to keep up the local government; and the General Government having fructified the soil of the whole District, would do nothing. I utterly repudiate any such doctrines; I utterly deny that there is any soundness in any such theories.

Now, what do the people here propose to you upon the principle which I have stated? They already pay out of their own pockets—they owning less than half the property here—over twenty thousand dollars annually for the support of schools by taxation. The bill proposes, I beg Senators to recollect, to tax them \$26,000 more, which amounts to about fifty thousand dollars in all; and then the Government is asked to do—what? To pay \$20,000. This great lordly proprietor, who owns half the property, but who will pay nothing without his consent, on whom the people can levy no exactions and taxes, is asked by this bill to pay one third the whole expense. You are not asked, as you might rightfully be asked, to pay your due proportion of the expense of keeping up schools here; but you are asked to pay one third of the whole expense. And asked by whom? By five thousand children, who come to-day to the door of the Senate bearing their humble petition, and upon bended knees implore this august body to receive their petition, and grant them a rescue from the poor-houses and from the penitentiaries—ay, and from a worse fate. Think, sir, of twenty-five hundred little girls coming here and asking you, the great proprietor with all your vast wealth, to snatch them from dens of infamy! Think of twenty-five hundred little boys, most of them poor and penniless, hundreds upon hundreds of them orphans, without father or human eye to care for them, coming and asking you to take this step, that they may be kept from the jails and penitentiaries! And then think of the Senator from Tennessee, he who wears proudly the glorious name of the poor man's friend, being the first to rise and object to such a proposition! What, sir, will the unclad, what will the poverty-stricken throughout the United States think of their friend? The Senator has said that he might be crazy on this subject, and he might be crazy on all subjects. There is method in his madness. I do not charge him with being crazy; but his old friends, those who have gloried in his being the advocate of the poor, will think at least that his mind, since he got to the Senate, is a little unbalanced. I trust that the proposed amendment will not prevail; because, if it does, vitality is stricken from the bill, and you might as well lay it on the table at once.

Mr. WILSON. I shall vote, Mr. President, against the amendment proposed by the Senator from Tennessee. I regret that on this occasion he has seen fit to give us a lecture on the extravagance of the Federal Government. Surely the Senator might have seized some fitter time to point out the extravagances of the Federal Government than to have taken the opportunity on a bill appropriating \$20,000 out of the Treasury of the United States for the cause of education in the District of Columbia. It seems to me that we occupy peculiar relations to the people of this District. The Senator from Tennessee does not see where we get the power to tax the people of other States for the benefit of the people of this District. Now I think the Federal Government stands to the people of this District substantially in the same relations the State governments stand to the people of the several States. I am willing, as a representative of one of the States of this Union, to tax the people of my State, not only to grant this \$20,000, but to grant all the money that may be necessary to establish one of the most perfect systems of common-school education in the District of Columbia that the wit of man ever devised. I am willing to tax the people of Massachusetts their proportion of the sum required to erect good school-houses, with all the improvements of modern science—houses fitted and adapted for the use of children—and to establish schools, and support those schools, so that every child in the District of Columbia can obtain a good common-school education. I believe, further, sir, that were the approval of my vote submitted to the people of Massachusetts, not a solitary vote in that State would say nay—not one. The cause of popular education is dear to the people I represent, and a wise policy that shall establish here in the capital

of the Republic a good common-school system that shall give to all the children the means of education, will meet their approval.

We own here in Washington about half the property in the city. The Senator from Tennessee tells us that we have spent so many millions in public buildings. That is true. I have no doubt we have been extravagant in those expenditures; but let it be remembered that those millions to which the Senator refers have not all been spent in this District. Many of those millions have gone to other sections of the country, often to reward political partisans, and contracts have been made for materials used in the erection of the public buildings here, and extravagant prices paid. But this erection of public buildings, and the millions that have been expended on them here, have brought to the city of Washington hundreds and thousands of poor laboring men, who are rearing, here in your own capital, families upon the pittance they earn by the labor of their hands upon the public works. You have no commerce here. Commerce has not flown away, for it never was here and never will be here. You have no manufactures here. You have no mechanic arts here worthy of the name. You have nothing here upon which a community can create vast quantities of wealth. The people of the city of Washington, as a whole, have been poor, are now poor, and will continue to be poor. Your policy of spending millions on public works annually, brings poor people to this District, and imposes upon the Government the duty of aiding in the establishment and support of a good public-school system. You have brought here, and you employ here, large numbers of men who have little property, and this imposes upon us the duty of aiding in the support of the means of intellectual culture.

The Federal Government deserves the censure of the country for its neglect of the cause of education in the District of Columbia. Nearly sixty years have passed away since the national Government was established on the banks of the Potomac. Up to 1844, no public-school system existed in this District. Early in the century, a school was established for poor children; and in 1842, only two schools, with two teachers and one hundred scholars, existed in the city of Washington, with its tens of thousands of people. These schools for poor children—not for all children—were supported at an expense of \$1,755. In 1844, the city adopted and established a common-school system; and they have now twenty-four schools, thirty-seven teachers, and twenty-four hundred pupils. The city only owns five of the twenty-four school-houses now used. The other buildings are hired; and most of these school-houses are unfit for the purposes for which they are used. We need in this city an expenditure, wisely and judiciously expended, too, of not less than three hundred thousand dollars, to build good school-houses for the children of this city. We have in this city nearly eleven thousand children—and when I speak of these children, I mean the white children.

The result of the canvass just taken shows that the whole number of children in the city, between the ages of five and eighteen, is ten thousand six hundred and ninety-seven; in private schools, three thousand two hundred and twenty-eight; in public schools, two thousand four hundred; in no school, five thousand and sixty-nine. The per cent. in private schools, thirty and one tenth; in public schools, twenty-two and four tenths; and in no school, forty-seven and one half per cent. Only twenty-two per cent. of the white children of the city are in the common schools; and more than forty-seven per cent. of all the white children do not attend any schools at all. I say nothing of the children of the colored population, amounting to three or four thousand, who have no means of education, or next to none. You have, in the aggregate, seven or eight thousand children who do not attend school in this city. We have heard much of want of order, much of crimes that have been committed, in this District. Mr. President, if you want good order in this capital, you should establish and support good public schools, and see that the children, of every class and description, of every race, in this District, have the means of obtaining, and have, a good common-school education; an education that

shall fit them to perform the duties of life. That policy will save your expenses for the support of judicial tribunals, and for the support of a police in the District of Columbia.

I shall vote against this motion of the Senator from Tennessee; and while I agree with that Senator that the expenditures of this Government are extravagant, and ought to be retrenched, I say this petty proposition to appropriate \$20,000 annually for five years, for the support of schools, ought not to be stricken out. I would vote for it if it were \$100,000, and do it cheerfully, and feel that I was doing an act for the advancement and improvement of the children of the District of Columbia.

Introduced, in the early part of the session, a proposition to grant one million acres of the public domain for the purposes of common-school education in this District, the benefit to go to all the free children of the District. That bill is upon your table. I have not called it up, for the reason that I supposed some proposition was to come from the committee, and I intended to move it as an amendment to this bill. I have consulted with the chairman of the Committee on the District of Columbia who reported this bill. He thinks it may embarrass his bill, and I will not make the motion to amend it by the addition of a grant of a million acres of the public domain for the use of the schools of this District. At some future time I intend to press the proposition upon the Senate. We have granted sixty-seven million acres of public lands for the purposes of education in the States; and while we have hundreds of millions of acres, millions of acres of which we are granting away to construct railroads; why should we not set aside a million acres, which may, perhaps, produce \$2,000,000, as a permanent fund that shall forever go for the support of education here in the District of Columbia? Sir, had the statesmen of other days—had Congress when it came to this District, set apart one or two million acres of the public domain, and made a school fund, as you have done in your State, sir, [Mr. Foster in the chair,] that would have brought one or two hundred thousand dollars to the annual support of schools; and had Congress organized in the District of Columbia a good common-school system, the benefits of it would have been beyond human calculation. Nearly sixty years have been lost. We cannot recall the lost years, but we can now establish a wise policy, which shall confer blessings on the people of this District. Next to the liberty of the people is the education of the people.

Sir, the cause of education is advancing southward and westward. The common-school system is now appreciated all over the country. Congress has shown its appreciation of it by granting more than eighty-five million dollars' worth of public lands for the cause of education in the new States. Why, then, should we not, while our public lands are passing away, devote a portion of those public lands, and forever dedicate them to the cause of the education of the whole people of the District of Columbia? There is not a city in this Union that needs so much the aid of the Government to establish and support common schools as the city of Washington. Why, sir, our cities in other portions of the country are built up by commerce, by manufactures, and by the mechanic arts. They are the places where wealth is created—where wealth centers. They can be taxed, and taxed highly, as they are in my section of the country, for the support of common schools. I do not like, I must tell the Senator from Mississippi, this little tax of ten cents on the \$100 for the support of schools. I think that it should be unlimited, except that it should not be less than that sum; but I shall not move any amendment to his bill. Perhaps it is all we can do now; but I hope the time is not far distant when the Congress of the United States, in obedience to a wise and enlightened policy, will see to it that the most perfect system of common-school education, of which all the people shall have the benefit, shall be established in the District of Columbia; that the schools of this District will be pointed at by the whole country as model schools.

These are my feelings and views, without occupying further the time of the Senate, which I know that the Senator from Mississippi deems

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very valuable. I will not make the motion I had intended to make to amend this bill, but will support the bill as he has reported it. I thank him most sincerely for the attention he has given this subject. If his bill shall become a law, as I hope it will, I am sure, enable the trustees of the public schools, and other gentlemen of the city, who have labored, and who are now laboring, with so much zeal and disinterestedness, to improve and perfect the public schools of the national capital, to open the closed doors of these schools to the five thousand poor children now excluded altogether from them; and these poor children, now shut out of the schools, benefited and blessed by your generous bounty, will love their country better, and serve it more readily, and obey its laws more cheerfully, when they remember that you freely provided for them the means of moral and mental culture. I shall go for this measure, sir, with all my heart; and, in doing so, I am sure I but express the sentiments of the people of Massachusetts, to whom the cause of popular education has ever been dear. Although they contribute far more than the people of any other State, in proportion to their numbers, to the support of the Federal Government, they will not grudge this small pittance for the encouragement and support, here in the national capital, of the cause of popular education, the blessings of which they so richly enjoy.

Mr. SEWARD. I think that all the difficulty there is about this question results from want of accustoming ourselves to consider accurately our relations to this place, and the relations of this place to the country at large, and to the world. We are not here mere tenants at will, or tenants for a year or a term of years. We are not encamped here like an army in our own or in a foreign country; but we are permanently here, in the character of a Government. With the beginning of the building up of a great nation, there was also begun necessarily the building up of a capital—of a great capital. I suppose that there always has been the same difficulty in regard to appropriations that we experience now, at every step in the progress of this transaction of building up a capital. I remember—it was within my own time, and yours, sir—when Washington, instead of being regarded as a great capital, was by those who were unable to see its future, ridiculed as a city of magnificent distances—a mockery of a city. It has passed from that stage and has already become a city of magnificent edifices and of magnificent gardens.

Now, as the country increases, (and I believe nobody can stop that,) as the nation grows in strength, and wealth, and territory, this capital will necessarily grow, and every year it will require from Congress the appropriations necessary to its support, maintenance, prosperity, and to its advancement in character as the Federal capital, until it shall become the finest, the greatest, the most magnificent capital in the world. I do not quarrel as the expenditures incident to this object go along. I see nothing unreasonable in being expected to substitute paved avenues for the log causeway which originally was the thoroughfare from Georgetown to the present Capitol edifice. I think it is natural to expect that we shall be required to provide for iron fences, and for walls around the public parks, and for trees and statuary to put in them. I am always willing to make appropriations for light and water, because I know that there can be no capital without these essential modern improvements.

Now, besides edifices, besides gardens, besides streets, besides statuary, there is another want which every capital on earth always has had, and always will have, namely—some provision for maintaining its morals and public virtue. It belongs to a capital that there should be a great population; and it belongs to every metropolitan population that the poor shall always be found largely bestowed amongst them. The poor, with their generations, are to be made useful, virtuous members of society by education, by moral character, or they are to be cut off by punishment, if such an achievement is possible. We have an illustration at this very session of the necessity of some provision for the poor of this capital. We have passed a bill appropriating \$70,000 a year to maintain a police in the Federal capital. If,

twenty years ago, Congress had appropriated \$20,000 to educate the children of the capital, I am very sure that we could have cut down that large appropriation without feeling that you were unsafe when you went abroad in the streets of this metropolis at night. When I see a question of education addressed to a Legislature, it presents itself to my mind in this form: will you save public virtue by preventing vice by the process of education, or will you leave vice to flourish, and trust to penal process for the purpose of maintaining public order, and securing society against the vicious, and wicked, and depraved?

Mr. President, in regard to the power, I am quite surprised that there can be any doubt on the subject. Congress has exclusive power to legislate for the District of Columbia. Where is the limitation that you shall not establish schools for the children in this metropolis? There is none. But it is said you must derive from the District of Columbia the money to supply the endowments for education within the District. I ask where that provision is to be found in the Constitution? Congress has unlimited power over the Federal Treasury to appropriate what is necessary for the public welfare. They are to exercise that power with discretion, with judgment, moderation, patriotism, and public virtue, and if the interests of the capital require an appropriation exceeding the revenues it furnishes to the Federal Treasury, I see no constitutional objection. If this objection was well taken, we could never build this Capitol. This Capitol is no more necessary for the purposes of the Government, or the welfare of the country, in my judgment, than school-houses for the education of children at the seat of Government.

Mr. President, I always hear with pleasure propositions for retrenchment. It is a duty which we ought to perform, to watch jealously and with care over the appropriation of the public money, and yet I never am carried away by a feeling of that kind when the proposition presented to my mind is one of public education. I have looked with some care through the history of Governments; and while I have seen that wars, that the ambition of kings and princes, that public ostentation and luxury have often ruined nations, I believe that that nation is yet to come into existence which has been impoverished by the education of its children at the public cost. On the other hand, in looking through the history of our own country, and other countries, I think I have observed that those States which took the best care of public education, and those States which have spent the most money for that purpose judiciously, are the strongest, the most vigorous and most wealthy, and that their population are the most happy and comfortable. I believe that will be found to be the case in Europe as it is in this country. If I saw any objection to this appropriation whatever, it would be that it was not more general in its scope, so as to secure more impartial education to all the children in the District.

For these reasons, I shall, with great pleasure, vote to sustain the bill.

Mr. JOHNSON, of Tennessee. I do not wish to consume more than a few minutes' time, but I desire to say a few words to set myself right. I do not know whether I heard the Senator from New York correctly or not in his constitutional argument, but what I am about to say can as well be said in the absence of a correct understanding of his remarks as otherwise. If I understood him correctly, he seemed to think the power was clear beyond doubt. I know that on all propositions to take money out of the Treasury, it is very hard to make a constitutional question, and really, in these latter days, the Constitution practically has almost ceased to exist. It scarcely means anything. It is an antiquated affair, a mere paper wall, to make use of an old remark, that a man who wishes to violate can push his finger through wherever he thinks proper, or a piece of gum elastic that can be expanded or contracted at pleasure. That is about the shape the Constitution has got into, and most persons interpret it to suit their own peculiar notions. I know it is getting ancient and out of date to talk about constitutional questions, but I am rather old-fashioned on such points.

The Senator from Massachusetts says that the

Congress of the United States occupies to the District of Columbia the same relation that the Legislatures of the States do to the people of the States. Let us take that proposition and see where it brings us. Before the cession of this District to the United States, Maryland had full power to legislate for it; it could lay taxes; it could collect taxes and appropriate them to common schools. That is clear. Where did it get the taxes from? From what source did it collect revenue? Was it not from the people of Maryland? Then if the Legislature ceded all the jurisdiction that Legislature had to the Federal Government, can this Government exercise any greater power than the Legislature of Maryland exercised over it? The fact that Congress has exclusive power of legislation here does not confer any additional power at all. Does the fact that the Congress of the United States takes the place of the Legislature of Maryland, give Congress, while acting in the capacity of a Legislature for the District, control over the Federal Treasury? I say it does not, and the proposition cannot be sustained in sound logic. While Congress occupies the relation of a Legislature, it can exercise the functions of a Legislature and none other. This would give it control over the fund collected from these people, to appropriate it to their own purposes, and not control over the Federal Treasury of the nation.

Let us take another case. Suppose you go to the constitution of the State of Maryland, and it says that the Legislature shall pass no law to abolish slavery. When the Legislature ceded the territory to the United States, did it confer any greater power than it had? It could not abolish slavery, and could it concede to or confer upon Congress the power to abolish slavery here? Not at all. If exclusive legislation gave unlimited power, Congress could abolish slavery in violation of the fundamental law of the State of Maryland. Suppose, for instance, the State of Maryland could grant titles of nobility. The Constitution of the United States expressly prohibits your granting them, but because you have exclusive legislation can you confer titles of nobility in the District of Columbia? Not at all.

Then, when we test this matter by principle, we find that simply those powers which might be exercised by the Legislature that ceded the territory to the Federal Government, can be exercised by the Federal Government. Can you not confer power on the people of the District to collect taxes for common schools and educate their children, as they should be educated, in every proper manner? But the argument seems to dwindle, and the views of some gentlemen to diminish and become very small when they talk about taking twenty or fifty or one hundred thousand dollars out of the Federal Treasury for purposes of education in the District of Columbia.

My friend, the chairman of the District Committee, makes rather a pathetic appeal. He says that I have acquired, to some extent in the country, the reputation of being the poor man's friend. Whether I have acquired that reputation or not, I know how the fact is; I know that the finger cannot be pointed to any vote I ever gave in the Congress of the United States for ten long years, or in my own State Legislature, or any recommendation I ever made to the Legislature as Executive of the State, that comes in conflict with the interests of the great mass of the people. In advocating the proposition I have moved to-day, I feel that I am standing on precisely the same ground. I am for ameliorating, for alleviating the condition of the great mass of the people. I am in favor of each community doing that out of its own resources, and upon its own responsibility. Let the States provide their systems of education, and educate their children and tax their people to a sufficient extent to enable them to do it. Each community should be taxed to that extent which will enable every child within its limits to be educated. I have advocated that in my own Legislature. How do I now come in conflict with that principle? When I go to the State which I have the honor in part to represent, I find there—I regret that it is so, but the truth should be told, and I know it is so in other States as well as my own—thousands of children who need education, whose parents have not the means to educate them,

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and who are suffering for the want of education. Many of them, if they received it, might be brilliant stars—boys of talent, girls of genius, who would profit as much by education as any children here could. What does this bill propose? It proposes to tax that very community who need money for educational purposes, and to use their taxes for educating children in this District; to filch money from them, as it were, by the operation of your revenue system; to take money away from gaunt and haggard poverty. You lay a tax on their salt, on their sugar, on their iron, on their leather, on their flannel, on their calico; you lay a tax on all the necessities of life, and then bring the money here, and then it is statesmanlike, then we are the poor man's friends, if we shovel it out by thousands and millions to this particular community!

My honorable friend from Mississippi appeals to me as the poor man's friend and says, here are two thousand five hundred little boys on bended knees petitioning the Congress of the United States to educate them. Well, sir, how many little boys are there in the State of Mississippi who have no education; how many of them there would come before the Senator on bended knees, asking him to provide means to educate them? What is the proposition here? It is to take money from the parents of the two thousand five hundred or, perhaps, twenty-five thousand children in his own State who need education, and bring it to Washington city to lavish it on children here. If that is what the gentleman calls being the poor man's friend, I confess I do not understand it. I know his sympathies are excited. His heart is patriotic; he is benevolent and kind; and every emotion of his is generous. People in this community get around him and excite his sympathies. He sees the distress about him here. How many thousands, ay, millions, are there throughout the States whose children are suffering as much for the want of education? Is it right to tax them and still let them want and suffer, and bring their money here and pour it out for education in this District? All I ask is, that each community shall educate its own children and sustain its own poor.

Sir, no one prizes education more highly than I do. I felt the smart of a want of it in early life. I know what it is to have been excluded from the benefit of schools. I have my sympathies with the destitute boy who is cast upon the world without a farthing to sustain him. I know all about his condition; I know his wants; and there is no one here, my honorable friend from Mississippi not excepted, who would go further to relieve his condition than I would; but while I should be willing to relieve him, is it right to put my hands into the pockets of those suffering in the States, and take money away from them? It is very easy to talk of being generous, and of establishing a perfect system of common schools in the District of Columbia. The Senator from Massachusetts gets very pathetic about it. If I know anything of his history, he understands how to appreciate the advantages of education; but standing as we do, at different ends of the line, he and I reason differently on the subject. He is for being very liberal here. Well, sir, just in proportion as you increase the expenses of this Government, you increase the necessity for high protective tariffs. If you increase the expenditures and cause that necessity, a portion of his constituents would reap a benefit in the return of taxes in the shape of protection.

But the Senator from Massachusetts is for being very liberal. Now, I will make a proposition to him, and I do it in a spirit of kindness. I assume that we have no authority under the Constitution to take money out of the Federal Treasury for educational purposes in the District of Columbia. I assume that it violates a great principle of justice and of right to take it away from the people of any other communities to appropriate it here. Then we have no control of this fund; it is not ours. Let us be liberal with our own means; let us be generous with what is ours, what we have acquired by honest industry in our vocation, whatever it may be. I make this proposition to the Senator from Massachusetts: let the people's money alone; let us keep our hands off the money of the little boys and girls that has been gathered here from all the States, that is not

ours; but let us now contribute out of our own private means; and I will give as much to aid the cause of education in the District of Columbia as the Senator from Massachusetts. That is a fair proposition. It is very easy to be generous and liberal with other people's money, but it is a different matter when it comes to handling our own cash for benevolent purposes. What I am for in theory, I will promote, as far as my means will permit me to do, out of my own individual funds.

But the Senator from Mississippi seems to think, and he presents it strongly and forcibly as an argument having much plausibility in it, that we own the public property here, and therefore we ought to pay a reasonable amount of taxes. Sir, you may go out through the country and find plenty of men not making over three, or four, or five hundred dollars a year, who are educating their own children. Even the lowest laborers on the public buildings are receiving more money in the course of a year than many respectable farmers throughout the country who educate their own children; but he says our public buildings are here, and consequently the Government ought to be taxed. Who ever heard of a county town or the capital of a State taxing its public buildings located there?

Mr. BROWN. Will the Senator at this point allow me to say a word, as it may save the necessity of a reply to his argument?

Mr. JOHNSON, of Tennessee. Certainly.

Mr. BROWN. That argument has been adduced here before; and I hope I shall have a moment's attention while I answer it. The property of a State, at the seat of government of a State, belongs to the people of a State, and that of the county, at the county seat, belongs to the people of the county. They pay no taxes upon it because it belongs to them, and they choose to have their own individual estates taxed, and exempt that which belongs to them in common. Now, this Capitol, and your Patent Office, and your presidential mansion belong to whom? Not to the people of the District, but to the people of the United States. They pay no taxes in this District, as the people of a county pay none in a county, or the people of a State pay none into the State treasury. That is the distinction; and therefore the obligation is stronger on the people of the United States here where they have the great amount of property. The people here contribute money to the national Treasury; but that is for the benefit of the Federal Government, and not for the benefit of this District. All that we propose is, that being a large proprietor, you put yourselves, upon the school question, in the same relation to the city of Washington as a property-holder, that individual proprietors occupy.

Mr. JOHNSON, of Tennessee. The gentleman's case almost illustrates itself. He says the public property in a county belongs to the people of the county, and the public buildings in a State belong to the people of the State. That is a very good illustration, and I thank him for it. Take a State that is composed of one hundred counties. Those counties, as counties, contribute to the erection of public buildings at the seat of the government; and when they are about to be built, there is always a great struggle as to where they shall be located, because of the many benefits conferred upon the community where they are located. The expenditure of money upon them brings persons to the place, adding value to property, and causing the city to improve. Is there a State in this Confederacy that permits the county in which the public buildings are located to tax them? There is not a county in the thirty-three States we have now that does it—I believe thirty-three is the number.

Mr. DURKEE. Thirty-two and a half.

Mr. JOHNSON, of Tennessee. The counties of a State own the public buildings, and they are exempt from taxation. All the people of the States of the Union own the public buildings here in the District of Columbia. The principle is identically the same. What would the people here say if you were to make a proposition to take away the public buildings? Instead of talking about releasing the Government from taxation on their property, they would be willing to pay you a bonus to remain. Is not this the property of all the people, those of the District included? Do not

the public buildings in a State belong to the people of a State? This property belongs to the people of all the States, and there is no sort of difference in the cases. It is a tax upon other communities to sustain this community. We find a proposition to surrender their city charter; they want to throw everything upon Congress. Some time ago they had a proposition to make us raise a police force for them, and a proposition to take care of the deaf and dumb. Everything is to be put on the Federal Treasury; and that is so much clear gain for them got out of the industry and earnings of others.

I do not wish to consume the time of the Senate. I think this is one of the clearest propositions I ever saw. First, we have no right to appropriate money for educational purposes here; next, it violates principles of justice to the people of the various States. My opposition to this measure, instead of coming in conflict with the positions and feelings of my whole public life, is perfectly consonant with them, and is in fact but another instance in which I carry out the policy I have advocated ever since I have been a public man. I am for the children of the District of Columbia being educated; I want to see them all educated, and I will contribute as much, in proportion to my individual means, as any other Senator to accomplish that object; but I will not take the money out of the pockets of my constituents whose children need education, and many of whom have not the means to educate them. There is no one who places a higher estimate on education than I do. It is an advantage to the community, to the child, to the man, in every possible position in which he can be placed. To use the eloquent language of another, in private life, education is a solace and a comfort; in public life it is an introduction and an ornament; abroad, a friend; it sustains a man in every position in which he may be placed; it will benefit a man in every possible position that he may be placed in; it lessens vice, it guides virtue, gives grace and dignity to genius. The Senator from Massachusetts, the Senator from Mississippi, the Senator from any other State, will not go further in promoting the great cause of education than I will, but this is the wrong direction. This is taking money from one portion of the community and giving it to another. I am not for that policy, and I hope the section will be stricken out.

Mr. CRITTENDEN. Mr. President, much has seemed to me to be said on this subject which is not very pertinent to the question we have to decide. The proposition before us is simply whether we will appropriate \$20,000 a year, for five years, to the city of Washington, provided its people shall raise the same sum, for purposes of education. That is its whole extent. This proposition involves two questions; first, have we the power to make this appropriation out of the public Treasury; and next, if we have the power, is it expedient for us to do so? This embraces the whole case.

As to the question of power I have a clear and decided conviction myself that we have the power. Very long ago, Chief Justice Marshall, at the head of the Supreme Court of the United States, decided that in respect to the Territories of the General Government, the United States had the powers of the General Government and the powers of a State government; we stood to them in the double relation of the General Government and of a State government, having the powers of both for all purposes of government. That I had supposed was the universally adopted and received opinion. It was so solemnly decided by the Supreme Court of the United States then constituted, whatever some gentlemen may think of it now, of the wisest men in the country.

Mr. FESSENDEN. I will ask the Senator from Kentucky if that decision has not been reversed by the recent opinion in the Dred Scott case?

Mr. CRITTENDEN. I do not know. It remains the standard of my judgment on the subject, at any rate. I understand that to be the decided doctrine of that tribunal. It has the perfect concurrence of my judgment. Now, then, if this Government in relation to the Territories possesses all the powers which the Constitution of the United States gives us, and if with these delega-

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ted powers we have also the power of a State government, what impediment can there possibly be to our power to appropriate money out of the public Treasury. The difference between this Government and a State government—and that is proper to be marked in considering this question—is that the General Government is one of limited and enumerated powers; we can as a Congress, in reference to the States, exercise no power that we cannot show in the Constitution to be granted to us. The State governments stand exactly on the reverse of that position. They have all the powers which their constitution does not prohibit; and if their constitution does not choose to prohibit any powers, then so far as relates to their character of States, they are under no limitation of powers except those expressly forbidden by the Constitution of the United States. Standing in this relation, I am of opinion that our powers are entirely adequate, unquestionably so, to grant money out of the public Treasury for purposes peculiarly beneficial to the Territory.

Sir, upon what other principle is it that we take money out of the public Treasury to pay for the ordinary expenses of Government in one of our Territories. You establish a territorial government; you appoint a Governor and judges to preside over a distant people living within a Territory. That is for the service of the people there, that justice may be administered and order preserved, and it is peculiarly for their benefit; and yet do we say that we cannot take money out of the public Treasury to pay the salaries of the officials by whom we exercise Government there? That is as directly for the benefit of the Territory as education would be. We are in the common exercise of that right. Even under the powers conferred upon us as a Congress of the United States, we do that. Can we not do the same thing in relation to a grant of money to this Territory for another purpose that we think inures to the public benefit, peculiarly to the District of Columbia, but incidentally to the benefit of the whole Union with which we are connected? I cannot see, I confess, when I look at this question on the ground of judicial authority, on the ground of legislative authority, upon precedents entirely analogous to the present, any reason on which to hang a doubt as to the power of the Government.

The only other point is as to the expediency; and upon that every Senator can judge for himself. I think it is expedient. I think, with the Senator from New York, that it is cheaper for us to educate these people than to pay the cost of their ignorance and their crime afterwards. It is cheaper to educate than it is to suffer the consequences of ignorance. I shall not enter into this question of expediency. Every gentleman will act upon his own judgment in regard to it. I think we could not make a more judicious appropriation. All the States are in the habit of making such appropriations. They put their hands into the treasury to establish schools everywhere; in counties which furnish no revenue above their ordinary local expenditures, which put no money, in fact, into the treasury, as well as in counties which do put money into the treasury. There are, I venture to say, in the State of the honorable gentleman from Tennessee, as well as in my State, counties that do not pay a cent into the treasury; and there are richer counties, which, after defraying their own expenses, have a surplus that goes into the general treasury of the State, and which forms its whole fund; and that fund they take up and apply everywhere; not in reference to the contributions made—that mode would be entirely useless; for you might as well leave every man to educate his own children, and give no public encouragement whatever to a general system of education. It is useful in another point of view, and perhaps more useful than even in the moneyed consideration: it gives a dignity to the system; it gives a dignity to education; it is an example to parents, a standing lecture to them to send their children to school. Such laws, it seems to me, have operated in a very salutary manner. I am in favor of making the appropriation. The amendment has for its object to strike it out; and I shall therefore vote against the amendment.

Mr. JOHNSON, of Tennessee. I wish to put an interrogatory to the honorable Senator from

Kentucky; and he knows that I do it for the purpose of being informed, and with all respect to him.

Mr. CRITTENDEN. Certainly; I will answer any question of the gentleman with pleasure.

Mr. JOHNSON, of Tennessee. The Senator, I understand, assumes that we can exercise here all power which the State of Maryland could have exercised over the territory before it was ceded; and that we may, besides, exercise all the power conferred on the Federal Government by the Constitution of the United States. Putting these two together, he draws the conclusion that our power over this District is absolute. Well, sir, the constitution of Maryland, when she ceded the District to the Federal Government, provided, in the forty-third article, "The Legislature shall not pass any law abolishing the relation of master and slave as it now stands in the State." Now, all the power that is conferred on the Federal Government by the Constitution it can exercise here, together with whatever the State of Maryland could exercise. I desire, then, to ask the honorable Senator whether, that being the provision of the constitution of Maryland, Congress has power to abolish slavery in the District of Columbia? I put this by way of illustration of the principle.

Mr. CRITTENDEN. I will answer the gentleman with great pleasure. I said that the decision of the Supreme Court of the United States had been that this Government could exercise in a Territory, not only its own proper powers, but that it stood in the relation of a State government, not the State government of Maryland, not the State government of Kentucky, or of Tennessee, but that it stood to it in the general relation that a State government stands to the people of a State. Now the gentleman is quoting the constitution of Maryland on me, and assuming that that is the constitution according to which our powers are to be exercised in relation to this territory. Instead of taking it in that particular way in reference to any State, he is to take it in general, in the general terms in which the court decided, and which I used. We stand to a Territory not merely in the relations established between this Government and a State, but with all the powers that are given to us by the Federal Constitution, and in the relation of a State besides. Now the question is not what a State has done, but what it may do. I have heard it intimated here that a State may have no constitution at all. It has been often said in the Senate that we may admit a State without a constitution. I express no opinion on that; but we stand to a Territory in the relation of a State, with just such a constitution as we please to imagine a State constitution to be so that it be in a republican form. It is not the Maryland constitution or the Maryland laws that we are to enforce, but we may pass whatever laws, under any constitution, a State might pass in reference to the people of that State. That is my understanding.

Mr. JOHNSON, of Tennessee. The Senator understands this question no doubt much better than I do—

Mr. CRITTENDEN. I do not profess to do so, and I have really answered the gentleman to the best of my ability.

Mr. JOHNSON, of Tennessee. I was asking for information. If I understand the honorable Senator's answer now, it is that Congress, while acting for the District, occupies the same relation to it that the Legislature of Maryland did before it was ceded to the Federal Government.

Mr. CRITTENDEN. No, sir; that is not my position.

Mr. JOHNSON, of Tennessee. Then that it stands as a State Legislature does to the people of a State. The Congress of the United States stands in the relation of a Legislature to the District of Columbia, supposing the District to be a State.

Mr. CRITTENDEN. Perhaps I can make myself a little better understood by another suggestion. It stands in the same relation that a State does to the people of a State—that is the decision and language of the court. Now, what is a State in reference to this matter? A State is a body-politic that has powers to make any laws it pleases not prohibited by the Federal Constitution, and to make any constitution it pleases, provided it

conforms to the inhibitions of the Federal Constitution. That is our position towards the Territories, with power to legislate as we please, to make constitutions as we please in regard to the Territories, as a State might change its constitution and enlarge its powers and diminish them. Just so we may do as to a Territory, except that we have no constitution to change. We are not a State, but we have the powers that a State, defined as I have endeavored to define it, would have.

Mr. JOHNSON, of Tennessee. I confess—but I presume it is my fault—that my difficulty is not altogether removed on the question of power. In the first place, in making the cession of territory by the Legislature of the State of Maryland to the Federal Government, all that could be done was to confer on the Federal Government the power which the Legislature of Maryland could exercise before the act of cession. Could the Legislature of Maryland, in ceding the territory, confer upon the Congress of the United States any power over the Federal Treasury, when acting as a Legislature for the District of Columbia? That is the question. If not, and if the Constitution of the United States confers no power on the Congress of the United States to appropriate the revenues of the General Government for the purposes of the District, it has derived the power from neither source. If, however, the same absolute power is conferred upon the Federal Government in regard to the District that exists in a State which may alter and abolish its constitution, that is a different thing; but if the Federal Government does not derive the power, by the act of cession from the State of Maryland to this Government, over the subject of slavery, it has no power to abolish slavery—no more in that case than in the other, to appropriate money out of the Federal Treasury for the purposes of the District of Columbia. It derives no power from the Constitution of the United States, in general terms, to appropriate money for this particular locality. The State of Maryland, in ceding the territory, could confer no power over the Federal Treasury, because that belongs to the people of all the States. If, when acting as a Legislature for the District of Columbia, we occupy the same relation that we should if we were a State Legislature, we have no control over the revenue of the nation for local purposes here. The Maryland act of cession did not and could not confer any such power. If the constitution of that State said that their Legislature should never legislate on the subject of slavery, the Legislature being inhibited by the constitution from legislation on the relations of master and servant, could confer no such power upon Congress. The power in one case is as clear as in the other.

Mr. BROWN. I rise to ask the Senate to let us come to a vote on this question; and if that cannot be done, that gentlemen will confine themselves at least to a discussion of the bill. A great many topics have been introduced to-day which I should be very glad to discuss with gentlemen, and which at a proper time I think it would have been very right to discuss. I should like to have a full discussion as to what is the jurisdiction of the Government over this District, and I am prepared, at a proper time, to enter into it; but here I cannot hope to occupy the Senate longer than two hours more for the whole business of the District, and I have abstained and refused all day to go into these discussions in hope that collateral issues would not engage all our time, and that we might go on with the business to which the day was dedicated. If gentlemen have suggestions to make in reference to this particular amendment, I shall be glad to hear them; but I hope that Senators will do me the personal favor, if I may make such a personal appeal, to abstain from discussing these collateral issues, seeing that the people whose interests I have specially in charge have this single day left, and that if this day be taken from them, and there cannot be more than two hours left of it now, we shall do nothing for them this whole session. If we were at the beginning of the session, and could go on from day to day discussing the powers of the Government over this District, I would not object; but I hope we may have a vote as soon as possible on this bill. I refuse to reply to gentlemen's speeches, not because I think I cannot do it, but because I want a vote.

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Mr. TOOMBS. I shall waive any remarks on the question of power, and confine myself to the expediency. I think it is inexpedient to appropriate \$20,000 for this purpose. If you allow the municipal authorities of Washington city to tax the inhabitants of the city for the education of their children, you allow them exactly the same power that a State has over the subject—you tax the particular community for the purpose of educating its children. When you give, as one section of this bill does, a power to the municipal authorities to tax the whole property of the District, you give them exactly the powers which have been exercised by the States over this subject. Here you extend the principle, and take the money of the whole people of the United States to educate the people of the District of Columbia.

Mr. BROWN. I think I can remove that objection. There is no necessity, there would be no propriety, in the people of a State taxing their own capitol; but do not the people of a State tax the property of non-residents? Do not the people of Mississippi tax the property of the gentleman who lives in Georgia? The Federal Government is really a non-resident in the city of Washington; it occupies that relation to the District. Technically, the property here belongs to a resident, the Government of the United States; but really, it belongs to the non-resident people of the States; and I hold that the Federal Government is under the same obligation to pay taxes on its property in this District, that the Senator from Georgia is to pay taxes on his property in Mississippi.

Mr. TOOMBS. The Senator answers my argument before it is made. I have heard all this story about the Capitol and the public grounds for twenty-five years, and we have voted commutations to those people on that ground. I was coming to that part of the argument. We have given them millions on the cry that they could not tax the public property. Why should you depart from the rule of making this population pay their own expenses? I was going into that when the Senator stopped me with the same argument he has used two or three times, and others have used; but I say that you have no right to give this money. Conceding the power, there might be circumstances justifying its exercise. Are any such circumstances presented? Are the people here paupers? Are they unable to do this for themselves? It is not denied that they are amply able to do it themselves. Then why not tax themselves to do it? It is no argument to say that they cannot tax our property. In consideration of that this Government has spent a large proportion of money, more than enough to make up what the taxes would come to ten or twenty times over.

Mr. GREEN. Will the Senator allow me to ask him a question?

Mr. TOOMBS. Yes, if it has anything to do with the case.

Mr. GREEN. It is this: does the Federal Government own any property in the District except what is necessary to carry on the Government? and is it not a settled doctrine even in the States that whatever property is owned as a means to accomplish a Federal end cannot be taxed anywhere?

Mr. TOOMBS. That really has nothing to do with the case, and does not affect my argument one way or the other, and therefore I do not choose to reply to it. I am willing to agree to what the gentleman says; but I cannot see the slightest relation it has to my argument. I am now answering the argument of the Senator from Mississippi, which is generally made in such cases, that inasmuch as we do not pay taxes on the public property here, we ought to pay something to these people to help them to educate their children. In reply to that, I have stated, that even if this property were subject to taxation, we have expended for this District an amount of money more than equivalent to it. In the first place, the amount of money spent by this Government in the administration of justice here is more than the whole expense of the administration of justice in my State, or any five others in the South four times over. I speak by the card, for I recently had that subject under consideration. There is hardly a loafer

in the streets of Washington who does not get something in the administration of criminal justice, as a witness or something else, from the Federal Government. Then we take care of their criminals; we pave and light the avenues. We have poured out money on them day after day, and year after year. It is true, that those who attend the Government here participate in these benefits. The public grounds of which gentlemen speak are used for the benefit of the city. The squares here are adorned for the benefit of the private property-holders in this city. Nearly half the money we spend here is spent for the purpose of increasing the value of property, and it does it. If you were to take away the Capitol to-morrow, and the public buildings and grounds, the city would not be worth the cost of the bricks and mortar here, and the city of Washington would sell for a plantation. As the Senator from Massachusetts truly stated, it has no commerce, and no manufactures, and can never have them. It has its existence solely through the public Treasury.

In reply to this argument about taxation, I say first, they ought not to tax the Government property; and next, if they ought, we already give more than an equivalent for it, and we do not impose any direct taxes on them: The people of the States support their State governments by direct taxation. The indirect taxes for the support of the Federal Government are levied out of the people of the District, as well as everybody else, and I want them to pay the local taxes for the education of their children. Here I will say that I very much doubt the wisdom of levying taxes out of a whole society for the purpose of educating the children of all. I know that it is done in northern society, which is a sort of system of communism; but I think it is running out; that is my own view. I know that is their idea; but I think it is not a sound one. I am aware that my views are not according to what they call the current literature of the day, and what north of here may probably be called statesmanship. I have different ideas; and I make it a rule when I speak on a subject to tell what I think. I do not regard it as a good plan, or a wise plan. I do not think it has lessened crime, as the honorable Senator from New York said it did. I have noticed these statistics, so far as they are exhibited by our census, and I believe a greater proportion of the people in Massachusetts can read and write, than in any other State or country on the globe, except China and Hindoostan. A much larger proportion of the Chinese, and many of the East Indians of the Mongolian races, can read and write, and Massachusetts approaches nearest to them. I do not think her crime has lessened at all; it has increased. It is greater than it was before her present system existed. That children should be educated, I am satisfied of; but I think they ought to be educated by their parents, and by institutions built up by private enterprise, and perhaps even by private bounty. The system of levying taxes out of a whole community for the use of a part of it, is founded on one of the greatest errors now afflicting modern society.

I am glad this bill is wisely protected against one popular error which practically prevails, so far as taxation is concerned, because it puts the right to vote in the hands of those who are to pay the tax. The idea that those who do not pay any of the burdens, shall, by a vote, impose the expense of building schools on others, is a sequestration and confiscation of property, in my judgment, dangerous to society, and will, ultimately, subvert public order, and dry up the channels of public prosperity. I believe, in New York and Philadelphia, some years ago, they said let us have water; and all voted for it, and taxed it on the city, and, by the law in these corporations, all the real estate in the city is bound for the payment of the debt, but a man who has no real property may move out, and he is not bound. I say, then, one class lays the taxes, and another class pays them. That is a fundamental error, in my judgment, in a well ordered society anywhere, whether it be for education or any other purpose. In this case, this society being amply able to pay for itself, there is no reason for taking money out of the general fund of the people of the United States, to educate the children of the District,

who, upon the average, are as able to pay it, I presume, as any other portion of the people of the United States. The average wealth of the people of this District is as great as the average wealth of the people elsewhere in the country. The people in other portions of the Union pay as much upon their consumption to the General Government as the city of Washington does. Why, then, shall we levy from the people of Vermont and the people of Georgia a tax upon their consumption to raise money to be spent in educating the children of the people of Washington city, who are just as rich as they are? So long as you spend for general purposes, the fund contributed for general purposes, it is wise; but when you take from the general fund, in order to educate the people of the District here, you ought to give some reason for it. It is contended that in a State, whose jurisdiction is undoubted, they take from richer and give to poorer districts; but that, at least, is in the same social community, under the same law. The tax is equal, they try to levy it out of everybody, they put it upon personalty and real estate everywhere; but inasmuch as some of the counties have not got as much as others, some raise less than others, they let them off, in consideration of their poverty, and on the ground that it is to their interest to educate all the people, and therefore, they say, "if you raise your half we will give you so much more." Does that case exist here? Is it true that the poverty of these people is such that you should take money out of the general fund, contributed by the people of Mississippi, and the people of Vermont, and give it to this specific purpose? I think not. Take the district represented by my friend from Mississippi, a very rich State, but if we look at the statistics I do not know how many people in the piney-woods there need education. I think a great many need education in the old piney-woods district in Mississippi, that he represented in the other House. The point was well taken by the Senator from Tennessee. Why should he levy a tax out of those piney-woods people, down in the first district of Mississippi, to educate the people, rich and poor, of the District of Columbia? I cannot comprehend the justice or propriety of it, whatever you may say of the power, whatever you may say of the advantages of education, or the beauties of education, or the duties of the people to provide it. I cannot understand what justice there is in taxing the thousands and tens of thousands of ignorant paupers, who roam over the sandy lands of Mississippi—

Mr. BROWN. Oh, no.

Mr. TOOMBS. Yes; there are plenty of them in your old district—the pine-woods district—thousands; I have seen a good many of them. Whether their property be little or much, why should you tax them to bring money here in order to educate rich and poor in this District? I think it is unjust to them, and it is unnecessary for these people. If they are unable to educate themselves, I presume they will find persons willing to contribute to help them. I would, but there is no evidence of their inability. Owing to the enormous expenditures of the Government in this city, to this perpetual fertilizing stream of living waters flowing every day from the Treasury of the United States, the value of property here has gone up within the last fifteen years, since I have been here, its fifty and its hundred per cent. You make these people rich by your expenditures; you pay the burden of the administration of justice for them; the great body of their legislative and judicial expenses is paid by the Federal Government to an extent that is unjust and unnecessary. If you have this power you ought not to exercise it, because you do not make out a case for it. If education is good, let them provide for it themselves, and not call on you to do it until it is shown that they are incapable of doing it. In any event, whether you have the power or not, and whether it would be proper when a proper case was shown, I say there is no such pauperism exhibited in the District of Columbia as to show that the common funds of the people of the United States ought to be taken to aid them in the education of their own citizens.

Mr. GREEN. I asked a question of the Senator from Georgia, not for the purpose of interrupting the train of his argument, but merely for

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the purpose of calling his attention to a point which I thought very pertinent; but he did not see it, and in consequence of that I choose to make a few remarks in explanation of it. I agree with him from the beginning to the end of his remarks, and my design in the question I put, to some extent, was to answer the position assumed by the chairman of the District Committee, that we own a large Capitol, a Department of the Interior, a Treasury building, a President's house; and that these cannot be taxed. Why, sir, it has been decided by the Supreme Court that every means to execute a constitutional end is beyond the taxing power of a State. A branch Bank of the United States, in Ohio, was sought to be taxed by the State of Ohio; but, under the revenue power to collect, hold, and disburse the revenue, it was held by the Supreme Court that the State of Ohio could not tax it, because it was a means to execute a constitutional end. So of Fortress Monroe, in the State of Virginia, and of Fort Columbus, in the State of New York; so of all property held by the United States, to accomplish a constitutional end in any State—it is beyond the taxing power of the State.

Mr. FESSENDEN. Allow me to ask the Senator whether that decision went any further than to that portion of the Territory where jurisdiction had been ceded?

Mr. GREEN. Yes, sir; expressly beyond it. Mr. FESSENDEN. I should like to know where that case is.

Mr. GREEN. I will answer. In the case of Ohio there was no concession of jurisdiction.

Mr. FESSENDEN. I was about to suggest to the Senator—

Mr. GREEN. I do not care about being interrupted, for I want to make only a very few remarks. My object was to show that no application had ever been made upon the part of any State for a portion of the revenue to support a common school, because the Federal Government owned a fort, or ships-of-war lying at anchor, or any other public property in the State to accomplish a constitutional end of the Federal Government. In the District of Columbia, although we own this magnificent Capitol and other public property, we hold it as a means to execute a constitutional end of the Government; and if in a State it would be beyond the taxing power of the State; in the District of Columbia it ought, by parity of reasoning, to be beyond the taxing power of the District of Columbia. It was to that point that I desired to call the attention of the Senator from Georgia. I shall go into no argument on this subject. It has been sufficiently discussed. I desired only to present this single point, that there is no case of hardship on the part of the District, because they cannot tax the Capitol and public grounds. The same thing applies to all the States, and yet every State must support its own public schools; every State must tax its own citizens, without power to tax Federal property within its limits. Take the case of the State of Missouri, where there are immense quantities of public lands out of which you derive a revenue. We cannot tax them a single cent in that State, yet we support our common schools, and that public domain lying there untaxed is as great a hardship to us as the public property here lying untaxed is to the District of Columbia.

Mr. BROWN. I do hope we shall have a vote. I have almost felt martyred to-day. I have forborne to reply to gentlemen when I thought satisfactory arguments lay at the very end of my tongue, because I wanted to get along with this bill. We have important bills behind this, very important to the District, which I am exceedingly anxious to have taken up to-day. If gentlemen must speak, I hope they will make their remarks as short as possible, so that we may get a vote. It is now a quarter past three o'clock, and we cannot expect the Senate to sit more than an hour and a half longer. If the question of jurisdiction is to be discussed, I hope the Senate will postpone it to some other occasion—take it up on one of the appropriation bills of the Senator from Virginia. He will have some item in an appropriation bill on which we can go over this whole matter, and as he has a sort of monopoly here, let us discuss the question of jurisdiction on that. I would rather lose the bill, though I appreciate it

more highly than any other District bill I have before the Senate, than have the whole day lost, for I know I shall never get another day if this be wasted. I will not make an argument because I want to vote.

Mr. IVERSON. I call for the yeas and nays on the amendment of the Senator from Tennessee.

The yeas and nays were ordered.

Mr. TOOMBS. I desire to say that I have paired off with the Senator from New York [Mr. SEWARD] at his request.

The question being taken by yeas and nays, resulted—yeas 13, nays 26; as follows:

YEAS—Messrs. Davis, Fitzpatrick, Green, Harlan, Hunter, Iverson, Johnson of Tennessee, Jones, Polk, Pugh, Rice, Sebastian, and Slidell—13.

NAYS—Messrs. Allen, Bigler, Bright, Broderick, Brown, Chandler, Clingman, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Houston, Kennedy, Mallory, Shields, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—26.

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendment made, as in Committee of the Whole, was concurred in. The bill was ordered to be engrossed for a third reading, and it was read the third time. On its passage Mr. JOHNSON, of Tennessee, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 26, nays 13; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Broderick, Brown, Chandler, Clingman, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Houston, Kennedy, Mallory, Shields, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, and Wright—26.

NAYS—Messrs. Davis, Fitzpatrick, Green, Harlan, Hunter, Iverson, Johnson of Tennessee, Jones, Polk, Pugh, Rice, Sebastian, and Slidell—13.

So the bill was passed.

FIFTEEN MILLION LOAN.

DEBATE IN THE SENATE,

MONDAY, May 24, 1858.

The Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 396) to authorize a loan not exceeding the sum of \$15,000,000.

It authorizes the President of the United States, at any time within twelve months, to borrow, on the credit of the United States, a sum not exceeding \$15,000,000, or so much thereof as, in his opinion, the exigencies of the public service may require; to be applied to the payment of appropriations made by law, in addition to the money received into the Treasury from other sources. No stipulation or contract is to be made to prevent the United States from reimbursing any sum thus borrowed at any time after the expiration of fifteen years, from the 1st of January next. Stock is to be issued for the amount borrowed, bearing interest not exceeding six per cent., payable semi-annually; and the certificates of stock the President is to be authorized to make transferable on the books of the Treasury, under regulations to be prescribed. It is provided that no certificate shall be issued for a less sum than \$100, and whenever the Secretary of the Treasury may cause coupons of semi-annual interest to be attached, such certificate may be assigned and transferred by delivery, instead of on the books of the Treasury. The bill further provides, that the mode of giving publicity to those desirous of making proposals for the loan, prescribes the manner in which the proposals shall be disposed of, and makes it the duty of the Secretary of the Treasury to make report thereof to Congress at the next session. No stock is to be issued at less than its par value, and the faith of the United States is pledged for the payment of the interest and the redemption of the principal. Additional clerks are provided to discharge the duties which the new loan will create in the Treasury Department; and to defray the expenses of engraving and printing certificates of stock and other expenses incident to the execution of the act, \$20,000 is appropriated.

Mr. HUNTER. If this bill should pass, we shall have added, during the session, \$35,000,000 to the public debt of the country, and it seems to me that it is, perhaps, proper that I should give

the reason why we ask for this loan, and how it is that we expect hereafter to get along with the existing sources of public revenue.

At the commencement of this session, the Secretary of the Treasury, in his annual report, estimated that our expenditures for the present year would be between seventy-four and seventy-five million dollars. At the same time, he estimated that the receipts from customs would amount to \$51,573,729, and he asked for \$20,000,000, to be borrowed on Treasury notes, in order to meet the deficiency. Since that time, there has been supplied, by the deficiency bill, an amount of \$10,000,000, making the appropriations, for the entire service of the present year, more than eighty-four million dollars. We thus find that the ability of the Treasury to meet the probable demands upon it will be some twenty million dollars less than was supposed by the Secretary of the Treasury when he presented his annual report. He now asks for a loan of \$15,000,000, in order to meet the demands to be made upon the Treasury, and it is thought that, with such a loan, he will be able to carry on the Government until Congress meets again, and, then, if there be no revival of trade, he will present such measures as may be necessary, in order to provide for the fiscal necessities of the country. If there should be a revival in trade, and customs should come in to a large amount, it may be unnecessary to present any further demand.

But he basis his estimate upon the fact that the different Departments have reported to him upon call, that they will want, until the commencement of next session, some thirty-seven million dollars, in order to meet the demands upon them. The expenditures for that time will not exceed \$37,000,000. To meet those \$37,000,000, he estimates that he will have \$25,000,000 in the two first quarters—\$5,000,000 from public lands, and \$20,000,000 from customs, during those two quarters. If to that we add the \$15,000,000 of proposed loan, we shall have \$40,000,000 of means with which to meet this probable demand of \$37,000,000.

It seems to me, however, that in presenting this proposition, we ought to look a little further and see what will be the probable demands of the Treasury and the means of supply, not only for the present fiscal year, but for the next; that we may judge how far we can rely upon the existing sources of revenue in order to meet them. It is my intention to do this very briefly. For that purpose I have thrown into tabular form the probable receipts and expenditures for the present and next fiscal year.

The estimate made of expenditures by the Secretary of the Treasury, when he sent in his annual report, was \$74,963,000. Since then we have passed the deficiency bill, amounting, in round numbers, to \$10,000,000; making the estimated expenditure for the present year \$84,963,000. To meet that expenditure he had, at the commencement of the present fiscal year, a balance on hand of \$17,710,114. The customs were estimated at \$40,000,000. It is probable they may exceed this a little; but, for safety, the amount is put at \$40,000,000. The lands are now estimated at \$7,000,000.* Then from miscellaneous sources we have \$1,046,641. Add to that \$20,000,000 in Treasury notes, and we have for the entire means of the present fiscal year \$85,756,755. Deduct from that \$84,963,000, the appropriations for the service of this fiscal year, and we have a balance for the next fiscal year on hand of \$793,697. Here it may suggest itself to some that this is not money enough on hand to allow the Secretary to work the machinery of the Treasury Department. That would be true, if the entire appropriations would be expended in the present fiscal year; but there will be a considerable amount of them that will not be used until the next year. However, I throw the appropriations of the present fiscal year and the receipts of the present fiscal year together, for the convenience of calculation, in order to estimate what will be the entire demand and entire supply

* Note.—There is a mistake in this extract of the proceeds from public lands of nearly two million dollars; but, on the other hand, there is really an underestimate of the revenue from miscellaneous sources and customs; so that the estimate of the whole means will, it is most likely, not much exceed the actual receipts.

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in the way of revenue for the present and next fiscal year together.

For the next fiscal year, the Secretary has estimated the expenses at \$74,064,755. That was his estimate in the annual report. Since then he has sent in estimates for custom-houses and public buildings to the amount of \$1,704,000. These together make an aggregate of \$75,764,755 for the probable expenses of next year. To that, it will be proper to add the sum which Congress usually allows by appropriations originating here, not upon estimates, but to satisfy claims and for various other matters. This amount cannot be estimated with any accuracy, but it may be assumed to be something like a million of dollars. We think, though, that far more than a million of dollars will probably be taken from the estimates of \$74,000,000 by the two Houses, who, in view of the present state of the Treasury, are reducing the appropriations below the estimates. This, at least, has been done in the House of Representatives, and these reductions, I suppose, will generally be sustained here. I will also say that in this estimate of expenditure we throw out nearly five million dollars for volunteers; for I suppose, if the news from Utah be true, and I rely upon it, that appropriation will not be necessary. I take, then, the probable expenditures of the next year, reckoning them according to the estimates, as likely to amount to \$75,764,755. To meet that we shall have a balance on hand of \$793,697. The estimates for customs is \$52,000,000; from lands, \$10,000,000; from miscellaneous sources, \$1,000,000; making in all \$63,793,697. Add to that \$15,000,000 by way of loan, if this bill should pass, and the entire means for the next fiscal year will be \$78,793,697 upon that estimate, leaving a surplus of something like three million dollars; but if it should turn out that the news which we have had in regard to the Utah difficulties, which have undoubtedly swelled the general estimates independently of the deficiency bill, be true, there may be some reduction here. Indeed, I think there ought to be.

Besides all this, if we were to pass a bill which I introduced here upon leave, and referred to the Post Office Committee, designed to make that a self-sustaining Department, by adding a small amount to the postages, we should relieve the general expenditures of \$3,500,000 of deficiency, which is the sum now settled by the Post Office Department upon the general Treasury of the country. But putting that out of the question, it seems to me that there ought to be ground to hope that, if the Utah troubles should be soon settled, we shall reduce the expenditures below the \$75,764,000 which are estimated. I know that the expenditure for the next fiscal year, on account of the Utah difficulties, no matter how they terminate now, must be greater than they otherwise would have been. Still, if we are to have peace, and no disturbance there, I think the public expenditures ought not to go to the sum which is here estimated. I think so, because I find that the entire expenditures for the fiscal year ending June 30, 1859, exclusive of the public debt, was \$64,878,000. I find that the entire expenditure for the last fiscal year of General Pierce's administration, exclusive of the public debt, was \$60,172,000. I find that in the last annual report of Mr. Guthrie, as Secretary of the Treasury, he stated that the average of expenditure, exclusive of public debt, for the five preceding years, had been about forty-eight million dollars. I think that with all this before us, we have a right to hope that, if those disturbances shall be quieted, we shall not only have some reduction upon the estimate of \$75,000,000 for the next fiscal year, but that we have good grounds for expecting a much larger reduction for the years that are to succeed.

But, Mr. President, it may be that the estimate which I have made in regard to the probable means of the Government for the next fiscal year may be questioned. Let us see. First, in regard to the lands. It is known that we have now ready for advertisement and sale something like twenty-three million acres of public lands in California. They are the first, I believe, which have ever been exposed for sale in that State, and it is supposed they will be sought after with great avidity. There is probable reason for supposing that

the sales in the older portions of the United States will be quite as rapid as they have been for a number of years past. There seems, therefore, to be good reason for estimating some ten or twelve million dollars during the next year from public lands—we put it at \$10,000,000. In regard to the customs, there are more elements to be taken into consideration, and there is somewhat more reason for doubt. I put them at \$52,000,000, on the supposition that there may be a revival of trade in the next year. I do this because I find that during the last fiscal year the imports of dutiable goods amounted to \$294,160,835; from which we are to deduct \$10,591,647 of goods reexported. I find, also, that the amount of goods in warehouse, on the 1st of July, 1857, exceeded those in warehouse on the 1st of July, 1856, some \$20,802,390, and it is fair to presume that these twenty millions were imported with a view to the consumption of the succeeding fiscal year, and not for that closing in July, 1857. Making these deductions, the amount of dutiable goods entered for consumption, last year, was \$262,766,798. If I have put the average rate of duty which experience, so far, has shown that we collect under the new tariff, that is nineteen and five twelfths per cent., that would have given us something like \$51,000,000 for the last fiscal year. I have had a calculation made at the Treasury Department, based upon the first two quarters of the present year; and I find that taking the duties which were received, and the amount of dutiable goods imported, the rate is nineteen and five twelfths per cent. According to that rate of duty, the dutiable goods imported in 1857 would have given us \$51,000,000.

If it be said that the imports for the first two or three quarters of 1857 were larger than they would have been, on account of the expansion, I think it may be replied that it is obvious the imports for the last quarter were much less than they would have been, in view of the new tariff about to come in operation; but indeed, when we come to compare the exports and imports, we shall find that they did not much vary between that year and the two years preceding it. I find, too, on reference to the Department, that though the imports have diminished very much for this year, the difference between the exports for this fiscal year and the last are not so great as would be imagined. I believe the difference in the domestic exports of this year and the last, for the first three quarters, is not over thirty-five million dollars. I find, too, on reference to the crisis of 1837, that although the imports and exports were very small for 1838; yet the succeeding year they increased very largely; and that is to say, from \$43,000,000 to \$70,000,000. In addition, we have accounts that already large orders are going out for the fall business. Be that as it may, this estimate is founded on the supposition that we are to have a revival of trade and business in the next year. If we should have it, I think it fair to suppose that we shall derive a revenue of \$52,000,000 from customs alone.

But, Mr. President, it may be said that even this exhibition of revenue does not show that we shall have the ability to meet the rate of expenditure which has been proposed for the present fiscal year without some addition to the tariff, and that all our sources of revenue can hardly be adequate for such estimates of appropriation. Sir, I am free to say that it will be some time, three or four years, probably, before the existing sources of revenue would meet an expenditure of seventy-six or seventy-eight millions; but, at the same time, I think it obvious that there ought to be, and that there must be, a reduction in the expenditures of the country. Why should we expend more than sixty million dollars per annum? Why should we expend more than we expended in the last year of General Pierce's administration? Why should we expend more than was expended the last fiscal year, which was only \$64,000,000? And I believe that the resources of the country would soon enable us to meet an expenditure even to that amount. For myself, I believe, if there were proper economy, the expenses of this Government for some time to come ought to be reduced even below sixty million dollars a year; but taking it at that rate, I think that all the probabilities are in favor of the supposition that the existing tariff will soon yield us

enough of revenue, together with the proceeds of the public lands, to cover all that.

I find, upon looking to the past, that, whenever there has been a reduction of duties, a wonderful impulse has been given to the export and to the import trade of the country. The Secretary of the Treasury estimates that the annual addition to the exports and to the imports—for they amount to about the same—after the tariff of 1846, for ten years, was at the rate of ten per cent. I find, upon looking to it, that, for a period of nine years, it was more than ten per cent. The exports, exclusive of specie, in 1847, were \$158,648,622. In 1856, the exports, including specie—and I include it since the discovery of the mines in California, because gold is as much an article of domestic production and as fair a subject of export as wheat, or corn, or tobacco, or cotton—were \$326,964,908; showing an increase in nine years of \$168,316,286. I find that the imports, including specie, in 1847, were \$146,545,638; and, including specie, in 1856, \$314,639,942; showing a gain in imports, for these nine years, of \$168,094,304; thus showing an annual increase of something like eleven per cent.

But it may be said that this was in part owing to the expansion of the credit system due to the discovery of gold in California. I have gone back to the period succeeding the passage of the compromise bill, to see what was the effect of the reduction of duties then; and the reduction there was not so great as this. In 1833, I find that the exports were \$69,950,856; and in 1841, at the end of eight years afterwards, they were \$103,636,236; thus showing a gain of \$33,685,380 in exports. I find that, in 1833, the imports were \$83,470,067, and in 1841, \$114,776,309; thus showing a gain of \$31,306,242, or something like six per cent. a year.

If we take either ratio of increase, supposing that the present tariff would give us \$52,000,000 next year, we should find, taking either six, or eleven, or ten per cent., as estimated by the Secretary of the Treasury, that the present tariff would soon give us \$60,000,000. Take it at ten per cent.; and it would increase \$5,000,000 annually, and two years would raise to \$60,000,000. Take it at an annual increase of six per cent.; and less than four years would raise it to that amount. But, sir, it is fair, it seems to me, to suppose that we should at least have the same relative increase in exports and imports since the passage of the tariff act of 1857, after the revival of trade, that we had after the passage of the tariff of 1846, for the duties are still lower now than they were at that time; and not only that, but the productive energies of the country are constantly growing, and growing at a ratio far exceeding the percentage of annual increase in population. We know that cotton is destined probably to command a high price, and that its product is increasing rapidly. The same may be said of tobacco; and the same may be said of the bulk of the agricultural products, although the prices have come down. The same may be said of the export of domestic manufactures. In order to verify this, I ask the attention of the Senate to a comparison of the exports of cotton, tobacco, and manufactures, under high and under low duties.

In 1847, immediately after the tariff of 1846 went into operation, the exports of tobacco were \$7,242,086, and in 1857 they rose to \$20,206,772; nearly threefold. In 1847 the exports of cotton were \$53,415,848, and in 1857 were \$131,575,859; greatly more than twofold. The exports of domestic manufactures in 1847 were \$10,351,364; and in 1857, \$30,805,126; nearly threefold. I find, too, that in 1845, in the State of Massachusetts—I take her as the true exponent of the manufacturing interest—the value of the cotton manufactures was \$19,237,966; and in 1855 they were valued at \$36,464,738; an increase of more than eighty per cent. In 1845, in Massachusetts, there were employed in the manufacture of cotton, twenty-three thousand and eighty-eight hands; and in 1855 there were thirty-six thousand five hundred and eighty-eight; an increase of about sixty per cent. In woollens, in that State, the value manufactured in 1845 was \$11,361,260; and in 1855, \$15,124,233. The hands employed were, in 1845, nine thousand four hundred and ninety; in 1855, thirteen thousand and twenty-two.

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I say, by reference to all this, I am warranted in the hope that under the influence of this revenue system we shall see the exports, even of domestic manufactures, increasing as they have done heretofore, and more rapidly than they did under the old system, in which there was a more restrictive policy. I have seen it stated, upon newspaper authority, that since January the exports of domestic manufactured cottons from the port of New York have been greater during this year than they were during the same period for the last year; but be that as it may, I think I am justified, from the experience of the past, in assuming that the prospect is, that our exports are destined, for the future, to be very large; and if they are, so must be the imports, and for that hope I rely mainly upon tobacco, upon cotton, and upon gold, (for I believe the production of gold in California is a mere question of water and of labor,) and upon domestic manufactures themselves, if I may trust the experience of the past. In regard to agriculture, taking the years 1848 and 1857—for 1847 was an exceptional year—I find that the agricultural exports rose from \$37,000,000 in 1848, to \$75,000,000 in 1857, showing a large increase in them also.

If this be so, then the probabilities are that if we reduce the expenditures of the Government within the proper limits, if we administer this Government economically, the time is not far distant when the existing sources of revenue will again give us a surplus. In view of that, it seems to me the best thing we can do is to provide, in times of crisis and difficulty, such times as these, by way of loan for any temporary deficiency; and when the revenues increase, when more money is derived from customs, and the Treasury begins to overflow, we can employ that surplus in paying off the debts, and in buying up the stock; and in doing this we do what is very desirable, for we give stability to the revenue system of the country, and we make the Treasury Department operate more easily upon the general business and trade of the country; because, when specie is accumulating in the Treasury, we have the means of depleting it by the purchase of our stocks; and, at a time when there is a scarcity of money, the community is undoubtedly relieved by the mere fact that the Government is entering into the market for loans, for thus we call into activity capital which would otherwise be dormant. I know that, in this operation, it may sometimes happen that we have to lose something by way of premium on stocks; but if we deduct what we receive by way of premium, and add interest on that premium, it will be found that the loss is not so great after all; and when we come to compare that loss with the immense facility and advantage which is given by a mode of administering the Treasury that will not operate harshly and rigorously on trade, I think we shall come to the conclusion that the money has not been badly spent. But the ready mode of avoiding this is to issue your stocks at such a rate of interest that they will go at something like par, or nearly par; and then we shall not have to pay much premium to purchase them at a time when there is a surplus in the Treasury and we are going into the market to reduce the public debt, and relieve the public coffers from a plethora of specie.

In view, then, of the present condition of the finances of the country, in view of what is to happen probably for the future, it seems to me that the best thing we can do is that which is now proposed. Let us provide for the present deficiency by means of a loan; and when trade revives, and the coffers of the Treasury are full, we shall then be able, not only to meet, from all the existing sources of revenue, the probable demands of revenue for the annual expenditures of the Government, but begin to pay off the debt besides.

I had some doubts as to whether trade would revive in season to enable us to get along with so small a loan as is proposed by the Secretary of the Treasury, but he is willing to meet that responsibility; he is willing to take that risk. Desiring, very properly, not to increase the debt of the country beyond what it should be, he feels confident that he will be able to carry on the Government until Congress meets again; and if it should turn out that trade does not revive then, there will be time to make such arrangements as

Congress may deem fit and proper, in view of the whole state of the case. It is obvious, sir, that this loan would be insufficient if we had to add to the estimated expenditures the estimate for volunteers; but as I said before, I hope and believe that the occasion which would seem to have required them has passed away. I hope we shall not need them, and, if we do not, I entertain the hope—I will not speak with much certainty—that we shall be able to get along with the \$15,000,000 and the existing sources of revenue for the next fiscal year.

Mr. WILSON. Mr. President, the Administration proposes by this bill to borrow \$15,000,000—to incur a permanent national debt of \$15,000,000 to meet the ordinary and current expenditures of the national Government for the first two quarters of the next fiscal year. Yes, sir, the proposition is to incur a national debt of \$15,000,000—to tax the productive industry of the people for the next fifteen years to meet the current expenditures of the Government at a time when we are at peace with all the world. This is an Administration measure—the measure of a Democratic Administration; it comes here with the seal and superscription of the Administration stamped upon it; and the majority here in both Houses of Congress, as in duty bound, will hasten with alacrity to register this executive mandate. Necessity, stern imperious necessity, goes on the supporters of the Administration to its early consummation. I do not rise, Mr. President, to interpose obstacles to the prompt passage of this bill; but I do rise to ask the Senate to pause long enough to take an observation to see where we now are, and whither we are drifting.

It was, Mr. President, the doctrine—ay, and the practice, too—of the republican fathers, of Jefferson and of Madison, of Adams and of Jackson, that the ordinary and current annual expenditures of the Government must be kept within the receipts of the Government in time of peace; that national debts were not national blessings, and must not be incurred to meet the ordinary wants of the Government in times of peace. Mr. Van Buren alone of all our Presidents, from Washington to Buchanan, abandoned this good old policy of the republican statesmen of the country, by borrowing money in times of peace to meet the ordinary and current expenditures of his Administration. That violation of the cherished policy of the Republic contributed in no small degree to his disastrous defeat in 1840. Sir, Mr. Buchanan is hastening on in the footsteps of Mr. Van Buren. Like Mr. Van Buren, he is rushing headlong into debt, borrowing money, incurring national debts, to meet the current expenditures of his Administration. Eighteen hundred and sixty may repeat the lesson of 1840; and I commend the Administration—I commend the supporters of the Administration in both Houses of Congress—to ponder well the lesson taught by the people in 1840. Believing the doctrines and policy of the Republican statesmen of other days to be the true doctrines and policy of the Government, we who inherit the name and the principles of the republican fathers are inflexibly opposed to this policy by which the Administration is hurrying the nation on headlong into debt in time of peace, and then resorting to borrowing money, to incurring permanent national debts to meet wants created by its own extravagance. Sir, let the supporters of the Administration understand, let the nation understand, that we denounce this policy in advance; that we wash our hands of it, now and forever; that we take an appeal to the people against the adoption of a policy so much at war with the lasting interests of the Government and of the people of the country.

The expenditures of the Government during the eight years of the administrations of Mr. Polk, General Taylor, and Mr. Fillmore, in which time we went through the Mexican war, were, on the average, \$43,000,000 annually. When President Pierce came in, he commenced the fiscal year of 1853 with \$21,942,000 in the Treasury. During his Administration, the average expenditures, exclusive of payments on account of the public debt, were \$58,000,000, being an average annual increase of \$15,000,000 over the eight preceding years—years, too, during which happened the Mexican war, with all its vast expenditures. The expend-

itures of the Government during Mr. Pierce's administration were larger than the expenditures of the Government from 1789 to 1817, during the administrations of Washington, Adams, Jefferson, and Madison, a period of twenty-eight years.

When President Buchanan came into power, he commenced the fiscal year with \$18,000,000 in the Treasury. He has collected from all sources about forty-four million dollars, or rather he has collected the first quarter, \$21,000,000; the next, \$7,000,000; the third quarter, \$8,000,000; and it is estimated that the last quarter will be \$8,000,000, making \$44,000,000 to be added to the \$18,000,000, amounting to \$62,000,000. We have borrowed \$20,000,000 by Treasury notes, which makes \$82,000,000, as the resources of the Administration for the present year. The Senator from Virginia, the chairman of the Committee on Finance, estimates, if I understood him, that the receipts for the year will amount to \$85,700,000, and the expenditures to \$85,000,000, which will leave a balance in the Treasury, of \$700,000.

Now, we are told by the Secretary of the Treasury, that at the commencement of the next fiscal year, the \$20,000,000 of Treasury notes will be exhausted, and we shall begin the next fiscal year without any money, or with only an insignificant sum in the Treasury. The annual expenditures of this Administration exceed the expenditures of the last Administration, exclusive of the public debt, more than \$20,000,000. The last Administration added \$15,000,000 to the average annual expenses of the country, and the present Administration adds \$20,000,000 annually, over the last Administration, which the whole country believed to be an extravagant Administration.

We all remember that when Congress assembled in December last the Secretary of the Treasury, in his annual report, estimated that the receipts during this year about closing would equal the demands upon the Treasury; that it would be about seventy-five million dollars, and that he would have a balance in the Treasury the 1st day of July next of \$426,000. The Secretary, however, thought that Congress ought to grant him the power to issue \$20,000,000 of notes in anticipation of the revenue; not that the Treasury notes would be wanted this year, but he wished the authority to issue these notes in anticipation of the revenue which would accrue during the present year. The President of the United States in his message indorsed this demand of the Secretary of the Treasury.

On the 15th of December last, the Secretary wrote a letter to the Committee of Ways and Means asking for authority to issue \$20,000,000 of Treasury notes; and in this letter, written seven days after his annual report was made, the Secretary, while asking for authority to issue \$20,000,000 of Treasury notes, said:

"Though the amount of \$20,000,000 will not, in all probability, be needed at an early day, if at all, yet it is deemed best that the Department be authorized to issue them and keep out that sum should it be required by the public service."

He would not want these Treasury notes at an early day, if he wanted them at all! That was on the 15th of December. The bill was promptly reported, and Congress entered upon its discussion. Within the period of seven or eight days, that bill was carried through Congress, and although the Secretary had told us he did not want to issue these notes immediately, if at all, within seven days we were pressed to hurry that bill through Congress, because the Government was becoming bankrupt; and within ten days after the Secretary of the Treasury wrote that letter, the Government of the United States was unable to meet its obligations; drafts drawn by its Army officers upon the Treasury remained unpaid; and the members of Congress who desired to go home and see their families, and spend Christmas with them, could not obtain the money to do so, because the Treasury was exhausted, and this within the period of ten days after the Secretary of the Treasury had asked for \$20,000,000, and told us that he did not want it very soon, if he should want it at all. What foresight! What wonderful sagacity! What an exhibition of statesmanship was this!

The Secretary of the Treasury, in his annual report, after asking for authority to issue \$20,000,000 of Treasury notes in anticipation of the accruing

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revenue, estimated that the receipts for the residue of the year would be equal to the demands for the year; and that he would have a balance in the Treasury, on the 1st of July, of \$426,000. Now, the Secretary comes here, on the 19th of May, with a report asking for a loan of \$15,000,000 to meet the expenditures of the first two quarters of the next fiscal year. He says in this report that the revenue has not equaled his estimates by \$10,000,000, and that Congress has appropriated \$10,000,000 beyond his estimates. There was not, I take it, a man in the Senate or the country familiar with the condition of the country and the financial condition of the Government, who did not know that the Secretary of the Treasury had overestimated the receipts by at least ten million dollars. It was declared on this floor, and on the floor of the other House, that the estimates were all overdrawn by from ten to twelve million dollars. I think it now turns out to be about twelve million dollars. Now, the Secretary undertakes to put the responsibility on Congress of having appropriated \$10,000,000 more than was asked for by the Departments. We all know that the deficiency bill, which passed here, was an Administration measure; that it came here by the sanction of the Executive; that it was assumed and carried through as an Administration measure, and the executive department should share its full and equal responsibility for its passage. I do not like, Mr. President, this attempt of the Secretary of the Treasury to shirk the responsibility, and to throw the blame upon Congress for having thrust upon him an expenditure of \$10,000,000 unasked. It was not in the regular estimates, it is true, but it was asked for; it was demanded by the Administration; and those of us here who interposed obstacles to its passage were denounced in the official journal and by the Administration presses of the country. Sir, the deficiency bill was emphatically an Administration measure, and I hold the Administration to its responsibility, not only for the passage of the bill, but for the use of the money.

The fiscal year is nearly closed; and the Secretary tells us, in this late report, that by the commencement of the next fiscal year the Treasury notes will be exhausted. So much for the Secretary's estimates—a mistake in his estimates which, in five months, amounts to \$20,000,000. Nobody is surprised at it. We were only surprised and astonished that the Secretary of the Treasury, occupying the position he occupied, should ever have indulged in such wild calculations—could ever have made and published such estimates. The Secretary made his estimates for next year; and he is far wilder in them than he was in his estimates for the present year. He estimates the dutiable imports for the next year at \$371,000,000—\$90,000,000 more of dutiable imports than were ever imported into the United States in one year. I read this estimate in his annual report with utter amazement. Why, sir, if you look at the imports during the administration of President Pierce, they amount, during his four years, to \$1,146,000,000—an average of \$286,000,000 per annum. From this you must deduct the articles on the free list, an average of twenty-five or thirty millions annually during that Administration; leaving less than two hundred and sixty million dollars of dutiable articles annually imported during the four prosperous commercial years of President Pierce's administration. The dutiable imports this year amount to about two hundred and ten million dollars, nearly one half of which were imported the first quarter of the year. The Secretary told us, in his annual report, that they would amount to \$262,000,000. They actually amount to about two hundred and ten million, being \$50,000,000 less than he estimated last December. If we should import next year as much as we imported in 1856-57—which would be about two hundred and sixty-two million dollars of dutiable articles—we should go beyond the just expectations of any reasonable man in America. There is not a statesman here; there is not a merchant in the United States; there is not a practical business man in this country, familiar with the commercial condition of the country, who believes the imports, from the 1st of July next to the 1st of July, 1859, will equal the imports from the 1st of July, 1856, to the 1st of

July, 1857—the largest year of importation the country ever witnessed.

Next year, Mr. President, you will not only not have \$371,000,000 of dutiable imports, but you will not have \$250,000,000. The largest imports we ever had were \$280,000,000 of dutiable imports. Those articles, if they should come in next year in as large quantities as they did in 1856 and 1857, will be reduced in value about sixty million dollars, so that you cannot, by any possibility, have more than \$250,000,000 of dutiable articles during the next year, on which you will raise not more than forty-seven or forty-eight million dollars. The Senator from Virginia [Mr. HUNTER] estimates the receipts from customs next year at \$52,000,000. I think he will find, when next year closes, that he has made a mistake of from five to seven million dollars in that estimate. He also estimates that we are to receive \$10,000,000 from the sale of the public lands. Why, sir, the average land receipts for the last four or five years are only about five million dollars. It is true, lands are opened in California, and we may have a large increase, but your whole revenue next year will not exceed \$55,000,000, and it is more likely to be less than that amount. I think it may be, altogether, about what the Senator estimates the receipts from customs to be—\$52,000,000.

Now, let us see where we are. We have this year used up the \$18,000,000 of surplus in the Treasury with which we commenced the year; we have raised \$44,000,000, and we have borrowed \$20,000,000, making a total of \$82,000,000, all of which we have spent. We commence the 1st of July next, according to the admissions of the Secretary of the Treasury, without any money in the Treasury. He estimates in his annual report, that we are to have imports to the extent of \$371,000,000 next year, and that we are to raise upon those imports \$69,500,000, and receive from public lands \$5,000,000, and from all sources together, \$75,000,000; and he estimates the expenditures at \$75,000,000. He will fall short of his revenue from customs the coming year more than twenty million dollars. Instead of receiving seventy-five millions in revenue, his receipts will not go beyond fifty-five millions. What amount have we to meet next year? The estimates of the Department amount to \$75,000,000, and if the expenditures do not exceed that sum by additions made by Congress, you have to add to that \$20,000,000 of floating Treasury notes, which we have to pay next year, amounting to \$95,000,000. I understand that propositions are before Congress likely to pass, that will add several million dollars to the expenditures. Suppose they be \$80,000,000—and I do not believe they will fall short of that sum, for Congress will add four or five millions to the estimates—and add to that \$20,000,000 of Treasury notes, and you have to provide for \$100,000,000 next year. There is \$95,000,000 to provide for, according to your own showing, and at least \$100,000,000 by all reasonable and proper estimates. One hundred million dollars! One hundred million dollars to be paid during the next fiscal year! To meet that vast sum, you have only a revenue, from all sources, of from fifty to fifty-five millions; making a deficit of \$45,000,000 for 1859.

Now, how are you to meet this \$100,000,000? The Secretary tells us he will have to pay \$37,000,000 in the first six months, and that the income for the first half of the year will not be \$37,000,000, as estimated in December last, but \$25,000,000. He is getting to be a little rational on this question of the receipts. He wants \$15,000,000 to carry the Government through the first half of the next year—not the whole year. Now, sir, these \$15,000,000 will not carry him to January next. Sir, I make the prediction here now, and I wish Senators to remember the prediction, that we shall be called upon when we meet in December next to provide means to carry the Government through December and over the 1st of January. And this call will be pressed upon us with all the power of immediate and overwhelming necessity. It is inevitable, on the showing of the Treasury Department itself, that the Government cannot go beyond the 1st of January next, if it can go to that day, with the aid of this \$15,000,000 loan.

You have to provide for \$100,000,000 next

year. You borrow \$15,000,000; you raise from all sources \$55,000,000 of revenue, and to the fullest extent that is all you will get. You will, therefore, have \$70,000,000 with which to meet \$100,000,000. You will have a deficit of \$30,000,000 next year. You are called upon, in reality, to pay next year beyond your receipts, \$45,000,000, at the lowest possible estimate. You may be called upon to pay fifty-five or sixty million dollars; but it cannot be less than \$45,000,000. To meet that, you propose to raise \$15,000,000, for the first six months, calculating to raise \$25,000,000 from all sources, making \$40,000,000.

We shall have to meet \$60,000,000 from January to July, and we shall have only twenty-five or thirty million dollars to pay it with, thus leaving a deficit of thirty million dollars for the last two quarters of the fiscal year. To go through the next fiscal year, the Government must incur a permanent national debt of \$40,000,000. How do Senators like this flattering financial picture? It is a truthful statement of the condition of the national Treasury; and I hope Senators will not fail to see where we are, and whither we are drifting. No Administration can stand, or ought to stand, that expends in two years \$65,000,000 beyond its receipts. No Administration can stand, or ought to stand, that plunges headlong into extravagant expenditures—expenditures which exceed by tens of millions its receipts. No Administration can stand, or ought to stand, that resorts to temporary expedients, or to national debts, to meet its current expenses in times of peace.

Well, sir, what are your hopes for the future? Does the Administration expect, can it expect, has it a right to expect, that the Government can raise money enough to meet its extravagant expenditures under the present revenue system?

The Secretary says our exports and imports are increasing at the rate of ten per cent. per annum; and the honorable Senator from Virginia has indulged to-day in these absurd estimates. Let me tell the Administration and the Senator that they will witness no such increase during the next three years of their power. This increase for the last four or five years has been an unnatural and unhealthy increase. It was stimulated by the expansions of bank paper, condemned by your Executive and your Secretary of the Treasury. It was stimulated by large purchases of State and railway stocks in Europe. You cannot keep up this expansion during the next three years. We have had a reaction, a collapse; the country has been brought back. Our articles of exportation have fallen about twenty-five per cent. The goods we import have gone down—some of them, like sugar—forty or fifty per cent. They have gone down, on the average, at least thirty per cent., and the reduction of the prices of your articles of export, and of your articles of import, with the fact that we have \$500,000,000 of State and railway stocks held abroad, imposes upon the people the stern necessity to be economical in their expenditures. In the year ending June 30, 1857, we imported \$360,000,000, and exported \$362,000,000, making \$722,000,000 of imports and exports. This year, our exports and imports will not exceed five hundred and twenty-two million dollars. Does any rational man believe that our imports and exports for the next year will exceed the imports and exports in 1857? Does any practical business man believe that the value of our imports and exports will, for the next three years of this Administration, exceed in quantity and value the exports and imports of the year ending June 30, 1857? In the present condition of the country, in view of the reduced value of merchandise, and the lessons of economy taught by the experiences of the past year, we have no right to expect that our imports and exports will exceed, during the next three years, seven hundred and twenty-two millions annually. Should our imports next year equal in value our imports for 1857, at the present rates of duty, only \$50,000,000 of revenue will be realized from the customs. At the present rates of duties, to raise the \$52,000,000 estimated by the honorable Senator from Virginia from the customs, we must import \$272,000,000 of dutiable merchandise, which will be \$10,000,000 more than we ever imported, with the exception of 1857.

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In the face of these facts, the Secretary of the Treasury tells us that

"The revival of business, which cannot be longer delayed, will, I am confident, insure, through the present tariff, a sufficient revenue for the support of the Government in ordinary times."

Well, sir, having expended \$38,000,000 this year more than the receipts, having next year to provide several more millions beyond the receipts, to meet the wants of the Government now, hurrying on with no prospect during the present Administration of the receipts paying the expenditures, the Secretary repeats, in this letter of the 19th of May, the doctrine laid down in his annual report, that we should have no revision of the tariff at the present time. Sir, I see no wisdom in this policy—the country will see no wisdom in a policy that imposes upon the Government the necessity of increasing permanent national debts to meet the wants of the Treasury.

In this condition of the country, what should statesmen do? The Administration should come here and propose to increase our receipts, to raise our revenue \$15,000,000, or it should come here with specific and detailed propositions to reduce the expenditures of the Government by the amount of \$15,000,000. I think wise statesmen would come with both propositions. I think that, if we had men at the head of affairs who adhered to the old republican doctrine that in time of peace the expenditures should be kept within the receipts, we should not incur a permanent national debt to pay the ordinary and current expenses of the Government. I think we should have had here, weeks ago, a proposition to increase the revenue by revising the tariff, and detailed and specific propositions to reduce the expenditures of this Government ten, fifteen, or twenty million dollars. I have no doubt that this Government can be well administered for \$50,000,000 annually. But, sir, instead of coming here with a proposition to increase the revenue to meet the ordinary and current expenses of the Government, we have the declaration, repeated in three reports by the Secretary of the Treasury, sustained by the President, and in both Houses of Congress, that we must not revise a tariff under which we cannot, by any possibility, raise \$50,000,000 for the next year, when we want \$100,000,000 to meet the necessities of the Government. This is trifling with the interests of the nation, and should meet the stern rebuke of the American people. The tariff gives you only about nineteen per cent., and you cannot have more than two hundred and fifty millions of dutiable imports next year. Under the present tariff, unless we have an unnatural expansion of bank paper again, unless we have an era of speculation that is to end in bankruptcy, there is no probability that, for the next two or three years, we can raise more than fifty millions from the customs; and yet we are told, most emphatically, that this tariff must not be revised.

In this report of the Secretary of the Treasury we have an abundance of talk about "retrenchment and reform." It is all talk—mere phrases—words, words, words. Will any Senator tell me what single proposition has been made, under this Administration, towards "retrenchment and reform" in the expenses of the Government? The Secretary of the Treasury is spending nearly one million and a half dollars more money to collect the revenue than was spent by the administration of Mr. Fillmore. He spent \$2,000,000 in the collection of the revenue on the Atlantic coast. The present Secretary spends \$3,300,000 on the Atlantic coast alone, and employs six hundred more men than were employed by Mr. Corwin, and he asks us to take off the limitation of law, and to increase the expenditures of that Department \$1,000,000, annually, beyond the limitations of the law. The Secretary of War pressed upon us the raising of five additional regiments, at an annual cost of \$5,000,000, which Congress, in its wisdom, voted down. The Secretary of the Navy wanted ten sloops, at an expense of two and a half or three million dollars annually; and I am told that now, under the cry that is got up of British aggressions in the Gulf, twenty or thirty war vessels are talked of—and here, by the way, I must say that the head of the State Department, in his correspondence, talks very mildly about these aggressions, especially when we take into consider-

ation the warlike speeches we used to hear from him on this floor.

Congress has already saved eight or ten millions dollars by refusing to grant the extravagant demands of the Executive Departments, and more may be saved. Sir, there is no proposition to reduce expenditures, unless it be by defeating all private claim bills. Everywhere, in every Department, we are pressed to increase the expenditures, rather than to reduce them; and I am surprised, that when you have borrowed \$20,000,000, to carry us through this year, when you have exhausted it, and now ask \$15,000,000 for the first half of the next year the chairman of the Committee on Finance should, in a bill of this character, propose to authorize the Secretary of the Treasury to appoint two additional officers. There is a section in this bill to create two additional officers, although the Government has spent this year \$38,000,000 more than its receipts, and will have a deficit next year of \$45,000,000, if it redeems its Treasury notes. It is proposed to increase the strength of the Treasury Department. I venture to say that the force employed in the several Departments can be reduced one third, and the public will not suffer by it. There are men employed in these Departments who are absent, some of them for months at a time. There are men employed in these Departments who are allowed to traverse the country for weeks on electioneering tours—men who are allowed and encouraged—ay, compelled—to get up clubs for the circulation of political speeches and documents; to organize, in the city of Washington, political committees, to the neglect of public business. The chairman of the Committee on Finance, whom we so often hear advocating economy—and I will do him the justice to say that I think he does it with a great deal of sincerity—proposes to add two to the number of clerks in the Treasury Department. Sir, they are not wanted; there is strength enough in that Department now, and to spare. Not only that, but here is an appropriation of \$20,000 to make the bonds on which we are to get this money. I believe \$2,000 will more than pay all that is necessary to prepare the papers to borrow the money upon. Here is another economical proposition from the Administration which prates so often and so much about "retrenchment and reform." Some favorite is to be rewarded, or perhaps the brother or friend of some member who voted for Lecompton, is to be provided for by this appropriation.

Mr. HUNTER. The Senator from Massachusetts will find that it has been usual, in the loan bills, to add these clerks on account of the extra duties they entail; and there is generally such an appropriation in order to carry out the expenses of the loan. He will find that in the loan bill of 1848, I think.

Mr. WILSON. Perhaps it has been usual, but that does not prove the necessity of it now, and to this amount. Formerly, such bills came for great purposes, to defend the country, or to provide means to pay the debts incurred in defense of the country in time of war. This bill comes here at a time when we ought to enter upon a general system of reduction in the expenditures of the Government; and I believe we have abundant force in that Department to do all that is necessary to borrow these \$15,000,000. The labor that will be imposed, the additional labor that will be required in that Department, can be easily and readily furnished in the Department. I shall move to strike out this section; and I shall move to amend the other section by reducing the amount therein appropriated from \$20,000 to \$2,000. In giving the Secretary of the Treasury these \$15,000,000 for the first two quarters of the next fiscal year, let us tell him, in language not to be mistaken, that we expect him and his corps of clerks to take care of the matter, to perform the additional labor, and that we will not add to the Department any additional force whatever. Let us tell him, also, that we, the representatives of the people, will not permit him to expend on any favorites, \$20,000 for engraving and paper.

I therefore move to strike out the fifth section, which is in these words:

"Sec. 5. And be it further enacted, That the Secretary of the Treasury is hereby authorized to appoint in the office of the Register of the Treasury, an additional clerk of the

third class, at a salary of \$1,600 per annum, and an additional clerk of the same class and salary in the office of the Treasurer of the United States."

I also move to amend the sixth section, by striking out "\$20,000" and inserting "\$2,000;" so that the section shall read:

Sec. 5. And be it further enacted, That, to defray the expenses of engraving and printing certificates of such stock, and other expenses incident to the execution of this act, the sum of \$2,000 is hereby appropriated: *Provided*, That no compensation shall be allowed for any service performed under this act, to any officer whose salary is established by law.

The PRESIDING OFFICER. (Mr. Foot.) The first question will be on striking out the fifth section.

Mr. COLLAMER. It is a little more than a year ago, Mr. President, when, at a certain evening session of this body, there was passed, as I thought, in hot haste, a general revenue tariff bill, remodeling the tariff system of the country, changing its essential features. On that occasion I took the opportunity to state my objections to it, in all its stages, and especially because it was attempted to be done with only the consideration of a very few hours. The bill was reported, taken up, some little amendments made, acted upon, finished, and completed here in a single night session. I did not profess, at that period, to anticipate with more sagacity than other people the pecuniary revolution which has since spread over the country; but I then thought and said that it was utterly impossible for any human sagacity to undertake to say, in the period of time allotted to the consideration of that measure, what would be its effect. It is always a grave problem whether, in point of fact, the reduction of a duty upon any given article will cause a reduction of the revenue. The very reduction of duty may occasion so great an importation as actually to increase the revenue. Nothing but experience, long observation, and consultation with men who have had experience in that department of trade, would enable you to determine, with certainty, its effect. No such consideration was given on that occasion; so such consultation was had. There were two purposes avowed in the passing of that law. One was with reference to the large amount of gold in the Sub-Treasury, which, it was said, was accumulating, and was needed for the trade of the country. The tariff of last year was made for the purpose of depleting that amount of surplus revenue. That was one of the professed objects. No man can deny that that has been accomplished. I think that, together with other causes, certainly, has at any rate sufficiently depleted the Treasury. That purpose has been effected. For myself, I had always very much doubt, and so stated on that occasion, whether, even if it had that effect, it would be a beneficial one. I believed that there had already, at that time, been an over amount of importation, and that it was probably providentially well directed that there should be an amount of money thus sequestered from the extravagant use of those who were going on in a way of extravagance, so that they should make no increase of importations not necessary to public or private prosperity, and that it would be well to have some check of that kind. But, sir, my voice was a feeble one, and the source from which the suggestion came, perhaps was not entitled to much consideration; but experience shows that it turned out pretty much as I said.

The other object which was at that time professed, was to make a step towards free trade. It was voted for professedly on that very ground. Now, we will suppose it to have had that effect, because everybody understands that you are not to expect any of the ultimate results of free trade until you adopt a system approximating to free trade, and perceive its effects, witness them, feel them, know what they are. All of us understand that free trade is direct taxation; there is no alternative; for I take it gentlemen will hardly get along in the manner suggested by Barney Blinn, who was opposed to all sorts of taxes and revenue, and was for having all expenses paid out of the Treasury, so as not to burden the people at all. [Laughter.] As we cannot always expect to get along in that manner. I suppose free trade is direct taxation. We have many gentlemen in the Senate who openly profess it, who avow it, who consider that no cutting down of the extrava-

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agant expenditures of this Government will ever be realized until direct taxation is resorted to. It is with them, therefore, a desideratum. When this step was taken for free trade, in the right direction, as it was said, I suppose it was with a view to direct taxation, because that must be its ultimate effect. If it has had an effect in that way, own it; acknowledge it; do not shrink from it; do not temporize about it; do not hesitate and falter about it. You have made this tariff with a view to free trade, as a step in that direction; you need money; you have depleted your Treasury; money will not come in under that system; that tariff will not produce the money you need; you say it will not. What then? I solicit gentlemen who entertain this, to them, very desirable object of resolving the support of this Government from revenue duties to direct taxation, to give me a moment's attention, while I ask of them to begin that now—begin it now when it is needed. If we are to have direct taxation, is it desirable that the people shall go on temporizing in this way, and making large permanent national debts, and gradually shaving down the tariff of duties until it really produces you little or nothing at all, and then to drive the people over to direct taxation to meet all the national debt at one time with your whole expenses at once? Can there not be a little prudence in this matter? If you have made this long step towards direct taxation—or free trade, which means the same thing—will not gentlemen produce us a corresponding provision in the form of a direct tax to meet this want? Bring us in a bill for it. Do not wait until we have direct taxation for everything, but let us meet it gradually; and if we are to have this great change in our system, let it be introduced in such a manner as shall not produce any violent revulsion; but shave down your revenue as was done a year ago, and when it does not produce as much as you want, do not hesitate, do not palter, do not borrow. You took the step which you did for free trade—then own up to direct taxation; bring in your bill for as much as is needed, and if you want to reduce the tariff more, do so, and make your direct tax larger, and so on; let the system be introduced gradually, as the people can endure it. I dislike this paltering and hesitating. Strip it of its disguise; present it in its true aspect; let the people understand it as it is; own up, and provide for it; and if there is a great advantage in the change of system, make that change in a safe and prudent manner.

It is said by the Secretary of the Treasury that the commercial revulsion will soon pass off, and we shall very speedily have a revival of trade, so that we shall not probably need all of the \$15,000,000 now asked. Now, sir, any man at all acquainted with the ordinary business of the country must know that that cannot be so. If next week there were a revival of trade, and so much elasticity in the business of the country that importers might conclude to order importations to any considerable amount, that would not in the least relieve the Treasury—I mean for the present. Why have your \$20,000,000 of Treasury notes been taken at three and a half, four, and four and a half per cent. interest? Because the people had no employment for their money, and they had better have that than nothing. Now, the moment trade revives all this money will be wanted; the importers, the merchants, all the men engaged in trade, will be ready to take it at six, or seven, or eight per cent. What will be the effect of that? All your duties will be paid in Treasury notes, and you will get no money into the Treasury with which to meet the expenses of the country. The Treasury notes will come in in payment of duties, if there should be any importations; and thus the revival of trade will not help the Treasury, until the Treasury notes are drawn in; and then probably they will be reissued, and come back again in the same way. I say then, no revival of trade can have any immediate effect upon the Treasury, or furnish it with any relief at all, until the whole amount of the Treasury notes has been brought in and redeemed.

But, sir, there is no revival of trade that can produce the needed revenue for the expenses of the country under the present tariff. I do not believe the revival will be very rapid at any rate, but that is a matter of opinion; and, on this point, I

profess no more sagacity than other men. I say, however, there is no revival which can furnish the needed revenue to your Treasury, according to the present expenses of the Government, under the existing tariff. Nor is it true that those gentlemen who were the authors of it, and who engineered the measure through, expected it to be so. They never did expect it to be so, nor did they disguise it. They told us—and we are to bear that in mind—that they made it for the purpose of being a step to free trade; that is, they made it as a step finally to direct taxation. They professed that; and they should not attempt now, in the least, to disguise it. If it should produce, even under a revival of trade, enough revenue for the support of the Government, it would certainly disappoint their expectations. I venture to say, though I may be wrong in it, that the honorable chairman of the Committee on Finance will not stand in his place here now, and assert that this tariff will furnish enough revenue. If he believed that, he would not have been for it, because then it would not have been a step towards free trade, and his profession would have been hollow, insincere, and hypocritical, for that is what he professed at he time. Then, what are we about? We have certainly got rid of the surplus revenue. Contingencies happening that were not altogether anticipated, and increasing, if you please, the effect of the tariff recently formed, have caused an entire depletion of the revenue, at any rate. What next? We want some revenue hereafter. Well, was it ever expected that it would be produced from the present tariff, even in the ordinary course of business? If it was, it was not a step towards free trade. Then that one great object professed was insincere or untrue.

Now, in the first place, there will be no such revival of trade. The condition of the world does not require it. The revival will be exceedingly slow, and I trust wholesome. There will be no galvanized process; it will not go by spasms; a gradual confidence must grow up to create business.

Again, according to the scale of duties fixed by the present tariff, if you take the highest amount of goods ever imported into this country, it is utterly impossible that it can yield the revenue the country needs; and if we go on borrowing and temporizing with a view to any such ultimate expectation, we shall deceive ourselves and the community. If we are to go to direct taxation, let us begin by a bill for that purpose now, rather than borrow largely, and finally resort to heavy direct taxation at once to pay the loans and pay the expenses of the Government besides. If we do not mean to have such results as these, the tariff should be revised and carefully considered so as to frame one which will produce a revenue equal to the wants of the country. I should deprecate, as much as I did a year ago, that any man or set of men should undertake to do that between now and the 7th of June. It cannot be done. Human foresight is not of that kind that could by possibility, with safety, make any such provision in that period of time. It was done in a few hours here a year ago—with how much safety experience has developed much more fully than I was then able to anticipate; but satisfied I was that no such tariff, made in the manner that was made, could with any degree of safety be relied upon. I am happy to recollect that I voted entirely against it, although there were but few who united with me. I had no confidence in it. Experience has shown that my anticipations were well founded. I do not deny that the revulsion has entered largely into the occasion of the difficulty, and I do not profess to say that I foresaw that any more than others; but I did say that that bill could not, in my opinion, produce revenue enough for the support of this Government, and I did not think any man, from any consideration given to it here, was authorized to say that he could believe any such thing; nor could I find any man who did believe it. No man on this floor professed to believe that that tariff would yield revenue sufficient to support the Government. It was supposed it would deplete the Treasury, and that result has happened; but it has happened under such circumstances, that I think no man can be well indorsed by it in the opinion he then expressed as to its producing even that result.

I have no desire to take up further time. I merely say that when gentlemen declared that they took this step with a view to free trade, and of course to direct taxation, I am unwilling, when it produces its effect on the revenue, to have them say they will not meet it by a bill for direct taxation, but will go on temporizing and borrowing. If men look to this purpose, I am unwilling that they should lay it to a revulsion for the time being. I am unwilling that it should be understood by the public at large, or anywhere believed, so far as I am concerned, that I suppose a revenue, can ever be raised out of this tariff to meet the exigencies of our Government. I do not believe it. If we do not mean to land at direct taxation, we should take our departure from it now, and select proper men in due time to consider and revise the tariff, and shape it according to the exigencies of the country.

Mr. HUNTER. I do not know why it is that the Senator from Vermont charges us with a design of producing a necessity for direct taxation. He may think that that is to be the result of our measures; that may be his judgment on our course.

Mr. COLLAMER. I wish to remind the chairman, that many gentlemen who are acting in that way profess to desire that result. I view free trade and direct taxation as identical; and the Senator said he was for that bill because it was a step to free trade.

Mr. HUNTER. I certainly said I was for the bill because it was a step towards free trade; but I have always disclaimed any wish or any purpose to confine this Government to direct taxation. On the contrary, I expressed then, as I do now, the opinion that the revenue of this country should be derived from customs imposed with a view to revenue, and not to protection. I think that is the view which is entertained by a large majority of both parties. I know there are persons who do profess to desire a system of direct taxation; but I apprehend they will be found to be exceptions in any party. At any rate, I deny that it is proper to impute to me a motive which I disclaim entirely. As I said before, the Senator, if he chooses, may argue that the measures which I advocate would lead to that result. I differ with him in opinion—that is all. He says it is not possible that this tariff can give revenue enough. The same predictions were uttered in regard to the tariff of 1846, which soon filled the Treasury to overflowing; but I say—and at least I am to be credited for sincerity in that, though I may be mistaken in it—I believe that after the revival of trade, (and without it no tariff that has ever been laid would give us much revenue,) the revenue under the present tariff will increase until it will be adequate for any of the just purposes of this Government.

Does the Senator from Vermont say that a system of revenue which will give us sixty or sixty-five million dollars will not be sufficient? Does he not think it fair to infer that as we progress, it will be but a short time before this will give us enough? Four or five years of prosperity will give us a revenue of sixty or sixty-five million dollars from this very tariff, and will he say that is not enough, in addition to the public lands. It is a difference of opinion. It will be for experience to show which is right in regard to the probable results of this measure.

Now, sir, to charge the revulsion under which this country has suffered to the passage of the tariff of 1857—

Mr. COLLAMER. I did not do it.

Mr. HUNTER. Then, what did the Senator mean by saying that experience had shown that the passage of this tariff was to produce the mischievous results which he prophesied? How has experience shown it?

Mr. COLLAMER. The gentleman listened to one point of my remarks, and was busy talking to other gentlemen during the other part. If he had listened to all together, he would have understood me.

Mr. HUNTER. I think I did not misunderstand the gentleman in regard to the assertion that the mischiefs that were to result from this tariff he had predicted; and that experience had shown the correctness of his predictions. I contend that we are not justified in saying anything, so far as experience is concerned, in regard to the effects

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of this tariff, because this revulsion, which would have occurred whether we had passed it or not, and which did occur within a few weeks after it went into operation, would have produced a general prostration of the business interests of the country, no matter what had been the revenue system. We are not able, as yet, to speak from experience, further than this: that we find that, even in this year of revulsion, we shall probably get some forty or forty-one million dollars from this system of revenue; and if we have gotten that even in this year, with the small imports, and if we find that that rate of duty, if applied to the imports of the last fiscal year, would have given us some fifty-one million dollars, I ask, are we not justified in the assumption that if there should be a revival of trade, we may expect \$52,000,000 in the next fiscal year; and if we can expect \$52,000,000 in the next fiscal year, I have shown how, with the loan that is proposed, we shall be able to meet the present exigency, even under the heavy expenditures that have been estimated for. I say, after that, it will be necessary to diminish the expenditures, and we ought to do it; and if we do diminish the expenditures, the revenue which this tariff will yield, together with what will be afforded by the public lands, will probably be ample for any just system of public expenditure. Why, sir, if we do not, of course we shall have to resort to loans. There might be a system of expenditure that no taxation we could resort to would ever meet. We can only impose a revenue system with a view to what are the just wants of the country and the Government; and I say, with a view to those wants, we are justified in the opinion that the tariff of 1857, in addition to the public lands, will probably give us enough. We are certainly justified in the expectation that it will annually increase in amount, because we find from experience, we find from the experience of the tariff of 1846, that the annual increase of exportations and importations was something like ten per cent. a year giving a consequent increase of revenue. If we suppose anything like that is to happen in the future in regard to the amount which would be raised in an ordinary tariff, by the tariff of 1857, on importations, we see the time will soon come when even this tariff will give us an adequate revenue.

Sir, I have heard no man here declare or advocate the opinion that this Government ought to be supported by a system of direct taxation. When the day comes that any party shall commit themselves to that doctrine, they will do so; but until they do it, they are not fairly to be charged with entertaining it, because they submit a system of revenue upon arguments and upon experience which they think show that it will be amply sufficient for all the just wants of the Government. They may be mistaken in this; they may be mistaken in their facts; their inference may be unjust—all that is a fair subject of argument; but that they intend any such thing as is charged upon them, I utterly deny, so far as I am acquainted with their purposes and objects.

Mr. HAYNE. Mr. President, one word to my distinguished friend from Vermont; and I think I know him so well that I may feel certain, if his private revenue had been cut down this year to such a point that he would have been unable to sustain his family comfortably, he would not hesitate to do so upon his own credit; I am sure he would do it. Now, sir, I have clearly ascertained the fact in relation to the imports at Charleston, that, notwithstanding the crisis, we have imported and sold goods to the amount of only one third less than we did the previous prosperous year. I know many a friend who has been cut down in his private revenue one half, and I know that in July he will get his old full revenue. I cannot have a doubt but that the next year will give this Government a revenue which will place it in the position we desire. I feel perfectly satisfied that this will be the case; and surely, Senators, if it were not the case, you appreciate the high duties you have to perform; you have the credit of the country to sustain; and if it is necessary to borrow money in order to obtain funds for the legitimate purposes of the Government, you will do so rather than give away valuable property for no consideration.

In the present state of things, looking to the main
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rine of the world, would you, because you have not a full Treasury, think for a moment of reducing appropriations for war steamers; feeling, as you must all feel, and knowing, as you all know, much better than I do, that really it is the great question of this country. With such sea-ports as we have, with such a vast coast, and so many towns and cities, how is safety to be attained, how is the honorable condition of the country to be sustained unless you have a navy of proper size? It seems to me that we ought not to falter in our course with regard to the maintenance of a navy, because of a crisis which is less important than that of 1837. We are recovering from its effects daily, but we have been taught prudence, and people will not lend readily, except to the Government.

I must state one fact to the Senator from Massachusetts, who has mentioned the name of General Jackson, as one who was remarkable for economy. When that great man came into the Senate of the United States he was placed at the head of the Military Committee, and he reported a bill which embraced heavier expenditures than I have ever known reported in this House. This was done some time after the war, when our Treasury was bankrupt; but he had profited from experience; he knew that the credit of his country was good, and he desired to see the country properly defended. It is now hardly any better defended than it was at the commencement of that war; and under the circumstances, I should really be sorry to see any great opposition made to legitimate appropriations, on account of the crisis of which we have heard so much.

Mr. WILSON. I ask for the yeas and nays on my motion to strike out the fifth section of the bill.

The yeas and nays were ordered.

Mr. BIGLER. Before voting on the proposition of the Senator from Massachusetts, I desire to suggest an amendment to a different part of the bill, which may affect the question of the clerkships. The second section provides for the issuing of the stock. The second proviso of the second section reads as follows:

"And provided also, That whenever required, the Secretary of the Treasury may cause coupons of semi-annual interest payable thereon to be attached to certificates issued under this act."

Required by whom and required when? By the parties making the loan at the time of issuing the loan, or at any subsequent period? The language is indefinite, and I propose to strike it out entirely. I am in favor of making this loan a coupon loan. Loans of this character are no longer an experiment; they can be made with entire safety; they are preferred to any other character of loan; they have great convenience over a loan transferable only on the books of the Department; and I shall propose at the proper time to strike out that proviso and insert at the end of the third line of the second section, after the word "semi-annually," the words, "with coupons for the semi-annual interest attached to the certificates of stock thus created," so as to read:

"Stock shall be issued for the amount so borrowed, bearing interest not exceeding six per centum per annum, payable semi-annually, with coupons for the semi-annual interest attached to the certificates of stock thus created."

The effect of the amendments I suggest will be to dispense with a great deal of labor in the Register's department. A bond, with coupons attached, is transferable from hand to hand. A loan, transferable only on the books, is accompanied with a great deal of labor in the Department. Now, if we are to have a coupon loan, I am not willing to allow that to be a question with those who make the loan, but let it be decided by Congress. Then we shall have the benefit of this species of loan, which is always preferred to a loan transferable on the books. If the notice be for a loan with coupons attached, it will be more valuable in the market; and we may as well decide that fact as leave it to the option of those who may propose for the loan. By the amendment I suggest, I think we could dispense with at least one of these clerkships, if not with both, because the amount of labor which will accompany a loan with coupons attached must be very small, whilst we can all understand that where it is necessary to transfer the loan upon the books the labor is very considerable. I cannot get my amendment

in now; but I suggest it for the purpose of having its influence upon the decision on the amendment proposed by the Senator from Massachusetts.

Mr. REID. I would ask the Senator whether the additional signatures on the coupon bonds would not cause as much labor as the transfer on the books, or even perhaps more?

Mr. SIMMONS. The Senator from North Carolina will understand that unless this amendment be made, the bonds are to be transferred at the Treasury, and the coupons, too, if anybody desires it, and that will make double labor.

Mr. COLLAMER. I would suggest, for the convenience, at least, of voting, that the Senator from Massachusetts withdraw his amendment until we try that of the Senator from Pennsylvania.

Mr. WILSON. If the Senator from Pennsylvania desires to make his motion now, I will withdraw my amendment for that purpose.

The PRESIDING OFFICER. (Mr. FOOT.) By unanimous consent, the yeas and nays having been ordered, the amendment may be withdrawn. The Chair hears no objection.

Mr. BIGLER. I ask the attention of the chairman of the Finance Committee to my proposition. I propose to strike out the second proviso to the second section, and to insert, at the end of the third line of that section, the words "with coupons for the semi-annual interest attached to the certificates of stock thus created." The loan will then be a coupon loan; the coupons will be attached to the certificates of stock. There will be no discretion vested in the Department or in those who propose to loan the money, on that point. The effect of my amendment will be to fix the loan as a coupon loan.

Mr. HUNTER. The difference between the bill and the provision of the Senator from Pennsylvania, if I understand it, is this: he proposes to require this to be a coupon loan, whether the bidder desires it or not; and the bill leaves it to the option of the bidder to say whether his bonds shall have coupons attached, or whether they shall be transferable on the books of the Department. It is true that, in general, the coupons are preferred, but it sometimes happens that the other form of loan is preferred. Persons who are acting in a fiduciary capacity, guardians and trustees, sometimes prefer the other form of bond, because the dangers and risks of loss are less than with the coupons. If you lose the coupon, you lose the interest. Perhaps it is quite as well to leave this matter as the Department desired to leave it, optional with the bidder to say whether he will take it as a coupon bond or not. I do not feel a great deal of interest in the amendment myself; I do not care a great deal what may be the form of the bond; but I rather incline to think it is better to leave the provision as it stands in the bill.

Mr. SEWARD. If these are all coupon bonds, the loan must be reimbursable at a fixed future day—five years, or ten years, or fifteen years—because you issue the coupons at the time of issuing the bonds; but the bill, as I understand, provides that the United States may reimburse the loan whenever they have the ability to do so. How can they reimburse it, if the transferable coupons are in everybody's hands?

Mr. HUNTER. The bill provides that it may be reimbursed at any time after fifteen years.

Mr. CAMERON. I think the amendment of my colleague is a very just one; and if that be adopted, I hope it will be followed by another, which I propose to offer. Coupon bonds, in the estimation of money-lenders, are always considered much more valuable than bonds without coupons. The objection made by the Senator from Virginia is not a good one. He says the coupons may be lost, and therefore persons who are trustees prefer the other form of loan. It is not so. The coupon is not more likely to be lost than the certificate or check of the Treasury transmitted through the mail. A coupon bond will be taken as readily in the market for five per cent. as another bond for six. The holder may save taxes by having coupon bonds. In many States loans are taxed. The State of Pennsylvania has a particular tax on her own debt, which is taken from the holder of the bond when the interest is paid. I remember that when my colleague was Governor of Pennsylvania, one of our loans was

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offered in the market as a coupon loan—the first experiment of the kind made in our State—and the loan was taken at rates varying from four to four and a half per cent., when our ordinary five per cent. bonds were selling for eighty cents on the dollar. I have no doubt that would be the case in regard to this loan; and if this amendment be adopted, I shall propose to reduce the rate of interest from six to five per cent. I am satisfied that at the present moment a five per cent. loan would be taken very readily, and at a premium. I believe that after awhile the prosperity of which we hear so much will come, but it will not come so soon as gentlemen imagine. When it shall come, the holders of these bonds will be willing to sell them. But for the present our country is full of money; men fear that they can get nothing for it; and they will be very glad to take a loan of the United States at five per cent. I shall vote for the amendment of my colleague, and then propose the one I have suggested.

Mr. POLK. I should like to ask the chairman of the committee a question for my own information; and that is; whether the necessity for additional clerks does not grow entirely out of the necessity of registering and transferring the bonds that may be issued?

Mr. CAMERON. I will reply to that question if the Senator from Missouri will permit me to do so. These coupons will be signed by the engraver. They require no labor in transferring; they require no signing except the name of the Secretary of the Treasury under the bond and immediately above the coupons. Each of the coupons will have its date fixed upon it, and the signature of the Secretary of the Treasury engraved. When the holder of a bond desires to get his interest at the end of a half year, he will inclose his coupon to the Secretary of the Treasury, and receive in turn a check. It is a very simple process.

Mr. POLK. Then, as I understand the Senator from Pennsylvania, if all the bonds issued should be coupon bonds, there would be no necessity for additional clerical force at all.

Mr. CAMERON. I think not.

Mr. HUNTER. In regard to that, I would say that I apprehend we shall not get rid of a necessity for clerical force by changing the character of the bond. I think it probable, though I am not familiar with the details of the books they have to keep, that this loan will create a necessity for a new set of accounts, a new set of books; and I imagine a clerk would be necessary, though I do not know with certainty.

Mr. POLK. While I am in favor of the loan, I certainly do not want it to operate an increase of governmental officers.

Mr. COLLAMER. I hope the Senator from Pennsylvania will include more words in his motion to strike out. As it was read by the Clerk, it would still leave remaining in the bill these words in lines nine and ten:

"Which certificates may be transferred on the books of the Treasury, under such regulations as may be established by the Secretary of the Treasury."

Now, if coupon bonds are to be issued, these words should be stricken out.

Mr. BIGLER. Yes, sir; I propose to strike out the entire proviso.

The amendment was agreed to.

Mr. WILSON. I now renew my motion to strike out the fifth section.

Mr. BIGLER. Before that question is taken I move to strike out "two" and insert "one." I think one clerk will be certainly necessary to open the books.

The PRESIDING OFFICER. That motion will be first in order. Will the Senator from Pennsylvania indicate where his amendment is to be?

Mr. BIGLER. It is to strike out the fifth and sixth lines of the section in the following words:

"And an additional clerk of the same class and salary in the office of the Treasurer of the United States."

Mr. HUNTER. In regard to these clerks, I am not familiar enough with the details to say what are to be the precise duties of each, but I know they are esteemed to be very necessary in the Department. I know that in the bill providing for a loan in 1848, additional clerks were given. These debts create additional and un-

sual business in the Department, which makes it necessary, I believe, to provide some additional clerical force. It is the only case this session where I have agreed to vote additional clerks.

Mr. IVERSON. I wish to ask the Senator from Virginia a question. These two clerks seem to be appointed for all time to come. What use for them will there be when the loan is exhausted?

Mr. HUNTER. If the Senator desires to limit it, he can fix some time. I presume their services will be required for more than a year. I cannot fix the precise time. He might, if he chose, hereafter watch a chance to cut down two clerks in this Department.

Mr. BIGLER's amendment to the fifth section was agreed to; there being, on a division—ayes 24, noes 16.

The PRESIDING OFFICER. The question now recurs on striking out the fifth section as modified.

Mr. WILSON called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 26, nays 20; as follows:

YEAS—Messrs. Bell, Benjamin, Broderick, Cameron, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Harlan, Iverson, Johnson of Tennessee, Kennedy, King, Polk, Fugh, Rice, Seward, Simmons, Trumbull, Wade, and Wilson—26.

NAYS—Messrs. Allen, Bigler, Bright, Clay, Clingman, Fitzpatrick, Gwin, Hammond, Hayne, Henderson, Houston, Hunter, Jones, Mason, Pearce, Reid, Sebastian, Stuart, Thomson of New Jersey, and Wright—20.

So the amendment was agreed to.

Mr. WILSON. I believe that \$2,000 will be ample to meet all the necessary expenses; but in order to be what I consider very liberal, I move to strike out "\$20,000" and insert "\$5,000" in the sixth section.

Mr. HUNTER. I hope the Senate will not reduce that amount. I believe the Secretary has estimated for no more than is necessary in order to carry out the law if it should be passed.

While up, I will state that I was mistaken when I told the Senate that, in the loan bill of 1848, there was a provision for two clerks. There was not; but there was a provision in regard to these contingent expenses, and here it is:

"And the said Secretary may pay such expenses as may be necessarily incurred in printing and issuing certificates of stock: *Provided, however,* That the employment of agents, and other expenses incident to this act, shall not in all exceed the sum of \$16,000; which sum of \$16,000 is hereby appropriated for these purposes, and shall be paid out of any money in the Treasury not otherwise appropriated: *And provided,* That no compensation shall be allowed to any officer whose salary is fixed by law, for any service performed by him in the execution of this act."

Mr. COLLAMER. How much was that loan?

Mr. HUNTER. Sixteen million dollars.

Mr. SIMMONS. I would ask if the same plates which were then used are not now on hand, and may not be used for striking off these bonds? Have we not plates engraved for striking off the bonds?

Mr. HUNTER. I believe not. I know they had to make new plates for the recent issue of Treasury notes. I presume there will be new plates for these bonds. I cannot speak with certainty.

Mr. COLLAMER. We have not had coupon bonds heretofore, and we must have new plates for these.

Mr. CAMERON. The sum of \$5,000 will be ample to meet all the expenses of engraving these bonds. The whole engraving of an ordinary bank, with a circulation of four or five hundred thousand dollars, and notes of different denominations, from five to one hundred dollars, will not cost more than one thousand dollars. Here is a proposition to issue bonds of \$1,000 each.

Mr. HUNTER. One hundred.

Mr. CAMERON. I hope to fix it at a \$1,000, but let it be \$100; and \$5,000 will still be enough. The old plates for the \$16,000,000 loan of 1848 would answer now just as well as before, and I take it, then, \$5,000 would be a large sum. I suppose that the \$16,000 was appropriated for the purpose of employing clerks. There is no appropriation distinctly for clerks there, but I have no doubt it was intended for a corps of clerks, agents, and all that sort of thing, so common about a Government like ours; and they will be employed if we suffer them. There is nothing so easy as to get a great many men about a job of the Government. As soon as the Secretary of the

Treasury gives notice that he wants this engraving done, you will have one hundred engravers here, every one anxious to do this work. If it is given out by contract, you will get competition, and the work will be done for a very small sum; and after the coupons shall have been engraved, there will be nothing more to do except that the Secretary of the Treasury will have to sign his name to the bonds. He might have some trouble in doing that. He might do like an old Governor of Pennsylvania, who, to get rid of the trouble of writing his name very often, had it engraved, and had a clerk to stamp it; but I take it Mr. Cobb will write his name with a good old quill.

Mr. COLLAMER. It is the Treasurer who signs the bonds—not the Secretary.

Mr. CAMERON. Then, if he is a subordinate, he will go to work and do it. Those in higher places generally put off the work; but I have no doubt the officer will sign his name, and the cost of the necessary engraving will be nothing like \$5,000.

Mr. SEWARD called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 27, nays 21; as follows:

YEAS—Messrs. Benjamin, Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Polk, Fugh, Rice, Seward, Simmons, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, and Wilson—27.

NAYS—Messrs. Allen, Bigler, Bright, Brown, Clay, Clingman, Fitzpatrick, Gwin, Hammond, Hayne, Henderson, Hunter, Iverson, Jones, Mason, Pearce, Reid, Sebastian, Stuart, Toombs, and Wright—21.

So the amendment was agreed to.

Mr. CAMERON. I now move that the rate of interest be reduced from six to five per cent. I feel confident that having adopted the plan of coupon bonds, you will be able to have the loan taken up from one half to one per cent. cheaper than it would be without coupons. I have no doubt, in the present condition of the money market, the loan will be taken at five per cent., or less.

The difference in the payment of interest between a five and a six per cent., in fifteen years, will be \$900,000. It may be said that the Government is not required by the bill to give six per cent., but I wish to press upon the minds of the Senate that the sum fixed in the law will be an indication to bidders as to what amount the Government expects to pay. Men coming here to bid for this loan will make such a bid as will enable them to get the highest fraction for it. If you fix the rate at six per cent., the fraction will approach six per cent. If you fix it at five, the fraction will approach five per cent. There is now plenty of money in the country seeking this sort of investment, because the business of the country is prostrated, there is no investment in which men can put their money, and you find the banks in New York, Philadelphia, and other cities of the Union, overflowing with specie. Men are glad to get any amount of interest rather than let their capital be unproductive. The other day, when the Democracy here issued the Treasury notes, the country banks of Pennsylvania came up and offered to take them for a sum less than four per cent.; and so they will gladly take this loan at less than five per cent.

Mr. HUNTER. As the bill now stands, it is left to the discretion of the Secretary of the Treasury, provided the interest does not exceed six per centum. It seems to me it is wise to leave that discretion to him, especially as there is a provision that the loan shall not be put out at less than par. Of course, he will put it out at the lowest interest which will enable him to get par for the stock. He will be interested in doing that for the sake of his own reputation. I do not think it would be safe to reduce the limit. Suppose that, after we adjourn, events were to occur which might make it impossible to get the loan for par at five per cent.; the provision, then, would be worthless to him. On the other hand, if he can get it at par for five per cent., we have every assurance that he will do so. His own reputation would induce him to do it.

Mr. MASON. I may have great confidence in the financial ability of the honorable Senator from Pennsylvania, but I think I am bound to have more confidence in the financial abilities (because of the aid that he can call around him) of the Secretary of the Treasury. Now, the bill does

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Fifteen Million Loan—Mr. Simmons.

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not say that he shall borrow the money at six per cent. The bill says he shall borrow it at a rate of interest not exceeding six per cent. Six per cent. is fixed as a maximum. The Senator from Pennsylvania says he can get the money at five per cent. I have no doubt he can. He can get it at four per cent. or three per cent. The difference is only whether he will obtain the loan at a premium or a discount, dependent on the rate of interest. Everybody knows that who knows anything about the affairs of the money world. The bill only fixes the maximum; and although the Senator may be right—and I do not mean to say that he is wrong—yet I think it will be safer for the interests of the country to let this matter be determined by the Secretary of the Treasury on the condition of the market when he goes into it.

Mr. CAMERON. I do not pretend to the great financial ability of the Senator from Virginia, [Mr. MASON,] who was once a president of a bank, as well as myself, [laughter,] and knows something about the matter; but I have no very great confidence in the financial abilities of the gentleman now at the head of the Treasury Department. I cannot have much confidence in the financial skill, ability, thrift, or knowledge of a man who would buy in his own debts at sixteen per cent. premium to-day and ask to borrow money in a month afterwards; and yet that has been the case in regard to that gentleman. I believe, also, that if the Senator from Virginia will recur to his own memory, he will be hardly able to find in the history of the borrowing of this country, when a loan was offered at six per cent., that it was taken for a sum as low as five per cent. I think he will find that the fractions always reach somewhere about the sum indicated in the law. I have no doubt at all, if you pass this bill as it is now, we shall get the money for six per cent.; and I believe that if you insert five in the place of six, you will get it for less than five per cent.

I pretend to no great ability in money matters; I have no money to lend, and do not pretend to be a capitalist; but I know this in regard to men of money, that they calculate very closely. They will come here, and there will be a combination amongst them, and they will come as close to the point as possible; the fraction will be a very small one. The only difference will be that by making this a six per cent. loan, you will enable some great capitalist, or some great friend of the Administration, to take the whole loan, and, after a while, sell it out for sums greatly above what he got it at, as was the case some years ago, in the administration of Mr. Polk. I think the Senator from Virginia will remember that there was then a great cry made about this town of the scarcity of money, and the difficulty of getting capitalists to invest in the loans of the United States. That cry was kept up until the loan was taken; there was a clamor made for a month or two; and all at once a great banker of this city became a millionaire from the proceeds of that loan, which was divided afterwards amongst I do not know how many persons, but, perhaps, hundreds of individuals. That is one of the schemes by which men get rich, and that is one of the sort of schemes always hatched about a Government like ours, expending from fifty to sixty million dollars, and now as much as \$85,000,000 a year. I believe our expenditures this year are to be \$89,000,000. That brings a set of hungry men about the Government, sharper than the Senator from Virginia would desire to be, and a great deal sharper than the Secretary of the Treasury, as an honorable man, can be. They come here and make their combinations and calculations, and get their loans apparently on terms favorable to the Government. Directly they divide the spoils among themselves, and then the parties separate. I hope five per cent. will be substituted for six per cent.

The amendment was agreed to; there being on a division—ayes 28, noes 14.

Mr. STUART. I move to strike out of the third line of the third section the word "two," and insert "one," so as to read—

In one of the public newspapers in the city of Washington.

We spend a great deal of money uselessly on Washington newspapers.

The amendment was rejected.

Mr. SIMMONS. I should like to ask the Sen-

ator from Virginia a question. I see he has placed the time of the loan five years longer than the Secretary of the Treasury recommended. I suppose it was on account of some considerable amount of public debts coming due in ten years from now; but I ask him if it would not be better to put it at eight years.

Mr. HUNTER. Certainly not, if we make a five per cent. loan. The time was extended by the committee. The Secretary recommended ten, and the committee recommended fifteen years, because the loan could be gotten off on better terms for a long time, and because in ten years from this period, the bulk of the present public debt falls due. We have in the meantime \$20,000,000 of Treasury notes, for which we shall have to provide in some way. If we want to pay off our debts in a short period, they will afford us the means of using as much spare treasure as we have, and rather more, I fear.

Mr. SIMMONS. We shall have to pay the Treasury-note debt in a year.

Mr. HUNTER. I apprehend that at the end of the year we shall have to provide for the Treasury notes or fund them. My estimate is that we shall have to add \$35,000,000—the \$20,000,000 of Treasury notes, and this \$15,000,000 loan.

Mr. SIMMONS. I do not exactly understand the Senator's arithmetic. One year we negotiate Treasury notes at from four to four and a half per cent., and they are the shortest loan we ever made, and at the lowest rate of interest. Now, the Senator seems to think that if we make a fifteen years' loan, we shall get the money at a lower rate. I think, myself, eight years is a great while for this loan. I have no idea of putting it at fifteen years, and making this actually a loan of \$30,000,000, instead of \$15,000,000. That is what it practically was as reported, because in fifteen years the interest, at six per cent., would almost equal the principal. The Secretary of the Treasury last October paid sixteen per cent. premium to redeem a six per cent. loan eight years ahead; and if you put out your bonds at fifteen years, you will have to pay an enormous premium to get them back again when you have money in the Treasury to enable you to redeem them.

Mr. HUNTER. I apprehend that if we put out a five per cent. loan we shall not have to pay a very large premium to get it back; but it is certain that if we put it out for fifteen years we shall be able to negotiate it on better terms than for one year. There is a difference between the Treasury note and the bond. The Treasury note is receivable for public dues. The bond is only receivable at the time it is payable.

Mr. SIMMONS. The Senator says the longer a loan has to run the better you can negotiate it. Well, sir; we have had to pay sixteen per cent. premium to redeem stock that had but eight years to run, last fall.

Mr. HUNTER. That was six per cent. stock.

Mr. SIMMONS. It had eight years to run, and we paid sixteen per cent. premium, two per cent. a year, bringing it down to four per cent. a year for the time it had to run. That was at a time when money was worth in the street two and a half per cent. a month, and now you can get it for three per cent. a year. I have no doubt this loan will be negotiated at par, at five per cent., with eight years to run. If, however, you put it off very long you will have your money in the Treasury lying without interest. I wanted to approximate as near the Secretary's proposition as I could. I have no doubt if we ever get under way with business we shall do it in eight years, and we ought to accumulate by that time \$15,000,000.

Mr. COLLAMER. I am sorry to differ with the honorable Senator from Rhode Island on this point. My belief is that it makes very little difference what rate of interest you put your loan at. I think it makes more difference about the time it is payable. If the money was ordered to be hired at two per cent., the money would be obtained; but, of course, such loan would be taken at a discount. At four per cent. the discount would be less; perhaps such a loan would be taken at par. At five per cent. it would be taken at par or a small premium; and at six per cent. it would be taken still more above par. These different rates, in my opinion, practically amount to very little. All the moneyed men are wiser in their genera-

tion than the children of light. They cast the interest to a hair's breadth; they know exactly what it is. We do not get any particular advantage by fixing the rate of interest; but if we offer a loan on a long time, there is a thing you can compute with mathematical certainty; you can go into the market with advantage. I think we shall be more likely to obtain an advance premium on a five per cent. loan for fifteen years than for eight years.

That, however, is not my great objection to this proposition of the Senator from Rhode Island. The loans of 1847–48 were twenty-year loans; and the balance of them will fall due in 1867–68. Now if we make this loan for as short a period of years, as now proposed, it will fall due directly before the great body of our debt now outstanding becomes due, and it is not desirable to have them crowd each other at that particular period. It is therefore desirable, if the time should be altered from fifteen years to put it at twenty years rather than any shorter period.

Mr. SIMMONS. I have not made any motion. I merely wished to call the attention of the Senator, from Virginia to this point. My own opinion is that this loan can be negotiated for either five or eight years at par.

The bill was reported to the Senate as amended.

Mr. PUGH. I ask for a separate vote on the amendment of the Senator from Pennsylvania, [Mr. BIGLER.]

The PRESIDING OFFICER. That amendment will be reserved for a separate vote. The question will be on concurring in all the amendments made as in Committee of the Whole, with that exception.

Mr. SIMMONS. I designed to move an amendment to this bill when the Senate should have perfected that portion of it relating to the hiring of money. I do not know whether I can do it after we concur in these amendments.

The PRESIDING OFFICER. The bill will then be open to further amendment.

The amendments made as in Committee of the Whole were concurred in, with the exception of the amendment offered by Mr. BIGLER.

Mr. PUGH. I ask that that amendment be read.

The Secretary read the amendment, which is, in section two, to strike out the proviso in these words:

"And provided, also, That, whenever required, the Secretary of the Treasury may cause coupons of semi-annual interest payable thereon to be attached to certificates issued under this act; and any certificate, with such coupons of interest attached, may be assigned and transferred by delivery of the same, instead of being transferred on the books of the Treasury."

In lines nine, ten, and eleven of the same, to strike out the words:

"Which certificates may be transferred on the books of the Treasury, under such regulations as may be established by the Secretary of the Treasury."

And at the end of line three, to insert:

With coupons for the semi-annual interest attached to the certificates of stock thus created.

So that the section will read:

Sec. 2. And be it further enacted, That stock shall be issued for the amount so borrowed, bearing interest not exceeding six per centum per annum, payable semi-annually, with coupons for the semi-annual interest attached to the certificate of stocks thus created. And the Secretary of the Treasury be, and hereby is, authorized, with the consent of the President, to cause certificates of stock to be prepared, which shall be signed by the Register, and sealed with the seal of the Treasury Department, for the amount so borrowed, in favor of the parties lending the same, or their assigns: Provided, That no certificate shall be issued for a less sum than \$100.

Mr. PUGH. Can I separate these amendments?

Mr. BIGLER. I did not move to strike out the words in the ninth and tenth lines—

"Which certificates may be transferred on the books of the Treasury, under such regulations as may be established by the Secretary of the Treasury."

The PRESIDING OFFICER. Those words were stricken out at the suggestion of the Senator from Vermont, [Mr. COLLAMER.]

Mr. PUGH. I ask the Chair whether it is possible to divide the amendment—whether we must take a vote on the whole of it? I am perfectly willing to have the second proviso stricken out. I think it will very much improve the bill; but I am utterly opposed to the other two parts.

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Fifteen Million Loan—Mr. Pugh.

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The PRESIDING OFFICER. The Chair thinks the amendment is divisible.

Mr. PUGH. I have no objection, then, to the first part of the Senator's amendment to strike out the proviso.

The PRESIDING OFFICER. Then the question will be on striking out the second proviso, as follows:

"And provided, also, That, whenever required, the Secretary of the Treasury may cause coupons of semi-annual interest payable thereon to be attached to certificates issued under this act; and any certificate with such coupons of interest attached may be assigned and transferred by delivery of the same, instead of being transferred on the books of the Treasury."

The amendment was concurred in.

Mr. PUGH. The rest of the amendment of the Senator from Pennsylvania will make this entirely a loan of bonds payable to bearer, with coupons attached, and the title to pass by delivery. I do not understand that we have ever made such a loan as that, and I do not believe any of the States have ever made such loans. It will do well enough for paper railroad corporations; but it seems to me that it amounts simply to \$15,000,000 more of Treasury notes; nothing else in the world. It is not a loan in the proper sense of the term; it becomes the mere paper circulation we had before. I hope the Senate will adhere to the proposition of the stock, as heretofore issued—that it shall be transferable on the books of the Treasury Department. Then we know who are the holders of our stock. I am opposed—I do not know that I shall convince anybody—to the issuing of bonds to bearer, with coupons attached; and I shall call for the yeas and nays on the amendment.

Mr. POLK. I do not understand that the amendment offered by the Senator from Pennsylvania makes either the bonds or the coupons payable to bearer, and therefore I think the amendment ought to be amended so as to make the coupons payable to bearer, and let the bonds be payable to the persons who take the loan.

Mr. HUNTER and others. The coupon is payable to bearer.

Mr. POLK. Gentlemen all around respond to me that the coupons are payable to bearer. I apprehend that the coupon is not payable to bearer, unless it be so expressed in the coupon itself. The coupon may as well be made payable to the person who takes the bid as to bearer; and if the bill does not provide that the coupons shall be payable to bearer, then a fair interpretation of the bill is, that the coupon is not payable to bearer, but payable to the person who makes the bid. I think, therefore, that, as the bill stands amended, after the adoption of the amendment of the Senator from Pennsylvania, neither the bonds nor the coupons are payable to bearer, and I think it ought to be amended so as to make the coupons payable to bearer, leaving the bonds payable to the person who takes the bid.

Mr. PUGH. I would say to the Senator from Missouri, that I think no coupon is necessary at all. If the certificates are transferable on the books of the Treasury, you know who to pay the interest to, and you simply have to go to the Treasury office here, or any of the sub-treasurers who are authorized to pay the interest, and you do not want a coupon at all. It is the whole system that I object to. I think it is nothing but \$15,000,000 more of Treasury notes. That is what it practically amounts to.

Mr. BIGLER. I do not see the difficulty suggested by the Senator from Missouri. It is perfectly well understood what is meant by the term coupon. A coupon is attached to the bond for an amount equal to the semi-annual interest. The coupons are uniformly payable to bearer. The proposition now pending simply involves the question whether the loan shall be an open loan, transferable on the books, or whether it shall be what is termed a coupon loan, that is, a certificate of stock with coupons attached, which coupons can be cut off as the interest falls due and remitted to the Treasurer and payment made. They are payable to the bearer, of course. You might as well say its date should be so and so, and that the coupons should be attached for fifteen years. I presume the Secretary of the Treasury will give the proper interpretation to the term, and understand what has been the uniform practice.

Now, sir, the question raised by the Senator from Ohio is simply whether this shall be a coupon loan or a loan transferable on the books of the Treasury. That is a fair question for consideration. I myself, years ago, interposed the very objection which the Senator suggests; but I must say that, having been overruled in that opinion, which I entertained in my own Legislature, and the practice of coupon loans having been tried by my own State, I am convinced that these coupons never become a medium of circulation. They cannot be such, because they are payable on time; and so soon as they entitle the holder to interest they are canceled. The very day they are due they are taken up. It is not, therefore, liable to the objection which the Senator from Ohio makes. The coupons do not become a circulating medium; and I will take this occasion to remark that I know from practical experience that there is a difference in the value in the judgment of capitalists. My colleague made an allusion to-day to an experiment made by own State at the time I had the honor of being its Governor. I think the premiums amounted to \$134,000, which were received by canceling the old loan, and issuing new certificates, with coupons attached. It is true, that was not to be attributed entirely to the improvement in the character of the loan; but I am satisfied that we realized a very large sum from the consideration of the convenience which capitalists attach to a coupon loan. I do not know that it would have the same effect here; but I believe that the bids will be more favorable for this loan than for a loan with the inconvenience of transferring it upon the books of the Treasury.

Mr. COLLAMER. I would suggest what are the practical inconveniences of certificates of stock transferable only at the Treasury. A man receives a certificate, and that certificate states that his interest is payable at one of the assistant treasuries at Boston, New York, Philadelphia, or New Orleans. Orders are given from the Treasury Department to these different places of what certificates they will pay interest upon. They send them every six months. Within one month before the pay-day comes on, the sub-treasurer receives a list informing him what certificates are payable at his office; and he pays the interest on no others. If a man has a certificate, he has it payable only at one place. If he has any occasion to remove, and wants to get his money at any place more convenient, he has to go to the Treasury, and have the place of payment transferred from one office to another. That is a great inconvenience.

The next inconvenience is this: he is required to go in person to the office to receive his money. He presents his certificate, and receives his pay there. Though it is true that the pay-office has a list of the certificates to pay interest upon, yet you always require the man to show his certificate, and show that he is the true holder, in order to make payment. The name of the holder is put down. He may obtain his pay at this pay-office by a power of attorney; but that power of attorney is required to be made in a form prepared and prescribed by the Department. I have had occasion personally to know that there is very great inconvenience in conforming to the requisitions, and furnishing a power of attorney in such form as will enable a man to get his money; and when he gets to the office, then comes the question of personal identity, whether he is the true man represented in the power of attorney; and he has to go out somewhere into the city and find an acquaintance, and bring him in to convince the sub-treasurer that he is the identical attorney mentioned in the power of attorney.

In short, such loans are replete with inconvenience. Whenever you wish to make a transfer anywhere, you must go to the Treasury Department. With all these practical inconveniences, it is no wonder that men view coupon certificates as altogether the most valuable; and I think both the honorable Senators from Pennsylvania are well borne out in saying that there is a good reason to believe you will obtain a better premium on a five per cent. loan by having coupon certificates, than if you have it transferable at the Treasury.

Mr. PUGH. The difficulty with stocks payable to bearer, with coupons attached, is that you

have no check on them; you can never tell whether there is an over-issue. They are resorts and shifts by which miserable, rotten corporations, with no genuine credit, and no real merits, have flooded the market within the last eight or ten years. I consider it beneath the character of the Government of the United States to resort to such shifts. There is no difficulty in the course I suggest. The man who will take your stock will take it in large quantities. As to the matter of transferring the title to the certificates, it is done in every State of the Union. Almost all the States, I believe, have a transfer office in the city of New York, where every bond is regularly entered, and the transfers made as desired. Nor is there any difficulty in the payment of the interest. The most of the interest received on bonds of the States is received by banking-houses in the city of New York by powers of attorney. There is no difficulty; we never had any with any of our loans; none of the States have ever had any. It is simply a question whether, after having issued \$20,000,000 of floating debt—Treasury notes—you are now reduced to that point that you have to resort to the shifts of insolvent corporations to try to get credit. If this Government cannot get \$15,000,000, as heretofore, on its own legitimate credit, let us get money by direct taxation. I am opposed to degrading the Government by resorting to the shifts which have been employed by rotten corporations with no legitimate credit.

Mr. CAMERON. I think the Senator from Ohio has made some mistake in regard to this matter. Why, sir, he says that the State of Ohio has never issued this species of stock; that her bonds have no coupons; they are registered in the offices; and yet I remember it was but the other day that the treasurer of the State of Ohio robbed that State of some hundreds of thousands of dollars.

Mr. PUGH. The transfer office was not kept at the treasury. That was a mistake. I always wanted it kept there.

Mr. CAMERON. The transfer office was kept somewhere where her Legislature, of which the gentleman was a member, perhaps directed it to be kept. She had a transfer office in the city of New York, and had a transfer office in the city of Columbus.

Mr. PUGH. The transfer books are in the city of New York. I know it, for I was one of the commissioners of the sinking fund for two years.

Mr. CAMERON. The books were under the charge of the gentleman for two years, and yet, with his financial wisdom, he could not prevent this robbery.

Mr. PUGH. It was after I went out of office.

Mr. CAMERON. It would not have been robbed if the gentleman was there, I know. You might just as well say that because in olden times the judges of our courts compelled the coroner and sheriff to walk before them with their maces in their hands, now every judge in Ohio should have that sort of a procession before him, or because in olden time every judge wore a cloak, you must keep that insignia of the olden time on every judge of Pennsylvania and Ohio. This is a mode not resorted to by broken-down corporations, but by States as respectable as any other States in the world. Perhaps one-half of the States of the Union have resorted to it. If it enables you to borrow money upon better terms, why not resort to it? You certainly keep a register of all these bonds at the Treasury Department, or ought to do it. The only difference is that the interest is paid without a transfer upon the books. The Senator from Vermont has most clearly explained that part of the process. It is unnecessary for me to do it. These bonds, payable in fifteen years, will have thirty coupons on them, dated at the end of every half year, beginning, say the 1st of January next. There will be a two and a half per cent. coupon, dated the 1st of January, 1859, for twenty-five dollars; at the end of the next six months there will be another one, and so on to the end of the fifteen years. When these periods come around, the holder of the bond cuts off his coupon, sends it to the Treasury, and gets a check, which the banks pay.

Mr. POLK. I move to amend the amendment by inserting after the word "coupon," the words "payable to bearer."

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Right of Suffrage—Mr. Kelly.

Ho. of Reps.

The PRESIDING OFFICER. There is no such question before the Senate. The question is on striking out these words in lines nine, ten, and eleven of the second section:

"Which certificates may be transferred on the books of the Treasury, under such regulations as may be established by the Secretary of the Treasury."

Mr. MASON. As the bill stands, it does not authorize these bonds to be issued as coupon bonds; but if any holder of the bonds afterwards asks it or requires it, then the Secretary may make them coupon bonds to that extent.

Mr. PUGH. That is stricken out.

Mr. MASON. But the object, as I understand, of the Senator from Pennsylvania, [Mr. BIGLER,] who moved the amendment, was to make it compulsory on the Secretary to make them coupon bonds. Now, what will the effect of that be? Coupons are modern inventions, originating, so far as I know, in Wall street, New York, for the purpose of money facilities in the negotiation of loans. I will tell you what the experience of Virginia has been. They have issued coupon bonds lately, under advice derived from that and kindred quarters, and the State has been obliged to pass a law giving authority to the holders of these coupons, at their request, to have them converted into registered bonds. Why? Because of the risks of accident in the transmission of the coupons and the transmission of the bonds. They are bonds necessarily payable to bearer, and the coupons are payable to bearer. Now, it may be convenient for mere money dealers to hold bonds of that kind, and to collect their interest in that sort of way, but it is inconvenient to others who make permanent investments to have their principal and their interest both subjected to the risk of loss by transmission, or loss by fire in their own houses. I think it not at all improbable, though I do not profess to be at all versed in finance, that to the extent that these bonds may be held in Europe, if they are coupons, it will stand in the way of that, because it will be necessary either to leave the bonds here in the hands of some agent to collect the interest at the end of every six months, or it will be necessary to incur the risks of transmission across the sea to have it collected.

But what object can there be in making it mandatory on the Secretary to give these securities that form, that may be acceptable in some quarters, objectionable in others, when the bill proposes to leave it discretionary with him? Sir, I distrust the money-dealers, the men whose whole occupation and pursuit in life is to deal in money, and nothing but money. I distrust their whole scheme and their whole plan. It is the purpose of the Secretary of the Treasury, as the officer of the Government, to do this business in such a way as will best inure to the interest of the Government; and I can see no reason for placing him in the power of men who are mere money-dealers, requiring him to issue coupons in such a way as will answer the ends of that invention. I can see no reason of policy or propriety in it.

Mr. PEARCE. I move that the Senate do now adjourn.

The motion was not agreed to.

The amendment made in Committee of the Whole was concurred in.

The PRESIDING OFFICER. There is still another portion of the amendment of the Committee of the Whole, which is to insert at the end of line three, section two—

With coupons for the semi-annual interest attached to the certificates of stock thus created.

The amendment was concurred in.

Mr. SIMMONS. I wish to propose an amendment to this bill that will require some explanation; and I should like to lay it over until to-morrow, as I am unwell.

Mr. DOOLITTLE. If the honorable Senator will give way, I will move that the Senate adjourn.

The motion was not agreed to.

Mr. SIMMONS. I will submit the amendment. It is to come after the fifth section. I believe some of the sections are stricken out, and they will have to be numbered again. I propose to add to the end of the bill, the sections which I send to the Chair.

Mr. TRUMBULL. It is manifest that that

amendment will give rise to a discussion which cannot be concluded to-night, and I propose that the amendment be printed, and that we then adjourn. I move to dispense with the reading of the amendment, and that it be printed; which I shall then follow with a motion to adjourn.

Mr. HUNTER. The amendment is printed. It is a bill introduced by the Senator from Rhode Island.

Mr. SIMMONS. It is very much altered from the original bill. It wants printing.

Mr. HUNTER. There will be a question of order to decide, and I think we may as well decide that to-night at any rate. ["No!" "No!"] This is a bill to increase the rates of duty.

Mr. SIMMONS. Not at all; not in the slightest degree. There is no rate of duty in it.

Mr. HUNTER. This bill proposes to assess the rate of duty, as I understand. If the Senator says it is not, I shall wait to hear him.

The PRESIDING OFFICER. The Senator from Illinois moves to dispense with the reading of the amendment, and that it be printed.

The motion was agreed to.

RIGHT OF SUFFRAGE.

SPEECH OF HON. JOHN KELLY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. KELLY said:

Mr. CHAIRMAN: When the bill to admit Minnesota was before the House for discussion, a few days since, I sought the floor for the purpose of presenting my reasons why it should be admitted as a State; and in my preliminary opening, I stated to the House that I intended to direct my remarks to that provision in the bill which gives to aliens who have declared their intentions to become citizens the right of suffrage, and to discuss the benefits accruing to the country from that provision of the bill; but being interrupted by gentlemen upon technical points of order, and ruled out of order by the Speaker on the ground that I was not confining my remarks to the merits of the bill, I had to succumb to the decision of the Chair. I could not, at that time, nor can I now, comprehend the force of the Speaker's reasoning on the occasion referred to. But, sir, I conceived it my duty to forego my convictions on the issue in dispute, and to seek another opportunity to give my views, not only on the bill itself, but on matters relative thereto, which were pertinent to that bill.

Mr. Chairman, at the early part of this session, it will be recollected that the honorable gentleman from Kentucky [Mr. MARSHALL] introduced a bill on the subject of our naturalization laws; and at a later period a resolution was submitted by the honorable member from Tennessee, [Mr. ZOLLICOFFER,] which passed this House, relating to foreign paupers and criminals. The bill from the Senate for the admission of Minnesota has encountered, and will encounter, much opposition on the part of certain gentlemen, because of what is known in its constitution as the clause giving to aliens the right of suffrage, under certain limitations. These three measures, although differing in their character and details, and I will also add, differing essentially in regard to their merits, have presented a topic which has been fruitful of discussion in this Hall and elsewhere, and on which I now propose to offer a few general remarks—I mean, sir, the expediency of making any fundamental change in our naturalization laws as they now exist on the statute-book. So far as this question affected the Minnesota bill, I will merely remark in passing, that I am too much of a State-rights man to violate the integrity of State sovereignty by going behind the constitution which the people of that Territory present to Congress, if I find it to be republican in its character, and in accordance with the simple requirements prescribed by the Constitution of the United States. It is for the people of Minnesota, or any other State of this Union, (in the legal mode of expressing its sovereign will,) to grant the rights of its elective franchise, or any other rights pertaining to its

sovereignty as an independent State, as it may deem most expedient and proper. That is a right which I, sir, would not violate by subjecting it to the caprice or tyranny of any foreign sovereignty, either State or Federal. If such a question should arise in the State of New York, as a citizen of that State I would express my opinion, and take a part in its decision; but I cannot, and never will I, sanction by any act or vote of mine, the power of Congress to erect a *Star-Chamber tribunal*, before which to arraign the independent sovereignties (which constitute us the great Republic of the earth) for the manner in which they may each choose, in its own view of what is best for its interests and prosperity, and according to law, to exercise its own inalienable and reserved prerogatives, especially as respects the qualifications of its own citizens.

Admit the principle to-day in regard to Minnesota, and our southern friends will soon improve the precedent by arraigning before the bar of this House the constitution of my own State, because it confers the right of voting on colored gentlemen, under a property qualification. The precedent will also be used in a similar way of usurped authority against Massachusetts and other free States that have special legislation on the subject, and it may be converted into an engine of oppression, caprice, or tyranny, in its application to the slave, as well as to the free States of this Confederacy. Entertaining these views in regard to the alien clause of the Minnesota constitution, I must confess that it was not without surprise as well as disappointment, that I listened to the speech of the gentleman from Virginia, [Mr. GARRETT,] He felt it to be a great hardship, that he and his colleague, who represented two hundred thousand constituents, should have less power in this body than the new State with her three Representatives, sent here by her hive of aliens and half-blood Indians. Sir, this slur upon Minnesota was unmerited, and comes with a very bad grace from the Representative of a State, that has carried its notions of State-rights as far, at least, as any other member of this Confederacy.

If the gentleman has a right to dictate to Minnesota the genealogical and probationary qualifications of her citizens, by a parity of reasoning I have a right to ask the gentleman how many negroes there are among his one hundred thousand constituents, and why their rights to be represented on this floor are paramount to those of the industrious, hard-toiling emigrant, or the civilized and resident half-blood, who is "to the manner born?" This objection wears a novel, and I must be permitted to say, a rather suspicious aspect coming from a Virginian statesman, and I trust that it is not ominous of "coming events" in that staunch stronghold of Democracy, the Accomack district. The fling at the aboriginal voter (the Indian half-breed) comes with a bad grace from the Representative of a State whose proudest families trace back their heraldry to the English emigrant, Rolfe, and measure their nobility by the proportion of the blood of *Pocahontas* that courses through their veins.

This alien clause in the Minnesota constitution is a two-edged sword, which the gentleman from Virginia ought to handle with care.

The gentleman from Ohio, [Mr. SHERMAN] also arrays himself in opposition to this bill, and while he disclaims for the Black Republican party a concurrence in his sentiments, he would wish us to consider that he speaks only for himself. This is a new plank in the Black Republican platform, and it is proper that the gentleman's party should receive a share, at least, of the benefits of its discovery. He is one of their recognized spokesmen and champions, and I wish it to be known in Indiana, in Michigan, in Illinois, and other western States, where citizenship and progress are synonymous terms, and the spirit of fanaticism is not permitted to obtain a foothold.

But is there not something significant in the very emphatic manner in which the gentleman from Ohio assured the House that, in his objections to the suffrage clause of the Minnesota constitution, he spoke only his own views, and not those of any other parties or persons? Who are the parties or persons for whom he made this special disclaimer? It was not for State-rights men, of any of the parties into which this House is

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divided, for they stand upon principles which are too firmly bedded in the Constitution to be shaken by every wind of doctrine that comes from the pestiferous region of fanaticism or expediency. We fear no traitors in the noble band of conservative patriots who belong to the State-rights school. They will not invade the sanctity of State sovereignty. It is not likely that the disclaimer was put forth on behalf of the self-styled Americans; because it would be needless, inasmuch as we know what their views are upon the subject of alien suffrage and Democratic suffrage, and even upon constitutions and laws when they stand in the way of modern Americanism. Besides, I have always given the gentleman from Ohio the credit of not being recognized as authority on subjects connected with the Know Nothing ritual. My great respect for the gentleman may have led me to do him more justice in that regard than he is in reality entitled to. Still, I think it is clear he did not make his disclaimer on behalf of the Know Nothing party. There is, therefore, no difficulty in pointing to those for whose especial benefit the declaration was made. The Black Republicans wish to kill the Minnesota bill, but they are, forsooth, the peculiar friends of the foreign-born citizen. Their leaders all profess this ardent affection for them when their rights are assailed, or their privileges are endangered—especially before elections. They are, therefore, in a dilemma; and the gentleman from Ohio throws himself into the breach as a martyr to Black Republican integrity.

Mr. GOOCH. Will the gentleman give way for a question?

Mr. KELLY. I will.

Mr. GOOCH. The gentleman proposes to have the doctrines of the gentleman from Ohio ingrafted upon the Republican platform. I would ask him if he intends to have the doctrines of the gentleman from Virginia [Mr. GARNETT] ingrafted upon the Democratic platform?

Mr. KELLY. No, sir; the gentleman from Virginia acknowledged here that he was speaking for himself.

Mr. GOOCH. Did not the gentleman from Ohio do the same thing?

Mr. KELLY. The action since taken by the Republican party in relation to that bill satisfies me perfectly that they did not want to admit Minnesota at all.

Mr. GOOCH. I would like to ask the gentleman by what rule it is that a gentleman of the Democratic party speaks purely for himself when he claims so to speak; whilst a member of the Republican party cannot speak purely for himself when claiming to do so?

Mr. KELLY. If the action of the Democratic party had been in consonance with the views expressed by the gentleman from Virginia, it would have been another thing; but the action of the Republican party was in consonance with the opinions expressed by the gentleman from Ohio.

Mr. PALMER. I would ask how the Republicans voted on the Minnesota bill? I think a majority of them voted for it.

Mr. KELLY. That is true; but after they were forced into that position, and not before. It is a very singular fact that when the final vote was taken upon the admission of Minnesota, a great number of gentlemen, who were prominent in their opposition in the preliminary stages, all of a sudden changed over. Now, what brought that about I am unable to say, unless it was that they were afraid to put their names on the record against it.

Their method of defeating the admission of Minnesota reminds me of the patriotic Quaker in the early settlement of the American colonies. His settlement was very much exposed to a band of fierce and hostile Indians, who frequently stole his property, and had killed one or two of his settlers. He had made up his mind to retaliate by exterminating his dangerous neighbors, but the ritual of his creed forbade the shedding of blood. He had a stout, active, serving man, whose assistance he invoked. He asked him what he would do if he had the savages in his power. "Why, cut the rascals' throats," was the answer. "Well, have thee a good knife," said the master, "and meet me at five in the morning." In the morning they met as appointed, and the Quaker thus addressed his man: "Thee will see wicked work to-day;

the settlers are going out against the Indians, and thee may accompany me, as we may have an opportunity of doing some good. Thee knows I cannot shed blood, nor could I ever be guilty of so great a crime; but as the savages might not recognize me as a man of peace, and might attack me, I will take my big club in my hand, and thee must keep right close to me all day." Off they went to the unsuspecting wigwags; and when the fight began the Quaker could be seen with his club brandishing about him right and left, and every Indian the master knocked down the man behind him dispatched by cutting his throat. This is the way in which the Black Republican party proposes to kill off the alien, and get rid of the bill to admit Minnesota. The gentleman from Ohio will merely club the alien voters, shove aside the citizen of foreign birth, and his friends will be at his back to cut the throat of Minnesota. Their former votes on the enabling act show this to be so. We can account for their present hostility to the admission of Minnesota on no other ground than hostility to it because of alien suffrage, and their unwillingness to abandon those Know Nothing patriots who cling to their cause with so much fidelity, and, I fear, at great sacrifice at home, during the contest which was just closed by the admission of Kansas.

If this is a new dogma in the Black Republican creed, the country should know it; the Democratic party should know it; and I am determined the adopted citizen shall know it; because they have resorted to every blandishment, every art, every inducement, to shake the unswerving loyalty of that class of our citizens; in which they have been, so far, signally unsuccessful, if we except a handful of their natural allies, the Red Republicans of our large cities.

Mr. BLISS. As my colleague [Mr. SHERMAN] is not now here, I would like to say for him that the alien-suffrage clause of the constitution formed not the chief ground of his opposition to it. It was only a minor objection with him; and, were that the only one, I think, though I know not, that he would have voted for the bill. The principal grounds of opposition, as he expressed in his speech, were the irregularities and violations of law in forming the constitution. I say that for him. For myself and the Republicans generally, so far as I know their views, I say that they had no opposition to the bill on that ground.

Mr. KELLY. I do not design to discuss that matter any further. There was certainly a desire evinced by many of the Black Republicans to defeat that bill when it was before the House. Whether it was because the alien suffrage clause was in the bill, I cannot say; but I am strongly inclined to the opinion that that was the cause of the opposition of some of them, at least. Now, the members of the Democratic party, with one or two exceptions, voted for the bill from the beginning to the end. You will recollect, sir, that when the enabling act was before the last Congress, many gentlemen on the other side of the House changed their votes, and voted against that bill, because it contained a clause permitting aliens to vote.

Mr. BLISS. Unnaturalized aliens.

Mr. KELLY. Allow me to say further, that I have never yet heard it asserted or maintained by any foreigner that he desired the right of suffrage, or any other privilege to which he was not entitled under the Constitution of the United States. The only reason why these new Territories give the right of suffrage to aliens is as an inducement to foreigners to go to those Territories, so that they may be filled up, and may grow rich by the development of their labor and settlement. Aliens have never memorialized nor petitioned Territorial Legislatures for the suffrage privilege; it is their own voluntary act, induced by reasons most beneficial to their future growth and prosperity.

Mr. PALMER. Mr. Chairman, it strikes me that the erroneous statements which my colleague has made have arisen from the fact that he intended to speak before the debate and vote were had on the admission of Minnesota. If he had listened to that debate, he would, in my judgment, have discovered that the great argument made against the alien clause in the constitution of Minnesota was made by the gentleman from Virginia, [Mr. SMITH,] a distinguished member of the

Democratic party; and when the vote was taken, he would have seen that a great majority of the Republican party voted for the admission of Minnesota, and many of those who did not do so placed their opposition to it on other grounds than the alien-suffrage clause.

Mr. MAYNARD. I would like, before the gentleman from New York [Mr. PALMER] takes his seat, to ask him a question for my own information, and the information of those with whom I am associated. I wish to ask the gentleman whether we are to understand that the Republican party—or, in common parlance, the Black Republican party—to which the gentleman belongs, is in favor of or opposed to extending the right of suffrage to unnaturalized aliens?

Mr. PALMER. I cannot speak for the Republican party, or, to use the gentleman's classic and elegant phrase, the Black Republican party.

Mr. MAYNARD. It is not my expression.

Mr. PALMER. It is not mine. I am not in the habit of using epithets, or calling names; but, sir, for the whole session I have sat here and listened to these epithets of opprobrium coming from gentlemen of the slave States, and I will hear them no longer without throwing them back again. Now, sir, in regard to the question. For myself, I do not agree to the doctrine that unnaturalized aliens should be entitled to the rights of suffrage in this country; and I do not understand that the Republican party accedes to that doctrine; but I do not undertake to speak for them.

Mr. KELLY. With these brief remarks on the question of alien suffrage in Minnesota, I will address myself to the main question presented by the proposition of the gentleman from Kentucky. Do the naturalization laws require amendment? The gentleman says they do; and proposes, among other things, to extend the term of probation from five to twenty-one years. This is a tangible proposition. It has body, substance, and age, to recommend it, even if it be devoid of liberality or merit; and yet, I think the gentleman deviates somewhat from his characteristic liberal spirit of justice in not adding a few years more, so as to make it exactly twenty-five. This would at least have the merit of being more just; for then no foreigner coming to our country would be compelled to bear arms in defense of the nation, or take part in its future wars. His citizenship would begin at the very period when the laws would exempt him from military service. This would be the legal effect of the extension proposed by those who think, with the friends of the gentleman from Kentucky, that the period of probation should run within a few years of a quarter of a century.

But, sir, may I be allowed to ask what is the object of such an extension? Is it to prevent future emigration to this country; and, as a consequence, to divert it to other lands? To some extent this object is already attained. I cut the following evidence of the fact from a late Massachusetts paper:

"A great number of Irish are now emigrating to California and Australia. One day last week there was quite an exciting scene at the eastern depot in Salem, Massachusetts, when several took their departure, and in some of the cases the parting of friends was very affecting. Some eight or ten recently left Newburyport for the gold regions, and a Lawrence paper says that hundreds and perhaps thousands of people are preparing to leave that city—those who have the means intending to go to California."

Or is it to create among us a large dissatisfied, discontented, and consequently dangerous class, to whom citizenship is almost absolutely and completely denied? Is it not to turn away from our shores the tide of emigration, and say, in so many words, to the stout hearts and strong hands that seek to throw off old Europe's thralldom,

"Stranger, return upon thy ocean path;
Here sweeps the flood of patriotic wrath?"

Shall we say, come as helots; but not as citizens? The question is soon answered. This country is not yet ready to reject the hardy and industrious emigrant. The policy of our fathers must still be our policy. The natural increase of our people does not augment our population rapidly enough to utilize our vast territory. Not only is the wide West calling upon the hardy sons of toil—men to break prairies, level the forest, work the mines of wealth yet hidden in that unexplored country; but Virginia, too, "the Old Dominion,"

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which two and a quarter centuries ago was offering its bounties to emigrants, now calls on the emigrant commissioners at New York to try and turn to its untilled fields a stream, at least, from the tide of foreign emigration.

Kentucky will next feel the want; and were we to-day, by our legislation, to adopt the gentleman's narrow, anti-American policy—were we to repel instead of encourage the sons of toil to come and settle among us, and thus dry up that source of national wealth and prosperity—language would fail to give utterance to the curses, loud and deep, that would be echoed along the borders of that gallant State, that has still within her so many enduring monuments of her early emigrant founders. I need not, sir, recur to the chivalrous daring and dauntless enterprise of the patriotic Celts, who stood side by side, and shoulder to shoulder, with the intrepid Boone, in the settlement of Kentucky, in 1746. The graceful pen of her own eloquent historian, Marshall, (the relative of the honorable gentleman on this floor of that name, from Kentucky,) enshrines in all the graces of style and diction, the memories of the McAfees, of Benjamin Logan, Simon Butler, and of McLeellan, and Hogan. These men, he tells us, were all pioneers of Kentucky, and were the first to explore the country beyond the Ohio. The same hardy race of backwoodsmen also sent out the first successful pioneers of population on the greater current of the Mississippi, to mark along its banks the sites of future settlements.

Referring to these gallant Celtic emigrants, Marshall says, (volume I, chapter 3:)

"For enterprise and daring courage, none transcended Major Hugh McGrady—a Harland, a McBride, and a Chaplain, deserve also to be mentioned."

This is the language of Kentucky's historian. Indeed, sir, I know of no prescription better calculated to allay the feverish apprehensions which disturb the honorable member from Kentucky, in regard to foreign immigration, than to carefully read and thoughtfully ponder the entire first volume of his relative's history. It is the best cure I could recommend for the modern Americanism of that gallant State.

A periodical which takes no part in politics, which is devoted to commerce, and to questions of political economy, (Hunt's Merchant's Magazine,) devotes a considerable share of its well-filled pages to the consideration of the value of immigration to the several States of this Union. In a late number, we read as follows:

"The adoption of any measure by the Government or people of the United States, which could in any way tend to prevent or divert the great tide of emigration, of labor and capital, from Europe to our shores, would only find its parallel, in its disastrous effects, with what we read of the expulsion of the Moors from Spain, and the Huguenots from France.

"In the year 1849, the whole number of foreigners arriving at the different ports of the United States was two hundred and ninety-six thousand. If we estimate the value of the labor, the skill, and the capital of each of these emigrants at only \$100, we have an augmentation of the national wealth, in a single year, of more than twenty-nine million dollars. When we reflect, however, that the great majority of these people are able-bodied men and women, accustomed to hard, persevering labor, many to skilled labor; that many also possess, in money or implements, varying amounts of capital, the estimated value of each to the country which we have given, will appear too inconsiderable. Estimating the value at \$500, (less than one half that of an able-bodied negro slave,) we have the enormous sum of \$148,000,000 added to the wealth of the United States in a single year; and it is thus that I have always accounted for the undisputed fact that, in cities of large population, property is tenfold more valuable than elsewhere."

Who would wish to send this mass of living wealth to some rival land, and prevent Minnesota, and like new States, from participating in its material benefits? or who would shut against it this great Republic—the hope of mankind, the center of human liberty in the world.

But we hear stump orators constantly declaiming about pauperism, poverty, and vice! What says the authority I have just quoted?

"Of the few who become a charge, or are consigned to prison for petty offenses, what is the expense, compared to the wealth which the mass of emigrants actually constitute?"

The State which I have the honor, in part, to represent receives more than half of the whole emigration; and is consequently more exposed to the evils here suggested. She levies a tax on each emigrant; and this money constitutes a fund, directed by commissioners, who apply it to

the relief of emigrants who have been less than five years in the country. By this prudent legislation of New York, no town or county is chargeable with the relief of an emigrant during that period. If there is pauperism among the emigrants within these five years, they themselves pay the expense of relieving it, and State officers dispense this extorted charity. What New York has done, other States may do, and thus prevent the spread of the pauperism which gentlemen so much dread. If other States find themselves burdened, let them use the remedy which they have in their own hands.

Of the extent of relief afforded by emigrants to their less fortunate companions by this process, some idea may be formed from the annual reports of the commissioners of emigration of the State of New York. In 1857, as appears by their last report, the commutation money received by them from emigrants amounted to \$369,289; besides having in their possession, in coin, \$6,740,436; being sixty-nine and a fraction dollars for each person arriving here, including men, women, and children. Nearly all of this commutation money was laid out in the support of the various institutions under the charge of the commissioners.

Prate not then of foreign pauperism. The State that bears it does so because it chooses to bear it. If it exists, she has a ready, simple, and efficacious remedy.

But it is alleged that this emigration brings to our shores many men of bad character, who soon fill our penitentiaries and prisons. Statistics are adduced, chiefly from large cities; but to these very statistics I appeal for a refutation of the charge. In New York, Boston, Cincinnati, and some other large cities, the foreign element is almost, if not fully, equal to the native population. And is it not natural to expect that, out of such large numbers of emigrants, that many of them should be excitable, when our laws offer no check to the sale of poisonous compounds vended as common beverages? These madden their victims; quarrels ensue; their humble condition in life gives them no right to indulgence, and they are therefore dragged off to the police office, and figure as criminals. But the real criminals—the assassins, the burglars, the counterfeits, the forgers, the unfaithful public officers—these are not found in any greater proportion among the foreign-born citizens than among our native countrymen.

Let immigration become more a subject of concern with State Legislatures; let them inpose upon it the proper guards and checks, and instead of keeping alive a spirit of illiberal hostility, and forming a pretext for anti-republican combinations, it will become a source of wealth, and an element of prosperity and progress. The people of Minnesota see the benefits to be derived from the hardy hands of the patriot emigrant who seeks a home in this land, partly to better his condition, but more to gratify his love for its institutions, and to raise his family of children to revere and defend its emblem of liberty with his and their hearts' blood, as has been proved on every battlefield in which our country has been engaged with her enemies.

Stop emigration, and you check the growth, prosperity, and the development of your country, and direct elsewhere that which would be so beneficial to you. England failed at Sebastopol, and in the Russian war was inferior to France. Why? Because the stalwart army that would have fought her battles had been driven from Ireland by oppression, and had, as free citizens of our own Republic, labored with an ardent zeal to elevate themselves, and to advance the country. "Cursed be the laws that deprived me of such subjects," said George II., as he saw the Irish brigade in the French service drive his best regiments before them. "Cursed be the laws that deprive me of such subjects," cries England, in her hour of trial. Nay; proud Albion stoops to send her emissaries to our land, to seek and to lure with gold the emigrants whom her tyranny had driven from her borders. And you, who would suspect the loyalty of adopted citizens, tell me, did the Irish-American, or patriotic German, or any other foreigner by birth, then hasten to put on the livery of England? Did one turn his back on his adopted country, to take back his old allegiance? Eng-

land, it is true, made some Red Republican converts—men who have neither religion nor patriotism—who were compelled to "leave their country for their country's good." Of these, I believe that a few were induced to join the British standard. Such people as these have a home nowhere.

Even now, when England is struggling to regain India, where she has had but a partial foothold, she looks once more to Ireland, and mournfully beholds her diminished population; but beyond the Atlantic she sees her expatriated subjects, prosperous themselves, and contributing to the prosperity of their new home. Deeply now does she regret that she had not turned the tide of emigration to India; that she had not offered such inducements of liberty and happiness, as would have enabled her to raise up three millions of European colonists, where she, until lately, had but Government officers, and slaves worked up to madness in their struggle for freedom. But it may be thought that there would be some political danger from an immigration as large as we have had. The cry is raised that our liberties are in danger, and Congress is called upon to see that they suffer no detriment. What has been the real extent of this immigration? According to the statistical returns, the total immigration from September 30, 1819, to December 31, 1855, was four million two hundred and twelve thousand six hundred and twenty-four, to which Bromwell's accurate work adds two hundred and fifty thousand for the thirty-six years preceding, making a total of four million five hundred thousand as the whole foreign immigration since the close of the revolutionary war. But this subject has been raised to the dignity of a question of national political economy, and has been thoroughly examined by the different national associations, whose annual meetings in various parts of the Union, are already productive of so much benefit to the real substantial interests of the country in its unexampled career of prosperity and progress.

At a recent session of the American Geographical and Statistical Society, held in New York, the section on "political statistics" examined and discussed this question in some of its bearings. The chairman (S. P. Dinsmore, Esq.) presented some information, in regard to immigration into this country, which won general attention. I give a few extracts from this paper pertinent to the point I am considering:

"It is interesting to compare the results of population in this country, as now exhibited in our census tables, with the results which would have been, had there been no foreign immigration.

"In 1790 the population of the United States, including whites and free colored persons, was 3,321,930. Now the careful calculation of the tables shows that the annual increase of population, by excess of births over deaths, is 1.38 per cent (138 in 10,000) in this country—the largest increase of any country in the world; the like increase in England and Wales being 1.25; (125 in 10,000); in France, .44; in Russia, .74; in Prussia, 1.17; in Holland, 1.23; in Belgium, .61; in Portugal, .73; in Saxony, 1.08.

"At this rate of increase of population, augmented by the excess of births over deaths alone, we find, availing ourselves of the elaborate tables of Louis Schade, Esq., that we should have had in this country, in 1850, 7,555,423 inhabitants, instead of 19,987,573—a difference of 12,432,150. So that, while in the increase of population in this country since 1790 the elements of excess of births over deaths have given but 4,323,493 of population, the increase by and through immigration has given over twelve millions—the proportion being one of national increase to three of increase through importation of population.

"If we may measure the value of inhabitants to a State by the worth of the monuments which industry leaves on the face of the earth, having meanwhile taken from the earth its daily food, we may reckon from these data that immigration has given to us three fourths of the farm improvements, three fourths of the cities and towns built, three fourths of the miles of railroad constructed, throughout the length and breadth of the land.

"And it will not be forgotten that the kind of population which immigration has brought us has been mainly of the proletary or productive class. It is the foreigners who have done the work. The natives, born on the soil, have considered themselves the class—*nati consumere fruges*—born to consume the fruits of the soil. Compute, for instance, the actual creating force of the New England and other native emigration to the West, and omit the consideration of its capacity in organizing labor, and I think we shall find that the average amount of real productive toil of each native-born western man, after deducting from his time what the exigencies of horse-raising, whisky-drinking, attending agricultural fairs, and speculating in town lots have required of him, his actual productive toil has not exceeded six hours in each week. But the foreign emigrant has had no such license granted to him. The necessities of his daily life have required an aggregate of fifty hours' labor per week, spent in adorning and enriching the earth, and in raising from its bosom the fruits to supply the consumption of the people.

"If we may compute the worth of each immigrant and

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descent of immigrants, on the valuation of slave labor—that is, counting Caucasian blood as worth as much as Ethiopian blood, and assuming the value of each woman and child at \$400, the aggregate cash value of immigration since 1790, and its fruits, will be found to be \$4,972,860,000, or nearly five thousand millions of dollars. Another fact which should not so long have escaped the attention and comment of commercial statisticians, is the enormous amount of coin which has been brought into this country by foreign emigrants."

A letter was here read from John A. Kennedy, Esq., superintendent at the Castle Garden emigrant depot, showing by a careful and systematic inquiry, extending over a period of seven-months, that the amount of money—

"Almost entirely in coin, brought on the average by each emigrant, man, woman, and child, landing at that port, is \$100. Taking the total number of emigrants who have arrived in this country at about three million, we may, without hesitation, set down \$200,000,000 as the amount in coin which they have brought to our shores. That amount is with us, hoarded, and in circulation among the people. If it were not trespassing on the domain of the society's 'section on finance,' observed the speaker, it would be curious to calculate of what amount of paper currency, so large a sum of specie might be made the basis, at the rate, for instance, observed in New England banks, of twenty dollars in bank notes to one dollar in coin. Fortunately, however, for the business of the country, annually aggravated and periodically exploded by undue issues of bank paper and bank credits, the greater part of this coin remains hoarded, or in circulation among the people who wisely prefer to trust themselves, rather than banks of issue. It was the steady flow of this money brought by foreign emigrants, as well as of money carried by native emigrants into the western States of the Union, at a rate perhaps of \$100,000 per day, which, in 1856, sustained the enormously inflated prices of everything in the West, when otherwise they must have fallen upon the fall of nearly one half in the price of breadstuffs, upon which alone the West relies to pay debts and buy manufactures."

While Europe is utterly unable to support and sustain the natural increase of her population; while wars, pestilence, and famine, together with emigration, seem necessary, in the order of Providence, to keep it within such limits as the productions of the earth will sustain, we are blessed with a vast territory which our natural increase of population cannot possibly occupy for centuries to come.

The new States which have been admitted into our system, have all been cleared, and, to a great extent, cultivated by our emigrant population, who, wending their course westward, literally cut a track through our illimitable forests, dig our canals, build up our railroads, and finally settle down on the farms which their industry has won, as free citizens of this great Republic.

This movement is appreciated in the proper quarter, and would be by every true-hearted American, were it not for the baneful influence of partisan bitterness. I cut from a well-known journal the following paragraph which will show the truth of this:

"EMIGRATION TO OUTAGAMIE COUNTY, WISCONSIN.—We take great pleasure in announcing that intelligence has been received from Holland that over one hundred families will embark for Little Chute and the adjacent country in a few weeks. There is abundance of good land in Centre, Freedom, Kaukauna and Buchanan, which can be purchased at from two to five dollars per acre, with a ready market almost at their doors. We welcome the Hollanders. They are a thrifty, industrious, and honest people, and make excellent citizens. There is room for thousands upon thousands in Wisconsin."—*Appleton Crescent*.

But not only as cultivators of the soil do they contribute to our national wealth, but in the building up of our great manufacturing establishments. I clip from the last number of Hunt's Magazine the following paragraph:

"In the Merchants' Magazine of March, 1854, (vol. 30, pp. 322-327,) we published an article entitled 'The Mineral and other Resources of the West—Perry County, Indiana,' by F. Y. Carlisle, Esq., of Indiana; in which a particular account was given of Perry county and of its largest town, Cannelton, and its condition and prospects as a manufacturing place. We are now informed by the Cannelton Gazette that a colony of Swiss and German emigrants have purchased a large tract of land adjoining Cannelton, and are building up a manufacturing city. They have now running one cotton mill at full speed, with a capital of \$300,000. The Gazette claims that this movement has the certain elements of success, and that the great cotton manufacturing district is to be on the coal fields of the lower Ohio."

It is true that in some cases the industrious German citizens retain their own language even for some generations after they have settled among us; but I have yet to learn that this class of citizens in Pennsylvania who still speak the tongue of their emigrant forefathers, are less patriotic than those around them who belie and disgrace their immediate ancestors, by joining in

the shouts of fanaticism and bigotry. They also publish newspapers in their own language, but though generally unintelligible to us, I venture to say, that no paper circulating among our German citizens advocates any treason or countenances doctrines hostile to our Government. They love this country, as their former rulers hate it. The despots of Germany, the worthy sons of sires who sold their subjects to make English soldiers during our revolutionary war, are already opponents of emigration. These rulers, that loathe the name of Republic, hire their agents to write fictitious letters from America, vilifying our institutions; and these letters are paraded through their official papers; but this they evidently would not be forced to do, could they but find in the German papers here similar tirades on the country and its Government. Where, then, the danger from the large body of emigrants in the country? They may be rendered dangerous by oppression and illegal tyranny, I admit, and it would be a proof of their unfitness for citizenship if they did not entertain a high enough opinion of liberty to peril everything for its preservation and enjoyment.

But the annals of our country furnish no instance of disturbance or rebellion against the constituted authorities on the part of such citizens. The whisky insurrection, Shay's rebellion; Burr's treason, Dorr's revolt, the native rebellion in 1844, and that but lately in Kansas, were not instigated by them. In none of these was the standard of revolt raised by the emigrant or adopted citizen. In none did they flock to it, or rally around it to overthrow the acknowledged authorities. Where, then, I ask, is the danger to our liberties, of which we hear so much? The foreign element is scattered and intermingled with the mass of the people, animated with the same feeling, buoyed up by the same hopes, dreading the same evils, assimilated to us in a manner to excite the wonder of all observing travelers. The danger only exists in the brains of prejudiced men. In the absence of all proof of its existence; of any, even the slightest, evidence on which to base a fear; we may deride it.

There is, gentlemen, no danger to fear from emigration, were it even to increase fourfold; but while there is a total absence of all proof of danger, of all possibility of injury from that source, I point to the unexampled prosperity and progress of the country, which has ever been more rapid as emigration increased; and political economists may hereafter show how a commercial crisis is almost certain to follow, if not immediately result from, a sudden falling in the tide of immigration. For seventy years our laws have welcomed the foreigner to our shores. For seventy years we have trusted the emigrant with the rights of freemen. Peace and plenty has reigned in our land, no abuse of the privilege has affected the Government; and yet gentlemen are alarmed. To use the quaint phrase of O'Connell, when referring to the many acts of the British Government in Ireland, "the danger is, that the immigrant is suspected of being suspicious."

The cause of the emigrant citizen has thus been eloquently defended by one of the proscribed class, a man acknowledged to have but few superiors in the country. He says:

"In point of loyalty to this country and its institutions, I shall not admit any inferiority of patriotism, in personal comparison with the truest patriots of the land. But how has it been? The programme of your institutions was exhibited in European soil. They came here, it is true, for their own interests, under the faith of what that programme implied. They breathe the atmosphere of the country, which is heaven's own gift, not yours. They slake their thirst at the streams or fountains that gush from your valleys and mountain sides. They sometimes commit faults, and even crimes, and in such cases the majesty of the law is thoroughly vindicated in their regard. They carry your palaces on their shoulders up to the very summit. They excavate the internal channels of commerce from lake to ocean? They pass capacious needles through the base of your mountains, and the steam engine supplies the thread. They sometimes faint by the wayside of human life, and then become, like others, more or less a burden on the public. They die; but before death they look forward to the privilege of having a grave, which will be a small curtailment of a territory that extends from the southern boundaries of Canada to the northern limits of Mexico, and from the Atlantic to the Pacific ocean. What more do they ask? True it is, they have liberty of conscience, and after certain preliminaries they are entitled to vote; but these were of your own appointment, proclaimed and boasted of over the world long before their arrival."

Do you repent of these appointments? Has the country become ashamed of its own magnanimous acts?

Thus far, I have considered immigration in itself. I have shown it to be a positive gain, and an advantage to the country; with no drawback sufficient to impair, to any considerable degree, the good it confers; that it is attended with no danger to our institutions; and that to divert it elsewhere will only be to build up a rival Power at our expense. But I am told that there is no hostility to immigration; that our naturalization laws, passed long since, should now be extended; that there is not now as great necessity for immigration as formerly, and that we should seasonably and gradually begin to make the inducement less. This sounds most reasonable, if any good reason could be shown for it; but will gentlemen tell me that the area of our domain is becoming too small for our present population, or that business, mechanically and commercially, is declining, or that the depressed state of our financial system is such as to terrify us in making too rapid strides until we can again see our way clear? This argument is too fragile and unsound to stand the test of inspection, or the foresight of the practical American. Extend the naturalization laws for twenty-one years! Better, sir, that you prevent immigration altogether, by enacting that foreigners shall not be citizens at all, than to impose such an insuperable barrier to the future condition of those who seek your shores to become, like yourselves, defenders of the country against the common enemy of free institutions. The adopted citizen has generally and wisely supported the Democratic party. I can conceive how a large number of the Black Republican party, and those particularly who represent the eastern States, are in favor of the extension of the naturalization laws.

Mr. GILMAN. I should like to ask the gentleman to what party he refers?

Mr. KELLY. I refer to the party to which the gentleman belongs; and I remind him that in the State of New Hampshire they have a restriction prohibiting foreign-born citizens from voting.

Mr. GILMAN. And I desire to remind the gentleman from New York, that when that very proposition was submitted to the people of Kansas it received its strongest support in the strongest Democratic town in the Territory.

Mr. KELLY. It would seem that the war upon the foreign population of our country proceeds upon the hypothesis, that citizenship and voting are synonymous terms, and that foreign voting and Democracy seem to be inseparably connected. Gentlemen forget that citizenship and the right of suffrage are not necessarily united. Women are citizens, but have no voice in our elections; not even in our municipal elections for officers who disburse the taxes which they have to pay. The minor is a citizen, but has no vote even for Federal officers in the several States.

By the Constitution of the United States, article one, section two, "the electors [of Representatives] in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

By section three, "Senators are to be chosen by the Legislature of each State." By section four, "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed by the Legislature thereof." By article two, section one, which treats of the election of President, it is enacted, "that each State shall appoint, in such manner as the Legislature may direct, a number of electors," &c. Hence it will be observed that the right of voting for Representative, Senator, and President, is not one inherent in citizenship, but one to be conferred by the Legislatures of the several States.

The Representatives from Indiana were chosen by voters with whom citizenship, under the Constitution of the United States, was not a necessary qualification; and, on the other hand, the member from Rhode Island saw many citizens—adopted citizens—excluded from voting for him by the laws of his State. This is not, therefore, the place to alter the elective franchise of the several States. The Federal Government gives citizenship, and gives it wisely, after five years' pro-

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bation. The several States have the sole right and power of deciding on the qualifications of electors of State and Federal officers. Congress cannot alter these qualifications; and were it to make citizenship depend upon an unreasonable residence of twenty-one years, it would only render it contemptible. Half of the States would at once, by law, make American citizenship no longer a necessary qualification for a voter; and the heretofore glorious privilege of being an American citizen, for which so many have crossed the ocean, would be but an empty name.

If, therefore, adopted citizens have in any State abused the right of voting, let that State see to it; let it, like New Hampshire, insist that the Senators and Representatives of its Legislature be of the Protestant religion; or, like Rhode Island, require adopted citizens to own a certain quantity of property; or, with some other States, require them to read and write, or add such new qualifications as they deem best suited to attain their object. Nearly all of the New England States allow the negro the right to vote, in defiance of the decision of the Supreme Court that they are not citizens. Each State may better the elective franchise as it will, either by property qualification, by religious tests, by prolonged residence, or by education; and as the power rests with them, so does the right.

But suppose that Congress extends the term of probation to ten, or twenty years, and that the States generally retain citizenship as a qualification for the exercise of the elective franchise: what will be the result? A danger greater than has ever yet met us is suddenly thrust upon the country. Then the immigrant who arrives, and seeks, by the influence of his genius, ability, skill, or honest toil, a home in the country of his adoption, is debarred from the rights of a freeman; he is *governed*, but not one of the sovereign people—a helot, not a citizen. The discontent will deepen and widen; a determined combination will arise, and plots and plans be formed, not only by these disfranchised emigrants, but by designing politicians, to effect a change in the Government and laws. The fact of the existence of a large body of men, discontented and dissatisfied, suffering from what they must deem a wrong and unjust distinction, will be taken advantage of by designing, unscrupulous, and ambitious men. One party after another will court and cajole them, and the elective franchise at last be accorded as a party bribe, and the suddenly-admitted voters become the arbiters of the elections. There would be but one hope of relief from these evils: and that is, the Japanese laws of non-intercourse with the rest of the world. Our decadence would date from that time, and in after ages some South American Republic would take the place of the North American Republic of the nineteenth century.

I hope, Mr. Chairman, that I have shown the gentleman from the Louisville district that his views on the naturalization of foreigners are wrong, and erroneously conceived; and also the representative from Tennessee, that his preconceived notions of paupers and their emigration to this country are not so well founded as he supposed, or so inimical to the prosperity and future progress of the nation; and last, though not least, the gentleman from Virginia, whose conceptions would be enlarged, I think, by a visit to parts other than the Accomac district.

The gentleman's individual argument, together with that of his colleague, [Mr. SMITH], is no indication that Virginia will ever stoop so low as to countenance or approve the unholy and unconstitutional war upon adopted citizens and their guaranteed rights, which has so often deluged our cities in blood, and has brought so much disgrace and dishonor upon the nation. Nobly did she stand forth before the nation and the world when this war was at its fiercest height, and threw herself between the enemies of the Constitution and the South. She fought the battle bravely; but she fought it in the name and in behalf of the South. She drove back the restless hordes of innovators, who would indoctrinate her people in the pestiferous principles of northern fanaticism, and would lay sacrilegious hands upon the enduring monuments of ancestral glory which the McDowells, the Breckinridges, the McDuffies, the

McGruders, and other names not unknown to fame, have scattered along the base of the Blue Ridge.

The gentleman from the district immediately adjoining the seat of Government, may unite with his colleague from Accomac, and join the crusade against the foreign-born citizen. In this he yields, perhaps, to the necessities of his border locality, and it may be to his contiguity to the commercial metropolis of a neighboring State. But he does not speak the sentiment of the gallant old State of Virginia. He does injustice to the overwhelming majorities that carried the present distinguished Governor of that State into the first office in the Commonwealth. He may speak the sentiments of his district, or, perhaps, rather of its antiquated metropolis, but it is not the voice or the sentiment of the State of Virginia. I think I am warranted in making the assertion, by the result of the last gubernatorial election in that State, and also in indulging the hope that the future of Virginia will not belie her glorious past.

Sir, this very fidelity, not only of Virginia, but of the entire South, to principle, when she had everything to gain and nothing to lose, (for foreign emigration generally seeks a northern or western resting place,) is one of the brightest jewels in her diadem of proud supremacy. I therefore cling to her with a devotion almost equal to that of her own sons; and while she has made so many sacrifices for the Constitution and equal liberty, craven must be the northern heart, that draws its political life-blood from the national Democracy, that would abandon or desert her when the same spirit of fanaticism and bigotry assails either her rights or her honor.

Mr. MARSHALL, of Kentucky. As I entered the Hall, the gentleman from New York was entertaining the committee by a reference to the early history of Kentucky, as written by my ancestor of my own name, and was recommending its repudiation to me to correct me in what he is pleased to term my antagonism to immigration. The gentleman claimed that the early and distinguished pioneers of our Kentucky civilization and settlement were Celts, or of Celtic origin; and he named our Harrods, and Harlans, and McAfees, McBrides, and Logans, as falling within the class to which he referred. Never was a gentleman more mistaken. Of all these men, so justly celebrated on the historic page, none were Irishmen, and only one, so far as I know from history or tradition, was of Irish origin. Finley was our first pioneer; Daniel Boone our second, in 1769. He was born in Maryland—where his ancestors had lived and died—moved thence, first to Virginia, then to North Carolina, whence he emigrated to Kentucky. Of James Harrod's nativity nothing is known. The McAfees were Virginians, from what is now Botetourt county. Ben Logan was the only man of all these who was of Irish descent, and he was not an Irishman.

Mr. KELLY. Who were his parents?

Mr. MARSHALL, of Kentucky. They were Irish persons who had at an early age emigrated to Pennsylvania before the war of the Revolution, when all were British subjects. They were married before the Revolution, and moved to Virginia, where Ben Logan was born. He served two campaigns before the American Revolution, and had retired as a soldier, and was married, and lived where Abingdon now stands, before his emigration to Kentucky, which took place in 1775. If the gentleman in his avarice for Celtic reputation claims him as an Irishman, he might as well claim me, for my maternal grandfather was an Irishman, who was also among the early settlers of Kentucky. If he claims the McAfees and McBrides, merely because they have *Mc* to their names, the claim of the Irishmen may take in the title to almost our entire people.

I have read the history of Kentucky carefully, and I have no recollection of a single one among all her early celebrated characters who was of foreign birth. They were born in the colonies, and had learned those lessons of personal independence which led our forefathers to win the civil liberty we now enjoy, and I fear shall be so negligent of as sadly to abuse. I return to the gentleman the advice he proffered to me, to read again the history of Kentucky.

Mr. KELLY. The gentleman has said his

grandfather was an Irishman. I am glad to hear it. I have no doubt that the gentleman may attribute the solidity of his system to that fact.

Mr. MARSHALL, of Kentucky. I should think it very possible that it may have come from the other side. My grandfather, on the other side, was a Virginian. My whole stock on both sides runs back to the Revolution.

Mr. KELLY. The question, then, is only a question of time. I do not restrict the Celtic element in this country within such narrow limits. I am willing to concede that the names I have cited may have been planted originally either in Maryland or Virginia before they appeared in the vanguard of Kentucky civilization; but they were Celts for all that; and they have left behind them the unmistakable and indestructible marks of Celtic bravery and true courage. But, sir, these are incidents, not the substance of this controversy. I only desired to point to the ungrateful spirit of *Americanism*, which would ignore its own blood, and tear down the monuments of our colonial or revolutionary glory, because they perpetuate the names as well as the deeds of our Celtic forefathers. I care not if you trace them to the very moment they first set foot on these shores: you cannot go behind that, unless you claim for them an aboriginal lineage. Where you stop I shall begin; and be assured, in tracing back the current of blood to its parent fountain, I shall need no better compass to guide my steps to the Celtic source than that which the McBrides and McAfees supply. The ear-mark is there; it needs no historian to fix its origin.

But, sir, may we not hope that a better day is beginning to dawn upon our country? We have had enough, and more than enough, of this rancorous spirit of partisan warfare. It is time we should forget those feuds that would separate brother from brother and friend from friend, and meet once again on the common platform of true, constitutional, American nationality. When our liberties are menaced, and the foe man dares to invade our soil, we stop not to ask the birth-place of our ancestors, or the period of our own or our fathers' emigration. Are we true and loyal to the Constitution of our country, and ready to peril our life in its defense? That was the revolutionary standard of citizenship; let it, in the name of God and of liberty, be ours also. Our adopted citizens have, in no instance, proved themselves unworthy this standard, and they are not likely to degenerate in future time. The German and the Irishman of to-day are no less patriotic and ardent in the cause of human freedom than the German and the Irishman of the Revolution. We may, perhaps, sooner than we imagine, need the bravery of all our sons. A wily enemy is lurking about our borders. Her emissaries and agents are marauding about the waters of our southern States, and already our flag has been insulted and our citizens maltreated by these arrogant intermeddlers. We may need the union of all true hearts and bold hands. Let us not palsify the national strength by unmeaning distinctions and illiberal proscription. Our truest glory consists in our birthright of freedom: Our freedom is but a name without the virtues of our sires.

KANSAS AND THE ADMINISTRATION.

SPEECH OF HON. A. H. CRAGIN,

OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. CRAGIN said:

Mr. CHAIRMAN: Having failed to put the Le-compton fraud and swindle through this House naked, and thereby fasten slavery upon the State of Kansas against the known and expressed will of her people, the godfathers of the monster have concluded to clothe it in garments of gold, and send it back to the people, and if possible, bribe them to adopt it as their legitimate child. It is to be taken to the Territory of Kansas with a bribe in one hand and a scourge in the other. It is hoped that its residence, in the pure, polite, and refined society of Washington for the past few

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months, has so improved it, as to induce the people of Kansas to forget its base origin, and to receive it as the virgin offspring of popular sovereignty. But if they will not accept the bribe as the price of its adoption, apostatize from their faith, and bow down and worship the Moloch of slavery, they are to be punished, and doomed to remain a Territory for an indefinite period of time.

The bill which has passed Congress, and received the approval of the President, speaks to the people of Kansas in the following language: "It is the desire of the present Democratic Administration that you come into the Union at this time, *provided you will come with the Lecompton constitution*. We know that you loathe and abhor that instrument. We know that you have protested against it in the most earnest and solemn manner. You claim, and we admit, that it is the workmanship of a minority, and that it is spotted all over with fraud. But feeling that it is the only chance to make Kansas a slave State, we have used every means in our power to force it upon you. In this we have failed. We are still anxious that you should take it; and as an inducement, we offer you admission and public lands worth \$5,000,000. But if you refuse this bribe, and will not become a slave State, you shall be deemed unfit for admission, and must remain out of the Union until you have a population nearly double that which you now have, and lose the benefit of the public land, much of which we have already advertised for sale." In other words, "We admit that your present population is sufficient for a slave State; but it will require forty or fifty thousand more inhabitants before you can even apply for admission as a free State."

I will state the proposition contained in this law, in the language of Colonel John W. Forney, the gallant defender of the rights of the people. In the Press of April 24, he says:

"By a careful analysis of the report, it will be seen that the present proposition tenders a distinct bribe of large land grants, as an inducement to the people of Kansas to accept a form of government which they utterly loathe and abhor. It says, in so many words, to the people of Kansas: You must accept this bribe, coupled with the bill of abominations which you have again and again condemned, if you wish to come into the Union without delay; or, if you are perverse enough to spurn the bribe, you shall be deemed guilty of contumacy, and shall remain out of the Union until it shall legally appear that you have a population large enough to entitle you to elect a Representative on the ratio of representation established by Congress."

I can think of but one transaction in sacred or profane history with which to compare this. The Bible records it as follows:

"The Devil taketh him up into an exceeding high mountain, and sheweth him all the kingdoms of the world, and the glory of them:

"And saith unto him, all these things will I give thee, if thou wilt fall down and worship me.

"Then saith Jesus unto him, get thee hence, Satan."

The slave power, in this latter transaction, personates the Devil, and says to the people of Kansas: "All these things will I give thee, if thou wilt fall down and worship me."

The people of Kansas will make the same reply—"Get thee hence, Satan."

It must be confessed that this proposition is an adroit and cunning scheme. If the history of the noble men of Kansas did not furnish us an ample guarantee of their fidelity and devotion to principle, we might fear that they would falter in this hour of trial and temptation. They have suffered as no people ever suffered in this country since the formation of our Government. For wishing and honestly striving to make their future home, and the home of their children and children's children, a free State, many of them have been murdered in cold blood. Their property has been stolen and destroyed; their houses burned down; and their wives and children rendered homeless and homeless, for no other cause. Because they have refused to sanction the grossest acts of usurpation and fraud, and abandon their dearest rights as American citizens, the President of the United States, in imitation of George the Third, has stigmatized them as "rebels" and "enemies of their country." They have stood through all these trials, and many more which no pen has written or tongue told, the true and devoted champions of liberty. They have shown an attachment to principle only equaled by the men of the Revolution. I will not doubt their

fidelity. They will spurn the bribe, and bury the Lecompton constitution so deep that neither earthquake nor flood can find it. They will demonstrate to the world that principle and right are more valuable than gold; and that money and public lands have more power in Washington than in Kansas.

This measure is hailed as a compromise, as an offering of peace. It is no such thing. It is only equaled by the Lecompton constitution itself, in its mean, deceptive, and shuffling character. It prolongs the controversy, and adds fuel to the fires of agitation. It adds one more chapter to the history of the efforts of the Democratic party to make Kansas a slave State. It is only a change of policy to attain the same end—the end which the last and present Administrations have labored so hard to reach—to wit: the enslavement of Kansas.

The first movement after the passage of the Nebraska bill, was one of violence and invasion from an adjoining State. The ballot-box was wrested from the rightful voters and converted into an engine of oppression. Under this usurpation the territorial government of Kansas started. Cruel and unjust laws were enacted by the usurping Legislature, all having for their object the establishment of slavery. Ever since then, the struggle has been between the people and the usurpers. The minority have labored to retain their ill-gotten power, and to fasten slavery upon the people. The majority have labored to throw off the usurpation and regain their natural and legal rights. The former and present Administrations took sides with the usurpers, against the people, and upheld them in their work of subjugation. When the people refused assent to the odious laws passed by their oppressors, the President quartered large bodies of armed men in the Territory, for the purpose of enforcing these laws and strengthening the hands of the invaders.

When it was ascertained that the people would not submit, a plan was devised for driving them from the Territory. Their crops were destroyed; their property stolen and burned; their lives were threatened, and oftentimes taken. This game failing, another was devised. It was known to the leaders of the pro-slavery party that a large majority of the people were in favor of making Kansas a free State. It would not do to trust the election of the next Legislature to honest, legal voters. They resolved to try *ballot-box stuffing and forged returns*. They thought it would be just as right and legal for one man to manufacture five thousand votes as for five thousand men to come all the way from Missouri to vote. It was less trouble and much safer. They abandoned the Cincinnati platform, and planted themselves on the Cincinnati Directory. They counted upon success; for they supposed they had the game all in their own hands; but Governor Walker and Secretary Stanton were too honest men for the managers of this diabolical game. They refused to receive a return of one thousand six hundred votes from a precinct which could not cast one hundred legal votes. When these returns were rejected the tables turned, and the people, to some extent, regained their rights. For this act of justice and right Governor Walker and Secretary Stanton, so far as the public know, never received one word of approval from the President or his Cabinet. It is evident that there was disapproval at the White House. From the hour that it was known that the Oxford and McGee returns had been rejected, Governor Walker and Secretary Stanton were doomed men. The slave power demanded it, and the President dared not refuse. The game of making Kansas a slave State was likely to be blocked. This could not be tolerated.

The bogus Lecompton convention next took the matter in hand. They attempted, by assuming legislative powers, to supersede the newly-elected Legislature, and to deprive it of all power to act. They sought, by their action, to remove the government of the Territory, and to set up a temporary government of their own, with John Calhoun at its head.

The election had demonstrated that a large majority of the people were for making Kansas a free State. The Lecompton convention resolved to form a pro-slavery constitution, and put it in force without the approval of the people, and against their will. The game of invasion and

fraudulent voting and forged returns had not saved them, and they now resolved upon the bold game of making Kansas a slave State by their own action, and the aid of a Democratic Congress. They refused to submit the constitution to the people. I know there was a pretended submission of the slavery question; but every man of common sense knows that the contrivance was such that Kansas must be a slave State, whichever way the people might vote. The submission was a cheat and a swindle.

It was beyond dispute that there were at least twelve thousand free-State voters in Kansas, to less than three thousand pro-slavery. If, therefore, Kansas was to be made a slave State, a constitution must be forced upon the majority against their will. The three thousand must in some way rule the twelve thousand. This was the game of Calhoun and his confederates in Kansas, Missouri, and the whole South. That has been the game in Washington for the first five months of this session. There is not a man in this Hall who does not know that the Lecompton constitution is condemned and repudiated by an overwhelming majority of the people of Kansas, and that they protest against admission under it. Yet, sir, it has been pressed here with a pertinacity worthy of the noblest cause.

The President has bent all his energies to put Lecompton through, "naked," and thus trample upon the first and dearest rights of the people. He has begged and implored. He has shed tears of grief over the representatives of the people's rights, because they would not do this thing. He has almost refused to be comforted; so anxious is he to do the bidding of the slave power. I trust he may live to thank God that his efforts failed; and to regret the unmerited abuse he has heaped upon the people of Kansas. I hope, moreover, that he may live to see this Government brought back to its original policy and purity, and Freedom once more enthroned the goddess of America.

Having failed to subdue the heroic people of Kansas, by armed invaders at the ballot-box, and a standing army in the Territory; and being convinced that fraudulent votes and forged returns will not make Kansas a slave State; and finding that the Lecompton contrivance cannot be forced through Congress, the game now is, as developed by the conference bill, to combine bribery with fraud; and, failing in that, to punish the people by keeping them out of the Union for years to come.

The past history of the people of Kansas is a glorious one, and I have no doubt the future will be even more glorious. Kansas will be made a free State in spite of usurpation, violence, fraud, attempts at bribery, and threats of punishment. She will be made a free State by the long-suffering, virtue, intelligence, fidelity, and patriotism of her people.

I propose briefly to examine the conference bill, and compare it with the House bill, known as the Crittenden-Montgomery amendment. The bill, which has become a law, does not pretend to submit the Lecompton constitution to the people for a direct vote upon its merits. It would not do to subject that infamous thing to any such test. It is hung up to await the acceptance of a proposition in itself known to be extremely desirable to the people; the question virtually submitted being, "will you take three million five hundred thousand acres of land with the Lecompton constitution attached, and run your own risk of getting rid of the latter, or will you suffer the inconvenience and hardship of a territorial government for an indefinite period, with no assurance of land gifts, when you are able to become a State?" I admit that the law provides an indirect method by which the people, by first stultifying themselves, may strangle the constitution. The question of land grants is submitted, and upon the vote upon that question alone, is to depend the immediate admission of Kansas. The adoption of the land proposition is made the *condition precedent*. If the people vote that down, Lecompton falls with it; if they adopt it, Kansas is at once a State in the Union, with the Lecompton constitution fastened upon them. They are compelled to vote against what would be of advantage to them, what they desire, in order to get rid of a hateful constitution. They must vote against what they want, to wit:

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immediate admission and reasonable land grants; to prevent having imposed upon them what they do not want, to wit: the Lecompton constitution. By this law they cannot come into the Union, except they come in as a slave State.

In the event that the people vote down the land proposition, their action is to be interpreted as indicating a desire on their part to remain out of the Union; and they are to continue a Territory until they have ninety-three thousand inhabitants; or, failing in that before 1860, one hundred and twenty thousand. They are compelled to tell two lies in order to get rid of one great lie. They must say that they do not desire admission at this time, and that they do not want the lands, in order to avert the calamity of having the Lecompton constitution thrust upon them.

If the proposition is voted down, as it certainly will be, the whole question is left open to agitate the country, and to return here at each session of Congress, until the State is admitted into the Union. This law is no settlement of the question. It only removes it temporarily from Congress. It will return again to plague the inventors. The end of the Kansas agitation is, apparently, further off than when this Administration came into power. The country will hold those who have delayed and prevented a fair settlement of this question, to a strict and fearful accountability.

The bill that passed this House, on the 1st day of April last, submitted the Lecompton constitution, *the thing in dispute*, fairly and squarely to the untrammelled and unbiased judgment of the people, for their adoption or rejection. No bribes were offered for Lecompton; the adoption of no land-grant proposition was made a condition of admission. The only question presented to the people was, whether they would have Lecompton, or some other constitution. They were perfectly free to vote down Lecompton, and then as free to adopt another constitution to suit themselves, and in their own way. By that bill Kansas was admitted into the Union, absolutely and finally. By it she might at once become a free State. By the law, as it now stands, Kansas can only be a slave State. Had that bill become a law, the whole controversy about Kansas would have been settled, and forever removed from Congress. Agitation upon that question would have ceased from that hour. But the party in power refused the settlement, fair and honorable as it was, and choose rather to open the flood-gates of agitation anew, and continue the strife for two or three years longer. The country will hold this Administration responsible for the failure to settle this question on the basis of that bill.

Heretofore the friends of this Administration have falsely charged that the Republican party were anxious to keep this question open for political effect. The Republicans have been anxious for two years to settle this question by admitting Kansas into the Union as a free State, knowing that a very large majority of the people desired such admission. The Democrats have prevented that admission; and now that they cannot succeed in forcing her into the Union as a slave State, *against the will of her people*, they have determined that, if she will not come in that way, she shall not come at all. *Theirs is the responsibility of keeping this question open.*

But it is said the conference bill gives no more land than did Crittenden's bill; that they are exact copies, so far as the land grant is concerned. This is true, sir; but the grant now offered is on different conditions and under different circumstances. It is now offered on condition that the people will come into the Union *under the Lecompton constitution*. If they will not do that, it fails. It is made the condition of admission. The adoption of the land grant carries with it, as a consequence, the Lecompton constitution. The people cannot take the land without at the same time taking the constitution. Both are hitched together, and both must stand or fall by a single vote.

By the Crittenden bill the two propositions were distinct and separate—one could stand and the other fall. The people could take either, or neither, and still be in the Union. They could accept the land grant, and reject Lecompton. Now the acceptance of the land grant must necessarily and inevitably adopt Lecompton.

By the Crittenden bill the State was admitted; and the people were left free to vote down Lecompton, and adopt a constitution of their own making. The land grant offered no inducement in favor of the Lecompton swindle, as it certainly does in the law as it now stands. The State was to be admitted, whether the people took the land or not. If they accepted the grant, it was to be binding on the Government of the United States; *but it in no way affected the admission of the State, or the constitution that it might adopt.*

In the one case, Kansas was to come into the Union with such constitution as the people should adopt; and they were then, or afterwards, free to accept the land or not. In the case as it now stands, Kansas must come into the Union, if she come at all, *with the Lecompton constitution*. If she will not take the land, and with it Lecompton, she is denied admission.

The Crittenden bill is an honest, fair, manly, straightforward, and statesman-like measure—leaving the question of the constitution to the people, where it rightfully belongs. The conference scheme is dishonest, unfair, crooked, and unstatesmanlike. It is debasing in its tendencies—corrupting the public morals. The examples of the Government will be followed by the people. Fraud and bribery have already become so frequent in matters connected with elections, as to endanger the purity of the ballot-box, and to threaten the very existence of our republican system. Demagogues and scoundrels will pattern from this measure, and in future we may expect an increase of double dealing, trickery, fraud, and bribery. Such legislation is unworthy a great and Christian nation.

It is a sad commentary on the true doctrine of popular sovereignty. It seeks to circumvent the people, and, by gifts and threats of punishment, to induce them to take a constitution which does not embody their will, and which receives and deserves their execration.

The friends of the Lecompton constitution dare not submit the naked thing to the people. They know that four fifths of them are against it, and that, if they could only get at it, in that shape, they would give it immediate burial. It would also demonstrate to the world the wickedness of the attempt to force it upon them. They have, therefore, given it a sugar coating, hoping that, for a consideration, the people will gulp it down.

There is one other significant difference between these two measures. By the Crittenden bill, in order that the election might be fair, four commissioners were to have charge of matters connected therewith, namely, the Governor and Secretary of the Territory, appointed by the President, and the President of the Council and the Speaker of the House of the Territorial Legislature. Two appointed by the President and two elected by the people. The people were to have an equal chance. But by the bill prepared by the conference committee, one more is added to the board, to wit, the district attorney; thus giving a majority to the friends of the Lecompton constitution. By the law any three of the board constitute a quorum, and can act. This is pure "popular sovereignty," as practiced by the Democratic party. This change was made for some purpose, and it will be difficult to convince the country that it was not done to control the election, and give facilities for fraudulent voting and forged returns. Kansas has long been fruitful ground for the basest election frauds by the friends of this Administration; and it would be strange if seed so plentifully sown would not produce another crop. To cap the climax the bill should have provided that the returns be made to John Calhoun, and deposited in his candle-box.

It is very evident to my mind that the Administration will bend all its efforts to carry the election for "proposition accepted." *No expense will be spared to make Kansas a slave State.* Everything that endangers this result, so far as they have the power, will be removed. Already has District Attorney Weir been removed because he would not worship Lecompton, and a man by the name of Davis appointed, to aid in the work of making a slave State of Kansas. Secret agents of the Administration will be sent into the Territory to influence the people to vote for Lecompton. Of course they will all be free-State men.

They will tell the long-suffering people of Kansas that they have only to come into the Union, and that they can immediately change Lecompton into anything they choose. This will be in perfect keeping with the trickery of this law.

It is well known that the most valuable lands in the Territory are already advertised for sale. The times are hard, and the settlers find it impossible to raise the money to pay for their lands, in order to save them from this sale. They have asked a postponement of the sale for one year. Their reasonable request has not been granted. The sale has been postponed till November, with an intimation from the Administration, that there will probably be no difficulty in granting a further postponement, *if Kansas becomes a sovereign State*. That is, if the people will take Lecompton, the Administration of James Buchanan will give them longer time to pay for their land. The necessities of the poor are to be taken advantage of, in order to induce them to do what they abhor. Like the exacting money-lender, the men now in power promise an extension, *for a consideration*, namely: the acceptance of the Lecompton constitution. An Administration that has urged and begged Congress to force this spurious constitution upon the necks of an unwilling and protesting people, will not scruple to use all the means at its command, to accomplish the same thing by bribery or by a pretended election.

I have full faith that the people of Kansas, if they have anything like a fair chance, will spurn the bribe, maintain their integrity, and treat every man as a traitor who advocates admission on such degrading terms.

Beyond all this, the conference bill enunciates a new principle—one that has already attracted the attention of the country. The doctrine that it requires a greater population for a free State than for a slave State, is distinctly implied in this measure. I suppose this doctrine is to become a new article in the pro-slavery Democratic creed. Whether this new invention is to be labeled "State equality," or christened with some other popular name, I know not. Call it by what name you please—we accept the issue! It is a degrading and insulting distinction, and the North will resist it. The most ingenious doughface in all the free States, cannot invent a reason why Kansas should be admitted as a slave State with her present population, and denied admission as a free State till her population has doubled. You have thrown down the glove on this issue: we shall take it up. We will go to the people with this issue. Upon our banners we will inscribe: "The rights of the people. The immediate admission of Kansas as a free State. No distinctions in favor of slavery." If there are not members enough in this House two years hence to admit Kansas without delay as a free State, I shall be greatly mistaken. I think it will be much easier to convince the people of the free North that it is vastly more proper to keep the men who voted for this new principle of "equality" out of Congress, than that Kansas should be denied admission as a free State, with conditions, that, in the opinion of these gentlemen, qualify her for admission as a slave State.

The political grave-yard received large accessions when the Nebraska bill passed; and the mourners still go about the streets. Again its gates will be thrown wide open, and many will go in thereat. The race of doughfaces has not increased for the past four years, and this measure is likely to prove a Noah's flood to the remainder. Already has this Administration a fearful account to settle. Its supporters on this floor and elsewhere will be punished not only for what they have done and attempted to do, in respect to Kansas, but they will be arraigned before the country for betraying great trusts—for repudiating solemn pledges, and for obtaining power under false pretenses. By the common law, as well as by statute, in most of the States, the obtaining of goods, money, and other valuable things, by false pretenses and false tokens, is declared to be an offense, and is severely punished. The fact is as notorious as the election itself, that throughout the northern States the Democratic party, in the campaign of 1856, inscribed upon its banners the motto "Buchanan and free Kansas." The sincerity with which they promised to make Kansas a free State, and the seeming indignation with

which they repelled the charge of a want of fidelity in their presidential candidate to this policy, defeated the inflexible Fremont, and elected the supple Buchanan. But for these reiterated pledges, the so-called Democratic party would have been defeated in every free State in this Union. Had the people of Pennsylvania dreamed, in the fall of 1856, that the chief business of the first eight months of a Buchanan Administration would be wheedling and dividing the free-State men of Kansas, and then, by fraud and force, securing the apparent adoption of a pro-slavery constitution; and that, during five weary months of this Congress, the whole Federal power and patronage would be prostituted to forcing upon that people a government which they abhor; and that, failing to do this directly, it would try to effect it by a dark and devious policy, as deceptive as it is despicable—I say, had the people of the land of Penn and Franklin dreamed that such would be the Kansas policy of Mr. Buchanan, they would have beaten the Democratic ticket in the "Keystone State" by thousands upon thousands.

I repeat, then, that not only will the people of the North scourge this Administration for what it has done and attempted to do in respect to Kansas, but they will compare the record of its actual deeds with the pledges it made when asking public confidence, and will mete out punishment accordingly. Human nature always feels more indignant at being circumvented by trickery and hypocrisy than at being beaten in open, manly conflict. Cornwallis, who drove Greene before him in fair, manly battle, is a name honored even in America; while that of Arnold, who, by false tokens, obtained the command of West Point that he might betray it to the enemy, is the synonym of falsehood and treachery the world over.

The Republicans, who asserted that Buchanan would ply all his arts to make Kansas a slave State, and would prove the most ready tool of the negro oligarchy that ever occupied the presidential chair, have not been deceived. Their predictions have been verified. Their present hostility to his Administration is natural. The assault they will make upon it hereafter will only be the warfare of consistent foes.

But what name shall I give to that summary punishment which thousands upon thousands of betrayed Democrats are eager to inflict upon the Administration at the earliest opportunity; men who were honest in their pledges of "free Kansas," who promptly indorsed the promises of party leaders in the great contest of 1856, who implicitly relied upon the sincerity of their presidential chief? Cheated by their leaders, betrayed by their chief, taunted by an incensed people, they will deride the man, and repudiate the party that has deceived and disgraced them.

Sore and sure as will be the chastisement that this large class will inflict upon the Administration, it will be mildness and mercy itself, when compared with the terrible retribution that another portion of Mr. Buchanan's supporters have in store for him and his retainers. I allude to that most respectable body of them called "conservatives," "old-line Whigs," or "no-party men." In the very crisis of the contest, they threw their weight into the trembling balance, and awarded him the victory. Towards the close of the conflict it assumed such a shape as to give these men great influence over the result. Especially was this true in the preliminary October election in Pennsylvania, the pivot on which the whole canvass finally turned. These gentlemen were, no doubt, partly influenced to join the standard of Buchanan by his wanted respectability of character, his mature age, his great experience in public affairs, his gravity of visage, dress, and demeanor. They could not doubt that so venerable a personage must be a conservative. I have always thought that the white cravat and doctor-of-divinity like air in general, of the Wheatland sage had not a little to do in luring to his support this high minded and somewhat aristocratic body of men. But the chief motive that influenced them, probably, was his express and implied promise, that he would deal fairly by Kansas; that he would rebuke pro-slavery "fanaticism," as well as "abolitionism;" that he would set his face against "sectionalism;" that he would not wink at "fillibustering" on the ocean, nor "border-ruffianism"

on the land. They believed most sincerely that should a state of things arise in Kansas such as has now involved her affairs in a net-work of frauds, perjuries, forgeries, ballot-box stuffing, and rascalities of all sorts, Mr. Buchanan was the very man to crush such crimes with the weight of his authority, and to vindicate the cause of justice, honesty, and fair dealing in that Territory.

That these conservative gentlemen, whose votes turned the scale in favor of Buchanan, have been most woefully deceived in him, is beyond all question. That their pride of character has been deeply wounded at finding themselves classified among the supporters of an Administration that protects and honors thieves, forgers, ballot-box stuffers, and rogues in general, is very certain. That their pride of opinion has been sorely mortified at being duped by the Pecksniffian morality of the author of the Connecticut clerical epistle, is most true. Men thus galled in their tenderest points will not only embrace the first opportunity to dissolve this uncongenial alliance, but will take swift vengeance upon those who wheedled them into such position. Of all the ingredients of that retribution which is soon to be poured out upon the pro-slavery Democracy of the North, the most bitter, the most destructive will be the hot indignation of these cheated "conservatives," these deluded "old-line Whigs," these betrayed "no-party men."

The gathering in the political heavens is ominous of the coming storm. The tempest that swept the free States in the autumn of 1854, when the people visited their wrath upon the party that had just "removed the old landmarks" by obliterating the slavery prohibition of the Missouri compromise; and the tornado that careered through the North two years afterwards, prostrating so many aspiring men, and though not wholly successful in its objects, yet most salutary even in its partial effects, and full of hope for the future, will prove to be but gentle gales when compared with that retributive hurricane which, in the approaching autumn, will scathe the Lecompton Democracy as with the besom of destruction.

Are we mistaken in the signs of the times? Turning the eye towards the setting sun, can we doubt that the young State lying beyond the Sierra Nevada will sustain her able representatives in the Senate and in this House in their opposition to the Lecompton fraud? As to the five growing States of the Northwest, which were saved to perpetual liberty by the immortal ordinance of 1787; and the State, not less prosperous, which was consecrated to freedom forever by the Missouri compromise; and the vigorous new State just admitted to the Union, will they not all vindicate the cause of free labor by sending a delegation to the next Congress that will be a unit on questions like those which have divided men and rent parties during the present session?

As to Pennsylvania, her favorite son has ascended to power. He has disappointed her hopes. He has soured her spirit. The charm is gone. The spell is broken. She will break her chains and stand forth redeemed, emancipated, and disenthralled. Let him who doubts this, ponder the result of the recent election in Philadelphia, and be assured that what has been done in May on the banks of the Delaware and Schuylkill, will in October be repeated on the banks of the Susquehanna, the Juniata, the Monongahela, the Alleghany, and the Ohio. As New Jersey suffered with Pennsylvania in the struggle, and shared with her in the triumph of the Revolution, so, too, has she generally followed the lead of that great State in all political changes; and so will she now. It would also be belying the whole history of New York, a State that gave to the war of Independence the sword of a Schuyler and a Hamilton—that gave to the constitutional era the pen of a Jay and a Livingston—and that has given to the counsels of the Republic and the cause of freedom the services of a King, a Clinton, a Tompkins, and a Wright, to question that in a crisis like this she will cast her "Empire" weight into the scale of liberty.

I hardly need speak for New England; for since this Congress has been in session she has begun to speak for herself. The emphatic voice of New Hampshire, Connecticut, and Rhode Island, re-

cently uttered against this Lecompton crime, will in due time be reiterated by Vermont, Maine, and Massachusetts. Those who now misrepresent the sentiment of New England in these Halls will soon have leave of absence. They will not appear here at the next Congress, nor will anybody of like faith succeed to their seats. "The places which now know them will know them no more forever." No human being outside of a nursery or a lunatic asylum doubts that, in the next Congress, glorious New England will present an unbroken front in the cause of freedom.

Speaking for my own State, I can certify to her fidelity. When her own son, sitting in the presidential chair, forced upon the country the Kansas-Nebraska act, she turned her back scornfully upon him, and set her feet indignantly upon his Administration. But so much more does she detest the policy of James Buchanan, that in comparison therewith she is beginning to look upon that of Franklin Pierce with a feeling akin to complacency. I know the people of New Hampshire well. Her White Mountains are not more firmly rooted to the earth than her sons are grounded in the cause of civil and religious freedom. In that most solemn and eventful hour of the Republic, on that memorable 4th of July, 1776, her Representatives in Congress were the first to vote for the Declaration of Independence; and her people will be the last to abandon the principles of that immortal charter of human rights. Whoever else falters in the hour of trial, they will be found faithful. Whenever the trumpet calls to battle, they will rally to the standard; and

"From their tall mountains to the sea,
One voice shall thunder, WE ARE FREE!"

ORIGIN OF SLAVERY.

SPEECH OF HON. PHILEMON BLISS, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,
May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. BLISS said:

Mr. CHAIRMAN: During the crowded Lecompton debate, I refrained from seeking the floor, chiefly because I desired to see the new opponents of the Kansas outrages, and especially my colleagues, learn to stand and, if possible, to walk alone; and also because the subject itself was one I could with great difficulty coolly consider. I could reason with a highwayman, if I had no more effective weapon; I might also remonstrate with a pickpocket; but I could find no fit words for discussing, in a republican representative body, the propriety of forcing a dark despotism upon a protesting people, upon one of our own young States, especially as this was to be done in the name of Democracy and of "popular sovereignty." If the statement of the proposition would not carry its own damnation, no parliamentary language of mine could fitly describe it; and the mind that could for a moment entertain it, is entirely beyond my reach.

And when the Administration and its masters, foiled in the naked wickedness, incubated with those whose plighted faith, if not their principles, should have been their guard, and hatched the nasty substitute—a substitute establishing the principle of non-submission, while claiming to provide for its effect, though coupled with conditions fraud-inviting and deeply insulting to Kansas, to freedom, and the North—I watched the new-born men to see whether a soul had been actually given them. More in pity than in anger, I saw them fall before they had well learned to stand; saw them, with mouths full of valiant words, swallow naked and degrading insults; saw them yield to a dominant absolutism, though not a complete, yet a real, and to us and them degrading victory.

By a lawless enforcement of lawless *dicta*, slavery exists in all the Territories; and we have now the precedent that such Territory may at any time become a slave State; but, if it cannot be forced or bribed to receive a slave constitution, it must continue a slave Territory; must wait for the last jot and tittle of preliminary requirement.

I had faintly hoped to have been spared this

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cup of degradation; but why should I? Ever since the slave interest has succeeded in overriding every other interest; ever since the enemies of free labor, the contemners of free speech, the assassins of free thought, have established the reign of terror in nearly half these States, have I seen but a single purpose, a "one idea," an absorbing object, prompting and guiding their every scheme.

Gentlemen seem astonished at the bald wickedness of striving to force upon an unwilling, a protesting people, a despotic fundamental law, and the balder meanness of tendering them a bribe and a threat to receive what could not thus be forced. Yet, where the end is the supremacy of force, where that end has been for years the steady, unremitted object, with no variableness, and scarce a shadow of turning, how can we wonder? Shall the means be more holy than the end? The Leecompton scheme of fraud and usurpation, the preparatory outrages—the forays, the robberies, the burnings, the imprisonments, the murders—all perpetrated by, or under the eye of, Federal officials; all sustained, directly or indirectly, by Federal bayonets, and the disgraceful *finale*, may well astonish and alarm! Yet they are but acts in the one grand drama.

The success of these champions of force is no less surprising. Representing but a section of this Union, and that section, from the blighting influence of their rule, comparatively weak and poverty stricken, men wonder to see them able to control the federation and realize every sectional scheme; able to give a construction to the fundamental law one way against the wants of commerce, of creative art, and the necessities of personal protection, and another way in favor of despotic interests; to see them make solemn contracts to subserve such interests, and break them for the same end; to see them able to sectionalize and pack the supreme judiciary; to strike down the *habeas corpus* and trial by jury; to involve us in war upon the weak to rob territory for slavery, while yielding to the strong that which was free, and to which "our title was clear and unquestionable;" to see them able to proscribe all high-minded men, driving from the public service those of all sections who believe in the harmony of the Decalogue, the Declaration, and the Constitution—making tests that would have excluded Franklin and Jefferson and Jay from the pettiest office; to see them make cringing slaves of northern boasters, dooming to the curse of the serpent, "upon thy belly shalt thou crawl," every applicant for Federal favor; to see them cause in this Hall parliamentary law, respected upon other questions, to be so often overthrown upon questions of slavery; and make the courts of the federation, eager and bloodthirsty after a fugitive from servitude, powerless against the piratical apostles of foreign propagandism. Men, too, wonder, ay, they are sore amazed, to see the apostles of force able to place this Government in league with conspirators against one of its Territories, sustaining them in ballot-stuffings, forgeries, and every political crime known among men, to cause it to employ all its powers to fasten upon this Territory a form of State government it loathes and detests, giving as the chief reason for the damning crime the fact that it does thus detest it! Ay, and their wonder grows to astonishment as they behold Representatives of spasmodic virtue glad to be permitted to aid to the fell end by bribes, by threats, and by invited frauds!

Whence this omnipotence for evil? Yet we should not wonder. These are the necessary results of the different spirit and resolution, the different manner and purpose, that have hitherto distinguished the controversies between the friends and opponents, if opponents they may be called, of human enslavement. The friends of absolutism have been all will, all energy, all perseverance in their work; while their opponents have met them by temporizing, now expostulating, now faintly resisting, and finally always yielding. The former have seized a great idea as the basis of their civilization; and steadily keeping it in view, have subordinated every other consideration. The latter, intent upon gain and peace in its pursuit, have ignored all fixed principle, been blind to any great end, and have substituted a shuffling expediency for an enduring purpose. The "I will" of the one is met by the "please

don't" of the other; and "I'm afraid I can't" is the bravest response to the grim "you shall;" and while the former have kept their representative men in the middle of the conflict, the latter have sought to send into retirement all whose earnestness of resistance has seemed to make reality of the sham. Even the brave champions of "the equality of the States" and "the sovereignty of the people," after consistency has been made more safe than surrender, as they meet the frown of the accustomed master, eagerly yield both, by a dishonorable discrimination against a free constitution, and by tendering a brave people a bullying bribe to accept an oft-rejected slave one.

We often hear the shuffling and the inconstant denounce the decided as abstractionists, as men of mere ideas; and with blank self-complacency congratulate themselves as devoted to the actualities of life, and not its mere notions—as though the ideal were not the only human actual—as though the mere material wants of men were more than those of the swine. The ruling idea shapes all things. Before the world sprang forth from the hand of the Creator—before tree or animal assumed form—it first stood clearly out in His mind, and he pronounced it good only as it realized the ideal. So the artist, before he touches the chisel, first elaborates and places the form on its pedestal in his own mind; and his subsequent labor is not for his own eyes, but to enable others to see what to him is already more clear than it can ever become to them. That form inspires to virtue or lust, to devotion or sensuality, according to the idea that inspires and guides the arm. So with society, whether political or religious, social or domestic. It is based upon an idea—yea it is itself an idea, and its ends are but ideal—and such society is a blessing or a curse; it civilizes or barbarizes; it promotes happiness or misery, virtue or vice, holiness or sensualism, according to these ends.

And we hear the same class of materialists denounce the world's workers as "men of one idea;" as though any man could breast the current or stem the tide, could wake the sluggish race, give form to society, and soul and sentiment to man; or even achieve those less difficult, though, to vulgar eyes, more striking material triumphs that send the steam engine along the mountain slope, or the lightning upon its quiet post-boy errands, who is not controlled by a leading, absorbing, all-conquering idea. A resolute purpose, a steady zeal, must burn in his soul. An unshaken constancy, a granite principle, a great ideal end must take possession of him, must overpower and drive out the seductions of indolence or sense, must dispossess the idols that would preoccupy or divert him, and bear him "onward, right onward," to his goal, and with a steady momentum that first excites the derision, next the wonder, and finally takes captive the will of those around him. Tell me who has the most enduring purpose, and, with anything like equality, I will tell you who will conquer. The sure proscriptions of their enemies, the derisions of the brainless, are the certain tribute to their power; and if borne as heroes alone can bear them, the pledge of their triumph. But I pray the scoffer to point me to the achievements of those who are not men of one idea; who have no controlling purpose, no fixed faith, but are floats, tossed upon every wave, waifs cast upon every shore, butterflies wafted upon every breeze.

Were I to indulge in personal illustration, I might point to men of my own section—men of great opportunities, and who have become illustrious or an offense, according to their faith, their fixedness of purpose. I might instance our Websters and Van Burens, who, seeing the right, spasmodically struggled against the wrong; yet "loving the lap of Delilah more than the rough tents of Israel," yielded to treacherous caresses, and became but the sport of the common enemy. Those who might have carved themselves a name on which the hopeful would come from afar to look; who might have given their country a faith; bowed to the superior will of their enemies, and are laid, and are waiting to be laid, in the forgotten graves of the vulgar great.

I might also point to our Adams—and my colleague will pardon me for adding our Giddings—whose fidelity, whose will, amid storms of foes,

and, what so much more tries a great man's soul, the shrinking of coward friends, boldly met, breasted and overwhelmed the tyranny that had stifled this House, and restored, what to lose is to lose all—freedom of debate, to this, the people's Hall. Ay, and more; that will, that resolution, is taking captive the honest, the free masses of the land, and the fresh impositions of mad tyranny, instead of cowering and discouraging, but inspire them to eager labor and patient waiting for its sure overthrow.

I might also instance from the champions of force, from those who have fought so well in a cause so bad, the name of Calhoun, the John Calvin of the propaganda. Constant in his labor, undiverted by personal hopes or party ties, with only a band, scarce a twelve, of acknowledged followers in the national councils, he has finally, by his fidelity and by his and their perseverance, furnished the dogmas and controlled the action of the party of absolutism. He affected no consistency but in the one idea. He was pure in his life, yet the apostle of systematized violence, and unchecked lewdness. He was clear in his logic, yet he ran to the most opposite conclusions. Starting out with the boldest and most outspoken opposition to Democratic principles, he and his followers have given laws to the Democratic party. Holding the Union to be subject to the will, and its measures to the veto of any State, they have indirectly dictated the policy that makes States but subject provinces, and their authorities the sport of the pettiest Federal official. Constantly talking of constitutions and laws, they as constantly labor to turn back the tide of civilization, and reenthroned the "law of the strong hand." Yet there was method in all these inconsistencies, a resolute purpose running through them, a will that has wrenched from coward partisans the stamp of State, and made current guineas of them all.

I have often been surprised to see men apparently so unconcerned of the power of a great idea. They would erect that most sublime of creations, a just State, by appeals to mere pecuniary interest, as though interest alone ever worked in that direction, ever withstood the lower instincts—as though, untampered by the sentiments, it ever appealed but to the merest avarice. It needs a high passion, a noble enthusiasm, an elevated principle, to work the beneficent revolutions of earth. True, our highest interests are in harmony with them, like the sympathy of the elevated spirit and body. The body should be fed; but "man lives not by bread alone."

The honorable gentleman from Massachusetts, [Mr. THAYER,] himself distinguished for a great—a Teutonic idealism—has told us of the power of organized emigration. I deeply sympathize with him and his idea, and only fear that he too greatly relies upon mere interest. How long would his Kansas emigration have stood the bloody foray and the Federal frown, had it not been recruited and sustained by the sentiment, the idea, that burned in the northern mind? There was no organization in the West, and yet, without the aid of the men and women of the West, impelled by their ideas, rather than interests, the whole machinery of organized emigration would have been impotent against the mad fanaticism of the border.

Organized emigration, based upon the idea of justice as well as interest, impelled by a generous enthusiasm, a passion to plant States whose future will be great and stable, as embodying and looking to this great idea, will be, must be, successful. But devoid of it, the quiet enthusiasm that resolutely plants and patiently waits for the sure and immortal growth, becomes the mad foray that knows not to plant, but essays to build by overthrow. That natural love of power and of property, that, as tempered by justice, teaches us to acquire influence over men by vindicating their rights, and dominion over things by the patient accumulations of labor, without this guard, inspires demagogism, ballot-stuffings, and *coup d'états*, swindles, and embezzlements. Wherein differed the colonists of Plymouth and Philadelphia, from those of Port au Prince and Mexico? or the founders of Lawrence from Buford's brigands? Their interests were the same, and if interest alone governed their conduct should have

been the same, and yet, one would found society upon justice, the other upon force; one would base property upon "the law of nature," the other upon "the law of the strong hand;" one would make an Ohio, the other a Cuba. See to it when you send your legions on, that the scepter of justice leads the column, that the holy passion of its worshippers shall so firmly enthrone it as to eternize its rule!

And if my voice could reach all who work and lead others that work for the great end, I would warn them against the temptations of temporary expedients, the diversions from that strict principle which alone can lead to that end. It is not the broad and easy road that leadeth through the wilderness, and there is no safety amid its devious paths but in following the pillar of cloud and of fire. Though its track may seem circuitous, though it may lead us back through the desert, even from the sight of the promised land, till the slaves that dare not possess it shall have hid in the sands their coward bones; yet behind the Divine pillar will flee rock and desert, Midianite and Amorite, till the land shall be reached, and by a people who dare possess it!

I have spoken of the energy and success of the slave domination, yet I see in the near future its hastening end. I see it because tyranny itself has become demented. The wisdom that controlled its energy has departed. Its strength was in its moderation as well as firmness; it has become wantonly arrogant and insulting. Its allies have been conservatism and ignorance; frightened at its recklessness, conservatism is driven to oppose its mad pretensions; while its bald crimes open the eyes of ignorance itself. Like the harlot past power of seduction, it flaunts its very nakedness to the disgusted eyes of those its decent garments were wont to entice. I see it also in the new spirit of its opponents. Casting aside dead issues and entangling alliances, they have finally accepted the issues of a debauched democracy. Firmness begins to meet firmness, and resolution resolution. Senators from presidential steps may sling their weak threats.* Representatives may redeem their transient faith by guttering deeper to a hired mob;† applicants for seats that the people have refused them may make the heart sicken at their servility; yet like the wine-bibbing aristocracy at the mad feast of Antoinette, they but darken their own sure doom.

And here I would pause. I have hitherto, during this session, declined speaking upon the slavery question, and would not do so now but that the assailants of freedom and free institutions on the one side have been chiefly met on the other by arguments only upon the specific questions before us; and thus some suppose us unwilling to meet this great question in any form, whether by bill or argument, gentlemen thrust it upon us. The argument of the gentleman from South Carolina, [Mr. Kerr,] this evening, following up the dicta of those synods of chief priests and elders, that impiously charge the iniquities of slavery upon the religion of Him whom their prototypes crucified, is but a specimen of the continuous agitations of the propagandists. While I desire not unnecessarily to enter upon abstract discussion, I am always ready to take up the glove, and without following the line of argument of any one gentleman, I will proceed in the invited road.

I have alluded to the idealism of the propagandists and the singleness of their devotion. As fully as my remaining time will permit, I propose to show *WHAT* and *WHENCE* is this idea.

It is simply the idea of *FORCE* as the origin, the base of property; and *SUBJECTION* the law of government.

Society, itself an idea, takes its form and its character, its influence and its life, from the idea that inspires it—from the ideal ends for which it is shaped. The chief end of society, of its most

complicated machinery, must be the security of property. The instinct of property is within us all; its necessity is absolute; and society cannot exist which does not look to its protection. There can be no personal security, no security in life, liberty, and the social relations, without security to labor and its accumulations. The basis, then, of property, must give color to the whole character of association.

The modern basis of property is the law of nature, the law of justice; the subjects of property are the inferior animals, the earth, and its products; and the *propria* are the accumulations of honest labor and honest exchange. I know of no other radical distinction between the ancient and modern civilization than in the idea of property. Though the law of nature or justice came to be anciently studied, though the more elevated clearly apprehended many of its maxims, yet, in the constitution, the foundation of property, it had no actual force. That was property which the law, the State made property, and it made anything property that, outside the State, could be seized and held, whether men or things. The Roman robber went forth to conquer, and whatever he could seize by the strong hand, became his own. It mattered not whether it was his neighbor's ox or his neighbor's wife, his flocks or his children, his farm or himself; all yielded to the robber-right; and the spoils—*mancipia*—became but a term for property.

As society advanced the manner of seizure became systematized, and ripened into the ancient law of nations; and that law was such a system of brutality, such a system of robbery and wrong, that humanity would fain turn its sickened head away. I will not give details, but merely allude to them as compendiously referred to by Wheaton:

"'Victory' in their [the Roman] expressive metaphorical language, 'made even the sacred things of the enemy profane,' confiscated all his property, movable and immovable, public and private; doomed him and his posterity to perpetual slavery." &c.—*Wheaton's Law of Nations*, 25.

The same author introduces his work by the following allusion to the fundamental idea of Pagan civilization:

"The laws or customs, by which the mutual intercourse of European nations was regulated, previous to the introduction of Christianity, were founded on the prejudices which regarded the different races of men as natural enemies. With the ancient Greeks and Romans, the terms barbarian, stranger, and enemy, were originally synonymous. Nothing but some positive compact exempted the persons of aliens from being doomed to slavery the moment they passed the bounds of one State, and touched the confines of another. And though, according to the Roman law, in its more improved state, an alien, with whose country the relations of friendship and hospitality did not exist, was not technically considered an enemy [*hostis*], yet his person might lawfully be enslaved, and his property confiscated, if found on Roman territory. During the heroic age of Greece, piracy was universally practiced." &c. &c.

Pagan authorities did not decide what might be held as property, whether the earth and its products, the inferior animals, or man. They made not the modern distinction between men and things. That was not alone property over which the common Father had given us dominion—they knew not His law. Though Justinian in the light of Christianity pronounced property in man contrary to the law of nature; though his annotators could faintly hear the inward voice that, to all who have ears to hear, clearly vindicates each man's right to his own person, to the society of his own wife, and the custody of his own children; and hence, repudiates the idea that they can be the property of others; yet this idea contravened no law of property as handed down from their Pagan ancestors, and they could but recognize it. The civil law failing to designate what might be property, it is not strange that whatever could be subjected to one's dominion, whether men or things, came to be regarded as his property, and that *mancipium*—*manu captum*—the seized—was one of its legitimate terms.

We hence see the rottenness of the whole Roman system; that the splendid civil code—the highest perfection of Pagan reason, and which alone of Rome is immortal, because it so failed in the foundation of law, because it traversed not the law of force as the basis of property, but sanctified and sanctified the robber-maxims of the age, was utterly impotent to save the State. We, hence, cannot wonder that the ancient States met only enemies without, while nourishing only enemies

within. We cannot wonder at the oppressions that drove men mad, at the corruptions that banished virtue, at the monopolies that converted whole districts into slave principalities, at the dishonor of labor, and at the idleness and spoil-huntings that made of the people but a worthless rabble. We cannot wonder that the army become the only staff of the State, and the commander its imperator; and finally, when the army failed, that the State itself fled for shelter to that grave its foul diseases made its only fit refuge.

States should be immortal. Their analogy is to the soul, not the body; to an idea, itself immortal; not organized matter, itself perishable. Justice, equally administered, rejuvenates society, overthrows abuses, and clothes a people with immortal youth. But power, wielded without justice, corrupts and effeminates the possessor; inflames those who feel its weight; and, sooner or later, rouses them to successful resistance to the effeminated tyrant. Despotic States are but a tower on the sand-hill. So long as active labor can replace the shifting pile, can repair the action of torrent and storm, that tower will stand. But sooner or later the laws of nature will vindicate their supremacy. The laws of nature, or of God, whichever you term them, are immortal; and States to be immortal must harmonize with them. Those brilliant republics and that great Power, whose brightness still dazzles, and the shadow of whose greatness still awes the world, ignored those laws, and of course fell. In many respects modern civilization has never excelled them. In the dignity of ideal philosophy, and the graces of diction and external beauty, we are little more than imitators. Yet, in all appreciation of the objects of society; in the dignity of justice, and the graces of the soul—not in the sentimentality that dreams with Plato over the tortures of a slave, or moralizes with Seneca at the banquet of lust—but in that dignity that makes the chief glory of the State to consist in the protection of the weak within, while dealing with the strictest honor toward the weak without; and in those graces that send a Howard and a Nightingale upon their errands, they were little better than the savages of our own forests.

But modern civilization and modern law, imperfectly as they are yet developed, have a different history, and are based upon a different idea. We have not been in the habit of giving sufficient importance to the influence of Christianity and the Jewish records. The story of our common origin, of the origin of all property in the Divine grant to the common head, both in the beginning, and when the second father of man went forth from the ark; the dim glimpses of justice and equity, of oppression and its punishment, seen through the veil of the Pentateuch and the early Jewish annals; the authoritative announcement of the principles of natural law in the second table of the decalogue; the anathemas upon injustice burning in the pages of the chief prophets; and the crowning glory of all, the teachings of the Divine man, establishing universal brotherhood as the normal relation, and universal love as the highest duty, have furnished the grand *idea* of modern civilization! Force is no longer the base of property. The first lesson in modern law makes broad and impassable the distinction between men and things. That is property which God has made property. The stranger is no longer the enemy—the enemy no longer the slave. The law of the strong hand yields to the law of justice; and, as the idea of the artist brings out the form, gradually, imperfectly, according to the imperfect material, and the more imperfect skill, so the great idea of justice as the basis of property and end of law, starting out with the overthrow of the robber dogma of property in one another, is guiding us onward and upward, though on a rugged road and with halting steps, yet surely on to its complete realization.

I cannot better illustrate the contrast between the ancient and modern theories of political morals than by opposing to the maxim attributed by Thucydides to his countrymen, that "to a king or commonwealth nothing is unjust which is useful," (Thuc. Hist., vol. 6,) the following declaration of the younger Pitt, in opposition to the slave trade:

"The argument which, in his [Mr. Pitt's] opinion, ought

* The night after the passage of the Toombs-English substitute, a celebration was had in front of the Presidential Mansion. Following the President and Mr. Toombs, Senator GWIN, among other things said, "If she [Kansas] rejects it it is then let Kansas shriek and let her bleed, [applause,] for she shall never come in until she has sufficient population."—*Washington Union*, May 2.

† Mr. ENGLISH and others addressed a crowd of Government employees the same night on the avenue, and seemed chiefly concerned for fear "niggers" would be held in too high esteem.

to determine the committee was, that the slave trade was unjust. It was such a trade as it was impossible for him to support, unless it could be first proved to him that there were no laws of morality binding upon nations, and that it was not the duty of a Legislature to restrain its subjects from invading the happiness of other countries, and from violating the fundamental principles of justice."—*Clarkson's History of the Abolition of the Slave Trade*, vol. 2, page 243.

Could England in all her administrations have had the wisdom to realize this noble sentiment; could she have withstood the barbarism of her greedy capitalists, by the Christianity of her common law; what dishonor would not have been saved to her! what woes, what blight, to us, as well as to the groaning East!

It was a necessity that the ancient civilization should fall. It could no more live in the light of the Christian idea than the altars of the Aztecs or the feasts of the Fejees; and the grander the structure, the more imposing the pile of this Bastille of human hopes—based as it was upon a lie, upon moral quicksands—the more complete the ruin. True, this ruin is not without its use. It is a great quarry, with many a fit column for the new temple based upon the rock.

It is a mistake to mourn over the collapse of mere force and the consequent and necessary anarchy. It could not be otherwise. They were the prelude to a higher civilization. They became essential to make way for the gradual infusion of the idea of justice as the law of society, the law of property; and dark as was the transition, and seemingly hopeless as was the long fermentation of human passions, yet, slowly emerging from that chaos, a form of society is arising that may become immortal; for the curtailment of its abuses and the development of the race is made possible by the gradual adoption, throughout Christendom, of the Divine idea. The steps to that end are already many and long; private property is no longer subject to lawful capture; private forays are piracy; prisoners of war are no longer slaves; cities cannot lawfully be devoted to pillage, their inhabitants, men, women and children, delivered to the sword, or made to pass under the yoke as property; even the high seas, so long the safe field of robbery, are being embraced, and but for an act of this Administration might ere this have been embraced in the protection of the great idea; and in all lands—shall I be forced to except my own?—the yoke is being broken, the scourge is being exchanged for the contract, and the handcuff gives way to the school-book.

And the struggle now is, to turn back the tide of civilization, to supplant the idea of justice, to reënthrone the law of force. Hardly a proposition, hardly a measure, meets with any favor that has not this end in view. For that the dominant interest has broken faith, spurned every constitutional guarantee, proscribed all but self-sold slaves, debauched the judiciary, enslaved the Territories, made provinces of the States, and all to substitute the robber right for the Divine grant. Ay, and for that it has compassed heaven and earth to give life to the Lecompton villainy. Its central organ in February last indorsed a threat of disunion unless the principle of Lecompton be ratified; unless the slave interest be allowed "to retire from Kansas with our drums beating and colors flying," exclaiming, "why not give us the shell while they [the North] have the kernel?" "Is it not enough that they have an overwhelming majority in Kansas?" The President, in pressing Lecompton, admitted that its reign would be short. Why then press it, but that the principle of Lecompton is precious to the one-idealists? and why so precious? Only because, first, it is the work of a lean minority, and is scornfully rejected by the vast majority; hence the idea of SUBJECTION is enthroned over "the consent of the governed;" and second, and mainly, this constitution alone proclaims the atrocious dogma that the right of property in man is as inviolable as the right of any other property, and is above constitutional sanction! Hence the idea of old force, instead of God's GRANT, as the base of property.

And which, Mr. Chairman and gentlemen, prefer you, the ancient or the modern, the Pagan or the Christian idea? In which age will you place us? On which slope of the piling centuries shall we travel? Gentlemen defend the property idea of force from the fact that it is ancient, that all

heathendom recognized it, that it was the idea of the Greek and the Roman, the Scythian and the Arab, the Ethiopian and the Indian. I never doubted the fact, but have often wondered whether gentlemen really desire to turn back the shadow upon the dial, to reënthrone moral chaos and bring back night again!

The gentleman from South Carolina has just told us of the fetter-fastening, the slavery-loving, the force-enthroning religion of the Cross. It well becomes him to give such a blasphemous exegesis of its holy maxims. He might naturally understand that the exhortation to resist not evil, to meekly turn the cheek to the assailant rather than meet force by force, justifies the evil-doer and smiter. With the same instincts that guided a Laud and a Stafford, he might readily infer that the duty of passive obedience enjoined upon the hopeless subjects of the old despotisms justly applies to those who are themselves responsible for the public liberties; and that this exhortation to servants to obey their masters, and to subjects to respect the powers that be, justifies the slave shame and the bloody scepter! The Christian slave might not resist the master, though he fed his fish ponds with his flesh; nor the Christian subject rebel against the Nero, though he lighted the gardens with his flaming body; and yet it takes gentlemen of his school to see that this submission can justify either. Such doctrines may for a time flourish in the dark places of the earth; yet still the world moves on!

I have shown partially WHAT and partially WHENCE is this idea, as well as alluded to the character and fate of the civilization based upon it; but I have not done.

The foundation of slavery is not the idea that there may be property in those born of slave mothers—that is but its application; but it is one of property in man, and in any man who can be subjected to dominion. And the question as to who shall be made property is merely one of expediency. If you may enslave the infant, though begotten from your own loins, because you had before enslaved the mother, why may you not enslave your criminals or paupers, the hopelessly indebted, or those seized in battle? If you may take all your slave's earnings, deny him power of accumulation for himself, and make all his accumulations yours, why should you be bound to respect the private accumulations of an enemy or a stranger? You take the one and his earnings because you can; why not the other and his earnings if you can? You were long in the habit of stimulating African chiefs to hunt men and women for your benefit; and some of you are now trying to revive the work. Also, I see it seriously proposed in yonder State to enslave some thousands of her people, and already is their property seized by a discriminating tax. Your Federal judiciary, against all law and against all decency, have paved the way by denying them the necessary result of birth and residence; making them permanent strangers and aliens; and you have only to follow the invited result of a barbarous edict by making them slaves.

If the idea is once admitted that force, and not the law of nature, makes property, then any man, or any man's earnings, may be seized and subjected to another's dominion. It is not a question of birth; it is not a question of race; nor is it so regarded by the propaganda. The amalgamation tendencies of slavery are constantly bleaching out the African. I have, since a member here, contributed to purchase for redemption white Virginians, and to prevent their forced denizenship of the brothel. The more honest advocates of slavery have already repudiated the idea that it should be the sole condition of any race, and many of them would impose it upon all hand laborers. In the Senate and in the House, during this and other sessions, leaders of the great slavery party have boldly proclaimed the condition of the laborer that of substantial slavery, and that the northern free laborer was far worse off than the bought and sold chattel of the slave plantation. A Senator from South Carolina says that "the man who lives by daily labor, your whole class of manual laborers, are essentially slaves." In harmony with the tone of the propagandist press, the Charleston Standard says that "slavery is the natural and normal condition of the laboring man, whether black or white;" and the Richmond Ex-

aminer, whose editor now issues semi-official thunder in the Washington Union, truly says, that "the South"—i. e. the slavery party—"now maintains that slavery is right, natural, and necessary, and does not depend upon differences of complexion. The laws of the slave States justify the holding of WHITE MEN in bondage."

The gentleman from Louisiana, [Mr. TAYLOR,] who never speaks what he has not well considered, in his remarks of the 29th of March, elaborately defends, as I understood him, or predicts, the enslavement of the Asiatic upon the Pacific coast; and all who justify slavery from the Old and New Testament, and early Christian teachings, thus only can justify white, and not black slavery. The miserable induction of the gentleman from South Carolina, [Mr. KEITT,] if it prove anything, can only prove that the dusky races of the Mediterranean may rightfully enslave the light-haired German and Briton, for such was the "apostolic slavery," he defends.

Except in America, slaves are not even generally of the negro race. It is but quite recently that the ideas of modern civilization have made any progress, have gained any foothold, upon the southern and eastern shores of the Mediterranean; and within our own memory the slave trade was as brisk along its ports as between the slave marts of the United States. The captives are, indifferently, Africans, Europeans, and Asiatics. White Englishmen and white Americans were there lawfully held and worked, sold and scourged as slaves, as lawfully as any slave is held in Virginia; and our first maritime war was to overthrow, to destroy, these property rights. And these rights in white Americans and Europeans were held sacred though all the Turkish States until they yielded to the principles of natural law—to the genius of universal emancipation. No man can defend American slavery on principle without defending Turkish; especially as the latter was much milder and more Christian than the former.

But gentlemen here claim that the property idea of man in man applies equally to the apprentice and child as to the slave; and thus, by the common law, man may hold property in man. This was the only reply of the gentleman from Tennessee [Mr. MAYNARD] to the denial of my colleague, [Mr. BINGHAM.] According to Webster, an apprentice is "one who is bound by covenant to serve a mechanic or other person, for a certain time, with a view to learn his art, mystery, or occupation, in which his master is bound to instruct him." Now, which is property, the master or apprentice? The rights are mutual; the obligation is mutual; the interest is mutual; and the whole is created by contract. The apprentice is property, is he? Can he be bought and sold; descend to heirs or creditors, be denied the legal relations of husband and wife, parent and child, the right to hold property and acquire knowledge, his whole being subjected to the will and for the sole benefit of another? Hear Judge Ruffin on this point, while dismissing a complaint for an assault upon a slave by shooting. He says:

"This has been assimilated at the bar to the other domestic relations; and arguments drawn from the well-established principles which confer and restrain the authority of the parent over the child, the tutor over the pupil, the master over the apprentice, have been pressed on us. The court does not recognize their application. There is no likeness between the cases. They are in opposition to each other, and there is an impassable gulf between them. The difference is that which exists between freedom and slavery; and a greater cannot be imagined. In the one, the end in view is the happiness of the youth, born to equal rights with the governor, on whom the duty devolves of training the young to usefulness, in a station he is afterwards to assume among freemen. With slaves, it is far otherwise. The end is the profit of the master, his security, and the public safety: the profit, one doomed in his own person, and in his posterity, to live without knowledge, and without the capacity to make any thing his own, and toil that another may reap the fruits."—*State vs. Mann, 2 Devereux, North Carolina Reports*, 263.

I will not blaspheme the holy relation of parent and child by dwelling upon the idea that the child is the chattel, the merchandise of the father. In some barbarous countries, where the law of the strong hand has not yet been supplanted by the Christian idea, such is the fact; and I blush to say that in some of the American States a class of illegitimate children may lawfully be, and sometimes are, sold like cattle by their own fathers or half brothers and sisters.

True, there is in one sense a property in an ap-

prentice and hired servant, as in all contract rights. The people have a property in our services; the parent has a property in the instructor of his children; the ward in his guardian; the hirer of a chattel in the thing hired. But are we, is the instructor, or the guardian, or the chattel, the property of him who has an interest concerning them or it? The grand base idea of the relations are antipodes. The one is founded on contract, on free will, with mutual rights; the other, as applied to man, on naked force, with no rights; the one is an obligation—a temporary use; the other an absolute subjection—a subjection that can only be enforced upon things, never upon man.

I have spoken of the fact that the property idea of the ancient States was not based upon natural law, as given us in the books of Moses; that their codes did not define the subjects of property, but indiscriminately subjected to be treated as property whatever could be seized and held as such; that they confounded the Divine distinction between men and things, and enthroned force in the robes and on the seat of justice.

But this was no peculiarity of the old civilization. It pertains to paganism and barbarism everywhere; and the idea that man can hold property in man has been naturalized in the United States; not from the common law, which had ignored even serfdom before the settlement of the colonies; not from the civil law, into which it had been incorporated during the rotten reign of the tyrant States, and from which it had been purged by the genius of Christianity; not from the law of nations, which cannot define property, which has no municipal authority, but simply pertains to the relations of States, not of individuals, and which, in that relation, had long abolished throughout Christendom the practice of enslaving prisoners of war; but it was incorporated in the customs of the colonies, and based alone upon the laws of the chiefs of the Guinea coast. I have heretofore, and in a former Congress, spoken of this fact, and I allude to it again in view of the frequent boasts of the antiquity and universality of slavery, of the argument that it must be according to the laws of nature, because practiced everywhere by man in a state of nature, i. e. in a state of barbarism. I desire to show these boasters, these men who affect to despise everything pertaining to Africa or the African race, that they are indebted to that country and to that race for the fundamental idea of their politics and their political morals. I before quoted the opinion of Chief Justice Marshall upon this point, and I give it again. After showing that the enslavement of captives was once lawful, he adds:

"Throughout Christendom this harsh rule had been exploded, and war was no longer considered as giving a right to enslave captives. But this triumph had not been universal. The parties to the modern law of nations do not propagate their principles by force; and Africa has not yet adopted them. Throughout the whole extent of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves. The question then was, could those who had renounced this law be permitted to participate in its effects, by purchasing the human beings who are its victims?"—*Wheaton's Law of Nations*, page 635.

The same idea seems to be recognized by the supreme court of Georgia in *Neal vs. Farmer*, (9 Georgia Reports, page 555,) where Nesbit, Justice, on page 580, says:

"Whence did he (the Georgia planter) derive title? Either directly from the slave dealer, or from those who held him, and he from the slave captor in Africa. The property in the slave, in the planter, became thus just the property of the original captor."

A Senator from Virginia, [Mr. MASON,] when pressed to the wall for the legal origin of slavery, claimed that it was established in the colonies by the common law of England; and see how he makes it out:

"If the honorable Senator from Maine desires to know what maxim or provision of the common law treats slaves as property, I will say to him that the common law of England, so justly called the consummation of human wisdom, recognized everything as property which was the subject of property in the country from which it was brought, unless prohibited by some positive law of that realm; and thus it was, that when slaves were first landed in Virginia, there being no law there but the common law, they were admitted as other property, that law recognizing that as their condition in the country whence they were brought. The condition of property did not attach to them after they reached the soil of Virginia, but they brought it with them. Such has been the law from that day to this."

"How that property arose it is not so easy to determine. The

publicists tell us that, at the dawn of civilization, a prisoner of war held his life at the mercy of his captor; and, as the latter might deprive his prisoner of life, it lay at his discretion either to kill him or to keep him in life as his property. Such was certainly the practice in the earlier days of the Romans. History tells us that such has always been, and yet continues, the custom among the negro tribes in Africa. Certainly there the natives sell their own race as slaves; they sell to each other as they sold to the white man while such sales were allowed by the laws of the white man. Thus it was that the ancestors of those now held in bondage on this continent brought from Africa with them their condition as property. How it was acquired there, can now be a subject of conjecture only, and would be an inquiry as fruitless as vague."—*Speech in Senate, March 15, 1858.*

That is, the common law of England made men property in the colonies who were held as property in Africa, and, because they were so held. All who could be seized and sold, and their descendants, were, by African law, property; therefore, these persons, when brought to the colonies, carried the African laws with them, and they, and the descendants of their women forever, were to be merely property! The mistake of the Senator was not in the fact of the adoption of the African laws of servitude, but in the statement that they are adopted by the common law. The common law had nothing to do with them. They were in derogation of its first principles. The common law, as expounded by its commentators and its courts, adopted the law of nature, as given in Genesis, as the basis of property; and it was only because corrupt ministers, mercenary corporations, planters thirsting for wealth, and cruel slave traders, conspired to substitute the African code in the colonies for the common law, that we find slavery there and here.

Judge Tucker, the eminent Virginian, speaking of the introduction of the common law into the colonies, says:

"Local circumstances, likewise, gave an early rise to a less justifiable departure from the principles of the common law in some of the colonies, in the establishment of slavery—a measure not to be reconciled either to the principles of the law of nature, nor either to the most arbitrary establishments in the English Government at that period—absolute slavery, if it ever had any existence in England, having been abolished long before."—*Tucker's Blackstone*, 388.

The celebrated Virginian should have known that the common law naturalized the laws of all countries, at least as to property brought from them. Like the gods of the provinces incorporated by the Romans into its concrete hierarchy, the diverse laws of property of the diverse types of civilization were adopted by this all-gathering common law. If the English or French sailor, who had been captured by the Algerine, and by his law enslaved, should be brought by his purchaser to England or her colonies, the common law continued him property because he was so held whence he was brought. So the French banker would have carried his franchise, and John Law might have flooded the world with his paper money as well from London or Boston as from Paris. To such absurdities are men driven.

The common law indeed! Why, the truth simply is, that the common law did and does not create property, but recognizes and protects as such everything that is—claimed as property? No, but everything that is property by the laws of nature and the laws of Christian States; and never, as the merest tyro knows, does it sanction the idea that man can be the subject of property.*

True it is, "and pity 'tis 'tis true," that the African codes in relation to the subjects of property were naturalized in the colonies. True it is, that those who were held as property by those codes were so held after transfer from the prison-ship to the slave plantation, and the blunderbuss and the scourge became the emblems of authority there, as in their distant home. True it is, that every mother's child, according to the law of the black and arid continent, became the merchandise of him who had enslaved the mother. True it is, that these codes were at times, as revenge joined

hands with avarice, extended to the Indian as to the African captive; and it is equally true that European blood was unable to dissolve the chain thus wrought from foreign links. And true, alas! it is, that these African codes have so banished the common law of property, have so overturned the fundamental idea of the civilization of Moses and of Christ, of modern Rome and of Westminster, that in the jurisprudence of this federation and of half these States, scarce anything is sacred but the right of one man to enslave his fellow-man.

I have said that the base idea of human ownership was force. I have shown it to be so in the ancient codes, and I ask attention to the law of property in those countries whence we have naturalized it.

The Senator from Virginia before quoted seems at a loss to know how this "condition of property," so "brought from Africa," was "acquired there." It is no subject of "conjecture" at all, and I will show those who partake his doubts that the inquiry is neither "fruitless" nor "vague."

As these African States have not favored us with any code or volumes of institutes, or commentaries, or decisions, from which we can ascertain their laws, or such of them as have been incorporated into our own system, I am compelled to rely upon the customs of the country. "Custom is the highest law," and by its observation we can see the "process" by which man becomes property, and the idea which lies at the base of the African law of property.

Gray and Duchard, in their *Travels in Western Africa*, (p. 191,) describing the manner of waging war, say:

"The general object of these detachments is the attack of some small town or village, the inhabitants of which, together with their cattle, they carry off." "Several of these parties were sent out during our stay in Bondo, and, with one or two exceptions, came off victorious—if the word can be made use of with propriety in describing the exploits of a horde of plunderers, whose chief object is, invariably, the obtaining of slaves, for whom they always find a market, either with the traveling merchants of the country, or the Senegal vessels at Galam."

Captain Canot, a modern slave dealer, in his experience in the business, gives the manner in which he acquired a boat-load in an emergency, at the mouth of the Matican river, coast of Guinea. I give an extract (page 228-9) to show the workings of those laws of property which the common law has so kindly domiciled among us:

"Next day we proceeded to formal business. His majesty called a regular 'palaver' of his chiefs and headmen, before whom I stated my *démarche*, and announced the terms. Very soon several young folks were brought for sale, who, I am sure, never dreamed at rising from last night's sleep, that they were destined for Cuban slavery. My merchandise revived the memory of peccadilloes that had been long forgotten, and sentences that were forgiven. Jealous husbands, when they tasted my rum, suddenly remembered their wives' infidelities, and sold their better halves for more of the obnoxious fluid. In truth, I was exalted into a magician, unroofing the village, and leaving its crime and wickedness to the eye of justice. Law became profitable, and virtue never reached so high a price. Before night the town was in a turmoil, for every man cudgeled his brain for an excuse to kidnap his neighbor, so as to share my commerce. As the village was too small to supply the entire gang of fifty, I had recourse to the neighboring settlements, when my 'bankers' or agents did their work in a masterly manner. Traps were adroitly baited with goods, to lead the unwary into temptation, when the unconscious pilferer was caught by his ambushed foe, and an hour served to hurry him to the beach as a slave forever. In fact, five days are sufficient to stamp my image permanently upon the Matican settlements, and to associate my memory with anything but blessings in at least fifty of their families."

Again: on page 332, in speaking of the natives amid the slave factories of the Gallinas, the same author says:

"In proportion as these upstarts were educated in slave trade under the influence of opulent factors, they greedily acquired the habit of hunting their own kind, and abandoned all other occupations but war and kidnapping. As the country was prolific and the trade profitable, the thousands and tens of thousands annually sent abroad from Gallinas, soon began to exhaust the neighborhood; but the appetite for plunder was neither satiated nor stopped by distance, when it became necessary for the neighboring nations to extend their forays and hunts far into the interior. In a few years, war raged wherever the influence of this river extended. The slave factories supplied the huntsmen with powder, weapons, and enticing merchandise, so that they fearlessly advanced against ignorant multitudes, who, too silly to comprehend the benefit of alliance, fought the aggressors singly, and, of course, became their prey."

This "condition of property" in man is acquired in Central and Eastern Africa by the same "process of law" as in Western. Sheikh Mohammed, of Tunis, the great Mohammedan traveler,

* For the true relation of the common law to slavery, see Chamberlain vs. Harvey, 1 Lord Raymond, 147; Smith vs. Gould, 2 ditto, 1274; (also, 2 Salkeld, 666;) *Somerset vs. Stewart*, 20 Howell's State Trials, 1, 82; (also, same case, *Loft's Reports*, 1;) Rankin vs. Lydia, 2 Marshall, Kentucky Reports, 470; Lunsford vs. Coaquillon, 2 Martin, Louisiana Reports, 402; *Forbes vs. Cochran*, 2 Barnwell and Creswell's Reports, 469; *Prigg vs. Pennsylvania*, 16 Peters, 539; (see page 611;) *Neal vs. Farmer*, 9 Georgia Reports, 555; (in this case the English authorities are reviewed;) 1 Blackstone's Commentaries, 423.

Per contra—see *dicta* in the *Dred Scott* case.

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described the slave expeditions of Darfur and Wadai. For the full narrative I must refer the curious student of African slave law, if his philology is at fault in the original Arabic, to De Perron's French version, or to chapter nine of St. John's English abridgment of the work. In those more regular and stable Mohammedan kingdoms a distinguished subject is commissioned to raise a gazwak, or slave hunt, and becomes, for the time, the sultan of his troop. This troop invades some Pagan community, named in the commission, seizes all who can be found, occasionally halts to divide and assign the spoils, continues the hunt till, satiated with robbery and blood, the chief drives home his horde of human property, regularly "acquired" under African law. If the obstinate Pagans resist, of course they are slaughtered without mercy; if, when surrounded, they "yield without resistance, the sultan takes the chief as a prisoner, treats him honorably, gives him a dress, and afterwards liberates him; but he seizes on all the grown men, the youths, the women, and girls, leaving only the old people and those who do not seem to be in a state to undergo the fatigues of a journey." The author narrates with becoming coolness the horrors of these hunts; says that from the frequency of the commissions the market would be glutted, but that from fatigue, exposure, and cruelty, but a small portion of the captives survive, and fewer still are able to reach Egypt. About the same compunction seems to be felt by these hunters as by a boat load of Nantucket whalers after their prey, or a troop of prairie Indians in pursuit of a buffalo, or a United States marshal in chase of a fugitive slave. Since the destruction of the Egyptian market by the "fanatical folly" of the Turks in overthrowing the slave trade, these hunts are doubtless profitable; and, indeed, there is great danger that, by the persevering efforts of Moslem and Christian Europe, even Africa, the hitherto impregnable refuge of the idea of property in man, may yield to the progress of Christian civilization. It may then be a question whether this law of property, after it shall have been overthrown in this, its most ancient and faithful seat, will survive in those countries that have thence derived it.

So in Bornou, Mr. Denham, and more recently Dr. Barth, describe the manner in which this "condition as property" is "acquired" by men and women, according to the laws of the State. It so closely resembles the method described by the Mohammedan traveler, as to induce me to believe that this State, as well as others through which these gentlemen traveled, acknowledge the same code and bow to the same fundamental idea of property. Usually the execution of law is left to its ministers; at least strangers do not feel called on to enforce it. But full examination has satisfied me that "legal process" upon the coast of Guinea may be served as well by the stranger as by members, or even ministers of State. I accordingly find that, as commerce becomes dull, either from deficiency in its staple or the means of purchase, the foreign slavers, with the alacrity of true law and order men, often lend themselves to enforce the laws of the land. Thus, after the manner of the native hunter, we find them stealing by night upon some defenseless village, and while the inhabitants are dreaming—some of their pastimes and their loves, and some, especially those who feel the cares of State, of the coming hunt to supply the white man's ships, all are seized, bound, and driven to these ships; and the blaze of their empty dwellings lights the march that converts—and by methods long sanctified by African law—a village of savages into cargoes of valuable property. This method of conversion was more common when the early captives, in their "condition as property," were brought to the American colonies; and I cannot find that the legality of the mode, except by "New England fanatics," in an instance or two, was ever seriously questioned.

The method by which this "condition of property" was made to "attach" to the transported Africans would be thus perfectly plain, but for the fact that some of them were not seized in the hunt, either by regular State commissioners or on individual account; but their "condition" attached to them from the earliest infancy. It is found

that by the African customs, as well as by those of the ancient States I have before spoken of, all children of slave mothers are seized and held as property. How this is done has puzzled many a wiser man than I, and I may not have hit upon its legal solution. But my desire to relieve the doubts of those who trace their rights of property to African laws, has induced me to give the matter a careful consideration.

By the slave laws of our States, a slave can make no contract, and cannot unite in lawful marriage. In the absence of any accessible code or decisions of the Ethiopic States, and in deference to the opinion of the Senator before quoted, I infer that "the condition" in which the slave is here held, in this respect as in others, was "brought from Africa" by his "ancestors." All the children, then, of slave mothers, are, by African law, necessarily bastards; and bastards, as all lawyers know, can have no father. The mother, being herself but property, can have no interest in the child; and the law permitting no other parent, and foundling hospitals and asylums being unknown, it has no protector. In this emergency, the master, who, having the lawful custody of the mother, is always constructively present, and is the only one who has a right to be present, is kindly authorized by law to seize or make a prisoner of war of the child; and as with all prisoners, it is simply a choice between death and slavery. Were slave marriages lawful, so that the child could have a father, it is quite uncertain in what "condition" it would be held; it would probably depend somewhat upon the demands of commerce. But born thus destitute, the harmony of the African code becomes apparent in authorizing its immediate seizure, under the rules that regulate the intercourse of the strong and the weak.

Thus we see the Senator was too easily discouraged, for I have plainly shown how the "condition of property" was in all cases, both by adults and infants, "acquired" in the mother country. The only puzzle is, how this African law should be permitted to override the common law, or the law of England, in the colonies, as the supremacy of the latter was expressly provided for in the colonial charters. Chief Justice Marshall seems to doubt whether "those who had renounced this law" could be "permitted to participate in its effects;" though it is not believed the present Chief Justice would have any doubt upon any such question.

The Senator, however, cuts the knot by making this same common law the instrument of its own overthrow, by recognizing "everything as property which was the subject of property in the country from which it was brought," &c. But this hypothesis fails to reach the children of slave mothers *born here*, unless it means, as I suppose it does, that, by this curious operation of the common law, the whole African slave code was imported, and war, after the manner of the African slave hunts, of her kidnapping and baby seizing, became forever crystalized in the colonies.

Thus began the Africanization of the colonies, the subversion of the common law by the law of force, by the code of the man-hunter. So long as mere avarice dictated law, blind money-getting wrenching gold from torn muscle and rifled soil, Africanism ruled the day. But as the public conscience awoke, stimulated by the labors of Edwards, of Whitfield, and of Wesley, and especially of the brave followers of Fox; as the common law vindicated its supremacy at Westminster; and as the attention of the colonists was so attracted to its free maxims and free methods as to force resistance to ministerial absolutism, the black and bloody code began to be regarded as a hostile intruder. The American Revolution was but an act in the great drama of English hereditary resistance to oppressive laws. It but followed the struggles for the restoration of the laws of the Confessor, the strifes at Runnymede, and the combats with the Stuarts. It was but the emancipation of the common law, and placing it under the control of popular sovereignty—a resumption by the people of the guardianship of its maxims and its methods. The people assumed the mastery, and reorganized government to protect, not infringe rights. Africanism was frightened at its new master; and it is no wonder that

the Guinea code fled from the gaze of a people burning with a regenerated love for a free and a Christian civilization. It only begged for time to set its house in order, a little indulgence to fold its limbs with decency, before being thrust into its waiting grave. Alas, that this indulgence was given it! that this African serpent was permitted even for a moment to fix its basilisk gaze upon the young sovereignty, charming by its very hideousness.

And the struggle now is, not between the North and the South—no, indeed! the friends of the common law in the South are in the closest sympathy with its friends in the North—but between systems, between civilizations. It is the misfortune of the South that the African code, the law of force, is fastened upon it; deeply do I sympathize with that misfortune. It is the misfortune of the South that the champions of that code are grinding her in the dust; with what alacrity would I aid her to shake off the tyrant rule, and leap to the position given only by the law of justice! It is the misfortune of the South that her fame is involved in the frauds and crimes her terrorists commit in her name; I would relieve her from the stain by snatching power from these her terrorists. It is the misfortune of the South that she is drunk with the cup of Circe; I would not even reproach her with the deadly lethargy; but going backward would spread the mantle while arousing her from the charm of the drugged position. The South is not alone responsible for her condition. The North has helped it on. Even while our old statesmen were, as they supposed, dissolving the spell, New England, as the price for a navigation monopoly, consented—ay, herself held the cup for a deeper draught—and ever since, northern slaves and northern hucksters have vied in the deep lullaby.* No, we have no controversy with the South; but the struggle is between fresh Freedom, flinging off the manacles of barbarism, both the old and the new, and fetid Force, long driven from the Tiber and the Thames, coming from its refuge in the dark fastnesses of the Niger to breathe its stifling breath upon the Potomac and the Mississippi.

ADMISSION OF KANSAS.

SPEECH OF HON. JOHN A. GILMER,
OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

MR. GILMER said:

MR. CHAIRMAN: I desire to say a few words in reply to the speech made by my colleague [Mr. Shaw] on the 20th of April last, and during my absence. I regret that he is not here this evening; but I feel compelled to proceed with what I have to say in reply to that extraordinary speech, and to do so even in his absence. I feel justified in doing so, for, on last Saturday, when I was prepared to go on, finding that he was not present, I desisted, but gave notice of my intention to speak at the earliest opportunity. That remark was published in the papers this morning, and therefore his absence is no fault of mine.

Mr. Chairman, I think that that speech was an unfair one; unjust, untrue, prevaricating, and unworthy of the gentleman who made it. I have read it over, and I have read it carefully. I have looked to see in it the views of a statesman. I have looked to see justice in it. I have looked to see in it fair dealing. Yet, sir, I am troubled to give to it the character which it deserves. If I were this evening called on as a witness in court to tell what I thought was its character, my answer would be like that of a witness examined in respect to the character of a simple old lady, who, when asked if he knew her general character, said, "I think I do. I think that I do know her general character. I know it well." "Please go on, then, and tell what it is." "Yes, sir, I know her general character, and it is generally believed in the neighborhood where she resides that she is a

* Justice smiled when that navigation was destroyed as are these hucksters spurned by the unconsciously avenging South.

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woman unworthy of common sense, and guilty of fits." [Laughter.]

My colleague waited from the 30th of March to the 20th of April to reply to me, and in commencing his remarks he made an apology that he could not sooner get the floor. I conceive there was no extraordinary anxiety on the part of my colleague to reply, or he could have done so time and again before the day he spoke. My excellent friend from Virginia, [Mr. LETCHER,] a portion of my speech being a reply to his report on the question of population in the Territory of Kansas, remained and very easily got an opportunity to reply to what I had said in relation to his report. He remained and made an argument which I think, as things now stand, he will hardly stand up to. He undertook to insist before this House and the country, that there was no doubt but that in Kansas there was a requisite population to entitle her to admission as a State into the Union. Nobody on the other side insists on that now, nor indeed on either side of the House. Before, it was contended that Kansas had a sufficient population for a State; but the English conference bill admits indirectly, but substantially, that there is not half population enough. And, sir, I would not have felt myself justified in giving the vote I did for the compromise bill, well knowing the want of population, were it not for the extraordinary circumstances that surrounded this extraordinary case, and the importance of getting rid of this national excitement.

My colleague charges me with having denounced the Green amendment, and then of having voted for it. He improperly charges that I maintained the same doctrine in the North Carolina Senate in voting for Governor Graham's bill; and yet he comes forward and himself defends the views of the Executive on that very subject which this Green amendment was intended to cover and sanction. How much verity is there in his charge when we come to examine it? Did my colleague ever vote to strike out the Green amendment? Is that true? It is not true. Did the gentleman from Mississippi [Mr. QUITMAN] move to strike out the Green amendment? He never did.

Mr. DAVIS, of Mississippi. When the bill came from the Senate, General QUITMAN moved to strike out the Green amendment; and those of us who believed with him voted for it.

Mr. GILMER. I will show that he did not do it.

Mr. DAVIS, of Mississippi. Do it.

Mr. GILMER. If his amendment had been drawn out in writing, as it ought to have been, nothing about the Green amendment would be in it. Why did he not move to strike the Green amendment from the Senate bill? Why did he move a substitute? If there was a purpose, *bona fide*, to get rid of the Green amendment, why was not a motion made to strike it from the Senate bill before the vote was taken on the Crittenden-Montgomery amendment? Did he not know that the Green amendment would have been voted out, had he offered simply to strike it from the Senate bill? Every American would have voted to strike it out. Most of the Opposition members would have voted to strike it out. Would it not have gone out, then, if the motion had been properly made? Why not, then, do the thing in a plain, simple manner, so easily done, and which would have brought the House to a direct vote on the Green amendment, and not at the same time against the Crittenden bill? I respectfully express my suspicion that it was done in the way in which it was, that certain gentlemen might indirectly get their vote seemingly against the amendment, when they knew that the motion could not be carried; or, it may be, because they knew that if that Green amendment went out, there were certain Free-Soil men from the North who would desert their ranks. I allude to the northern gentlemen who refused to vote for the Quitman amendment. In fact, and in plain English, the motion was so made, and the vote so taken, as to afford a mere showing, as I suspect—one in behalf of the southern wing, that they were opposed to the Green amendment; and for the northern Free-Soil wing, that they were for it. There is much common sense in this country. The people in due time will understand all this fully. Why make such an extraordinary motion, and then

turn round and say that it was moved to strike out the Green amendment? My friends will see that if it had been moved to strike the Green amendment from the Senate bill before the vote was taken between the Senate bill and the Crittenden-Montgomery amendment, the motion would have prevailed, and it would have made the Senate bill more acceptable.

Mr. DAVIS, of Mississippi. Will the gentleman tell me the difference between moving to substitute a bill without the particular section to which he refers, and moving to strike that section out?

Mr. GILMER. If the question had been presented in the latter shape it would have received a majority of the votes of this House; but presented as it was it could not have received such a majority, because all who were called on to vote for the Quitman amendment, were, in the form presented, compelled to vote at the same time against the whole of their bill.

Mr. DAVIS, of Mississippi. Why not, if the effect was the same?

Mr. GILMER. For this reason (the plainest possible) that it was well understood that certain northern gentlemen were supporting the Senate bill because it sustained the doctrine of the Green amendment, who would not vote for it if that was not there, and therefore they did not want the Green amendment out; for if it were out they would lose friends even for the Senate bill.

Mr. MARSHALL, of Kentucky. The amendment pending to the Senate bill was the Crittenden-Montgomery amendment. The Senate bill contained the Green amendment. The amendment of the gentleman from Mississippi was the Senate bill without the Green amendment, offered as an amendment to the Crittenden-Montgomery amendment. Had the proposition of the gentleman from Mississippi been accepted at the time, it would have superseded the Crittenden-Montgomery amendment, and left us to choose between the Senate bill with the Green amendment and the Senate bill without the Green amendment. The effect of it was never "to say turkey" to us once upon the Crittenden-Montgomery amendment.

Mr. GILMER. Yes.

Mr. DAVIS, of Mississippi. I desire to say that the reason assigned by the gentleman from North Carolina for not voting for the amendment of the gentleman from Mississippi, is quite different from that given by the gentleman from Kentucky. Yet both of those gentlemen vote alike, both voting against the proposition of the gentleman from Mississippi, [Mr. QUITMAN.] One says that if it had been simply to strike out the Green amendment he would have voted for it.

Mr. GILMER. I did say that exactly.

Mr. DAVIS, of Mississippi. The gentleman from Kentucky said he would not have voted for it in the form in which it was presented by the gentleman from Mississippi, while the gentleman from North Carolina says he would, and his party would; yet the gentleman from Kentucky is one of his party.

Mr. MARSHALL, of Kentucky. The gentleman from Mississippi will do me the justice to say that the reason why I would not have voted for the proposition of the gentleman from Mississippi was, that the effect of that proposition would have been to kill that very amendment of which I was in favor; and we could not have got a vote upon it all.

Mr. GILMER. If the Quitman amendment had been simply to strike from the Senate bill the Green amendment, I, together with a large majority of the House, would have voted to strike it out. This was the fair, regular way to do it. Then the next vote would have been a fair and plain one, to wit: the Senate bill without the Green amendment on one side, and the Crittenden bill on the other. The Quitman amendment seemed to be the result of study, and seemingly offered with a purpose to embarrass us; evidently it was offered in such double and duplicated manner, that, under the rules of the House, those of us who would vote with conservative gentlemen against the Green amendment, would have to vote at the same time against the whole Crittenden bill, which we most approved. In short,

the Quitman amendment said to me, "you shall not vote against the Green amendment, without voting at the same time against the Crittenden bill." I repeat, had the motion been made to strike out the Green amendment from the Senate bill, it would have gone out; then the next choice would have been the Senate bill with the Green amendment out, or the Crittenden-Montgomery bill. Does the gentleman deny that?

Mr. DAVIS, of Mississippi. You would have had your choice. But, would you have voted for the Senate bill, with the Green amendment stricken out?

Mr. GILMER. My colleague [Mr. SHAW] reads from the Lecompton constitution to show that it prescribes a proper qualification for voters, and then in that connection speaks of the Minnesota constitution, notice of which appeared in the papers long after my speech was made. Was that treating my views fairly? What had the Minnesota constitution, irregularly formed and void, to do, then, with the subject under discussion? But I suppose my colleague intended by that sort of statement to have it go abroad that the Crittenden-Montgomery bill did not provide exactly the same safeguards as to the qualification of voters. I can see no other purpose. An examination of the two bills will expose this injustice.

He says further, erroneously, that I took the ground that the people of Kansas would vote down the Lecompton constitution; and that when they came to make a new constitution, they would have the power to seize and take away from the United States eighty million acres of the public lands. And he read as follows:

"Sec. 2. And be it further enacted, That the State of Kansas is admitted into the Union upon the express condition that said State shall never interfere with the primary disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said lands to the bona fide purchaser and grantee thereof, or impose or levy any tax, assessment, or imposition of any description whatever, upon them or other property of the United States within the limits of said State."

And then he says I voted against this just and necessary measure of security. Is that true? Did not the Crittenden-Montgomery bill have precisely the same safeguards? and when I voted for one bill in preference to another, both having the same provision in this respect, did I vote against these necessary safeguards? This is another among the many attempts made by my colleague to do me injustice in my absence.

But what did my colleague do? What provision is there for the protection of the right of the United States in the public lands in the bill admitting Minnesota? Minnesota has also the same millions of acres of public lands in her limits, of more value, too. Is there any provision in that bill which secures the United States in her public lands in Minnesota, such as there is in the Crittenden-Montgomery bill, or even in the Senate bill? Not one word. I will attach a copy of this bill to my speech. It is a bill simply admitting Minnesota as a State into the Union, and not a single word is contained in it about reserving the right of the United States to the public domain in the Territory of Minnesota. My colleague voted for that bill—I voted against it.

Now, I wish to show to the committee what a distinguished gentleman from the State of my friend [Mr. DAVIS, of Mississippi] says as to the effect of admitting a new State, without in the bill admitting the State, providing for the security of the Government's title to the public lands. I refer to the Hon. JEFFERSON DAVIS. In a recent letter to his constituents he uses this language:

"The consequences of admitting a State without a recognition precedent of the rights of the United States to the public domain, are, in my opinion, the transfer of the useful, with the eminent domain, to the people of the State thus admitted without reservation."

If this view, entertained by the Senator from Mississippi, be true, then our friends who voted for the bill admitting Minnesota without this provision, which my colleague from North Carolina conceives to be so important to preserve our interest in the public lands, have done the very same thing which he undertakes, as I think unjustly and unfairly, to charge me with.

But that is not all, Mr. Chairman. I voted against the Minnesota bill for this reason, among

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others, that it contained this extraordinary provision, to wit:

"SEC. 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the United States one year, and in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

"1. White citizens of the United States.

"2. White persons of foreign birth, who shall have declared their intentions to become citizens, conformably to the laws of the United States upon the subject of naturalization.

"3. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

"4. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State."

My colleague may account to his constituents for his vote in favor of this constitutional provision.

My colleague not only voted for this, but, according to his own doctrine, voted for a bill the provisions of which give up millions of the public lands.

My colleague draws a picture, and gives his statement as to how northern people got to Kansas. He says nothing about how or for what our southern friends also went there. As to this I had said nothing. It was not my purpose to justify scuffling to get people into Kansas unnaturally and prematurely by either. My purpose here and elsewhere has been to do all in my power to allay excitement on the inflammable subject of slavery, and induce the country, in all sections, to leave this whole question to the result of the usual and natural immigration, and the citizens of the United States—those actually settled in the Territory—fairly and peaceably to decide this question at the proper time and in the proper way.

My colleague says that I based my opposition to the admission of Kansas, under the Lecompton constitution, "in other words, to her admission as a slave State," upon three points, and so forth. Based my opposition to the admission of Kansas, under the Lecompton constitution, "IN OTHER WORDS, TO HER ADMISSION AS A SLAVE STATE!" Now, I ask any candid man to recur to all that I said upon that occasion, to read my speech, and then answer for himself what is the fair dealing of one who, in a reply to it, would say that? Did I not avow that, so far as I was concerned, I was well pleased with the Lecompton constitution, in substance; that I would be pleased to have Kansas as a slave State, should the people of Kansas be satisfied with it; and that I would be satisfied if we could acquire Kansas as a slave State properly, fairly, and peaceably?

Mr. Chairman, the object and design of this I cannot but say (and I do so in all becoming respect) is illustrated by the fable of the boy who tried to conceal the fish, which he had acquired by stealth, under his waistcoat, but staid in market, the tail sticking out below. [Laughter.] He says there was nothing in the Green amendment, but that he regretted to see it in the bill. He quotes it in his speech; he defends, as I understand him, the position taken on that subject by the Executive in his special message; he professes to take ground for the Executive against me; and upon that I am ready to go with him before the people of North Carolina, or the people of the South everywhere. Pray what is the doctrine intended to be covered by that Green amendment? It is that the readiest and quickest way to get slavery out of Kansas is to adopt the Lecompton constitution; for that, irrespective of the checks and limitations in the constitution, the majority of the people can elect a Legislature; and that Legislature can call a convention. The convention thus called can alter the constitution, and give at once power to the Legislature to abolish and confiscate slave property, nothing being said about compensation to the owners who, according to the Dred Scott decision, had gone as rightfully into the Territory with their property as others with other property. Is that a doctrine which is to be defended by southern men, or that is likely to advance the interests of the States interested in the institution of slavery?

As I remarked in my speech, I had supposed that the South had gained something by the principle settled in the Dred Scott decision, and that southern men could go into the Territories with their slave property just as northern men go with any other kind of property. But, according to his doctrine, as soon as the Territory becomes a State, there is this difference between slave property and other property, that the former is particularly liable to be abolished or confiscated. Both went in constitutionally and legally. But as soon as the Territory becomes a State, the rights in slaves enjoyed under the United States Constitution are gone. I was sorry to hear some of our northern friends say that that was their construction of it, and that it could be done without compensation to the owners. What service is the principle settled in the Dred Scott case to the South if that doctrine be true? I supposed that, to carry out that principle truly, southern men were entitled not only to go into the Territory with this species of property, but that, when they came to form a State constitution, the convention, or a subsequent Legislature, could do no more with slave property than had been lawfully brought into the Territory, than they could with any other species of property. The right to prohibit the further introduction of slaves is one thing; the right to legislate for the gradual emancipation of the issue born afterwards is another thing; and the right to abolish slavery, allowing compensation to the owners, is a third thing. All these might be reasonably consistent with the principle settled in the Dred Scott case; but to go the fourth degree, and say that the convention assembled to form a State constitution can give the Legislature power to emancipate or confiscate the slaves that had gone in there rightfully, without compensation to the owners, is going far indeed, and is entirely a different thing. If southern men defend that, I am willing to meet my colleague on that issue in North Carolina or anywhere else.

My colleague tells the story of Pat McGowan. He uses an offensive term for a very clever Irishman in North Carolina, whose true name is Patrick McGowan, and is a gentleman who was door-keeper to the Senate of North Carolina for a number of years, a poor but, as I believe, an honest man; a Roman Catholic; but he discharges his duties promptly, faithfully, and industriously. He was ever kind and attentive to me. I had a personal partiality for this little industrious man, who had a house full of children, and not the wherewithal to clothe and feed them easily. He asked me to sign a recommendation to get him the appointment of mail agent of the Raleigh and Gaston railroad. I did so; he received the appointment, and has filled it with ability and faithfulness ever since. I might say that all this took place before we had any controversy about the principles of the American party; but I do not want to plead off on any such ground as that. God forbid that there should be anything in the principles of the American party to prohibit me, or others, from lending my name or influence in a work of that kind! I think my colleague, if he had searched closely into my public acts, could have found something that would have operated more to my prejudice than this little aid which I gave to one, poor and clever, but whom he contemptuously calls "Pat McGowan." All that he can make out of that little circumstance he is welcome to.

But my colleague says that I have supported the doctrine of alien suffrage. What does he mean by that? If this charge had the least semblance of truth in it, it would be no fault with him. The Senate bill and the Crittenden bill contained substantially the same provisions and safe guards as to this.

My colleague goes into a long history of the Missouri compromise, and winds up with this reason for the repeal thereof, to wit: "That northern men opposed the extension of it to the Pacific." I would reply to this, by asking whether the same majority that repealed the said compromise, could not, by the very same vote, and with the same case, have extended it to the Pacific?

My colleague says he has no complaint to make of my votes on Kansas, but believes they are in direct opposition to the interests of his constituents and mine; and, to be the more emphatic,

striking, and imposing, he borrows the phrase "unparalleled outrage" to apply to the positions maintained by me. He turns me over to be destroyed by my constituents. After all this, who would have believed that he, so shortly thereafter, would have come substantially on the same platform with me, and have embraced the self-same "unparalleled outrage," and rejoiced with others over its success as a great triumph, a great measure of peace and quiet to the country? Yes, sir; a great Administration triumph, celebrated by music and singing, speaking, banners, and the firing of cannon. Now, sir, I am pained to see that, among many politicians at the North, there is a scuffling to have the impression created on the country that there is not a submission of this constitution to the decision of the people of Kansas. And I discover the same thing among gentlemen of the South, who are trying to cover up the fact that they came down to this very platform, "unparalleled outrage," to wit: that the people of Kansas are substantially to have the privilege of deciding this very great quarrel among and for themselves. Now I want to make this point as plain as daylight—so plain, mark you, that these southern gentlemen who would charge me as being inconsistent, who supported the principle of the submission of the constitution of Kansas to the people, must apply inconsistency to themselves. I do it by reading the act itself; there is no getting around that. It reads as follows:

"Be it enacted, &c., That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever, but upon this fundamental condition precedent, namely: that the question of admission, with the following proposition in lieu of the ordinance framed at Lecompton, be submitted to a vote of the people of Kansas, and assented to by them or a majority of the voters voting at an election to be held for that purpose, namely: that the following propositions be, and the same are hereby, offered to the people of Kansas for acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit:

Here follows what the people of Kansas are to vote for or against.

And what is that, pray? Why, simply whether she would accept the quantity of land which she would get any way—the same that Minnesota receives—the same that she would get whether she comes in under the Lecompton constitution or any other constitution. Yet gentlemen undertake to argue before the people of the country that it is not submitting the constitution to the people of Kansas. It is true, it is indirect; but it is the same principle, in fact, advocated by those who supported the Crittenden-Montgomery bill. They come as near to my bill as they could, considering that we are all creatures of human pride. Why, Mr. Chairman, you might as well have said, "you shall not vote for Lecompton, or against Lecompton, but you may do this: all those who are for Lecompton may throw into a hat blue beans, but all those who are opposed to Lecompton may throw in black beans; then, when all have thrown in their beans, count, and if the blue beans are the most in number, Kansas is in with Lecompton; but if the black beans are the most numerous, then there is no State of Kansas, and no Lecompton constitution."

But it does not stop there; the act goes further, and shows what is to be done if they thus reject this constitution. It reads as follows:

"At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may please, 'Proposition accepted' or 'Proposition rejected.' Should a majority of the votes cast be for 'Proposition accepted,' the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States, in all respects whatever, shall be complete and absolute; and said State shall be entitled to one member in the House of Representatives in the Congress of the United States until the next census be taken by the Federal Government. But should a majority of the votes cast be for 'Proposition rejected,' it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in the said proposition; and in that event the people of said Territory are hereby authorized and empowered to form for themselves a constitution and State government, the name of the State of Kansas, according to the Federal Constitution, and may elect delegates for that purpose whenever, and not before, it is ascertained by a census duly and legally taken that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and whenever thereafter such delegates shall

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assemble in convention, they shall first determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and, if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to such limitations and restrictions as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union, as a State under such constitution thus fairly and legally made, with or without slavery, as said constitution may prescribe."

I tell you, sir, *there is*, substantially, the principle of the Crittenden-Montgomery bill, this "unparalleled outrage," supported by the friends, who set out with the Senate bill and the Green amendment, that is the identical thing that has been passed, and is now glorified all over the country with shouts and songs and feastings, by the very men who denounced it so bitterly in the beginning.

In reference to the allusion I made to the test oaths imposed by the first Territorial Legislature, my colleague mentions an oath to support the constitution, and an oath to enforce the fugitive slave law. There he stops.

Why does he stop there? To impress, I presume, the southern people falsely that in my speech I complained that the people of Kansas were required to take an oath to support the Constitution, and an oath to enforce the fugitive slave law? Did he not know and well understand me to be referring to the extraordinary oaths which prohibited the people from conversing on and debating the question which, by the terms of the Kansas-Nebraska act, was left for them to decide among and for themselves? Why did he not then go on and argue fairly, and not so unkindly strive to fix odium on me, as he well understood that I was referring to these oaths?

He quotes from northern speeches, from those whose sentiments are unpopular in the South. Then, he asks, "suppose the name of the member from Ohio [Mr. Giddings] was attached?" &c. Why did he not copy from what was said in the South as well as in the North? I read from the Richmond Enquirer. Speaking of Kansas and the Leecompton constitution, the Editor says:

"We still believe that the constitutional convention, although legitimately assembled, resorted to a means of a submission of the constitution entirely at variance with republican principle and sanctioned by no precedent of republican history. We cannot recognize that this constitution has been either formally or virtually adopted, either by the convention at Leecompton or by the people of Kansas. We consider that the mode of submission resorted to was intended to defeat, and did defeat, all fair expression of that popular will to which the schedule of submission professed to defer. Under these circumstances we agreed, with a large number of the Democratic party, by insisting that a constitution legally framed should also be legally adopted, before it could be imposed by congressional action upon a sovereign people; that the Leecompton constitution should be submitted to a full, fair, free submission to the people, who should thus be enabled to elect its ratification or rejection."

That paper, it will be seen, holds that the convention was legitimate, yet believes that it resorted to means for the submission of the constitution entirely at variance with the original design and spirit of the Kansas bill and the wishes of the people. He might have added the views of the Richmond Enquirer in the same connection. What views did I take, or opinions express, in my speech, that could call for congratulation from any Abolitionist? He pointed to none—he could not do it. But he interpolates and adds extracts from the views and speeches of others, and then adds, as I have already said, "Suppose the name of the member from Ohio [Mr. Giddings] was attached," &c. I admit there is a great deal of cunning here. Why did he not select some portion of my speech, and then ask the question whether this man or that man's name attached to it would reflect on me as a southern man? With all this cunning and all this device, I must say, with all respect, that in the nursing and fixing up of this particular part of his speech, my colleague must have had in his head full as much moon as sunlight.

After showing, as I have already done, so much unfairness, and so many errors, and misstatement in my colleagues speech, I will now say what is almost unnecessary, that the attempt he so ungenerously and improperly makes to prejudice me in the eyes of my countrymen, excites

with me indifference, at the effects and results he has so lamely and feebly attempted.

Then he attempts still further to prejudice me by saying that the member from Ohio [Mr. Giddings] congratulated me on the speech that I made on that occasion. When my colleague was upon the floor, and gentlemen who were near me at the time assured him that what was alleged did not take place, I should have expected, at least it would be expected, that he would have acknowledged that he had been mistaken; but not so. He had risen to make the speech, and his speech he made as he had fixed it up. What in my speech was there that Mr. GIDDINGS could congratulate me on?

And I would say here, with all submission, that if we could bring about a state of things in this country, when Mr. GIDDINGS, or all others, North or South, would be willing to congratulate themselves upon the platform laid down in that speech, it would be a better state of things than now exists, or I fear will soon exist. I say, in reference to my colleague's statement, however, with a solemn regard to truth, that there is not a word of truth in it. I do recollect that the member from Ohio, in passing up the aisle, some distance from me, on the conclusion of my speech, stopped and made some such remarks as he has stated in his reported reply to my colleague, about my having connected his name with that of Mr. Buchanan. That I believe to be true; no more.

I will conclude with an additional remark in reference to the vote I gave for the compromise bill. It was not such a bill as I fully approved. I should have vastly preferred the Crittenden-Montgomery bill. It was an honest bill. It left room for no double construction. It did not leave room for southern men to say that there was no submission, and for the northern wing of the Democratic party to say that there was a submission. It came forward plainly, honestly, squarely, and did the very thing it professed. True, the bill which passed in substance was the same; only leaving room for this double construction.

But, inasmuch as this odious Green amendment, indorsing the objectionable doctrine which it was intended to cover, was out of it; and inasmuch as it left this question to be settled, where perhaps it is best that it should be settled, the South having nothing to gain, I deemed it best to vote for it. I said to my gallant southern comrades who had fought the battle, that they had, in substance, all that they had been contending for. But my gallant friends considered it their duty to proceed further; and, as their bill was in such a fair, plain, and unquestionable form, they thought themselves justified in pursuing those who had abused and opposed them, until they should bring them to their very terms, word for word and letter for letter; and had they been successful, I am now well satisfied that the bill would have obtained the sanction of the other wing of this Capitol, and would have given to the country a better adjustment and secured the prospect of greater satisfaction than the bill which finally received the sanction of both Houses.

APPENDIX.

An act for the admission of the State of Minnesota into the Union.

Whereas, an act of Congress was passed February 26, 1857, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States;" and whereas, the people of said Territory did, on the 29th day of August, 1857, by delegates elected for that purpose, form for themselves a constitution and State government, which is republican in form, and was ratified and adopted by the people, at an election held on the 13th day of October, 1857, for that purpose: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Minnesota shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

Sec. 2. And be it further enacted, That said State shall be entitled to two Representatives in Congress until the next apportionment of Representatives amongst the several States.

Sec. 3. And be it further enacted, That from and after the admission of the State of Minnesota, as hereinbefore provided, all the laws of the United States, which are not locally inapplicable, shall have the same force and effect

within that State as in other States of the Union, and the said State is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established. The Judge, attorney, and marshal of the United States, for the said district of Minnesota, shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal of the district of Iowa; and in all cases of appeal or writ of error heretofore prosecuted, and now pending in the Supreme Court of the United States, upon any record from the supreme court of Minnesota Territory, the mandate of execution or order of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Minnesota, or to the supreme court of the State of Minnesota, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Minnesota Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

ORIGIN OF SLAVERY.

SPEECH OF HON. L. M. KEITT,
OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. KEITT said:

Mr. CHAIRMAN: On a past occasion I made an endeavor, and did not, I trust, entirely fail, to prove that, with the diffusion of the human race upon earth, in the customs of savage hordes and the legislation of early nations—at the origins of human societies and under the precepts of God, directly revealed to his people, slavery, domestic slavery, stood as a constant, primitive, and universal fact, before which the speculations of schools, the reluctance of prejudice, or the whine of hypocrisy are compelled to sink into either silence or acknowledgment. I have appealed to the earliest traditions of mankind; I have gone under the tent of the patriarch, when he spoke face to face "with the Lord out of heaven," and received the promises of the first covenant; I have entered the precinct of the household which contained the father of the family and the master of the bondman merged in one and the same person; I have questioned the usages of nomadic tribes and the legislation of civilized States—nay, I have interrogated the sanctioner of all earthly legislation; I have, not irreverently, interrogated the law of God himself, and each and all of them have armed my postulate with defiant proof that slavery, far from being the work of violence and of wrong, is alike ratified by Divine wisdom and demanded by social requirements.

This, I repeat it, the traditional voices of mankind; the usages of the patriarchal days; the cycles of popular poetry; the enactments of man; and the higher sanctions of the law of God—all of them amply, unerringly, and irreversibly converge to establish.

It does not belong to me, sir, to inquire how those who have foregone the manlier attitude of the antagonist to skulk under the more congenial infamies of the traducer, can ever succeed in scaling this battlement of proof. For my part, aside from all human authority and legal defense, I am content impregably to intrench the rights of the South behind the muniments which the hand of the Almighty has reared; or, if for greater security, to plant them upon the summit of the rock where the law was proclaimed; where, with the proclamation of the law was also uttered the fiat which sanctioned slavery, and settled the relations between the master and the slave. And here, sir, I cannot, in this connection, omit reference to a fact which struck me with peculiar force, in the sequel of my inquiries. It is a strange thing, yet no less true than strange, that in this consecration of the Divine will, the commandments themselves, given in the voice of the thunder and the flash of the lightning; those commandments which recognized and confirmed the previously existing rights (Exodus, chapter xx., verses 10-17) should, without any interposition of other matter, be immediately followed by precepts settling and regulating the character and status of slavery. (Exodus, chapter xxi.,

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verses 2, 4, 6, 7, 20, 26, 27, 32.) Yes, turn to that Book, which, in all the things of human life, is one of perpetual relevancy, because it is the Book of eternal wisdom and truth, and any thinking and honest man must also be struck with this peculiarity in this question of slavery, which the Almighty, in his decrees, has seen fit to consecrate, but which some of his miserable, presumptuous creatures, in their superior wisdom and holier claims, would damn into an abomination and a sin. As in our organic law its creators, after the declaration of the objects and principles of government, gave the most prominent place to the duties and inhibitions—marked, in a specific form for the framers, the expounders, and the executives of the supreme law; so in the Divine constitution, after the declaration of the moral law and of the requirements of Divine worship, out of the multiplicity of precepts which He had to impose, and which He did impose upon His people, God seems specially to have selected this question of slavery to make it the subject of a particular determination of duties and delegation of powers, enjoined and conferred on Moses, the organ and exponent of His law.

That law, Mr. Chairman, endured in its fullness, as the expressed will of the Maker, until it pleased Him again to reveal that will to His creatures and to send His Messiah as the witness of that revelation. It remained in vigor, unmodified and unchanged, save in the necessities of the new scheme, among which slavery was not reckoned, by Him who emphatically declared, "I am not come to destroy, but to fulfill" the law, which He committed to His ministers in their prosecution of His divine mission. By them it was transmitted to their successors, and by these, in an unbroken line, to the succeeding agents who continued that work. And thus, sir, down the steep of ages, until our days of new lights and modern improvements, when it is sought to substitute a sickly philanthropy for the salutary precepts of the Creator, our days of fanatical innovations and dissolving doctrines, in which the voice of the Romillies, the Wilberforces, and the Clarksons, denouncing the law of God, found an echo in our own second-handed Abolition conferences, in our modest revisers of the olden creed, and northern editors of a new code of Christianity. From negation to negation they have gone on repudiating the traditions of the original code; repudiating the customs of the past which it sanctioned; repudiating the formal instructions of the earliest apostles; repudiating, when they did not actually criminate, the silence of the Savior himself; they have gone on thus, until, in one crowning act of impious insolence, howling for "an anti-slavery Bible and an anti-slavery God," they have repudiated the written law of the divine Legislator, and *ex cathedra* declared his own institution and consecration of slavery to be a defilement and a crime. If we, sir, who claim a twofold guarantee for the rights of the slaveholder, in the legal sanction and the Divine injunctions, which I take to be the very duramen of the institution and its growth, are tainted by such defilement and guilty of such crime; if these men, instead of being impious maniacs and malicious slanderers, are the assertors of truth and the vindicators of right; then shall we have to reverse the injunctions of the apostles delivered in the prosecution of their ministry, and baptized in the holy spirit of knowledge and truth; shall have to load our souls with the guilt of the blasphemer and condemn the Savior for his silence on this question of slavery, or interpolate His teachings dispensed to those apostles as the muniments of their approaching ministry. Then, sir, shall we be compelled to rend asunder the slavery record of Exodus, extended over the chapters of Leviticus, and reaffirmed in the second promulgation of the law through the precepts of Deuteronomy. Compelled, sir, if these men are to escape the stigma which should attach to them as willful falsifiers of the word of God, to pervert every line of Scripture, and blot out the decalogue itself; which, embodying the sum of our moral duties and religious obligations, embodies also a recognition of slavery.

But we of the South, with no claim to self-sustaining godliness and with no impudent pretensions to reform or amend the word of God, must

be content to abide by its precepts, and cling to its securities. We cannot, therefore, consent that it shall be so lacerated as to pluck away from its prohibitions, not a denunciation of slavery, but that command which should forbid them "to bear false witness against their neighbor." Hence, sir, respecting that law, in all its bearings, we respect it in its bearing upon slavery, where its recognition by man is corroborated by the sanction of Heaven. It has the authority of covenant and time for its applications in human societies. It has the authority of apostolic instructions, and of Christian practice. It has the authority of the canons and decretals of the Church, when there was but one Church on the face of the earth. It has the authority of imperial rescripts and royal decrees, not condemned by the spiritual dicta of the Church. It has the authority of parliamentary statutes, of colonial regulations and State laws, which recognize its concordance and fitness with slavery. Slavery, sir, under that law, has claimed and obtained the assent of universal custom and right; and we contend that a *disinterested* renunciation, or *pious* non-user of a right, on the part of any individual, community, or State, can never disparage the authority of that law, affect the sanctity of our rights, or pervert their exercise into an imputation of wrong. No, sir; we cannot allow those men, unmasked and unbribed, to mutilate the record for purposes of malice, of falsehood, and of strife. The municipal law of modern times is but the binomial affirmation of the Divine law of ancient days; and upon both we stand, and shall ever stand, as a tower of impregnable strength.

Painfully aware am I, Mr. Chairman, that this is not the place where the question of slavery, in this view—I mean in the religious view—should be discussed. But when the assault is not confined to the declarations of conferences, and the decrees of synod; to the rabid vituperations of the rostra, and the scurrilous amenities of the pulpit; when the trained and prompted retailers of secular slanders and holy falsehoods come here, where all meet upon an equality of political rights, whatever distinction may be marked by a sense of personal dignity, and the despotism of gentlemanly nurture—come here, and upon this floor, "like hounds let loose from leash," day after day howl in our ears that we are "men stealers," that we are breakers of the Divine law; that slavery has the curse of God upon its head; and that our maintenance of the system is a sin in His eyes; we may be pardoned for overlooking the proprieties of place, and even "wer't in a church," not refrain from repelling the assault where it is made, and the falsehood where advanced. Why, sir, even those who profess to stand by our rights modify the admission by the *salvo* that slavery, though a shocking thing, is our own business and concern. They justify their gingerly advocacy of what they call the rights of slavery, as existing *in the States*, by the complimentary avowal that "our people are not their people, and our God their God." That our people and our God are not their people and their God, we have abundant and satisfactory proof. The burning sense of wrong that kindles the southern heart; every pulse which, in the southern bosom, beats in answer to the voice of justice, tells us that our people cannot be their people. That their God is not, and cannot be our God, we have the evidence in their persistent repudiation of His law, and their willful perversion of its precepts.

For the delicate allotment in the former case, of the *sum cuique*, Mr. Chairman, and the proper discrimination between our people and theirs, they have the due acknowledgments of one, at least, who would regret to find misconception or confusion existing on that score. For the duality of the godship, in the latter instance, I am not otherwise prepared, nor is it quite my province to account. I am, however, reminded of the congratulations of the Roman poet:

"O! sanctas gentes, quibus hæc nascuntur, in hortis Numina?"

congratulations addressed to "that holy race whose gods in gardens grow;" whilst mine may not be withheld from the people; not ours, whose inventive genius, among others of its achievements, has secured for them a patent northern

god, in a Yankee heaven. I am satisfied, sir, to give wide berth to this horrid idol of northern contrivance—horrid indeed, sir, if we are to judge of its character by the madness and impiety to which its baleful spirit is driving its fanatical worshippers. I give it wide berth to cling to the God whom we acknowledge in reverence and truth, the God of our fathers; who has smiled, and who continues to smile, in kindness and protection, upon both master and slave; the God of our fathers in the trial times of our struggle, whose light they invoked in the deliberations of the council-room, and to whose might they appealed in the arbitrament of the battle-field; the God who breathed wisdom in their councils, and gave power to their arms; the God who, in the day of ordeal, with the scales of justice in His hand, swayed the beam on the side of victory and right. This, sir, is our God—the God whose paths we have striven to pursue, and whose mandates we have labored to obey. This God the very brotherly spirit of our northern friends has differed from theirs.

In the prosecution of this duty to the South, and in vindication of its traduced and slandered people, to Him and to His law, its permissions and its guarantees, I confidently appeal to shake off the responsibility which the repeated assertion that slavery is a sin, because it is an assumed violation of the justice of God, seeks to impute to us as breakers of the Christian law in the maintenance of the institution in our political and domestic society. Why, sir, the news current upon your streets but yesterday tells you that a religious conference—a religious conference!—at the North, following scores of other conferences of the kind, by a vote of fifty-one against thirty-five, passed resolutions—affirmed resolutions, decreeing us and our people of the South to be violators of the law of God, and of the teachings of His Son. The duties of the headman, performed on some of the more distinguished felons, were wont, in times past, to borrow a relative dignity from the character of the criminals. But the office of an executioner, discharged even on these saintly culprits of ours, can be but loathsome at best. Hence, sir, I shrink from branding these pious perverters of truth with the stigma due to the falsehoods which they, with fiendish malice and unstinted breath, daily drive against the institutions, the morals, and the religion of the South. Were it not for the obligation incumbent on this discussion to pluck the mask from the face of error, and to champion the sanctities of truth, I would scarcely waste the breath to ask them to point out to us where Christ taught, where Christ hinted, that slavery, as He found it established by the will of His Father, uttered on the heights of Sinai—that slavery, as He found it under the derivative authority of human legislation, is a violation and a breaking of His Divine precepts? Humbly and reverently, sir, have I scanned those precepts; not to falsify, not to warp, but to understand and respect; and nowhere yet have I been able to find a line that will either screen our slanderers from the guilt of willful obliquity from the paths, which, in this respect, He has marked for our feet, or subject us to the charge of a departure from His intents in the same respect. It is our sincere acknowledgment, on the contrary, that His teachings, without conceit of ourselves, or disparagement of others, are a guide to our lives, and a sacrament to our hopes; and we keep them sacred and free from the thousand worldly stains by which, through their prostitution of religion to political and secular ends, our traducers blur the holiness and deform the beauty of His worship, in persistent contempt of His admonition, "My kingdom is not of this world."

Much as the fact may exercise the incredulity of our northern friends—credulous in all else that promises full scope for the pursuit of serious follies and fanatical aims—I assert this, in the name of a high-thoughted and generous people, whose only guilt is blindness to the refined civilization, and rebellion against the self-seeking morality of a self-righteous North. I do it in the name and on behalf of the mothers of the South, before the moral splendors of whose home-virtues and exemplary lives the fame of the Roman matrons dwindles into an empty boast. I assert it in the name and on behalf of the daughters of the South,

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who, rich in every endowment that adorns the female character, give assurance that this patrimony of quiet and purifying virtues shall long continue unflawed by the rude contact of the public rostrums, or unshamed by dabbling in the vagaries of women's rights. I assert it in the name of the younger sons of the South, the *spes altera Romæ*, the future hope of our Republic, held to the memory of lofty deeds, and sworn to patriotic service. But especially do I assert it in the name and in vindication of a pure and enlightened clergy, who sustain high purposes with high dignity, and justify their ministry by the teachings which their Master taught.

When, therefore, Mr. Chairman, the attempt is made, in the name of religion, to put our moral and social character under the ban of the world's opinion; when made by the arm of fanaticism, led by falsehood, to assail the institutions and endanger the peace of the South; it is neither out of place, nor against propriety, for us to go even to the armories of Christianity for a weapon of defense. I trust, sir, that the same spirit of fairness which sustained my reference to the primitive sources of unerring wisdom and truth, and guided the investigation into the other sources of authority, will not fail me in further inquiries directed to the record of the Gospel, which time has handed down to us as the voucher of the doctrines of Christ.

On His advent, sir, slavery was a universal fact, growing out of the rights laid down in the original law, and acknowledged by every tribe and nation, whether now lost in the darkness of ages, or once figuring in the geographies of the inhabited earth. Neither He, as the promulgator of the suppletory law, nor His apostles, as its subsequent heralds, ever denied the law in that particular, or preached in condemnation of either the right or the fact. The founder of the new code taught the unity of God in a trinity of persons. He taught the fall of man and the regeneration through His merits. He enforced the necessities of meekness, justice, temperance, and charity. He rebuked the pride of human will and of human intellect, and sustained all orders of men by the doctrine that the highest of the spiritual virtues can be linked with a lowly estate, a chastened will, and a trusting faith. From the summit of that mount, to which every sincere Christian looks for the law of his duty, He, in minutest details, uttered all the offices of those who claim to be the followers of His Gospel, but in nothing, save the redemption of marriage from the bond of the Mosaic law, and in its consecration under a holier form, did He enjoin any innovation in the social scheme. He provided ample means for the emancipation of his creatures from the spiritual bondage; but nowhere did He proclaim the abolition of legal or domestic slavery. He drew closer the family tie—stripped the husband of much of his irresponsible authority, and raised woman up in the scale of social influence. He inculcated good works on all—each in his degree, and enjoined purity of life and respect for the fraternal authority and the conjugal bond. This, and more, He has left to us as memorials of a mission still spreading through the civilized and uncivilized world. But I ask to be pointed to the record, where He gave one word of mandate, where He uttered one syllable of reprobation regarding the relations of master and slave—relations recognized by the Government under which His Gospel and its precepts were dispensed. It is, on the contrary, a singular and noteworthy fact that He universally abstained from any reproving allusion to them. He talked to the doctors and of the doctors, never loath to wrest the law to their own purposes, whether clad in the Jewish gabardine, or the New England cloak. He talked to Pharisees, and of the Pharisees, whose self-righteousness has lost no presumption by grafting on the Puritan stock. He talked to hypocrites, and of hypocrites, whose unbroken lineage has run through time, and conquered space from the shores of Genesareth to the base of Plymouth rock. But I call for the allegation of a single instance, when, in the midst of Galilee, a conquered Jewish province, ruled by a Roman procurator, with slavery existing under the Mosaic law, and slavery existing under the heathen law, He once spoke to slaves or against slavery. I find, on the other hand, that, on His

entrance into Capernaum, he heals the slave of the centurion, and has no rebuke for slavery, but praises for the officer's faith.*

No, sir, nothing of condemnation, nothing of even reproof from the Savior's lips, for the "vile wretch,"—the "man stealer;" who, according to the approved Yankee formula, "held his brother man in bondage." If ever, Mr. Chairman, an opportunity was offered to stamp with reprobation, this lately devised curse, and ungodliness of slavery, surely this healing of the centurion's slave held out that most golden opportunity. Had one of our pious go-betweens—one of our religious brokers here upon earth—but stood next to the Savior, and found the chance of whispering his puritanic suggestion, well might He have said to the Roman officer: "you profess that this slave is 'endeared to you,' and yet you keep him in bondage against my Father's law and mine. You have appealed to the power which He gave to me to raise him up from his bed of palsy, and I have raised him up without money and without price; will you not alike evince your acknowledgment of my ministry, and your affection for your slave, and restore him to that freedom, of which you deprived him, in defiance of nature, of man, and of God?" No, sir; wrapped in His own imperscrutable knowledge of all things—unaided even by the lights of our modern improvers, not a word of rebuke, not one of remonstrance, passes His Divine lips, but instead, come the words of eulogy, that set up the soldier as a pattern for Israel, whilst the right of the master and the protection of the slave are sanctioned in the faith of the believer. It is vain for these godly expounders of ours to speculate upon ignorance, or rely on fanaticism to distort the teachings of Christ to the support of their interested, malicious, and selfish crusade against an institution devised by the will of God, and accepted by the law of man. In the words of the Pretor, sir, *non ita scriptum legis carmen*—this is not the sacramental language of either the Divine law, or of Him who expounded its precepts. In the multitude of subjects upon which He discoursed with His disciples, you find no mention of slavery; in matters upon which He gave them instruction and charge, never did He breathe the name of slave except in the frequent use which He makes of the relations between master and slave to illustrate those between God and His creatures.

I therefore challenge our detractors to point out to us where He condemned slavery, or denounced the master who owned the slave. In what passage of His conferences with His disciples? In what line of His preachings to the multitudes? In what word of His mandates to His apostles, and in what last injunction, when He laid in their hands the destinies, not only of the world, but the destinies of the hereafter also of that world? On the contrary, sir, you find Him recognizing all the obligations of the social scheme in the midst of which He lived, and moved; and taught all of them, down to the payment of tribute to Cæsar, recurring even to His power of miracle to provide the means of its payment. He recognizes all the subordinations of political life, and among these He specially recognizes the subjection of the slave to the master, when, warning His followers of the duty of faith in Him, He expressly enforces His admonition by the dictum that "the disciple is not above his teacher, nor the slave (it is *δουλος* in the original text) above his master." In His foresight of the influence of His mission on all the relations of heathen life, He tells His disciples that He has come to set the father against the son, the daughter against the mother, the friend against the friend. But I nowhere find that He told them that He had come to overthrow the standing order of things, that He had come to stir the untutored passions of the slave, to break the tie that bound him to his master, and set him

up against his lawful authority. In that Divine foresight of the dissensions which the adoption of His creed by some, and its rejection by others, would introduce in the family and the State, He told His disciples He had come to bring, not peace but the sword. But, sir, I am yet to find that He ever commended that sword to the hand of the slave, with the invitation—nay, with the injunction—to sheath it in the master's throat. If there be a record of it, it must be in some precepts of the "anti-slavery god," and written down in some edition of the "anti-slavery bible," which northern fanatics have created for their rule of faith. To the chapters of that bible of intrusive, meddlesome, and ever dissatisfied contrivers of *isms*, was reserved the high privilege of correcting the laches of the Savior, and of putting, in His holy name, the torch and the knife in the hands of our slaves—pointing the former to our roofs, and the latter to our throats.

Well, sir, if the Savior did not reprove, nay, did not even mention legal or domestic slavery; if He left no instructions and no charge to His disciples touching either its abolition or its sinfulness, let us see whether those disciples did not, upon the organization of the visible Church, and its entwining with the offices of a new form of society, either from their own authority, or from that of their Master, denounce the institution. Open the book of eternal truth, and you will find that in His teachings He never went beyond the race of Abraham.

To them the promise had been made, and to them He came in its fulfillment. When, therefore, He had revealed himself in the form of humanity; when He had forced upon them the testimony of His mission, and of His power, by a concordance with prophecy, and by His working of miracles; when, in the prospect of His death, which He knew to be impending, He gave the last of His charges to His immediate followers; among them was the injunction to preach the Gospel to all the nations of the earth. In the discharge of their duty, that Gospel they did preach, and preached it as its precepts had been orally delivered to them. If, then, in His mandates He had enjoined them against slavery, or if, by virtue of some grant of power not recorded, and which might have been made to them, they had found anything contrary to His instructions and His charge, in the fact and usage of slavery, unquestionably would they have recorded the fact in His Gospel of truth; unquestionably would they have raised their voice against the continuance of an institution of which they knew God Himself to have been the founder, and warning a slave not to obey a master who had neither religious nor legal right over him; unquestionably would they have rebuked, or rather condemned the master, not merely for claiming obedience, but for holding his "brother man" in that condition which demanded obedience. Now, sir, we find nothing of the kind. As their Master had abstained in the case of the centurion, so they abstained in the general fact of relations between master and slave. Against this no contrivance of malice and no refinement of sophistry can avail. The Savior taught for a period of nearly three years, and of these teachings He left no record written by Himself. The task of embodying them in what we now know as the canon of the New Testament, devolved upon His ministers. As they received so must they have handed down to us. Now, sir, nowhere will you find slavery mentioned by them as an abomination and a sin. They have not so handed it down to us; they therefore did not thus receive it from the Savior's lips. But if not thus laid down, either from the oral declarations of the Savior or the written record of His words, slavery cannot, therefore, without perversion, be called an abomination and a sin. And yet we are seriously told, within the last three weeks we have heard it sanctimoniously repeated, that slavery is a damning sin against the Divine law; a hot-bed of corruption, tainting everything within its atmosphere; everything, even to the most sacred relations of the domestic circle. Whence, would I ask, do those kind men of the North, who are not touched by the blight or cursed by the sin of slavery, derive their peculiar contributions to the stock of morality? From what quarter of this Confederacy, under what state of morals, come those daily and

*Once, for all, the fact is mentioned that, in Greek, *ἀνδράποδον* is a slave by captivity in war; *δουλος*, a slave by birth; *οὐράκιον*, a servant, a Yankee "help;" *οἰκέτης*, a domestic, whether menial or servile; and lastly *μισθωτός*, one that serves for wages or pay. The word "servant," as a version of *δουλος*, in King James's translation, is a refinement of language; for *δουλος* means "slave" and nothing but slave, so born.

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hourly revelations of crime which appal the country, and blur its history with the darkest record of social corruption and social guilt? Why, sir, from the pure, saintly, and immaculate regions of the land not tainted by this abomination of slavery! There the most complicated theory of crime finds the meet representative, often the ready agent to carry it into practice; and this not in the *sentina Reipublicæ*; not in the drains and sewers which swelter with immorality and vice, but in the high places of society, where the corruption and the vice—not begotten by our curse of slavery, nor induced by the influence of its blight—move and live unpunished and unchecked. It were barely doing justice to the better claims of our section to institute comparison between the morality of the South and North. The very slaves whom they hold up to us as reacting causes of corruption, in retribution of the condition in which the law of man and of God has placed them, might well challenge comparison with any laboring class, nor shrink from their standard, whether in the moral or religious scale.

The old law, sir, admitted the slave to a participation in the rites of the Jewish temple, but it did not relieve him from the obligation of bondage which it had itself imposed. Our usage, accepting the law that institutes the slave, allows him to benefit by all the dispensations of the Christian Church. The initiatory rite which was administered to him in the peculiar form of the Jewish creed, is now administered to him in the waters of baptism, which is the Christian substitute for the Hebrew "sign." The partaking by him of the ordinance of the Passover, which was the great Jewish remembrancer, is among us extended to him in the Christian communion which supplanted the Jewish type. In one word, and for all that our systematic traducers may utter in falsehood, the marriage rite is free to the race, wherever their inclination or choice may tend. Indeed, sir, I do not know, that, even among our blacks, the bond is not held in greater sacredness than it has sometimes seemed to be among their betters at the North; for, unless I greatly err, the docket of more than one free State bear witness to the zeal with which some, at least, of our white reverend friends practically comment the precept, "Whom God hath joined, let no man put asunder." My high regard for the virtues of the sex forbids the supposition that the wives of our meek and charitable parsons can justify applications to courts of justice for human decrees to reverse the Divine injunction, and make twain what marriage has made "one flesh." I am compelled, therefore, to think that, useful as these reverend lords may be to foster domestic agitation and kindle civil feuds, they would be but sorry, if not dangerous exemplars, in this respect, for the morality of our black preachers, for such we have among us, who are not yet trained to dexterous evasions of the moral precepts.

But, sir, recrimination is not within the scope of my remarks; and I resume my vindication of the fact and right of slavery on purely religious grounds, and under purely religious authority. I have laid down, sir, that neither from the declarations of the Master, nor from the teachings of the apostles, can slavery, without perversion of both, be called an abomination and a sin. That it is not an abomination is an inconceivable fact, because it was instituted by the Almighty himself, and the institution has remained unrepcaled; that it is not a sin is equally unshaken, because it has been sanctioned by the silence of the Savior, and recognized by His apostles, speaking in His name. I find them in their own record of their acts holding a first council of the Church; I see them, by virtue of the power received from their Head, engaged in debates, and making decisions in matters of faith; I see them, among other acts, after solemn deliberations, repudiating the tenth verse of the seventeenth chapter of Genesis; and this, on essential grounds, because the baptism of water was one of those perfections of the law substituted for the baptism of blood. But in that council, in those acts, I see no reversal, no mention, even, of the forty-sixth verse of the twenty-fifth chapter of Leviticus, which, in the words of God, and with the sanction of His will, makes slavery "a perpetual inheritance" by the precept of a law which the Messiah came to fulfill,

not destroy. I go further, and I find that, of the apostles, some, in the discharge of their ministry, confined it to their immediate neighborhood, whilst others traveled into remoter lands in prosecution of their missionary task. Paul was the most zealous and active. Bearing the word to the inhabitants of many provinces, in various countries, he had found them pagans, and he left them Christians in practice and faith. Deeply versed in the law of the covenant, divinely inspired with the spirit of the gospel, not unacquainted with the precepts of the code, he had occasion, in his missions, to approach and decide many of the most intricate questions growing out of the doctrines of the new creed, and the institutes of political society. The conditions of Christianity, embraced by a wife and repudiated by a husband, adopted by a mother and refused by the children, preached to a slave and rejected by the master, suggested new ideas, and startled many scruples in many a mind.

Hence, sir, we find that after he had left them, to pass on to other theaters of action, he is frequently appealed to on some of the most delicate of domestic questions—among them, this poor one of slavery—arising between individuals, who, bound together by the civil law of the land, were severed by religious differences of faith. Well, sir, what lesson does his example supply to the innovators of our holier days? In all cases, with the clearness and precision, which, had he not been an inspired agent, would have marked him as one of the proudest of human intellects, he explains and resolves; he exhorts and enjoins; he permits and forbids. But in no instance on the question of slavery, does he utter one reproving word. As his Master had neither condemned nor rebuked, so he abstains from condemnation and rebuke. As his Master had not disclaimed, so he does not breathe a word against Jewish slavery, consecrated by the law of God; not a word against pagan slavery, sanctioned by the law of the code. The doctrine of the code, sir, on a past occasion, I fully, and I trust unanswerably, explained. The doctrine of the Gospel, as delivered by the Savior on this subject, I think that I have as fully and as unanswerably explained. But, besides the embodiment of precepts in the Gospel, the apostles have left us, in the shape of acts, a record of their ministerial functions, and under the form of epistles, a transcript of their pastoral instructions to the flocks which they had gathered from the various provinces of earth. In those instructions is embraced every variety of questions, social and domestic, which could arise in political societies, infinitely less ramified and complicated than are our systems of polity. To these instructions, therefore, I now proceed to appeal. A reference to the first apostolic council, consigned in the history of the Acts, shows that though various questions of political life had been touched upon, that of slavery did not enter into debate. For such a discussion, sir, the time had, no doubt, not yet come! But it did come, and come teeming with inquiries suggested by the conscience, or urged by the faith of the new converts. Among those was this mysterious question of slavery, the solution of which baffles the most subtle ingenuities of man, for the very reason, perchance, that it is not of his creation and his establishment.

Well, sir, the question came up, and what does the record show? Why, they go to the record of that word which shall not pass away; they scrutinize the rights which it allows; the duties which it prescribes; the obligations which it imposes, and instantly the question is settled in the mind of the Apostle, and the adjustment is uttered, under the spirit of the Divine Master himself. "Servants, (*δοῦλοι*, slaves,) be obedient to them that are your masters, according to the flesh, with fear and trembling, in singleness of your heart, as unto Christ; not with eye-service, as men-pleasers, but as the servants of Christ, doing the will of God." (Ephesians, chap. vi., verse 5.) And here, sir, will you notice that the inducement, nay, the reason for the obedience of the slave, is, that it is "doing the will of God?" How else could it be, sir? How else, that the Divine Spirit should breathe the words of Divine truth? Had not the will of God been expressed in the original law? Had not that original law established and regulated the conditions of slavery? Had not those

conditions been carried out and maintained, when the Savior came with the supplemental law? Had not the Savior, when he proclaimed that supplemental law, declared that its object and essence were "to fulfill—not to destroy?" Did He destroy? Did He mention the portion of the original law which instituted slavery? No, sir; no! Well enough did the Apostle know that He had not. That His Divine lips had been sealed into silence as to an institution which His Father, in His wisdom, had sanctioned, and which He had not, in His eternal council, missioned him to abrogate. Hence, sir, no hesitation, and no doubt; and under the inspired pen of the Apostle, the duty and the obligation are sheerly defined. "Slaves," (I restore the perversions of King James's translators,) "slaves—*δοῦλοι*—be obedient to them that are your masters; doing the will of God."

But this question of slavery, under the dispensation of the Gospel, was one which touched every man at almost every point of his existence. Unlike our pragmatic advisers of the North—whose forefathers, by a decision of their Supreme Court, blundered into an abolition of slavery, and therefore can have but an intrusive concern in this question—the Ephesians owned slaves in their midst; and hence their anxiety to reconcile their municipal rights with their religious obligations. But this anxiety was not experienced in Ephesus alone. Wherever slavery was found, and the master, or the slave, a convert to the new creed, these very questions of faith and scruples of conscience arose. Hence you find the Colossians, to whom the light of the Gospel had been dispensed; who claimed the honor of founding one of the seven primitive churches in Asia; the depositaries of the faith in its earlier purity, also appealing to the apostle on this all-pervading question of slavery, which touched them in their dearest social and religious interests. As it was settled for the Ephesians, so was it settled for the Colossians. Slaves obey, &c. The mandate is peremptory; it is one of obedience to the master, and it implies his right to enforce it. It settles, therefore, the right of the master in the tenure of the slave, within the limitations which the Apostle assigns, and which the statutes of the land have, in some form, recognized. And here it strikes me that the injunction of the Apostle is, that the slave shall "bide the ordinance of God" in singleness of heart. How long would that condition continue to exist, did those who have taken upon themselves the patronage of the temporal and spiritual welfare of our slaves, possess the power and the authority to carry out their very philanthropic schemes? Why, sir, that very "singleness of heart," which is the appanage of our slaves, they madly, ruthlessly, seek to destroy, or pervert into an instrument of baleful malice. They preach rebellion, too, to the slave against the master, whom the law and the will of God have placed over him.

It is well, sir, for the interest as well as the character of the South, that the indefeasible Word of God has spoken a curse on those who preach false gospel, or pervert the precepts of His law. Were any further proof needed of such preaching of the Gospel, and such perversion of the law, I know not where it can be looked for in its most conclusive form, save in the epistle of Paul to his favorite disciple. If no other muniment for the rights of the slaveholder but that one could be found in the canon of Scripture, that alone were amply sufficient to fence them against the assaults of either fanatic or hypocrite. There is authority from the Apostle of the Gentiles, which commends itself with irreversible force and power to the honesty of such of our northern friends as are honest in this question of slavery; and that authority speaks unmistakably in his epistles to Timothy. They embrace a variety of instructions furnished to the missionary in his ministry to the Church of Ephesus. Almost every relation of life the Apostle draws within the purview of his sagacious mind, and makes the subject of his pastoral charges to the young Levite. Among them are those for the "men-stealers," and that northern comity would apply to us; but among them are those also for "liars," and that looks unerringly to some of our good brethren of the North; but in the whole compages of those instructions and charges, I find not a single one against slavery. On the contrary, for fear it

would seem that the epistle which he had addressed directly to his flock at Ephesus should have failed to enlighten their minds and pacify their consciences on the question of slavery, the very first words of the last chapter of the former epistle show who are the "men-stealers" and who the "liars;" whether they who hold their slaves under the very tenure of God's will, or they who would lie away the law and the Gospel, which bear witness to that will.

Listen, sir, to the doctrine which the Apostle delivers to Timothy, to teach and proclaim: "Let as many servants (*δοῦλοι*, slaves) as are under the yoke count their own masters worthy of all honor, that the name of God and his doctrines be not blasphemed."—(1 Timothy, chap. vi., verse 1.) I do not profess to be much versed in the knowledge of exegesis, but if it could ever easily be applied to the meaning of words, it must surely be in this instance of a text which can leave no loop-hole for either quibble or doubt. The very form of the mandate of the Apostle is one of great peculiarity. He not merely tells the slave, in another place, that the master has a right to his obedience, but he also charges Timothy, his vicar at Ephesus, to teach and proclaim that the master is entitled to honor at the hands of the slave. The very words (*ἰδίους δεσπότης*, their own masters) seem to convey a peculiar import. The slave, as such, is bound to obey him under whose authority he accidentally may be placed. But to his own master, his master whose "perpetual inheritance" he is, he owes the tribute of honor as well as duty and obedience; and this for the reason assigned by the Apostle, that the master is to be counted worthy of such tribute. Now, sir, I ask, unless words so plainly put together can by any possibility lead the mind astray, whether any man can for a moment reasonably admit that that is abominable, that it is sinful, which the Apostle, speaking under the influence of the Holy Spirit, charges his disciple to teach and proclaim as worthy of honor in the master's person? But why should I gloss a text, the words of which speak most eloquently for themselves?

Read the text over, and see whether it be possible for any one to mistake its import and force. The slave, under the yoke of bondage, is bound—not through compulsion, but "in singleness of heart"—to obey his master in the flesh. He is bound not only to obey, but also to honor his master, who is accounted worthy of the honor! And why, sir? Lest a contrary conduct, on the part of the slave, shall do violence to the teachings of the Savior, and blaspheme the name of God! Now, who are the perpetrators of sin, and the workers of iniquity? We, who look to the name of God and to His law, for our rights, and abide by the teachings which the Master taught? Or they, who, by insolent repudiations, blaspheme His name, and by false assumption, pervert His doctrines? Let the text answer for the South. To those very conscientious deniers of the olden law, who strive to quibble out of its precepts and abjure its institution of slavery, on the plea that it is *effete*, I would commend the Epistle of Paul to the Galatians, in which it is written:

"Cursed is every one that continueth not in all things which are written in the book of the law to do them."—Chapter iii, verse 10.

To others, our excellent amenders of the new dispensation, who would foist the sin of slavery in the Gospel-law, I would equally submit the gentle warnings given to their predecessors, the "foolish Galatians:"

"If any man preach any other Gospel unto you than that ye have received, let him be accursed!"

Indeed, sir, I wish our kind friends joy of the pleasant position in which their regard for the welfare, the morality, and the godliness of the South, has placed them before the world. I see them, in the self-seeking of their pride and the perversity of their heart, contrive false and anti-Christian doctrines to delude ignorance and propagate mischief. In their crusade against the slavery institution of the South, I see them, like their compere, the Galatians, compelled to face the twofold horns of the scriptural dilemma. They would discard, in their call for an "anti-slavery Bible," the dispensation of the old law, which, in the word of God, establishes and sanctions the tenure of slaves as a "perpetual inher-

itance;" and the tenth verse of the epistle peals into their ears:

"Cursed is every one that continueth not in all things which are written in the book of the law to do them."

They would supply the silence of the Savior, or interpolate His Gospel, when they clamor that it condemns slavery; and the ninth verse of the first chapter of the same epistle again meets them with the threat of God's wrath:

"If any man preach any other Gospel unto you than that ye have received, let him be accursed!"

And here, Mr. Chairman, I protest against any misapplication of my remarks, so as to involve in them the whole body of the clergy of the free States. I am free to acknowledge, sir, that they number among their ranks men of whom, either as scholars or divines, any country might justly be proud; men to whose sterling piety and faithful pastorates not even the duty which I owe to a slandered and long-enduring people could induce me to do injustice or to deny the praise. I trust, therefore, that these remarks shall not be understood, as they are not intended for any but those notorious disparagers of sacred functions who draggle the robes of the priesthood in the sloughs of fanatical politics, and pervert the ministrations of their pulpits to dishonor their Master, traduce our people, and convulse our society. To those, sir, I mean my remarks to apply, who are truly the representatives of that dissatisfied, incorrigible race of meddlers which the *Religio Laici* so aptly illustrates:

"It is but dubbing themselves the saints of God, which it is the interest of their teachers to tell them and their own interest to believe; and after that, they cannot dip into the Bible but one text or another will turn up for their purpose."

Ay, sir, this willful perversion, or convenient manipulation, of texts to their purposes, is a not inapposite illustration of the poetical dictum,

"Caelum non animum mutant qui trans mare currunt."

—a change of climate, but no change of spirit, from good Old England to good New England. With us it seems to have put on all the appearances of a disease of chronic character. The most repulsive of its indications I find in the distortion of the text of St. Paul, in his Epistle to the Galatians, the only one which they could succeed, by such distortions, in tinkering into a condemnation of slavery, against the clear precepts of the Mosaic law, and the no less lucid injunctions of the Apostle's charge. This condemnation of slavery, sir, I find our good friends invariably attempting to contrive, by a perversion of the text of the epistle, in the face of the mandate of the law, and of the teachings of the Savior, through the lips of His Apostle. He, sir, was besieged by questions from those "foolish Galatians" of the East, whom I think I have not wronged by a comparison with our "Galatians" of the North. And, sir, with the tartness—nay, with the fierceness—which we know would sometimes stir the great Apostle, he asks them what spirit of evil has drawn them within its influence? and exclaims:

"There is neither Jew nor Greek; there is neither bond nor free; there is neither male nor female: for ye are all one in Christ Jesus."—*Galatians*, chap. iv., 28.

Well, sir, what does this mean? And, with its meaning, what does it prove against the direct precepts of the old covenant and the repeated injunction of the new dispensation, both of which recognize the rule of bondage, and settle the relations between the master and the slave? St. Paul, in the act of explaining away the doubts and scruples of his converts, in the sense of the words which he addresses to them, evidently realizes the words of his Divine Master, to show them how noble, liberal, and civilizing, are those spiritual doctrines which overstepped the antagonism of races, disregarded the distinctions of political society, and even overlooked the natural differences of sex, to gather every human infirmity to their solace, and call every human condition to their hopes; to raise up every grade of lowliness to the supernal glories of heaven, and to abate into humility every excess of inordinate pride, even to the very abjections of earth. They were doctrines, sir, which tended to dispel every vestige of what had, up to the time when they were proclaimed, been witnessed in the pagan world—a society of incongruent contrasts! A society of Jews, exclusively claiming for themselves the heavenly promises of God! A society of Greeks,

who, though monarchs of the intellect, were shut out from the veriest glimpses of true spiritual life! A society with slaves, who, though reduced to their condition of bondage by the imperscrutable decrees of the Almighty mind, who, though in bonds of the body, under the law of man and of God, had a soul for the promises and the inheritances of the Word! A society of masters, who, themselves initiated into the revelations and the hopes of that Word, refused the communion of its blessings to the slave! A society of males, who, by virtue of the first disobedience and of the primal fall, wielded over woman the unchecked and irresponsible authority of the household! A society of females, who, secluded from all the concerns of life in atonement for the original agency in that fall, and condemned to social inferiority, groaned in solitude, and obeyed the authority.

If the reading of the declaration of the Apostle be not thus—and it is proved to be so by the whole context of the chapter, which looks to the "substance of things hoped for" through the workings of the spirit of faith; proved to be so by a chapter in which opposition is set up between the works of the flesh and the influences of the spirit of faith—then would the exegesis of our religious ideologists, and especially of our Yankee theologians, write St. Paul, the eminently practical man and pointedly keen logician, guilty of the veriest of absurd propositions and untenable doctrines. Jew and Greek, bond and free, male and female, he knew to be living and substantial entities, which no work of his could speak or explain away. He could not mean that the species Jew, or the species Greek, of the human family, could be fused into something that was neither Greek nor Jew. He knew that the inexorable law of races, if not the living entail of blood, protested against the idea of such a thing. He could not mean that the bond and the free could so cohere as to form a neutral third. He knew that the laws of the code, the protection of which he himself had once invoked, and the obligations of which he fully understood, repelled the obliteration of the distinction. He did not mean that man and woman could lay down their peculiar characteristics, and realize the impossible androgynous of Plato, for he was no mean adept in the philosophies of the Grecian school; and both the law of creation, and the intentions of God forbade the dream. Something firmer and truer, therefore, than any Grecian tenet or Platonic dream, he knew to be in the declaration of the Book, "male and female made he them;" and he equally knew that he had received no authority and no power to undo the work of the Almighty hand. What he meant, and what is evident from the words of his lips, is, that fusion and absorption in Christ, which belongs to a "kingdom not of this earth;" but no change, even the slightest, in the various relations of life, which were sanctioned by the spiritual teachings of his Master, and controlled by the temporal laws under which he lived and taught.

Have I, Mr. Chairman, committed the same wrong with which I charge these traducers of the South? Have I suppressed anything? have I distorted anything? have I misapplied anything, which the law of man, or, higher still, the law of God, has written down in relation to this misunderstood or perverted question of slavery? Have I not, sir, shown that they of the North, who have causelessly taken up this question of slavery—what have they to do, sir, with a sin which does not attach to their skirts?—have I not shown, sir, that they cannot make slavery the subject of their denunciations and falsehoods without desecration of the law of God and falsification of the precepts of His Gospel? Under what conditions stand we now under which the same New England has not stood? As ourselves now, New England, the whole of New England, once bought, sold, and held slaves. Having, within the last seventy-five years, had slaves as general adjuncts of their communities, the possession of slaves must have then been deemed no violation of the law of God, which they now charitably impute to the South.

But, sir, from the moment that their slaves were emancipated, or from the moment when, from what cause soever, they ceased to have any upon whom to exercise the scruples of their conscience or force the blessings of their religion, they dipped

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into that repository of texts to which Dryden adverts, and they discovered that slavery is a godless abomination and a heinous crime. Having no slaves of their own, they immediately, under the auspices of Old England hypocrites, who boast of no mean representatives in New England, turned to the South to apply their late discovered Gospel doctrine of the abomination and sinfulness of slavery. Sir, sir, will these people compel us to believe that they are fools as well as hypocrites? What! they who were the special saints and agents of God in the motherland; they who, driven away from Old England through the marshes of Holland, to the eternal Plymouth Rock, to become the saints and agents of God in New England, upon this continent, where, unless I mistake, God had made a lodgment some century and a half before their fathers' ears had been cropped and their fathers' tongues had been slit, at the tithings and market-places of the land over the waters, for their headstrong, pragmatic, and meddlesome intrusions, which we of the South are not spared at the hands of their descendants! What! they who claimed to be the depositaries and the custodians of both new and old covenant snatched away from the "scarlet woman and the man of sin;" they who claimed to be the saints by excellence, and the expounders, *ex professo*, of the true doctrines of the Gospel of Christ; they, with the pretended condemnations of that Gospel pressing upon their consciences and their souls, remained with slavery in their midst as a constant general fact and right recognized by Church and State, without their consciousness of its violation of the Gospel law with which we of the South are charged at the eleventh hour of these godly workers in the vineyard of the Lord! Why, sir, not satisfied with holding and maintaining slavery in their midst, not satisfied with owning slaves themselves—though, with us, they are pleased to call it violation of the law of God—they must even look for accomplices in the violation of that law; and, sending their ships over the oceans, go in quest of slaves, to import them, and to sell them where they were wanted, or where they had not yet been introduced. Would they, Mr. Chairman, have us understand that their fathers, not we, are the "men-stealers" and dealers in human flesh? Or else, would they have us, in order to save the memory of those impeccable "Puritan fathers" from the deep damnation of being the original patentees of anti-Christian slavery, believe that those worthies, with all their claims to sanctimonious purity and evangelical grace, were but dolts, who had not yet groped their way over the threshold of the New Jerusalem which their descendants have since reared? That their fathers were as guiltless of knowledge of the Scriptures, especially in regard of slavery, as they themselves are of the precepts of God and the sanctities of truth? Would they have us believe, in one word, that to them, and to their brighter lights, kindled at the shrines of Exeter Hall, was reserved, once for all, the signal privilege of correcting all the unseemly errors of the inconvenient law of God?

Is the South, sir, to be damned into a change of its institutions by virtue of pseudo-Scriptures, edited with notes, and exegeses tacked to them by Yankee exponents of bogus Gospel law? Sir, there is a promise of the Master, "My word shall not pass away," which sustains our hopes through all these assaults of prejudice wedded to malevolence. Indeed, Mr. Chairman, I am even now afraid that this malevolence of our slanderers may have compelled me to be, in some measure, unjust to them in the bearing of my remarks. I am afraid, at least, sir, that the persistent calumnies, studiously contrived, and as zealously disseminated against us by our northern friends, may have led me to disparage some of their merits, or to withhold much of the acknowledgment of their deserts. I find, sir, one thing which I had overlooked. Like us, sir, I find that, in one respect at least, they are conscientious observers of the law of God in this question of slavery. That law, Mr. Chairman, if I have read it aright, established two species of servitude—the servitude of the children of Israel, and that of the bondmen purchased from the heathens around them. Instead of violating the law, Mr. Chairman, we have adhered to its enactment. We have gone—or rather our

more thrifty Yankee brethren have gone for us—to the dark places of this earth—gone to the heathen and inferior races of Africa for our slaves; whilst those who have consented to be "men-stealers" for our uses and our dollars, have also followed, and in their way, the mandate of that law. Some of their menial labor, sir, unless I mistake, is drawn from Israel itself. Their free paupers and vagabonds are, like Joseph, not unfrequently cast "into the pit;" whilst the Simeons, the Zabulons, and the Ashers of godly New England—or American Israel—show themselves nothing loath to chaffer away their white brethren on time to the "Midianite merchantmen."

I claim, Mr. Chairman, that both South and North are obedient to the law of God. We of the South, sir, derive our slaves from the very regions which the Lord has designed. They of the North have no particular aversion, now and then, to manufacture a few out of their own kindred and blood. But here much of the similitude must cease. You, and I, Mr. Chairman, know of more than one instance in which, when freedom was extended to the slave as a reward for faithful services, the gift was declined; the beneficiary has preferred to remain in bondage under the roof where he had grown, perchance, with the master and the children around him. Yet I think that you and I, sir, have yet to learn that any of the sold white slaves of the North has ever shown himself so much in love with the "peculiar institution" of that North, as to refuse the boon of freedom when his period of involuntary servitude had expired, much less to offer remaining under the salutary blessings of this Yankee pattern of white, Christian slavery!

Thus sir, have I traced, and, I think, not unfairly, the law as delivered by our Savior, and as applied by His Apostles. In either form, Mr. Chairman, it is plain and unmistakable. Into the supposed tendencies of its doctrines it is not my business to inquire, nor yet to look into what channels of action they may have been forced by the errors of human judgment or the warpings of fanatical passions. I am satisfied to take that law as it reads, and to stand by what it allows or forbids in its relation to slavery. The Constitution of the United States, sir, by the essence of creation, by its reservation of the rights of the States, recognizes the sovereignty of those States, whilst it discards the idea of a supreme authority. This, sir, is an essence of our organic law. Yet, sir, is there a soundly-thinking statesman but will admit that, by the contrivance of tendencies, by the process of construction, and by the fatality of precedents, it is not rapidly putting on, if it have not already put on, all the substantial forms of a consolidated government? Even so, sir, with the institutes of Christianity. The theory of tendencies has been developed so far beyond the intents of the law-giver that the result of man's speculations have been grafted upon his statute as parts of the law itself. It is under this mania of tendencies, not the spirit of truth, that the modern improvers of a Divine code have, from the height of their perverted pulpits, and from the bosom of their unholy conventicles, been shrieking their denunciations of slavery as a sin and a curse, laid at the door of the South. The law, sir, as given out by its founder, will hold in the hollow of the hand. Its precepts are written with the perspicuity of the light which blazes on the frontlet of the stars. I read the law, I ponder its precepts, and I find nothing in it against slavery, but what the hands of man would wickedly interpolate under the convenient guise of tendency. The law of God, Mr. Chairman, is an equation, full and complete, made up of the modern dispensation and the old covenant. They are both results of Divine counsels and exponents of Divine truth. You cannot touch any of its elements, you cannot add to or subtract from either of the terms without vitiating the result. The curse is upon those who would do so. Did I require any proof of the subsistence of that law and of the verity of the Book in which it is written, I would find it in the character of the awfully terrible language in which the penalties of infraction are written out in every variety of form and for every vicissitude of time. It is not the growth of human thought, nor yet the expression of human speech. It has the unmistakable stamp of Divine conception and Divine utterance.

Save where it has pleased the Maker to modify it, it stands as the expression of His unchanged will. It rings, as it has rung through the lapse of ages. It speaks, as it has spoken across the chasms of revolutions, above the tramp of generations steadily treading on their pilgrimage to the grave; it speaks, even now, with the most appalling denunciations which it may be given to the mind of man to conceive. It is useless for our politico-religious theologians to shriek out, "old dispensation and old law; it had its time, and it has passed away for a better and a higher law." What, sir, higher and better law coming from God? This is impious, sir, beyond utterance. This is lending to unerring wisdom the failings and imperfections of the human mind. Man may grope away at higher and better laws; but God intuitively and ever wills the highest and the best.

I admit, sir, the fulfilling law; but I deny, from pole to pole, that that which was fulfilled has passed away! It is still living, and in our midst, touching us at every point of our existence, absorbed through every fiber of our legislations and codes. Some of the minor regulations of the civil and religious law may have been dropped—some ritual ceremonies and external forms, adapted to other purposes, may have lapsed with the changes of circumstances and of time; but the law which, deny it as they may, contains the recognition of slavery, and; therefore, the rights of the South, is a living, binding law. It is the handbook of our duties and the sum of our hopes; it is the moral law, which the Savior has perfected; and that cannot pass away, because the moral law, like God himself, is an eternal essence!

ADMISSION OF KANSAS.

SPEECH OF HON. C. J. GILMAN,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GILMAN said:

Mr. CHAIRMAN: The President of the United States sent a message to Congress, on the 2d day of February last, with this statement: that Kansas was as much a slave State as Georgia or South Carolina. It was then taken for granted, as a proposition self-evident, that there would be no violent opposition, on the part of northern Democrats, to the admission of Kansas as a State into the Union under the Lecompton constitution. It was anticipated that there would be an apparent reluctance at once and with facility to take the Lecompton dose. Shrewd politicians in the House, in the Senate, and in the Cabinet, know how to touch the weak points of northern Democrats. They know how to remove scruples and doubts from the minds of their northern associates. They have been successful in this kind of diplomacy heretofore. Some of them have grown gray in the service. They well knew, during the past half century, how often northern men had yielded to southern solicitation, southern arts, and southern manipulation. They know full well that heretofore, measures, sectional, obnoxious, involving in danger and doubt the peace and welfare of the country, had been sanctioned by northern votes secured by southern agency. The President, therefore, with a confidence of success, presented the Lecompton fraud; and early in the session it became evident that members from New England and the middle States were ready and willing to vote for a measure most offensive in its nature to the feelings and sentiments of their constituents.

But it was early discovered that more northern votes were wanted. Week after week elapsed; month after month. Who will write the history of these weeks and months? The record of Congress, the public proceedings, can be read by all. The secret plotting, the silent and insidious proceedings of these memorable weeks and months, may not be portrayed to the public eye. Finally it became evident that the Administration, with all its power and with all its patronage, could not induce a few northern Democrats to succumb. These few Democrats had manfully resisted the

persuasion of the pro-slavery leaders. There had been too many test votes. To have abandoned their position after making such a record would have indicated a glaring want of principle and consistency. The intelligent mind of the country seemed to be convinced that the Administration would be overwhelmed with defeat. So much firmness on the part of northern Democrats called forth expressions of approbation and admiration throughout the country. The Crittenden-Montgomery bill passed the House, approved by Republicans, Americans, and Democrats; a measure approved by northern and southern members; a measure fraught with peace and good will to Kansas; and its passage in the House was hailed with pleasure and delight by the people of the United States. The Senate refused to sanction the bill. The House voted to adhere. At last it became evident to the House, and to those who have the confidence of the Administration, that the Lecompton swindle could not be supported by a majority of the members of the House of Representatives. Some other scheme must be devised—something that will save the honor and pride of the South and will satisfy enough of the northern Democrats to insure success.

It had been said by southern gentlemen that if Kansas were not admitted under the Lecompton constitution, the South would resort to extreme measures. The dissolution of the Union was threatened. Sentiments were uttered well calculated to excite terror and alarm in minds unaccustomed to vehemence of manner and high-sounding declamation—sentiments that might disturb the equanimity of those who do not know and do not believe that the Union of the States is the security and protection of slavery. The dark, dismal, and murky cloud of disunion rose before us. Not one of the ninety-two Republicans lost the possession of his faculties; the South Americans were composed; the Douglas Democrats were calm and tranquil; the Lecompton monster was slain; southern members did not abandon their seats. In no southern State was the flag of disunion raised. But, sir, if something had not been done to relieve the pro-slavery leaders from a most disagreeable dilemma, and the Administration from disgrace, how could the southern members go back to their constituents with any hope of their approbation and support? James Buchanan, President of the United States, presented a constitution to the House of Representatives, which he knew to be a fraud. He had brought down disgrace upon himself, upon his Administration, upon the Republic, by this base attempt to impose upon the people of Kansas a constitution which they spurned and hated—a constitution presented at Lecompton by men who had no higher sense of duty and justice than to uphold and sustain murderers of innocent citizens and destroyers of property, without cause or provocation. The President of the United States must be preserved from a lower depth of disgrace. His deep-laid plots, his ingenious plans, the skill, the dexterity of his officials in Kansas, availed nothing. The crimes, the outrages, committed under the sanction of law, availed nothing. The Lecompton monster was slain. A majority of the House of Representatives, through weeks and months, withstood the pressure and policy of the Administration, and resolutely and repeatedly refused to insult and degrade the people of a Territory, whose only crime had been that they preferred a constitution for freedom rather than for slavery. Resolutely and nobly did the majority refuse to present to the intelligent but abused people of Kansas the terrible issue of lasting disgrace or revolutionary resistance. The Lecompton monster was slain. The desire and purpose of the President to create civil discord, to impose slavery upon an unwilling and reluctant people, was not satisfied. Executive power, so potent, so liable to be exerted beyond constitutional limits, could not compel the House to sanction a crime and call it a constitution. Members from slave States, with all the risks and hazards to which they were exposed, gave their votes and their influence to uphold the honor of the Republic, to save the Territory of Kansas from the horrors of civil war, and the Union from calamities which threatened to befall it. No man can attribute unworthy or unpatriotic motives to such men. With

a full sense of responsibility both to their constituents and the country, they gave their votes and voice to vindicate the rights of American freemen. This rebuke from slave States was more keenly felt by the President than any and all opposition from the North. Estimating other men by his own standard, he had conceived that any measure, how base soever it might be, would readily be accepted by the southern mind; that his devotion to the South, illustrated by a capricious political career, would not be questioned; that his willingness to use and abuse his power and position to uphold a sectional policy, would naturally induce a unanimous southern support.

The President did not imagine that any southern member, unaffected by geographical position, could take a clear and comprehensive view of the relations of the whole country; could so demean himself on this floor that his own constituents would sustain him, and honorable men everywhere applaud and admire his independence and manliness. This blow from the South fell with great force upon the Administration; it annihilated the Lecompton monster. Grave Senators from the South and Senators from the North, southern Representatives and northern Representatives, whose highest aspiration seems to be to render themselves more obnoxious to their constituents, to impose upon an unoffending people a measure fraught with danger to the peace and welfare of the country—a measure sustained by traitors to their country and the enemies of free institutions; traitors who have been upheld by the Army of the United States; by the patronage of the past and present Administration; Grave Senators, I say, distinguished members of this House, assembled to devise a new scheme that would save the Hunker or Buchanan party from disintegration or dissolution. It would be impossible and even improper to portray too vividly the different scenes and the appearance of the different actors.

To a favored few is known all that transpired beneath the roof of the White House. It is not difficult to imagine what transpired there. The satchels of the party, with elongated visages, and the President, whose countenance, as Byron hath it, "was a tablet of unutterable thoughts," were without doubt assembled. And had the President expressed himself in a truthful manner, he could with propriety have said: "I, James Buchanan, have done all that I could do to cheat the people of Kansas out of their rights and privileges? I have sent to the House of Representatives the Lecompton swindle, a gigantic fraud, gentlemen, which, had it been approved by the House, would have done more than anything that I can conceive or suggest to degrade American labor, to tarnish the honor of the Republic, and to involve the Government in disgrace before the civilized world; but the House, a most obstinate, inflexible, and incorrigible body, will not take this Lecompton dose. Now, ye gentlemen who love slavery more than you love liberty, ye men whose conception of the growth and grandeur of the Republic is derived from the servility and degradation of the African, come forward and give us a plan. Give us the scheme to preserve the unity and indivisibility of the pro-slavery party. This party, which we all love so tenderly, so deeply, and which we all worship with a more than oriental devotion, must be preserved. By this Democratic organization we have done much to cripple the industry of the free States. Much have we done to enable British capital and British power to control American markets, and to enervate the arm of American labor. By this Democratic organization we have given direction to the disposition and sale of the public lands, and through the land offices of the western country have enabled prominent men of our party to accumulate immense fortunes. By controlling the Government we have been able to maintain a sectional policy; to array the North against the South; and by the timely aid of the Supreme Court have established the doctrine that the rights and privileges of a human being are to be acknowledged and determined, not according to the self-evident truths of the human mind, not according to those qualities and faculties which distinguish man from the brute, but according to color. If a man is very black he is not a citizen, and has no rights. If a man is very white he can enjoy all that is comprehended in American citi-

zenship. Look ye out, gentlemen, upon the vast southern domain, and behold what has been done for the South by the accretion of new territory! Behold a vast area consecrated to African slavery! Consider, too, what political advantages you have derived from territorial aggrandizement. The creation of slave States has given to you the sway in the Senate. The Senate can appropriate money without limit. The Senate controls the Treasury. The Senate can add millions to appropriation bills. The House can add nothing to an appropriation bill not provided by law. The Senate is under your control, and it generally has been; and if you would realize your schemes of southern expansion, absorption, and accretion, your dreams of a southern confederacy, then you must retain a pro-slavery sway in the Senate. If you would have a balance of power, you must have that sway. The sentiment of the civilized world is against you. All those great agencies which have done so much to supplant physical energies or muscular power, give to freedom an advantage over slavery, enable free men to move with great rapidity and great facility; and, unless you are on the alert, will enable free men to occupy the Territories of the Republic, and adorn them with all the arts of civilized and enlightened communities. Let us, then, have the scheme that will save the Democratic party from dissolution, and enable the southern States to control the Treasury of the Republic." The conference bill is produced; and the satchels of the party, after a severe debate and a thorough examination, determine to take the dose and also to commend it to the lips of such Douglas Democrats as would abandon the bold and manly position which they had pledged themselves to maintain.

I will now present, for the consideration of the House, my views in relation to this wonderful creation of artful politicians—the conference bill. I will not call it the English bill, because it smacks more of Virginia and Georgia than of Indiana. The people of Kansas, on the 4th day of January, 1858, rejected the Lecompton swindle by an overwhelming majority; yet, by the conference bill, you propose to the people of Kansas to accept the swindle or not to enjoy the advantages of a State government until there is a population in the Territory of ninety-three or a hundred and twenty thousand. By what article, or section, or clause, of the Constitution of the United States, can Congress present such an issue as this to the people of Kansas? Where do you find a precedent for such a mode of procedure? Turn to your congressional proceedings; turn to the records of the past; examine the annals of your country. You will search in vain. If the people of Kansas will do that which is repugnant to them; if they will do that which they believe to be dishonorable and unjust; if they will do that which would expose them to the contempt and ridicule of enlightened men; if they will yield up their sense of self-respect and humiliate themselves before the civilized world, and will lick the dirt at the feet of three hundred and fifty-seven thousand slaveholders, then they need not wait until there are ninety-three or one hundred and twenty thousand population, but can at once have a State and live under a constitution which is not of their own creation—a constitution, in all human probability, concocted here, in the city of Washington, and sent out to Kansas to be approved by a convention upheld and supported by United States bayonets.

There is another consideration. It was asserted, in the other wing of the Capitol, by the Senator from Missouri, [Mr. GREEN,] by the Senator from Virginia, [Mr. HUNTER,] and in this House by the member from Georgia, [Mr. STEPHENS,] that the people can have no vote upon the Lecompton swindle. It will be remembered by all present, that the question was submitted to the gentleman from Georgia, and his reply was prompt, and directly to the point. It will be noticed that the bill is very carefully and adroitly and cunningly drawn. It is, in all its features, a foxy production; and, amid all the verbiage and all the periods contained in the five sections, there is but one allusion to the swindle perpetrated at Lecompton. It can be seen in the first section, and here is the language, or extract:

"But, should a majority of the votes cast be for 'propo-

sition rejected, it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition; and in that event the people," &c.

The purpose and the design are evidently to leave the impression on the mind that there is only a submission of a land ordinance. The words "said constitution," however, are entitled to a slight consideration. They have a significance. Let not the people of Kansas be deceived; let them look to the relation of "said constitution" to the language of the preamble. Here is a part of the preamble:

"Whereas, the people of the Territory of Kansas did, by a convention of delegates assembled at Lecompton, on the 7th day of November, 1857, for that purpose, form for themselves a constitution and State government, which constitution is republican," &c.

The mind that conceived the conference bill knew well that the three words "said Lecompton constitution" might awaken disagreeable associations. But "said constitution" are words that might not arrest the attention. But let us be charitable. Certainly it was very kind and considerate to avoid the use of language offensive to an honorable people. The skillful magician was undoubtedly actuated by the most honorable motives. Like a skillful and humane physician, he would prepare a nauseating dose so that it could be administered without disagreeable sensations. Besides, there is a serpent in the grass; it would not be wise for the serpent to hiss to warn the victim, before the venom of his fangs permeates the system. "Whereas the people of the Territory of Kansas did, by a convention of delegates assembled at Lecompton, on the 7th day of November, 1857, for that purpose, form for themselves a constitution and State government," &c., is the language of the preamble.

The people having formed it, there can be no doubt as to its validity, no doubt as to its vitality. There is no other constitution. As the people formed it, there can be no other. It is the only embodiment of the will of the people. The delegates have indicated the will of the people. Kansas is therefore a State, because it has a State government. It will therefore be useless to submit more than a "land ordinance;" and in order to render the ordinance as intelligible as possible, and to give to it form and comeliness, and in order to illustrate the subtlety and legerdemain of its authors, the two words "said constitution" have been placed in the first section. That is indeed a profound statesmanship, and worthy of all admiration, which has induced the authors of the conference bill to inform the ignorant and deluded people of Kansas, that on the 7th day of November, 1857, they did form for themselves a State government; and, in order more deeply to impress them with the fact, to offer four million acres of land.

But there is a consideration which will be urged by those who take another view of the bill, that the people of Kansas must take a pro-slavery constitution with the land bribe, or remain out of the Union. What an insult to an intelligent people! An American Congress has no higher standard of honor or propriety than to offer four million acres of land for a pro-slavery constitution. Grave Senators and enlightened Representatives deem it to be the part of wisdom to bestow four million acres upon forty thousand American freemen, the peers of us all, if they will only become the tools of Executive power and Executive tyranny. Four million acres of land are offered for the degradation and humiliation of a brave and enterprising people. I will, in this connection, make a quotation from the Kansas-Nebraska act, passed in the year 1854:

"It being the true intent and meaning of this act, not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way," &c.

In 1858, the Congress of the United States declares to the people of Kansas: accept a land ordinance with "said constitution," accept the Lecompton swindle with African slavery, and the President will immediately proclaim that you are a State. This appeal to the cupidity and to the avarice of men, rather than to their judgment and common sense, is, I presume, leaving the people perfectly free to form and regulate their domestic institutions in their own way!

In 1856, the delegates of the party termed Democratic, assembled at Cincinnati to form a national platform. Here is a resolution adopted by the convention:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

Has it not been urged on this floor, with great pertinacity and emphasis, that a body of men, assembled at Lecompton on the 7th of November, 1857, embodied the "legally and fairly expressed will of a majority of actual residents." The Administration is compelled, by this submission of a land ordinance with "said constitution," to acknowledge before the world that the convention of the 7th of November, 1857, was a convention that did not indicate the "will of the actual residents." The Cincinnati resolution will not cover the case; it is not equal to the emergency. The Administration, with all its power and patronage, has endeavored to convince the House that the "Lecompton convention" indicated the "will of a majority, legally and fairly expressed." If it indicates and embodies such a "will," why consent to a submission of a land ordinance with "said constitution?" The Cincinnati platform is repudiated; "the will of the people, legally and fairly expressed," is treated with contempt. And, by its own acknowledgment, the Administration is held responsible for all the frauds and all the villainy perpetrated by the pro-slavery party in Kansas. The Lecompton swindle, undoubtedly concocted in this city, the creature of fraud, of violence, and of Executive authority, "the legally expressed will of a majority," is associated with a land ordinance! What a juxtaposition of ideas; what a heterogeneous combination; what a harmonious relation is presented in the conference bills! What an admirable contrivance to shiver and shatter the Democratic party! What a scheme to expose the Administration to the ridicule and sarcasm of intelligent minds! What an illustration of the degeneracy of the times! What a departure from the policy of the founders of the Government! What a mournful evidence of the decadence of American statesmanship! What an example for the youth of the Republic—that trick and legerdemain are more essential in the administration of public affairs than the exercise of the higher and nobler qualities and faculties of the mind and heart.

But, sir, the Cincinnati convention, by the resolution to which I have referred, acknowledges the right of the people of Kansas "to form a constitution with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States." Now, if the ordinance with "said constitution;" if the bribe and the swindle are accepted; Kansas, by proclamation of the President, becomes a State of the Union, although the population of the Territory does not exceed thirty or forty thousand. If, according to the language of the conference bill, the proposition, or the bribe, is rejected, then—

"The people of said Territory are hereby authorized and empowered to form for themselves a constitution and State government, by the name of the State of Kansas, according to the Federal Constitution. I may elect delegates for that purpose whenever, and not before, it is ascertained, by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States."

What would be a census "duly and legally taken?" A census taken by an act of the Territorial Legislature at any time; or a census taken by act of Congress at some future period? are questions naturally suggested. But the consideration to which I desire to call the attention of the House is that part of the Cincinnati resolution relating to Kansas, "and be admitted into the Union upon terms of perfect equality with other States." That is, a slave State can be "admitted into the Union upon terms of perfect equality with other States," while a free State can only be admitted "upon terms of perfect" inequality. The people of Kansas can have a State government in 1858, if they will sanction a fraud; if they will not sanction a fraud, they can have no State government in 1858; and here we behold the "plighted

faith" of the Cincinnati platform; here we behold the doctrine of "perfect equality" applied, illustrated, and demonstrated in the admission of States. Here we behold the Punic faith of modern Democracy! How long will the American people tolerate the supremacy of a class of men so faithless to their pledges, so capricious in their policy?

There is another feature in the conference bill, the significance of which cannot be overlooked; and that is, the constitution of the board of commissioners:

"Sec. 2. And be it further enacted, That, for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor, United States district attorney, and Secretary of the Territory of Kansas, and the presiding officers of the two branches of the Legislature, namely, the President of the Council, and Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end."

Now, it is well known to the House that the Governor, United States attorney, and the Secretary of the Territory, indicate and reflect the will and purpose of the Administration. The President of the Council and the Speaker of the Territorial Assembly represent the sentiment of the people. Here, then, is a majority favorable to the Administration. Compare this second section of the conference bill with the following third section of the Crittenden and Montgomery bill:

"Sec. 3. And be it further enacted, That, for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor and Secretary of the Territory of Kansas, and the presiding officers of the two branches of its Legislature, namely, the President of the Council and Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end."

Had the Crittenden bill become a law, there would have been two members of the board representing the Administration, and two representing the people of Kansas. An arrangement so fair, so just, and, I may say, so generous to the Administration, has been rejected by Congress. That class of politicians who proclaimed at Cincinnati, and on the floor of the House of Representatives, the doctrine of "popular sovereignty," the doctrine of non-intervention, and who profess to cherish a policy that will "leave the people perfectly free to form and regulate their domestic institutions in their own way," cannot permit the people of Kansas to have a majority of the board of commissioners. The President of the United States, Cabinet officers, shrewd and sagacious politicians, all in the enjoyment of power, and good round salaries, having no feelings in common with those men who endure all the trials and all the labor incident to the settlement of the western wilderness, must still continue to vex and harass that people, who have received nothing from the past and present Administrations but intervention, circumvention, insult, and injury. Another deep game is to be played in Kansas, and a majority of the board of commissioners is essential to "designate and establish such precincts for voting," "to cause polls to be opened at such places," and "to appoint, as judges of election," such men as will best conserve the purpose and design of the central power at Washington. What that purpose and design is, future events will unfold and indicate. The conduct of the Administration in relation to the affairs of Kansas; the consideration that the pro-slavery leaders have so much at stake, so much at hazard, in the decision of the question; so much have the leaders to gain if the majority accept the bribe, and so much to lose if the majority reject the bribe, that no one will be surprised if an apparent majority is found for the acceptance of the bribe.

The history of Kansas presents a dark and dismal picture; but there is no part of the picture more offensive or repulsive than the frauds perpetrated at the ballot-box. Have we not reason to fear, from the organization of the board of commissioners, and from the experience of the past, that if fraudulent returns are wanted, fraudulent returns will be fabricated? The Governor, as a member of the board, and in his official capacity, certifies and proclaims the returns; the President, by the conference bill, has only to proclaim Kansas a State of the Union, the Administration triumphant, the power of the South vin-

dedicated, and innumerable trials inflicted upon that people, whose only crime is that they abhor slavery, and desire to adorn their Territory with the arts of civilization, and the creations of free labor.

If Kansas is made a State by proclamation of the President, what mode or manner will the people adopt to relieve themselves of the incubus of a Lecompton constitution? Suppose the people of that Territory should appeal to an American Senate: what relief could they find there? What response has the Senate already made to their appeals? The Senate has been, and will be, deaf to their entreaties and indifferent to their wrongs. The Supreme Court would not give to them an impartial hearing, but would delight in the imposition of new burdens. Even in this Assembly, which ought to be the guardian of national honor and individual rights, the people of Kansas would meet with a cool reception and tardy justice.

There is another feature of the conference bill which should not be overlooked:

"*SEC. 3. And be it further enacted, That, in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who possess the qualifications which were required by the laws of said Territory for a legal voter at the last general election for the members of the Territorial Legislature, and none others, shall be allowed to vote.*"

Now, what was one of the qualifications which "all of the white male inhabitants" possessed who voted for members of the Territorial Legislature in October, 1857? A residence of six months in the Territory prior to the day of election. This qualification, or act establishing such qualification, was repealed by the Legislature elected in October, 1857; and an act in its stead passed the Legislature, and was approved by the Governor, which only requires "three months" residence prior to the day of election. A majority of the members of the board, by the conference bill, determine the day on which the ordinance with "said constitution" is to be submitted to the people. If a majority fix upon a day in July or August next, the entire spring emigration will be disqualified; there will not be a lapse of time sufficient to enable the new Republican recruits to vote. Even if a day in September should be preferred by a majority of the board, but few of "the white male inhabitants" who entered the Territory since the 1st of March could vote. But it was desirable to render the conference bill as palatable as possible, to keep from the eye as many obnoxious features as possible; and the bitter pill had to be sugared over, that it might be swallowed without reluctance, and with manifestations of delight. That great relief was derived from the medicine, there can be no doubt, from the buoyant condition of the patients on that eventful morning when the experience of the distinguished converts was related to the House. But it was exceedingly adroit to cover the qualification of time and residence under the following verbiage:

"Who possess the qualifications which were required by the laws of said Territory for a legal voter at the last general election," &c.

This third section clearly indicates that the Administration desire the number of voters to be as small as possible; the more formidable the numbers the greater the opposition, and the more numerous the difficulties and obstacles that would be encountered. Besides, it is important to have the real vote of the Territory as small as possible, if fraudulent votes are to be used. A small vote contrasted with a large population, considering the nature of the issue, fully illustrates the pure and high-minded motives of that class of men who cherish a devotion so ardent for "popular sovereignty," who entertain a regard so profound for the popular will, that they could only permit those to vote who "possess the qualifications which were required by the laws of the Territory for a legal voter at the last general election for members of the Territorial Legislature." I will call the attention of my Democratic friends to the first resolution of the Cincinnati convention:

"Resolved, That the American Democracy place their trust in the intelligence, the patriotism, and the discriminating justice of the American people."

I will simply suggest that neither the "intelligent" nor "patriotic" people of this country, nor those who "discriminate justly," can comprehend why a residence of six months is essential in order to vote for or against the land ordinance

with "said constitution," while the law of the Territory only requires a residence of three months, unless the object to be attained is to deprive the "white male inhabitants" who entered the Territory this spring of the right to vote. The emigrants that entered the Territory this spring with the purpose to settle in the Territory, and who shall have resided three successive months prior to the day of election, would certainly be ardent and desirous and competent to indicate their opinion at the ballot-box upon questions of vital importance; and, among other questions, "whether or not they will disgrace themselves and their country and the cause of freedom by giving their sanction to a land bribe, and an infamous swindle." It has been said in a certain quarter, "if the Lecompton constitution is accepted by the people of Kansas, that out of regard to the people of a sovereign State, the sale of public lands might be postponed." There are various rumors as to the postponement of the sale. How the public domain is to be made subservient to realize the plan of the pro-slavery leaders, time only can determine.

It is well known that many of the settlers on the public lands are at present unable to pay for their sections. It is for the President, and those who are possessed of authority, to say when the lands shall be sold. If the Executive should resort to desperate measures, or present alluring propositions, then let us cherish the hope and confidence that the settlers, the squatters, the "popular sovereigns," will have the moral courage and the power of endurance to meet the emergency in a mode and manner becoming American freemen who know their rights and how to maintain them. They have suffered much; they have endured much; and "there is a point beyond which patience ceases to be a virtue." Whatever may be the decision of the people of Kansas, whether the land bribe is accepted by fair means or by foul means, whether it is reluctantly received or scornfully repelled, the conference bill never will be, and never can be, approved by the American people. It is an insult to the free States; it is a disgrace to the slave States; it is neither a measure of compromise nor of conciliation; it establishes no principle which can command the confidence and regard of the intelligent mind of the Republic. You cannot call it a compromise, because it is a trick; you cannot call it a safe precedent for the future, for the day is not remote when it may be more popular to discriminate in favor of freedom rather than in favor of slavery. It is a fit illustration and exponent of that power which controls the different departments of the Government; it is the creation of minds alike indifferent to the lessons of history and the admonitions of experience; it is the production of men who deem it a matter of small concern to trifle with the feelings, to arouse the indignation of millions of freemen. A boldness and audacity has been manifested by those who introduced and secured the passage of the conference bill, which might well excite our admiration if the bill itself were only commensurate with the magnitude of the question which it is proposed to settle.

If leading men in the Republican party would present the same bold and fearless front in the support of a good cause; the same determined and persistent will in the support of self-evident truths upon which the Government is founded, the day would not be remote when the patronage and power of the Government would pass into other hands, and upon others the administration of public affairs devolve. The consideration, however, which most deeply affects all men who wish well for their country; all men who would preserve the Union of the States; who cherish the hope that the Government may yet be administered in the spirit and sentiment of its founders, is this: that distinguished men, whose genius and power might be so potent to promote the prosperity of the country, and the harmony of the States, seem to take a pleasure and satisfaction in the suggestion and adoption of those measures which tend the most to awaken discordant and belligerent feelings, and to excite sectional animosities; and the more artful and cunning the device the more acceptable it becomes as a measure of public policy. It used to be thought that in the disposition of grave questions of national importance the highest and no-

blest faculties of the human mind only could be brought into play. It has been lately discovered that statesmanship does not consist in the application of those virtues and those qualities which indicate the higher nature of man.

The cause which has induced this decadence in the character of public men, has given a cast and direction to the policy of the Government during the past half century. Every department of the Government is and has been under its control. Territorial expansion has given to it consideration and power. African slavery is a condition of society in fifteen States, affecting the social and political relations of the States. It is a condition of society which has passed from generation to generation. It is the labor of the South; it is the wealth of the South. It has established a southern character; it was formerly considered by the founders of the Government as a condition of necessity, as an evil that had befallen the South. It is now vindicated and defended as a right founded on principles of justice, sanctioned by Holy Writ, and essential to the welfare and prosperity of the South. The severity with which the peculiar institution has been attacked, has called forth a corresponding emphasis in its defense. Southern men, conscious that they must encounter the opposition of the free States, and, in truth, the opposition of enlightened men throughout the civilized world, have endeavored to render themselves respected by the power that they can exert. A common sense of what they deem a common danger has impelled them to concentrate their efforts to preserve a supremacy in the administration of public affairs.

Freedom can thrive and flourish and advance without the aid of Government. Science, art, and religion, nourish and support it. It is the natural condition of man. As you increase the mastery of mind over matter; as you tame and subdue the great forces of nature and render them subservient to the human will; as you give greater expansion to the realm of thought, so you are giving to the cause of freedom increasing momentum. Freedom wants no compromises and no conferences. It is slavery—that state of society which involves the degradation of one class and the superiority of another class—that invokes the countenance and support of the Government. And the advocates and defenders of the peculiar institution will ever be ready to urge upon the floor of the House and upon the public mind, measures essential to shield and protect it. They will, in time to come, give a tone and direction to the proceedings of Democratic conventions. The pro-slavery leaders will not hesitate to violate the Constitution of the Republic; nor will they be governed by any precedents of the past. Between the slave States and the free States there is a struggle for power; and the pro-slavery party will become more and more desperate as the confidence in their strength diminishes. Doctrines will be advanced on this floor in time to come, as they have been in time past, that partake of the spirit and sentiment of the dark and medieval ages. There will be in time to come, as there has been in time past, the conflict of mind with mind; the antagonism of opinions and principles. Still there is a future for the cause of freedom. African slavery may yet be circumscribed by free institutions. The Republican party in 1860 will be triumphant; the policy of the Republican administration should be to encourage the settlement of the western territory. Let us have, as soon as we can have, a preponderance of representation in the Senate and the House, from free States.

It has been the fortune of the pro-slavery or Democratic leaders to render the Territories and new States subservient to their purposes. Let us cherish the hope that the next Republican Administration will not only maintain a liberal territorial policy, but will also encourage and facilitate the creation of new States. When southern men and northern doughfaces become satisfied that slavery cannot be extended on this continent, then, and not until then, can the development of the material resources of the country receive that consideration to which they are entitled. The attention of the American people cannot be diverted from the issue presented by the pro-slavery party; and not until that party is overwhelmed with defeat will it avail anything to commend to an

35TH CONG. 1ST SESS.

Soldiers of 1812—Mr. Maynard.

HO. OF REPS.

American Congress a broad and comprehensive policy worthy of a great Republic, and of an enlightened age. A great battle is to be fought, and a great victory to be won. There will be no rush of adverse battalions, nor the booming of artillery; nor will there be seen the "pomp and circumstance" of war. The victory will be noiseless and sublime. The rapid increase of population, the superior mobility of the free race, the emigration of the Old World, and the emigration of the New World, the steam-engine, and that power which flashes thought from mind to mind, are considerations that the slave power must encounter on this continent. Who will cherish a doubt as to the result? What reflecting mind cannot discern in the future a complete vindication of those great principles which impelled the heroes of the Revolution, and the founders of the Government? The intelligence of the age is on the side of freedom; and so is the moral power of the age.

SOLDIERS OF 1812.

SPEECH OF HON. H. MAYNARD,
OF TENNESSEE,
IN THE HOUSE OF REPRESENTATIVES,
May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. MAYNARD said:

Mr. CHAIRMAN: There is a bill before the committee in which those whom I have the honor to represent on this floor feel a much deeper interest than they do either in the Kansas or Minnesota bill; and to that bill I propose to address myself for a short time. I refer to the bill providing pensions to the soldiers of the war of 1812. As the position of that bill is such in the committee that it may be difficult for me to obtain the floor when the bill shall again be considered, to present to the committee the views I entertain upon the subject, I have sought this occasion, and adopted this mode, to bring to the notice of the committee an amendment to the bill which is there pending, of which amendment I gave notice on a former day. That amendment, which is in the nature of a substitute, is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the surviving officers, non-commissioned officers, musicians, and privates, who may have been in the military service of the United States, either in the regular Army, State troops, volunteers, or militia, in the conduct and prosecution of any war in which the Government of the United States may have been engaged prior to the 1st day of July, in the year 1818, for a period of six months, or longer, or who may have been engaged in active battle with an enemy in behalf of the United States prior to that date, or who may have been wounded while in the actual service of the United States prior to that date, though not in battle; and each of the officers, non-commissioned officers, and marines, who may have been in the naval service of the United States in the conduct and prosecution of any war in which the Government of the United States may have been engaged for a like period, or who may have been engaged in active battle with an enemy in behalf of the United States; or who may have been wounded while in the actual service of the United States (though not in battle) prior to the same date, shall be authorized to receive, payable semi-annually, out of any money in the Treasury not otherwise appropriated, an amount equal to his full pay in said service according to his rank, but not to exceed in any case the pay of a captain of infantry; such pay to commence from and after the 1st day of July, 1858, and to continue during his natural life; and each of the said officers, non-commissioned officers, musicians, and privates, in the military service, and each of the said officers, non-commissioned officers, and marines, in the naval service, who may have served as aforesaid, prior to the date aforesaid, for any period less than six months, shall be authorized to receive in like manner an amount equal to half pay, according to his rank in said service, to commence from and after the 1st day of July, 1858, and to continue during his natural life: *Provided*, That the benefits of this act shall in nowise extend to any one still in the military or naval service and pay of the United States: *And provided*, That the benefits of this act shall not extend to any one receiving a pension from the United States by virtue of any law now in force, unless such person shall relinquish all claim to any other pension except such as is granted by this act.*

Sec. 2. And be it further enacted, That if any such officer, non-commissioned officer, or private, or musician, in the military service of the United States, as aforesaid, or any officer, non-commissioned officer, or marine, in the naval service of the United States, as aforesaid, may have died, or shall hereafter die, leaving a widow surviving him, such widow shall be authorized to receive from the Treasury, in like manner, the same amount of money that her husband, if living, would have been authorized to receive

under the provisions of this act, from and after the 1st day of July, 1858, or from and after the decease of her husband, (in case he shall have died after the 1st day of July, 1858,) for and during her natural life.

*Sec. 3. And be it further enacted, That the moneys granted by this act shall be paid to the several beneficiaries thereof, or to his, her, or their legal attorney, duly authorized agent or attorney, agents or attorneys, under the direction of the Secretary of the Interior, at such times and places as he may direct; and that the said moneys herein granted shall not be in any way transferable, or liable to attachment, levy, or seizure, by any legal process whatever; nor shall the same be paid to any agent or agents, attorney or attorneys, who may have any interest or claim in or to the said or any part thereof, but the same shall go undiminished to the possession of him, her, or them, who, by the provisions of this act, are entitled thereto: *Provided*, That no one shall receive the benefits of this act until he shall produce satisfactory evidence to the Secretary of the Interior that he or she is entitled to the same according to the provisions of this act, under such rules and regulations as the Secretary of the Interior may see proper, from time to time, to prescribe for the production of testimony.*

Mr. Chairman, this amendment contains the substance of a bill introduced by me at an early period of the session, in the House, and referred to the Committee on Invalid Pensions, who have thought proper to report the bill now before this committee; and it embodies my own views of the policy we ought to adopt towards the men who have served the country in her wars, and towards the widows of those of them who have died. It seeks to introduce no new system, but merely to extend the present system—fast becoming obsolete by the death of all of those for whose benefit it was adopted—so as to embrace within its beneficial operation, not only those who fought in the second—and may it prove the last—encounter with Great Britain, but also the soldiers of Wayne, "old mad Anthony," the men who fought with Eaton and Stephen Decatur in the wars with the Barbary Powers, and those who served with Jackson in his celebrated Florida campaign; thus coming down to a period within just forty years from the present time.

No system of governmental policy is better established with the people. It appeals to their sympathies as being generous; it commends itself to their patriotism as being just; it commands their solemn, deliberate judgment, as politic and wise. It is too late in the day to reason about it, as about a new and untried measure, whose operation and effect rest merely on conjecture; it is too late in the day for statesmen to repeat objections made forty years ago by Nathaniel Macon, who, during his public life, if I am not mistaken in his record, rarely voted a dollar to pay, and of course not to pension, the soldier; it is too late in the day to deal in arguments based upon English regal pensions, and Roman popular largesses. These arguments and objections have already been made, and repeated again and again, and have as often been met and refuted. The question is now no longer an open one. Time, the great progenitrix of truth, has settled it, and settled it forever. The pension system is established as a part of our military policy, and must be accepted as such. Indeed, during all the present discussion, I have not heard it seriously assailed. Even the gentleman from Alabama, [Mr. CURRY,] whose ungenerous logic carried him quite as far as he who has gone furthest against this measure, did not, I believe, venture to suggest that a single name now on the pension roll should be stricken from it.

The only question for us to consider, is whether we will, by formal legislation, uphold the system, and extend it so as to include within its operation a class of soldiers every way as meritorious as those who now partake of its benefits. The time has now come, when, according to the incorruptible Macon, "as much may be said in favor of the army engaged in the second war of independence," as forty years ago was said about the first. Though he then stood opposed to the adoption of the pension system, I have no doubt, were he now alive to speak, he would say, "since you have established the system, and since I see, contrary to my expectations, that in its operation it is most excellent and benign, not only in cheering and sustaining the veteran soldier now in the twilight of his day, and her, the noble spirit, who fought the battle of life by his side, but also in inspiring with patriotic confidence the youthful soldier, not dragged into the ranks by a press-gang, not the victim of an unrelenting conscription, but leaving field

and fireside, and the loved ones there, with even chance that he shall see them no more, and rallying in cheerful obedience to the call of his country; since such are its happy effects, extend its beneficent provisions; remember my gallant compatriots and cotemporaries, the men who served their country with Lawrence, with Perry, with Harrison, and with Jackson." Such, I am sure, would be his language, could he now speak to us. Such is a fair deduction from the words he has left on record, interpreted by the glossary of subsequent events.

One of the very few instructions (if, indeed, it be not the only one,) with which my constituents have thought proper to "trammel the conscience" of their Representative, relates to this subject of pensions. After my election I can say safely that hundreds came to me, and addressing me very often in kind familiarity by my Christian name, said: "Whatever else you do, try and do something for the old soldier." They are a numerous and highly deserving, though, I am sorry to say, in general, a needy class of my constituents. The men who volunteer to do battle for their country are not apt to be of the thrifty, penny-wise class. The rollicking, free-and-easy habits of camp and forest life are not the habits by which estates are accumulated. Hence, where you find an old soldier or an old sailor, you almost always find a poor man. But poverty is not their only nor their greatest misfortune. Disease, broken constitutions, premature decay, mutilated and dismembered bodies, are a portion of their ordinary lot. I am reminded, however, that the law already provides for the invalid soldier. I know the letter of the law does; its practical administration, I am sorry to say, does not. All of us who have had business with the Pension Office—and most of us have, at some time or other—know very well that its affairs have been conducted upon the principle of granting nothing that could be avoided. Whenever a doubt as to a matter of fact was left by the proof, the practice is to give the Government the benefit of the doubt, and refuse, or, in the more delicate phraseology of the office, "suspend" the application; and in matters of legal construction, to adopt that which bears hardest upon the pensioner. The principle which obtains in other cases, in determining other issues between the Government and the citizen, in this is reversed. This course may be necessary for the prevention of frauds, the reason generally assigned for it, though I do not believe it. Fraudulent claimants will prepare their cases in view of departmental rules, so as exactly to "fill the bill." Honest claimants will present such proofs, and only such, as they are able fairly to make, oftentimes not coming up to the requirements of official regulations. The former is allowed; the latter "suspended." It is due to the present officials to add that these remarks are not made with a special reference to them, but rather to the general official usage long since established.

Were it at all important to illustrate the inadequacy of the present invalid pension laws to accomplish the purpose of their enactment, I could easily do so by the citation of many cases, within my personal knowledge, of men who were crippled, or otherwise disabled in the service, as I have good reason to believe; yet all those who once had a personal knowledge of the fact are either dead, or in their dotage, or have removed so far away that it is practically impossible to procure their testimony. Hence they have never thought it worth while to apply for a pension; or if they did, their applications remain "suspended" in the office. A general pension law is the only measure of relief for this class of persons. Moreover, there are many disabled old soldiers, whose disability is the result, not of wounds, nor of any specific instance of suffering; but of exposure, hardship, and privation; withstood, indeed, for many years, by the vigor of an originally good constitution, and until the infirmity of age disclosed the lurking mischief. Of course these men could derive no benefit from the invalid pension laws; nor from any other except a general pension law, making their title to a pension depend upon the fact of their service. This class of old soldiers will be found to be very numerous. War, at best, is, I take it, a very hard business. It makes sad havoc

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The Triumphs of the Administration—Mr. Purviance.

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with the soldiers. The gentleman from Alabama, [Mr. CURRY,] in his remarks the other day, left us to infer that the soldiers of the war of 1812 had a rather comfortable time of it than otherwise. He says:

"It was a regular war between two independent nations, conducted, for the most part, according to the recognized rules of modern warfare. The soldier, when discharged from service, or before, received his pay in good money, and one hundred and sixty acres of land besides."

My friend certainly takes a very easy view of the subject, though I am afraid it will not be universally considered a very just one. To talk of eight dollars a month as "pay," in the sense of adequate compensation—"a fair day's wages for a fair day's work"—to the man who labors in "the trade of war," as a simple business transaction, is, I suspect, a waste of words. And as to the lands, located at that early day in Illinois and Arkansas, it is a matter of history that in numberless cases they did not yield the soldier as much as Esau got for his birthright. But, sir, I have never looked upon the condition of the soldiers of 1812 as quite as enviable as it appears to the eye of the gentleman from Alabama. I have, unfortunately, perhaps, seen too much of those old men to indulge in such views of their military life. Like the gentleman from Ohio, [Mr. CAMPBELL,] I was "in arms" in that war, and from my youth up I have seen a good deal of the soldiers who were engaged in it. My father was one of them. Even now, as in my earlier years, I delight to meet, as I often do, with one of those aged men, and listen to his "oft-told tale," and see him "Weep o'er his wounds, or, tales of sorrows done, Shoulder his crutch and show how fields were won;" sighing, as he concludes, "but things were not then like they are now."

Time would fail me to recount the tenth of the personal narratives that come thronging upon my memory in this connection, each, in itself, a little history, homely in its details, but refuting the idea of much comfort, least of all luxury. Two or three instances I will refer to, even at the risk of being tedious, and violating the proprieties of the place and the time. Said one, "after we had marched through the Indian country for four days without food, and were almost famished, one of our detachment killed a rattlesnake. We stewed it up in a camp-kettle, and then divided out the meat and the broth." Another said that, on a march, they found a cow lying sick, or, in local phrase, "on the lift." They killed her, and appeased their hunger upon the diseased carcase. Another said that he and his companions killed and subsisted as they best could upon crows and other unclean birds. And another, that, one day, one of his company shot an Indian brave, and they prepared his body for food. One mouthful sufficed him; for, hungry as he was, he sickened at the thought of feeding on human flesh. Eight dollars a month even in "good money," and one hundred and sixty acres of Illinois or Arkansas lands, was small compensation for privations like these. Yet these were of the men who fought at the Horseshoe, Emuckfau, and Talladega; who sustained these privations in the very region now represented with such signal ability by the gentleman from Alabama; the bones of whose companions in arms, perchance, may even now fertilize his own plantation. Would it be strange if they should complain that he has turned against them his high mental endowments?

From the many letters that, during this session, I have received in reference to this subject, I beg permission, in this connection, to read an extract from a single one, written by a constituent, a gentleman who was himself in the service, and upon whose statements we may place implicit reliance:

"I served some twenty months, or more, as an officer in the thirty-ninth regiment, commanded by Colonel John Williams. There were two detachments left Knoxville, in the fall of 1814, two companies of the thirty-ninth and three of the twenty-fourth regiment, under the command of Major Francis W. Armstrong. Of the officers belonging to the detachment, numbering about thirty, only three survive. Of those belonging to the two companies of the thirty-ninth, I am the only survivor. I do not think that more than one tenth survive of those who entered the service. I have been conversing with several who were in the service, and they are of the opinion that not more than about one tenth are alive. The privates being more exposed than the officers, fewer privates survive; and my opinion is, that it would be right to place them on the same footing with those who served in the revolutionary war. The war of 1812, with Great Britain, was called the second war of independence,

and I know that great suffering was endured in the Creek nation, where I served; and many of the survivors, the largest portion, are very poor, and need this boon to render their declining years comfortable."

After all, the great argument urged against this bill is the money argument. This is not the first time in the history of this Government that this argument has been brought to bear upon the pensioner. During the Presidency of Mr. Van Buren, when his exhausted exchequer suggested the propriety of economy, it occurred to him, in connection with his celebrated appeal "to the sober second thought" of the people, to recommend a curtailment of the list of pensioners, and the extinguishment of a portion of the lights upon our coasts. How this recommendation was met is yet in the recollection of most of us, and might serve as a profitable lesson to those who, with an annual disbursement of \$65,000,000, would commence the great work of "economy, retrenchment, and reform," at the expense of the old soldier, taking no heed lest the events of 1840 should repeat themselves in 1860. If the statement of my colleague [Mr. SAVAGE] be correct, as to the entire amount paid to the soldiers in the war of 1812, and also the statement of my correspondent, as to the proportion of those now surviving, then the figures given us by the gentleman from Alabama, must be entirely too large. But large as they are, the country can now better afford to meet them, than in 1818 it could raise the comparatively small sum then accorded to the soldiers of the Revolution.

I shall make no invidious allusions to other expenditures of the Government to show where the knife of retrenchment might be more properly applied. We have only to look around us to see reflected from every side the absurdity, not to say the rank injustice, of deferring the well-founded hopes of the old soldier, and thus making his aged heart sick because it will take a portion, and perhaps a large portion, of the moneys which have of late years been so lavishly expended, I will not undertake to inform the committee how. And I admonish gentlemen to pause before they go to the country, either individually or as exponents of the doctrines of their party, with any such excuse. Let the sum be what it may, we begin with the maximum. The number of recipients will every year be diminished. They are now old men; most of them have passed the limit of three-score years and ten. Their lamps are fast burning out. What we do, to be of any avail, we must do speedily.

I am in favor of amending the present bill, and respectfully submit my amendment to the consideration of the committee. Should they, however, not see proper to adopt it, I shall not make that a pretext to oppose the bill in its present shape. Such a course would be as unwise and as unstatesmanlike as to predicate objections against the whole system upon some trifling imperfections in the present bill. Not what I would, but what I can.

I have no wish, at this late period of the session, to protract debate, still less to introduce topics not strictly germane to the matter in hand. A single thought more, and I shall have done. It refers to the wisdom, the profound policy, of the pension system, in a civil no less than in a military point of view. Every pensioner, with his children and children's children, becomes, in the very nature of things, a steadfast friend of the Government. The justice and gratitude of their country, for honorable service in her cause, endear them to her in all time to come; and since each succeeding year adds so largely to our population, persons who have little knowledge, less sympathy, and no interest, regarding the early struggles and perils of our fathers, it is eminently unwise for the Government to neglect and turn coldly away from them whom the memory of the past, no less than the hopes for the future, would incline to its support; that, too, at a time when sectional strife and madness are so rampant, when the North has so many friends, when the South has so many friends, and the Union has so few.

APPENDIX.

The following table will show how the amounts paid for pensions at different periods compare with the general expenses of the Government. At no

period since 1820 has so little been paid annually for pensions as now; while the general expenditures are nearly five times what they then were:

Expenditures of the Government during the years 1790, 1800, 1810, 1820, 1830, 1840, 1850, and 1857.

Years.	Revolutionary and other pensions.	Total expenditures, inclusive of public debt.
1790.....	\$175,813 88	\$1,919,589 52
1800.....	64,130 73	7,411,369 97
1810.....	83,744 16	5,311,082 28
1820.....	3,208,376 31	13,134,530 57
1830.....	1,363,297 31	13,229,533 33
1840.....	2,603,562 17	24,139,920 11
1850.....	1,866,868 02	37,165,909 09
1857.....	1,309,115 81	65,032,559 76

THE TRIUMPHS OF THE ADMINISTRATION.

SPEECH OF HON. S. A. PURVIANCE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. PURVIANCE said:

Mr. CHAIRMAN: In the discussion of the appropriation bill, my colleague from the Berks district [Mr. J. GLANCY JONES] made an allusion to the President's dinners, which was as unwarranted as it was ungentelemanly and indiscreet. If James Buchanan, either through parsimony or partisan feeling, chooses to depart from the established custom, and set at defiance the courtesies and amenities which have hitherto, from Washington down to Pierce, inclusive, been observed by the occupants of the White House, my colleague should be the last man to proclaim the President's shame. My colleague may feast and fatten at the President's crib until the cravings of a voracious appetite have been appeased and quieted, but he must not, when gorged with presidential viands, assail the motives of members acting under the obligations of an oath, merely because they may desire a reduction of the expenses of this Administration, now becoming so enormous as to beget a very general want of confidence in the administrative talents of those who have it under their control. But it is not my purpose to deal with presidential dinners, but to notice more in *extenso* a most unfortunate flourish made by my colleague in connection with the allusion to which I have referred.

He expressed the belief that we were chagrined at the triumphs of this Administration, and it is to this that I desire to turn the attention of the House and the country. The triumphs of this Administration! Was my colleague in earnest, or was he disposed to join in ridiculing the superlative folly and imbecility of his own and favorite Administration?

The first great triumph of Mr. Buchanan has been over a gold and silver currency, which he professed to favor, but which he has completely broken down, and inaugurated in its place a paper currency, in the shape of Treasury notes, to the amount of \$20,000,000, now floating through the country, bought and sold as any other marketable commodity, and subject to fluctuation, and subject also to all the objections to which paper currency is generally liable. This, then, is the first great triumph of the Administration. Now for the second. With a Delegate sitting in the House from Utah, with whom we have not even heard that the President ever had a conference, a war is undertaken against the Mormons, at an expense of millions; contracts given out to political favorites, to buy up broken-down horses and mules; provisions at most exorbitant prices, out of which magnificent fortunes have been made in a few weeks; the Army increased, and a partisan President enabled thereby to distribute more effectually the spoils of office; and in the midst of all this, and before a blow had been struck, commissioners of peace are sent, who, if report be true, have settled this mighty affair without the interposition of an armed force. What a farce, to thus disgrace ourselves in the eyes of the civilized world, by exhibiting to public gaze the vibrations and vacillations of an Executive whose mind to-day is for war, to-morrow for peace, and

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Pacific Railroad—Mr. Otero.

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the next day for both. Thus has ended this second triumph of the Administration, costing the people many millions of dollars, now conceded to have been uselessly thrown away.

The third great triumph of the Administration deserves more than a passing notice. The public is familiar with the fact that a constitution was framed at Leecompton in open defiance of the will of the people of Kansas. This constitution the President submitted to Congress, accompanied by a most extraordinary message, urging the admission by reasons and arguments unworthy the source from whence they came, and exhibiting a partisan character, which were subsequently attempted to be enforced by the use and abuse of the patronage intrusted to him as the executive officer of the Government, which deserved, as it has received, the execrations of honest men of all parties, resulting in a total disruption of the Democratic party, which must inevitably bring into the Thirty-Sixth Congress a majority opposed to the repetition of outrages which the worst of monarchs would scarcely dare to perpetrate with impunity. Upon Congress, and Congress alone, the power is conferred to admit new States. The President has no right to interfere; and sworn as he is to support the Constitution, which instrument gives to Congress alone the power of admission, the President violates his oath of office when he dares to invade our exclusive right in this particular. For such invasion, followed by the use and abuse of patronage, a President ought to be impeached; and nothing, in such a case, but the tyranny of party could save him.

A President of my own choice who would dare to press the admission of a State by the controlling power of his patronage, so far as I am concerned, should be treated in this way as readily as one of opposite political faith; and an experiment of the kind would be most likely to prevent a recurrence of the evil in the future.

Unjustifiable as it was for the President to interfere, aside from this, his reasons are as specious and futile as might have been expected from one who has attained no distinction since his elevation to the Presidency, than that of a violent partisan and bitter politician. One of his reasons was, that the people of Kansas had had a fair chance to vote upon their constitution, and that, therefore, they should not be permitted to vote again. Now, how was this? The vote was "For the constitution with slavery," "For the constitution without slavery." All who voted were compelled to vote for the constitution—were compelled to vote that John Calhoun should be the regent, and have a controlling power over the returns of elections, so as to declare who were and who were not elected to fill the offices; but, worse than all, those who voted were compelled to vote in favor of the continuance of slavery within the Territory till 1864, and for a schedule and saving clause which prevented any interference with slavery as it then existed. The unfairness of this mode of submission is the more apparent when you suppose a constitution filled with objectionable features, all of which the voter would be compelled to swallow if he voted at all. A constitution containing a clause declaring that the Legislature should never incorporate a bank, a manufacturing company, or create a system of common schools, or internal improvements; with a clause of submission, such as that of Leecompton, on slavery, would necessarily drive from the polls every voter who desired to consider these as favorite topics of legislation. If he voted for the constitution without slavery, he was, in order to be entitled to this privilege, compelled to vote against schools, banks, manufacturing companies, and internal improvements.

But I can suppose a case in which I can readily invoke the opposition of our bachelor President himself.

A constitution with a clause conferring upon the Legislature the power to tax the income of a bachelor, to the extent of one fifth, more or less, with a clause of submission like that of the Leecompton constitution, would greatly puzzle our President to appreciate its fairness. If he voted either for or against slavery, he would still be compelled to vote the power to tax unjustly his estate. Before he would submit to this, I will tell you what he would do. He would gather up

his traps, and take them to some other locality where he would find greater equality in the principles of taxation. What is right for the President ought to be right for the people of Kansas, and yet the President was bent upon establishing a different rule for this unfortunate people from that which he would be willing to apply to himself.

Another illustration which shows the unfair character of the submission. Supposing the voters of Kansas to consist of fifteen thousand, one third of whom are in favor of the constitution, and two thirds against it. One third vote—two thousand six hundred—for the constitution with slavery, and two thousand four hundred for the constitution without slavery; what is the result? Slavery is fixed upon the people by two thousand six hundred votes, while there are twelve thousand four hundred against it; and yet this is the popular sovereignty which constitutes, in the opinion of my colleague, one of the triumphs of the Administration.

This infamous burlesque upon popular rights, sustained and urged by the President, was pressed for five long months upon Congress, and triumphed. How? In breaking it down, by a vote of one hundred and twenty against it, to one hundred and twelve for it.

The Administration then presented another and still greater monstrosity in what is known as the English dodge, intended for different interpretations—one for the North and the other for the South. In the North, it is intended to say that the constitution is submitted; whilst in the South, the reverse is to be the case.

What is this singular production, this political *nondescript*, about which even those who gave it paternity materially differ? It is a bribe and a threat to the people of Kansas—and is this: if you come in as a slave State now, you shall do so without objection to your population, and you shall have salt springs, lands for schools and internal improvement purposes; but, if you refuse to take slavery, you shall not be admitted as a free State until you have more than double your present population.

Thus, the Democratic party has inaugurated the new doctrine that the admission of a slave State is to receive double the favor that is to be extended to a free State. Heretofore, that party claimed that it was not sectional; but how does it now stand before the American people? It stands upon the record the avowed friend of slavery, having enacted a law which gives a premium to slavery and inflicts a punishment upon freedom. The passage of this most iniquitous law was heralded at this metropolis as a triumph! Cannons were fired, drums and fifes were called into requisition, the President serenaded and called out to respond to a rejoicing over the passage of a law which, like the assassin, took Kansas by the throat, demanding her consent, and threatening, if she refused, to punish her for her obstinacy, by keeping her out of the Union until she should have at least double her present population.

The Crittenden amendment gave the people of Kansas a right to vote for or against the Leecompton constitution; and in the event of voting it down, then to elect delegates to a convention to frame a constitution to be voted on by the people. This reasonable proposition was voted down by the Democratic party, the pledged friends of popular sovereignty, and voted for by those who are opposed to the Administration; and now my colleague adds this to the list of triumphs of the Administration.

Although our Treasury is bankrupt, and repeated efforts have been made to restore the tariff—one by myself, another by my colleague from the Westmoreland district, [Mr. COVODE], and another by my colleague from the Philadelphia district, [Mr. MORRIS]—all have been trampled upon by the Democratic party, the chairman of the Committee of Ways and Means himself among the number, and the million or more of miners and laborers in Pennsylvania, dependent upon the reinstatement of the tariff, left in hopeless despair; and my colleague, after feasting at a presidential dinner, is found in his seat—not to inaugurate a tariff policy to relieve his poor dependent constituents, but to exult over the triumphs, as he calls them, of this heartless and reckless Administration.

PACIFIC RAILROAD.

SPEECH OF HON. M. A. OTERO,
OF NEW MEXICO,

IN THE HOUSE OF REPRESENTATIVES,

May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. OTERO said:

Mr. CHAIRMAN: I desire to call the attention of the committee, for a brief space of time, to some remarks which I propose to submit upon the subject of the Pacific railroad. In entering upon the discussion of this topic, important and comprehensive as it is, I need hardly say that I will endeavor to divest myself of any personal feeling, interest, or prejudice, such as I might be supposed naturally to have in the matter; for no other question involves, equally with this, the hopes and calculations and future welfare of the Territory I have the honor to represent.

I design, sir, to bring forward only those reasons in behalf of the great enterprise contemplated, and in support of the particular line of construction of an iron road to the Pacific coast, which, in my humble judgment, I think ought to control the action of Congress, and govern national opinions, in prosecuting so vast a work to final achievement.

I will say, sir, for I intend to speak frankly, that apart from a consideration of this subject in its bearings on the general prosperity of our common country, I am more especially interested in those immediate benefits and advantages that in the completion of this great proposed highway are to accrue to my own people and the Territory of New Mexico.

My constituents, sir, send me here to represent their direct interests; and these will ever be my first thought; their good my highest object. To raise the condition of New Mexico to that which you, representing old and prosperous communities, enjoy; to secure them commercial advantages and facilities for trade; and to place its inhabitants, in these respects, on an equal footing with those of any of the States and Territories of our broad Confederacy; is my most ambitious aim, as I hope always to prove it my constant care.

I felicitate myself, sir, that the discussion of this subject of a Pacific railroad gives me an opportunity to say something with regard to the resources of the Territory of New Mexico; and though in a measure a diversion from the main point in course of debate, I will respectfully ask the attention of the House to such facts as I propose to state. I desire, sir, briefly to consider in this connection the isolated condition and immense material wealth of New Mexico, at present comparatively abandoned and uncared for. Gentlemen may then know and properly appreciate the importance of constructing a national road through that Territory.

And now, sir, what of the resources of New Mexico? In the acquisition of that Territory was acquired an area of two hundred and fifty thousand square miles, a large amount of which is of the finest agricultural soil; large mineral districts have been already discovered and known to contain much of the precious metals; great deposits of iron, lead, and copper ore are found, and an incalculable abundance of coal; with a population of more than sixty thousand. Your scientific surveyors in that country, since its acquisition by this Government, as shown by their reports, estimate the amount of goods, wares, and merchandise, taken into that country from the States, at five or six million dollars, leaving in your Treasury at least one and a half million dollars of annual revenue. A million of stock sheep, producing, at a minimum calculation, three million pounds of wool, were herded and owned in the Territory when you first became its possessors; and they should have been, and with proper governmental protection would have been, rapidly increasing and swelling in numbers and value. And a due proportion of all other kinds of animal stock were raised in and distributed through the country.

In point of mineral wealth, New Mexico, in my opinion, is inferior to no State or Territory in the Union. The first conquerors and explorers

of Mexico, the Spaniards, were early attracted to this region, not only because of its excellent climate, unequal for invariableness and salubrity, and its fertile soil, but mainly on account of its reputed and subsequently discovered mineral wealth. After their successful establishment in the country, New Mexico was among the first provinces subdued, and permanently settled by them; and on account of the resemblance it bore to Mexico proper, in the particular character of its native inhabitants, and more especially in its unmistakable indications of mineral wealth, it was called New Mexico.

Sir, I desire to speak, not only from my own personal knowledge of this Territory, but also to refer to such authoritative documents as I think you will willingly accept as evidence of the truth and correctness of what I affirm. Dr. A. Wislisenus, in an interesting memoir of a tour in northern Mexico, in 1846-7, which was published by the order of the Senate, speaking of the early history of New Mexico, says:

"The Spaniards, it seems, received the first information about it in 1581, from a party of adventurers under Captain Francisco de Leyra Bonillo, who, finding the aboriginal inhabitants, and the mineral wealth of the country, to be similar to those of Mexico, called it New Mexico."

From the great lack of true and proper information about New Mexico, the consequence of an indifference heretofore felt in relation to it, and with a motive to awaken a lively and popular interest in a region so attractive—and one which I believe to see speedily opened up to an enterprising and industrious immigration—I trust, sir, I may be pardoned in venturing to give a brief sketch of that Territory. It is now two hundred and seventy-seven years since the Spaniards first received any knowledge of the country; and two hundred and sixty-three since its first colonization under Don Juan de Oñate, who memorialized the Spanish Viceroy for the settlement of the country; and the identical memorial is now of record in the territorial archives at Santa Fé. Mr. Gregg, in his "Commerce of the Plains," thus refers to it:

"In every part of this singular document there may be (found) traced the singular evidences of that sordid lust for gold which so disgraced all the Spanish conquests in America," &c.

Showing clearly that they were fully satisfied of the fact of the existence there of that mineral wealth which was the captivating, if not the prime, object of Spanish exploration in the New World. The aborigines were coerced into the service of their conquerors to work the mines, of which there were many discovered and opened. The most important of them, which have been abandoned in consequence of the civil embroilments and Indian difficulties in the country, are the Gran Quivira, Abó, Embudo, Cerrillos, Abiquin, and many others which can be mentioned. Of the Gran Quivira, which lies about one hundred miles southward from Santa Fé, Mr. Gregg, who visited those ruins, speaks thus:

"This appears to have been a considerable city, larger and richer by far than the present capital of New Mexico ever has been."

Mines of gold, silver, copper, iron, lead, and coal, are found all over the country. In all the metallic mines, the ore is said to be very abundant and uncommonly pure. Since the reduction and occupancy of the country by the Spaniards, the mining business has been carried on to a greater or less extent. The isolated condition of the country has rendered it uninviting to immigration; and the miners there, satisfied with small returns from their labor, will account satisfactorily for so many of these mines lying idle. At present the most productive and valuable diggings and mines are the "Placer mines," composing the Rial de Dolores and Rial del Tuerto—or the old and new Placeres. These are gold diggings which have produced very large amounts of that precious metal in years past, considering the rude manner in which they were worked. Dr. Wislisenus says:

"The annual production of gold in the two Placeres seems to vary considerably. In some years it was estimated from thirty to forty thousand dollars, in others from sixty to eighty thousand dollars, and, in latter years, even as high as \$350,000 per annum."

Not only do Mr. Gregg and Doctor Wislisenus speak highly of them, but also Lieutenant J.

J. Abert, United States topographical engineer, (*vide Sen. Doc. first sess. on Thirtieth Congress, p. 36.*) where he speaks of the New Placer, or Rial del Tuerto. He says;

"The value of these mines cannot very well be estimated now, as there have been many improvements in the methods of working gold, which, when adapted to these mines, may produce a great increase in the annual yield. Mr. Campbell tells me that he got from his wells one piece worth \$700, and, at another time, a piece worth \$900."

Dr. Wislisenus thus refers to the unfortunate neglect of this particular branch of industry at the present day in New Mexico. He says:

"A great many deserted mining places in New Mexico prove that mining was pursued with greater zeal in the old Spanish times than at present, which may be accounted for in various ways—as the present want of capital, want of knowledge in mining, but specially the unsettled state of the country, and the avarice of its arbitrary rulers, [its former rulers, of course.] The mountainous parts of New Mexico are very rich in gold, copper, iron, and silver. Gold seems to be found to a large extent in all the mountains near Santa Fé; also, south of it for a distance of about one hundred miles, as far as Gran Quivira; and north for about one hundred and twenty miles, up to the Sangre de Cristo. Throughout this whole region, gold dust has been abundantly found by the poorer classes of Mexicans, who occupy themselves with the washing of this metal out of the mountain streams."

The principal points at which copper is to be found in great abundance, are at Las Tijeras, Jemes, Abiquin, Guadalupe de Mora, and what are commonly called "the copper mines," known by the Mexicans as "Santa Rita," and others in the different parts of the country. Coal is found in large beds, principally in the mountains near Santa Fé, in the Raton mountains, and on the Rio Puerco of the West, near the thirty-fifth parallel of latitude, and is easily procurable.

I will not leave this branch of my subject without referring to a traditional and fabulous story with regard to the golden products of the rich mines of the wealthy and important Gran Quivira. In reference to this tradition, Dr. Wislisenus states that—

"At one time, when they [meaning the Spaniards] were making extraordinary preparations for transporting the precious metals, the Indians attacked them; whereupon the miners buried their treasures, worth fifty millions, and left the city together, but they were all killed except two, who went to Mexico, giving the particulars of the affair, and soliciting aid to return. But the distance being so great, and the Indians so numerous, nobody would advance, and the thing dropped. One of the two went to New Orleans, then under the dominion of Spain, raised five hundred men, and started by way of the Sabine, but was never heard of afterwards. Within the last few years several Americans and Frenchmen have visited the place; and although they have not found the treasure, they certify, at least, to the existence of an aqueduct, about ten miles in length, to the still standing walls of several churches, the sculpture of the Spanish coat of arms, and to many spacious pits, supposed to be silver mines. It was no doubt a Spanish mining town, and it is not unlikely that it was destroyed in 1680, in the general successful insurrection of the Indians in New Mexico against the Spaniards."

A word more as to the general productiveness of our mines, so as to show the amount that one hand can get, or make daily, under the then system of working the mines. The scientific gentlemen just quoted, speaking of a visit he made to the Placer mines, and particularly to a gold mine belonging to Mr. Tournier, a Frenchman residing there, says:

"Mr. Tournier (in the rude manner in which he worked his mine) told me that he worked every day about two cargas, (loads,) being seven hundred and fifty pounds of the ore; and that he draws, on an average, three quarters of an ounce (about twelve dollars' worth) of gold out of his shaft."

I could detain the House upon this particular branch of my remarks much longer, but I have other points upon which I wish to invite its attention, and will only ask whether there can be any one, with a knowledge of these facts concerning the mineral wealth of New Mexico, who will say that that Territory is inferior to any State or Territory under this Government? All that we ask is an outlet for an imposing display before the world, of the prodigal treasures that at this moment lie hidden in her bosom.

I shall next, sir, call your attention to the agricultural capacity of New Mexico. In regard to this particular branch of industry, there is indeed great misapprehension throughout the United States. I have not unfrequently, I am sorry to say, heard men venture the empty assertion that this really bounteous Territory is a desert waste, sterile and unproductive—a country which not even prowling wolves deign to inhabit. Such assertions, sir, so far as this topic is concerned, are

to my mind but the utterance of uninformed intelligence, not to say of ignorance. No country, I undertake to say, has better and richer soil than New Mexico. We raise all the products—ay, every one of them, and these, too, in great abundance—that are produced in and common to the southern and middle States. Isolated as New Mexico is, and entirely self-dependent, she has always found in her own varied resources sufficient means for support. True it is that we irrigate, by artificial canals, (*acequias*), our soil, in order to raise our crops. This process has ever been resorted to by the Spaniards and Mexicans, and it is a time-honored custom, common among them. We do not place entire dependence in flying and uncertain clouds for the fertilization of our land. It is upon ever-running and copious streams, that spring clear and pure from the bosom of the eternal mountains, that we put our faith. With such eternal elements of dependence we can well insure our crops. But, sir, I emphatically contradict the assertion that we can produce nothing without irrigation. I affirm this to be but an ancient custom of the people—a habit common, not only in New Mexico, but peculiar to the entire Republic of which it was formerly a part. Irrigation was and is yet practiced in Texas and California. It is to a great extent abolished in those States; and many farmers in New Mexico do not now irrigate, and they produce from their lands equally as much as those who adhere to the old practice.

No country in North America can, in my opinion, produce better grapes than New Mexico; and I venture to predict that the fertile banks of the Rio Grande will one day rival those of the vine-clad Loire. In the abundance, variety, and quality of its grapes, and the perfection of its native wine, New Mexico will bear comparison even with any European State. There is, of course, as yet no very extensive manufacture of wine, that made being chiefly for home consumption. Lieutenant A. W. Whipple (*Pacific Railroad Report*, page 13) says:

"The valley of the Rio Grande del Norte is well known. The bottom land that can be irrigated is very extensive. The soil and climate seem particularly adapted to the culture of grapes, which grow luxuriantly and to perfection. The wine produced is very finely flavored, and, with an easy communication with a market, may become an article of commerce, and a source of wealth to New Mexico. But the resources of this Territory are not confined to the belt which may be flooded by the waters of the Del Norte. Numerous springs and streams checker this region with fertile spots among the mountains."

The same scientific gentleman, speaking of the character of the country and water of the Rio Pecos, on the thirty-fifth parallel route, in contrast with the kind of country and character of the water of the same stream about the thirty-second parallel route, (*Pacific Railroad Report*, volume 2, part four, page 4), says:

"The Pecos river here—i. e. on the thirty-fifth parallel route—is clear and rapid, and its waters pure and sweet, forming quite a contrast to those at the several crossings from San Antonio to El Paso, where they are always turbid, brackish, and disagreeable. Indeed, by some travelers on its borders, and on some maps, this river, from these circumstances, has acquired the name of Puerco, the Spanish appellation for muddy waters. There its valley, for hundreds of miles, is a blank and dreary waste, with scarcely a shrub to relieve the eye of the traveler; here its fertile banks are dotted with innumerable small plantations and towns, so characteristic of New Mexico."

In the northern part of the Territory wheat is raised in great abundance—the soil yielding on an average of forty bushels to the acre; while in the southern part, through the Rio Abajo, and down to the Messilla valley, corn is produced and raised in equal abundance. It is my opinion that in no State or Territory in the Union can be raised finer corn, and more to the acre, than in the Messilla valley—being a part of the same valley of the Rio Grande.

As a pastoral and grazing country, I believe New Mexico has already obtained considerable reputation abroad. I believe that in this respect her claims are generally conceded to be unsurpassed. The evidence of the justness and superiority of these claims is in the large amount of stock grazed in and spread over the whole country. Dr. Wislisenus, speaking of both Chihuahua and New Mexico, with regard to their merits as grazing countries, says:

"Both States are unsurpassed by any in the Union. Millions of stock can be raised every year on the prairies of the

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high table-lands, and in the mountains. Cattle, horses, mules, and sheep, increase very fast; and if more attention were paid to the improvement of the stock, the wool of the sheep alone could be made the exchange for the greater part of the present importation. But to accomplish this, (he adds,) the Indians, who, chiefly in the last ten years, have crippled all industry in stock-raising, will have first to be subdued."

I have thus, sir, I trust, so far at least as the object I have in view demands, and in a general way, satisfactorily demonstrated the great material resources of the Territory of New Mexico. Much more I could, and, indeed, would desire to say on this topic, but I hurry to the practical application of my remarks. I must add, however, that in stating the facts just given, my object has been to comply with numerous requests, made by written communications from all parts of the country, as the Delegate of New Mexico, asking me for information about that Territory. I do this now in a public way for the general benefit, so that the country at large may know the wealth and resources of the region I represent, and the claims, under such state of facts, that New Mexico has upon governmental consideration for its future welfare.

Such, sir, are the resources of the country through which the thirty-fifth parallel, or Albuquerque railroad route to the Pacific passes; and I ask, has not this Territory, with its abundant incitements to your interests, and its claims upon your care, been comparatively neglected and forsaken? Our advancement has been impeded, not only because of the want of necessary avenues for the development of the popular mind, but also on account of our want of outlets for an agricultural, mineral, and pastoral wealth, which, I am sincerely confident, no other State or Territory of the United States can boast to possess.

Ten years, sir, have gone by since New Mexico became part and parcel of this, the greatest Republic that the world has ever seen. Ten years have rolled by since Federal power assumed the duty and responsibility of the protection of that people. Have our demands of right been met, and your duty fulfilled? History will show hereafter how the Government has discharged its trust towards New Mexico, in contrast with dispensations showered upon our sister Territories. Sir, it is a painful thing for me to be here and witness the partiality which is manifested in favor of some of your northwestern Territories. I regret to say this, but the truth must be told. It must go to the country.

And now, sir, in regard to a Pacific railroad. I shall not attempt to enter into the discussion of the national importance of this iron way. It is conceded, I believe, by all, that is necessary, and ought to be constructed. There are various routes proposed and strongly advocated by their respective friends. It is my purpose, in the few remarks I have to submit in relation to this great enterprise, to advocate what is termed the thirty-fifth parallel, or Albuquerque route, and to give my reasons for doing so. While all other States and Territories of the Union have outlets for their wealth, natural and artificial, New Mexico is entirely isolated and cut off from proper commercial intercommunications. The Territory is surrounded on all sides by almost limitless regions, fertile, and, for the most part, cultural, yet uninhabited; and where the wandering and lawless Indian holds as of yore, in spite of your nominal subjection, imperial sway. We are from eight to nine hundred miles distant from any of your western States' frontiers. We are quite twelve hundred miles from your Pacific coast. The Rio Grande, the principal artery that traverses the Territory, is not navigable, and therefore affords us no avenue by which to reach the Gulf. We are, indeed, within a prairie-bound territorial isle; and we ask as right, fair, and just, the means for our outward development.

The Albuquerque route passes through the center of New Mexico, and it is the most central route of all proposed, and one that would benefit the greatest number of people. It seems to me that upon the first sight of a map any impartial and disinterested person would decide in favor of that route. The country through which it runs is rich in soil, copious in water, and abundant in wood, timber, and fuel. It is the best adapted for farming purposes; the climate is genial and salubrious; and the objection to the climate along

the Albuquerque route, as being rigorous and inhospitable—rendering it impracticable, it is said, to carry even an overland mail by that line—is wholly without support or foundation. I am aware that the Postmaster General is of that erroneous opinion, and I am told that even the President has been induced to believe that Albuquerque comprises an ice-bound region. Now, sir, it was my fortune to be born within a few miles from Albuquerque, and I have resided there for a considerable period of my life. I never found it extremely cold there, or remember to have seen snow fall to a depth or frequency to impede the usual travel and trade of that place. We never enjoyed sleighing there—and I do not know but what gentlemen might, with equal propriety, assert, to a citizen of Nashville or Memphis, that a railroad could not be constructed through Tennessee, because of the rigor of the climate, as to say that New Mexico, or rather Albuquerque, is at a disadvantage in this respect; both ideas are simply ridiculous. And even though the climate of Albuquerque were middling cold, this could offer no objection, for, I believe, engineers prefer a mean temperature for the building of railroads, to all climatic extremes, whether hot or cold. But I speak of the climate of Albuquerque of my own personal knowledge, and this from a long residence there.

Lieutenant E. F. Beale, the superintendent of the wagon road from Fort Defiance, New Mexico, to the Colorado river, has returned, in the mid winter, along the thirty-fifth parallel route, and he tells us that he experienced no inconvenience whatever, on his exploration back from Los Angeles, California, to Albuquerque, from the rigor of winter. On the other hand on the the forty-second parallel route, through the South Pass, you have had your Utah army detained, amid the gorges of the Rocky Mountains, in consequence of the snows that impeded the travel through that region during the winter months of the year.

The snow that falls on the thirty-fifth parallel route can never be an obstruction in the way, so as to impede, even in the most severe winter, railroad travel. But let us examine what Secretary Davis, Lieutenant Whipple, Mr. Campbell, and others, have to say of this route with regard to its advantages over any other one surveyed.

Secretary Davis, speaking of this particular route, says, (see vol. 1, page 20:)

"The general features which have determined the position of this route, the exploration of which was conducted by Lieutenant A. W. Whipple, topographical engineers, are the extension, west and east, of the interlocking tributaries of the Mississippi, the Rio Grande, and the Colorado of the West. It would appear to possess, also, a greater yearly amount of rain than the regions immediately north and south of it; and, as a consequence, a better supply of fuel and timber."

He further says, on page 21:

"The principal characteristics of this route, in comparison with others, are, probably, its passing through or near more numerous cultivable areas, its more abundant natural supply of water as far west as the Colorado, and the greater frequency and extent of forest growth on the route between the Rio Grande and the Colorado."

Captain Whipple, the United States engineer, who surveyed the central or thirty-fifth parallel route, thus speaks of it, as he completed his labors as far as the Cajon, at which place his exploration seems to have ended:

"Our field labors may now be considered as completed. It remains to develop in detail the results that may be gathered from the material that has been collected. Until this be accomplished, no definite or satisfactory evidence can be given to others of the success that has attended our operations; but to ourselves there is no doubt remaining that for the construction of a railway the route we have passed over is not only practicable, but in many respects eminently advantageous. The first six hundred and fifty miles, from the eastern border of the Choctaw territory to the river Pecos, possesses in the valley of the Canadian a natural highway, that establishes beyond question the superior advantages of this belt of country over any other that can be selected between the same degrees of longitude within the limits of our territory. The Canadian seems formed by nature for the special object in view. Its general course for the distance alluded to is nearly east. Its mean inclination is but nine feet to the mile; thus enabling us almost imperceptibly to attain the summit of the lofty table lands of New Mexico. Expensive embankments are entirely avoided; and, notwithstanding the numerous affluents that fertilize and enrich the adjacent country, few bridges are required, as most of the water courses sink beneath the surface as they approach the great valley. Upon the eastern portion valuable coal mines exist, and vast forests of oak may furnish an unfailing supply of timber and fuel. The Cross Timbers extend to the meridian of 90° west from Greenwich, and the wooded branches of the False Washita at

ford abundance of the same material, for fifty or sixty miles beyond. Sandstone, quick lime, and gypsum, are found throughout the whole distance. If the fertile valleys were thrown open to settlers, and an outlet secured for the products of the soil, this region would form the nucleus of new States, and the roving tribes of Indians that now occupy it would give place to a flourishing population. It is believed that in climate, as well as soil, this country far surpasses that of Kansas."

In the second part of the same volume, page 48, Captain Whipple says:

"One of the most important of the advantages claimed for this route is the pleasant and salubrious climate of the region through which it passes. There is no long series of parched plains, rendering the summer heat intolerable, nor do those dreaded winds termed 'northers' reach this latitude. The mountain ranges that are crossed are not blocked up in winter by ice and snow sufficient to interrupt travel. From July to January, and for the whole year, this line may be traversed in safety."

"The different portions of our survey were performed at such seasons as to enable us to make observations upon the most unfavorable characteristics of the climate. In August we were upon the comparatively low and arid plains upon the head waters of the Canadian, and near the Llano Estacado. During the winter months we passed over the elevated regions, and through the mountain passes between the Rio Grande and Rio Colorado."

"Upon the parallel of 35° snow cannot prove an obstruction to a railway."

I have not the time now, sir, to discuss the merits of the other proposed routes, and compare their disadvantages with this of Albuquerque. Mr. Campbell, who I believe has been upon the two surveys of the thirty-second and thirty-fifth parallel, says: (See Pacific Railroad Report, volume three, page 24:)

"The valley of the Canadian is the proper route, from its directness, gentle ascent, and ready supply of water. Its general course is nearly due west, to the mouth of Tecumcar creek, and the ascent of these (the one, I believe, the tributary of the other) is very gradual to the summit between them and the Pecos."

I cite this gentleman's opinion, because of the especial respect in which I know it will be held by some gentlemen upon this floor, having occupied the position under Lieutenant Whipple of a railroad engineer. No one, so far as I am credibly informed, denies the practicability of the construction of a Pacific railroad from St. Louis, Missouri, through Springfield, or Neosho, to the Canadian, and thence to Albuquerque. I take St. Louis as the starting point, because, in my opinion, it is the most important commercial city on the Mississippi, and the most central in its locality.

Dr. Kidwell, who was hostile to all routes, in his minority report from the committee on the Pacific railroad, made to Congress at its last session, speaks thus as to what he thinks is the best route to the Pacific, if any should be built:

"A right line drawn between New York and Albuquerque would pass through St. Louis. And yet Baltimore is nearer to St. Louis than is New York, and Charleston is nearer than Baltimore. So are Richmond, and Savannah, and Pensacola. St. Louis is, therefore, eligibly situated."

"A road from St. Louis, via Albuquerque, to San Francisco, would avoid, it was supposed, extreme heights, extreme heat, and the deep snows. A road from Albuquerque, via Fort Smith, to Memphis, and one from Albuquerque to St. Louis, would have a common stem a considerable distance; if one is built, both ought to be. The line of continental road most convenient to the fifteen southern States, taken as a unit, begins in Charleston, and runs to San Francisco through the towns of Memphis, Little Rock, Fort Smith, Anton Chico, and Albuquerque, and has a fork to St. Louis."

"The mass of the population, business, and wealth, and the greater part of the geographical area of the fifteen southern States, lie north of a line drawn fifty miles south of, and parallel with, the Charleston, Memphis, Fort Smith, and Albuquerque road; that line of road is very accessible to each of the southern States, at some point or other, before it reaches the east line of New Mexico."

"The extreme southern cities, even Galveston, can reach San Francisco as readily by the Albuquerque route as any other, or nearly so—in many cases more readily than by any other."

I am of opinion that only one road ought to be constructed, and that the one which runs upon the thirty-fifth parallel. I think the Government ought not to undertake, with its money and its public domain, to build any more than one road. That should be as near the geographical center of the whole country as the practicability of the route will allow. Let us divest ourselves, gentlemen, of that sectional prejudice, interest, and rivalry, which seem to control many members, so far as the starting eastern point is concerned, but which, when we are considering a work that is to do credit to our common national pride, ought never to be entertained by national legislators. Let us look at the honor which our country is to derive abroad among the other nations of the world, by the construction of this gigantic high-

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way. Show to the world your physical power and your purpose; and do not allow, in the construction of the great highway, either personal interests or political and sectional prejudices to control your action. The enterprise rises above such mean and lesser things. The integrity of the Union and your national honor are at stake. Construct this road, and the world will honor and respect you now, while posterity will praise and revere you.

Mr. Chairman, I have thus, very imperfectly, I grant, fulfilled my task. It has been my earnest endeavor, as stated in the outset, to exhibit, though in a sketch-like way, the vast material resources of New Mexico, as embraced in her agricultural, mineral, and pastoral wealth; to set forth a true view of her isolated territorial condition; to proclaim her demands upon your protection and fostering care; to inform the public mind of the nature of the country as respects its inducements to immigration; and, so far as it rests in my humble power, to show that your great national highway should pass through New Mexican territory.

My object is to open up this almost *terra incognita* to settlement from the various flourishing States, North, South, East, and West, of the Confederacy; to give an impetus to and increase their population; to sow the quickening germs of future progress; and, in the proper development of the resources of a section of this land, by nature so supremely blessed, while directly adding to the welfare of my own people, to benefit at large the great Union of which we are now a federative part.

It must be borne in mind, sir, that we are not a population new, unstable, and heterogeneous in its element, such as has poured into Nebraska and other infant Territories of the Union; and which afterwards, in a relentless conflict and eternal clashing of dissimilar interests, has given to "bleeding Kansas" voice for her echoing and agonizing "shrieks." But we are a nation in ourselves, with our peculiar characteristics, customs, and prejudices, coming into this Republic, not as a conquered people, but rather by honorable treaty; and now seeking therein just recognition of our incorporate part though an intelligent appreciation of the principles of this Government, and because of a desire, long ago entertained, to be the subjects of its protecting arm.

We know, in truth, in New Mexico, no North, no South, no East, no West. Sectional feuds and civil embroilments elsewhere, wild and threatening in their stormy outbreaks, reach us only by report; and fanaticism and ultraism, the common birth of the same dark school of treason and sedition, are utter and uninvited strangers to our peaceful borders.

We want, sir, a healthy, harmonious, active, and energetic population among us. Not individuals with black carpet sacks in their hands, containing all their worldly goods; or others, who, as in a special instance charged lately, may cross an interested border for the purpose of a vote; but people who, guided by the counselings of the better instincts of human nature, are prompted to settle in the Territory to improve their own condition, and that, likewise, of their offspring. We ask fitting outlets for our expanding trade; we aspire to build ourselves into a thriving and permanent prosperity; we assume to take the place and position to which we are entitled in this great Commonwealth. And, sir, I express the sentiment, that I see a bow of promise smiling on the future of New Mexico, under whose brilliancy she will ultimately realize her brightest hope, and obtain, at no distant day, a high and elevated place in the galaxy of States.

ARREST OF WILLIAM WALKER.

SPEECH OF HON MILES TAYLOR

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. TAYLOR said:

Mr. CHAIRMAN: I desire to engage the attention of the committee for a short time in relation to a

subject connected with one which occupied their attention and the attention of the House at an early part of the session. It is one which grows out of the capture of General William Walker in Nicaragua, and the bringing back of that person and his followers to the territories of the United States. It is not my purpose to enter into the subject of the character of the expedition of Walker. It is not my purpose to engage in any examination of his previous history. I shall assume, with a view to the discussion of points to which I wish to direct inquiry, that General Walker and his followers, whilst they were within the limits of the United States were guilty of a violation of the laws of the United States in setting on foot an expedition against Nicaragua. It is known to us all that there are laws in existence which prohibit persons within the limits of the United States from attempting to form a military organization, or attempting to set on foot a military expedition which is destined to act against or within the limits of another country which is at peace with the United States.

I assume, then, that General Walker did set on foot within the United States a military expedition to be carried on against the State of Nicaragua; and that, in engaging in that enterprise, General Walker and his followers did violate the laws of the United States. I assume further, that it was within the power, that it was the right, and that it was the duty of the President of the United States, to exercise all the executive power of the nation for the purpose of arresting the persons engaged in that enterprise, whilst they were within the limits of the United States; and that it was competent and proper for him to have exercised that power for the purpose of breaking up that expedition at any period after its departure from the shores of the United States, and while it was upon the high seas.

But before engaging in the course of remark which I propose to pursue, I wish to state that it is not my intention to make any reflection of any kind, or to express any opinion, as it regards the character or the merits of the conduct of General Walker in setting on foot that expedition; that it is not my purpose to express any opinion with respect to his character as a military leader, or his character as a public man, whilst he was charged with the control of the affairs of Nicaragua. Whatever might have been, whatever might be now, my opinion; however much I might be disposed to condemn anything in his conduct; however much I might be disposed to censure any of his military actions; however I might be disposed to depreciate his civil merits as the executive chief of that country; I, for one, certainly shall not now carp at his conduct, throw censure upon his actions, or depreciate his capacity, after having been silent during that period when he acted a part, which was supposed to be a great one, in the affairs of a neighboring State. I repeat it, sir, no matter how objectionable I might think the conduct of Walker, whilst he was the military and political chief of Nicaragua, this certainly is not the time I should choose to parade it before the world. I would not willingly add a straw to the burdens borne by the unfortunate; and certainly I could not find it in my heart, whatever others may, to criticize and carp at the past career of a brave man, when overwhelmed with misfortune. After having been silent in the palmy days of his power, I will not, I cannot, throw upon him censure, or attempt to condemn his acts, when he is suffering from the stings of an adverse fortune.

I am one of those who remember that the judgment which is pronounced by the world upon public men is determined not by the intrinsic merits of their actions, but by the fortune which attends them. I remember well that in a multitude of instances in the history of the world, when men have been engaged in those enterprises which were legitimate in the eye of reason, and which, in the opinion of all right-thinking men, were in themselves right, they have been rewarded with popular applause when they achieved success, and visited with popular reprobation when they encountered failure. I remember well that when one departs from the ordinary course of human action for the purpose of establishing a new Government, or of overturning an old one, if he succeeds he is a patriot and a hero; but I remember, too, if he

fails, that in the public estimation he is guilty of a crime, and is called a rebel. Yes, sir, an unsuccessful attempt to rid a people of tyranny and oppression is, in the eyes of the world, rebellion!

"Rebellion! foul, dishonoring word,
Whose wrongful blight so oft has stained
The holiest cause that tongue or sword
Of mortal ever lost or gained.
How many a spirit born to bless,
Hath sunk beneath thy withering name,
Whom but a day's—an hour's success,
Had waited to eternal fame."

I remember well these words, uttered in bitterness of heart by one of the great poets, who has, but a short time since, passed from the scenes of mortal action; for I felt that they were wrung from him by the memories which clung to him through life of those who, in his native land, had attempted to bring about its political regeneration and had failed, and who, for their attempts, had fallen under the ax of the public executioner. No, sir; after having looked on and seen William Walker engage in that enterprise which terminated in his becoming the chief of the Republic of Nicaragua; after having looked on and been a witness, as it were, of the contest which raged in that country for a considerable length of time, and at last terminated in his overthrow; and, preserving silence then, I am not the man to attempt to cast censure or even to venture upon public criticism of his acts or his policy, in these Halls, when he has met with defeat; defeat, too, brought about, it is more than probable, by the improper and unwarranted interference of another Power, who violated the law of nations and her obligations to another State, by intermeddling with the internal affairs of a separate and an independent people.

I will now proceed, Mr. Chairman, to touch upon the subject that I desire to bring especially to the notice of the committee. It is known to all that the executive power of the United States was exerted for the purpose of arresting that enterprise after its leader had departed from the United States, and that the vessels of war employed upon that service were not enabled to intercept the expedition upon the high seas. It is further known that that expedition reached the shores of Nicaragua, and that Walker and his followers landed upon its soil; that afterwards the officers of the United States landed upon the soil of Nicaragua, and by force took them into their possession, and by force brought them from the soil of Nicaragua and into the territorial limits of the United States; that since their arrival within the territorial limits of the United States, indictments have been found against those persons for a violation of the laws of the United States, and that they are soon to be put upon their trial.

Now, sir, to my mind, if they are tried, the Government of the United States will take a step that is wrong in itself, and that may, in the end, lead to great embarrassment in the future. With a view to call public attention to what I conceived might be the impropriety of permitting such a trial, and what might be the embarrassments which would follow upon such action on the part of the United States, I had the honor, not long since, to offer to the House a resolution, which was in the following words:

"Resolved, That the President be requested to consider whether William Walker and his followers, recently seized by the naval forces of the United States, within the territorial limits of the Republic of Nicaragua, and brought back to the United States, can be tried under indictments found against them in the courts of the United States for offenses alleged to have been committed by them, in the United States, prior to the said seizure as aforesaid, without a violation of the principles heretofore recognized and acted on by the Government of the United States in its public policy; and that he be also requested to consider whether such trial of the said William Walker and his followers, with the permission and by the authority of the Executive, will not be likely to give rise to embarrassments and difficulties in the future management of various questions necessarily connected with our relations with other countries."

An objection was made to that resolution, and it was not received by the House. I desired, however, that it should appear in the Globe, in order that it might be before the public, as I designed then to take advantage of an opportunity, such as this, for the purpose of presenting my views to the House upon the points raised by the resolution.

Mr. Chairman, this resolution presents for consideration two questions: First, whether there is

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any right on the part of the Government of the United States to try these men? And in the next place, if the power of the Government of the United States is exercised so that they are subjected to a trial—whether that fact will not, in the end, produce embarrassment in the future with respect to our relations with foreign countries?

Now, as to the first question whether there is a right to try these persons? If they had remained within the limits of the United States it does not of course admit of doubt that it would have been proper to have proceeded against them, and to have subjected them to trial in the manner provided for by law. But it must be remembered that they left the United States, and that they are not now voluntarily within its limits; that they have been brought by force, and by force employed by the United States itself, back, within the territorial jurisdiction of the United States.

Now, sir, by the law of nations, the soil of Nicaragua, as well as that of every other independent State, is sacred. Under that law, in every age, it has been held and recognized as a principle established by the universal judgment of mankind, that any intrusion into the territory of one people by the authority of another, no matter for what purpose, was a violation of right. There can be no rightful exercise of power on the part of the United States, or any other Government, within its limits, unless when engaged in actual war with that country. After a declaration of war, it would be perfectly competent for the military force of the United States to enter into that territory, to make captures, to bring away from her soil the individuals captured, and subject them to whatever consequences might follow the acts which they had previously committed. But in a state of peace, any such seizure made upon that soil is illegal, and any such capture followed up by those captured being brought back to the territorial jurisdiction of the United States, would no more authorize the Government of the United States to permit them to be tried, than if they had never left the soil of Nicaragua.

Sir, the principle of the law of nations, that the soil of a country is inviolate, that no other country has a right to enter into its territorial limits, that any entrance into its territory, when in a state of peace, is unlawful, and can produce no legal result, extends so far that even when two belligerents are engaged in conflict, when a state of war exists between them, so that the citizens of the two countries, whenever they meet, may engage in battle, and those having a superiority of forces may rightfully capture and make their own the property of the others—it is a settled principle of international law that if the property of one of the belligerents on the high seas, when exposed to be captured by the enemy, succeeds in getting into neutral waters, it is not subject to capture. It, however, often happens that belligerents make captures in violation of this principle. When that is the case—though the general rule is, that the courts of the belligerent making captures have exclusive jurisdiction in cases of capture made by its citizens—it is still admitted everywhere, when a capture is made by a belligerent in the waters of a neutral State, that the capture is null and void, and that the courts of the neutral State have jurisdiction in all such cases, with full authority to adjudicate them, and restore the property captured to the rightful owners. Under that principle captured property has again and again been restored; under that principle the courts of the United States, or the Government of the United States, have again and again restored property captured in the waters of the United States, or by persons who were within the jurisdiction of the United States. But that principle can, from its very nature, only be enforced by the action of the neutral Power. Though it is right, though such capture within neutral limits would of itself be a nullity in the eye of reason, and in the eye of justice, it is never so regarded unless the property falls under the jurisdiction of a neutral Power, because the courts of a belligerent Power never act in opposition to the political power of the Government; and they never hesitate to condemn captured property subjected to their jurisdiction, without regard to the place where the captures were made. And it is this circumstance, and this alone, which has led to the practice among all civilized nations on the

part of the Governments whose citizens have been wronged by captures made within the limits of a neutral territory, to enforce the claims of its citizens to reparation for the wrong against the neutral Power whose duty it was to protect her territory, and all those within its limits, from hostile aggression, because that Power was in a position to assert a legal right against the offending nation, and by its failure to do so, necessarily became responsible to those who had suffered wrong within their jurisdiction, for the value of the property of which they had been illegally deprived.

But, Mr. Chairman, though it is, in point of fact, true that the courts of belligerent Powers condemn the property captured by their arms in neutral waters, it does not follow that such condemnation is rightful, unless it be upon the principle that might makes right. Upon no other principle can the practice be maintained. The great end of war is mischief; and the controlling principle with belligerents is to do all the injury possible to each other. When the state of war exists the belligerents never listen to the voice of justice, because, "amid the clang of arms the laws are silent." But, in a state of peace, there can be no justification, no excuse, on the part of any country, for disregarding the plain, palpable principle of international law. In my opinion, it will be wrong for the Government of the United States to attempt to enforce its laws with respect to these individuals, when they have been brought within the jurisdiction of the United States by compulsion. And now, sir, I will take the liberty of referring to some instances in our national history, for the purpose of showing that the principle upon which I base this conclusion has been constantly recognized by the Government of the United States in all its actions with respect to foreign Powers.

In the early history of our Government, when its executive functions were discharged by the greatest, the wisest, and the best man the world has ever seen—by him who, in language that is embalmed in the hearts of all true Americans, was "first in war, first in peace, and first in the hearts of his countrymen"—I say, when the administration of the executive functions of the Government of the United States were discharged by that man, the principle I now invoke was recognized and acted on, not only with respect to property, but with respect to the rights of persons. Who is there who has American blood in his veins who is not familiar with the history of Lafayette? Who is there that does not know that when he escaped from France, during the troubles of her Revolution, that he was seized by one of the European despots and put in prison, because of his connection with the revolutionary change which had taken place in France; because of his conduct on French soil, as a citizen, in those great events which led to the overthrow of the French monarchy—which led to the dethronement and execution of Louis XIV. and Marie Antoinette, a daughter of the Austrian Emperor. He was imprisoned for years in the castle of Olmutz, under the authority of Austria. Washington remonstrated with the Government of Austria. He called upon her to release this man, who was then incarcerated in one of her prisons; and it was on the principle that he was imprisoned for acts done upon the soil of France, and beyond the jurisdiction of the Austrian courts and the Austrian Emperor, and that Austria had, under the law of nations, no rightful jurisdiction over him.

And again, sir, it is but a short time since this Government was engaged in a correspondence with that same Power with respect to the arrest of Martin Koszta, formerly a Hungarian citizen. If Koszta had gone voluntarily within the limits of the Austrian empire, he would have been legitimately subjected to her authority. It is known to us all that he had violated the laws of the Austrian empire, that he had committed a political offense against her authority, and that if he had been found within the limits of that empire he would have been subject to its jurisdiction, and doubtless would have been rightfully punishable with death. But he had escaped from her territories, and was, at the time he was arrested, upon Turkish soil. The Austrian officials assumed the right to seize him within the jurisdiction of the Ottoman empire, and to employ force for the purpose of carrying him back to the jurisdiction from

which he had escaped, for the purpose of subjecting him to punishment. We all remember, for I believe that there is not an American citizen whose bosom has not swelled with pride at the recollection of the fact that one of our own citizens, a commander of one of our own national vessels, who was then in the port where the wrongful seizure was made, did not hesitate to make use of force for the purpose of rescuing that man from the grasp of Austria. He took him and brought him to the United States. An official correspondence was the result between the Austrian Government and the Government of the United States; and the Government of the United States justified the act of its officer; and, in my judgment, properly justified it, because the act of the Austrian official in assuming to arrest under Austrian laws a criminal in a foreign jurisdiction, for the purpose of carrying him back by compulsion, and subjecting him to punishment, was in violation of the principles of international law, and a violation of the first principles of common justice.

But, sir, these are not the only instances. There has been still another instance, identical in character with the one which I am now commenting on. It is one not generally known, because the facts connected with it were not of a character to excite great public attention, but which I happen to be familiar with, because the seizure was made within the limits of a city in which I was then a resident. It is but some eight years ago since a subject of the Queen of Spain, engaged in some enterprise within the Island of Cuba by which he violated the laws of that island and subjected himself to punishment—I believe to the punishment of death—and escaped from that island and took refuge in the United States. He was found in the city of New Orleans, and the Captain-General of the Island of Cuba, acting through the consul of Spain at the port of New Orleans, employed men who, by force, captured this man, placed him on board of a vessel, and carried him to Cuba with the design of subjecting him to the penalty which he had incurred by his violation of the laws of the island: and what was the result? Did our Government assume that he could be rightfully tried, stranger though he was? No, sir. Armed ships of the United States were dispatched to Cuba, and this man, thus unjustifiably, wrongfully seized upon our own soil, and carried by compulsion into the jurisdiction within whose limits he had violated the law, was required to be delivered up. And he was delivered up.

Now, sir, shall we permit, shall we insist on the trial of these men, and subject them to the penalty imposed by our laws for offenses which they have committed against them, when they, too, have been wrongfully seized upon a foreign soil, and brought by compulsion within our jurisdiction?

Mr. LEITER. Who has the right to complain but the party aggrieved? In the case of Ray, we were the party aggrieved. Why? Because he was seized upon American soil. Should not complain in this case, then, be made by Nicaragua? and have we had any complaint from that Government?

Mr. TAYLOR, of Louisiana. That would be perfectly true so far as it relates to the matter of power; but in answer to the observation of the gentleman from Ohio, [Mr. LEITER,] I would say that if Koszta had not made a declaration of his intention to become an American citizen, we would have had no authority to interfere. We could not have rescued him from the gripe of the Austrian officials. But while that was true, and while he would have been subject to capture and to punishment, still his capture would not have been less unlawful, nor would the punishment inflicted on him have been any the less in violation of the principles of international law, or the public faith, or of private right.

It is true there is a distinction between power and right. The seizure of Koszta on Turkish soil was wrongful. If he had never formed any relations with another Government there would have been none to have vindicated his right; but would not the right have existed just as well under the laws of nature and the laws of nations, though there had been none to vindicate it? According to my notions, it would. I do not pretend to say

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that we have not the power to punish; I do not mean to say that this would be a legal defense in a court of justice; but I do say that it is a reason which should operate on the political department of the Government, and prevent any enforcement of the law under such circumstances.

Mr. LEITER. Then I understand the gentleman to put himself on the great moral right, and not on legal right.

Mr. TAYLOR, of Louisiana. Of course; upon a right which addresses itself to the political department of the Government, and not to its courts. I do not mean to say that that would constitute a sufficient defense in a court of justice. I will express no opinion on that point. But this I will say, it is a matter of such a character that it appeals to the political power, and that the political power should be put in action by that consideration, and arrest the trial.

Now, Mr. Chairman, I will proceed to present what I consider will be likely to be the consequences of an opposite course, of permitting this trial to go on. If we exercise the power we possess, and subject these men to trial, and, if found guilty, to punishment; we place ourselves in a position which will lead to grave embarrassments in the future. It is only necessary for one to look abroad, and see the present position of the world, to understand the importance, at this time, of preserving inviolate the great principle that, under the law of nations, the soil of every country is to be considered sacred. A person guilty of any offense, whether against the moral or political laws of a country, if he escapes to another country, has always been considered as having found an asylum; and there never has been, nor is there now, any right acknowledged on the part of any country, from whose jurisdiction the fugitive has escaped, to reclaim him from the Power within whose limits he has taken refuge, unless that right was conceded by a special compact—unless given by a treaty for the extradition of criminals, which was in force at the time of the commission of the offense.

We stand, with respect to the other nations of the earth, in a peculiar position. This is a great Republic. A large proportion of those Powers with which we have relations have systems of Government based on principles different from those on which ours is based. We have refused to make extradition treaties with other countries, except with regard to particular classes of offenses. We have never entered into general treaties of that character. It has been our aim to make our country an asylum for the oppressed of other nations; and it is our wish, as it is our duty, to preserve American soil sacred from the intrusion of foreign Powers in pursuit of political offenders.

Now, sir, what is the spectacle presented at this day? We see the greatest military Power of the earth asserting rights unknown to the law of nations; claiming to influence the action of neighboring States, so that they shall violate the great principles of national law, and refuse the right of asylum to those who flee from her jurisdiction to escape the pressure of tyranny. Do we not know that France has exerted her power over the Swiss Cantons? Do we not know that she has exerted her power over the Kingdom of Sardinia? Do we not know that she has exerted her power, and with success, over that country, kindred to ours, which has hitherto been the secure asylum of the oppressed who fled from other States? Why, sir, looking back upon the history of the past, is it not known to all that the right of asylum was never questioned among civilized States? Do we not know that when military expeditions were headed by persons who had taken refuge in France, for the purpose of overthrowing the English Government, expelling the then reigning monarch, and placing in his stead one who had become a refugee, no such right was ever claimed or asserted by England? When those who invaded England, for the purpose of reestablishing the family of the Stuarts, escaped into France, they were safe; they found a secure asylum. And has not England also been, at all times, a secure asylum for those fleeing from France? Yes, sir; but how long will she continue to be so? Would she have been so to-day but for the resolution and firmness of the English people? Do we not know that now, within the last few months, the English Government had descended from its

former high position on that question, and taken a different attitude? It is known to all that England—that mighty Power upon whose possessions “the sun never sets,” “the tap of whose morning drum, keeping company with the hours, circles the globe,” England, who has made it her boast that she was mistress of the seas; England, the jailor of the first Napoleon—that she, even she, has yielded to the pressure of that Power, and consented, through her rulers, to become the police officer, the bailiff of the third Napoleon.

Now, sir, to my mind, if we pursue the course that has been begun; if we subject these men to the jurisdiction of our courts, and attempt to visit them with punishment, under the circumstances that have transpired, when the fact is known that they were seized on a foreign soil, and brought by compulsion within our limits, I say we break down the principle which has been heretofore considered as sacred. We establish a precedent which will be imitated by every European despot, and we may expect to have incursions of that character made into our own country, and seizures of that kind made upon our own soil of political refugees; and if such circumstances should occur, such seizures should be made, with what face could we take the attitude which we took when the right of asylum was violated in the person of Ray? Would not our mouths be stopped with the declaration: “But you cannot complain; you have set the example?”

Mr. Chairman, I can see in the future unnumbered evils growing out of persistence in this course; and, for one, I shall myself protest, as I now do protest, against such a trial as without any shadow of right, and as wrong in morals, wrong in law, and dangerous in policy.

I shall, therefore, at the earliest opportunity, when it is in order to move to suspend the rules, again seek the opportunity of presenting the same resolution.

BOUNTY LAND TO PRIVATEERSMEN.

REMARKS OF HON. T. DAVIS,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. DAVIS said:

Mr. CHAIRMAN: It was my privilege to introduce in the last Congress a bill which proposed to amend the bounty land act, so as to include in its provisions men engaged on board private armed vessels regularly commissioned by the United States. It will be remembered that the bill passed the House by a decided vote. I regret to say that upon its reaching the Senate it was allowed to die with the mass of unfinished business without a word being uttered in its favor. I know that this result was not consequent upon a feeling of hostility to the objects of the bill; nor do I regard it as indicative of indifference to the principles involved in its passage. I have again introduced the bill for the benefit of privateersmen, and I intend to follow it, actuated by no other motive than that which begins and ends in a sense of duty to a patriotic and praiseworthy class of citizens. As I have no arguments against the bill to combat, I shall have no occasion to speak at length upon the question now.

I endeavored, in a very plain manner, to present my views in reference to the subject in the last Congress. I attempted to show that the United States Government had encouraged privateering, and in all respects directed its affairs; that the Government was a participant in the profits of the business, and largely indebted to the system for the success which attended and resulted from the late war with England. I thought then, as I think now, that we have no reliable mode of assault and defense that is commensurate with the extent and importance of our maritime interests. I recognize no system of warfare that is so consistent with our ideas of popular government as that which grows out of the private-armed service; and my experience here has convinced me that we shall never be able to subordinate that system to any extensive organization of the national marine force.

Even in time of profound peace we are unable or unwilling to support a Navy sufficiently powerful to secure respect, in some instances, for the flag; and I despair of seeing the regular Navy assume the importance which the commerce of the country and the rights of American citizens abroad would seem at all times to demand. In the China seas, and at this moment, in the Gulf of Mexico, there is need of naval force. It seems to me, sir, that it would be extremely disastrous for us to occupy ground of hostility to the private-armed service. We have, I believe, between seventy and eighty ships of all classes, not more than fifty of which are seaworthy.

Here is a tabular statement of the comparative strength of the navies of the United States and Great Britain:

United States Navy.	Number of vessels.	Number of guns.
Sailing vessels.....	46	1,925
Steamers.....	19	302
Steam tenders.....	3	-
Storeships.....	5	16
Total.....	73	2,243
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British Navy.	Number of vessels.	Number of guns.
Sailing vessels.....	233	9,004
Screw steamers.....	293	7,009
Steam gun-boats.....	161	161
Vessels for port service.....	110	110
Total.....	849	18,284

How utterly insignificant is our force, when placed beside a fleet of more than eight hundred national ships in the service of Great Britain, including her fleet of war steamers. Our immense commercial marine would suffer in a war with any important maritime power, and without privateers we should be driven from the face of the ocean. I have, sir, great faith in the privateersmen, and hold that to signify that we will encourage and support them in all legal adventure in time of war, is to take a step towards the continuance of peace. These men performed deeds of valor in the late war with Great Britain, that we are all proud of. For this service they have received nothing from the Government, while the seamen in the regular naval service have received, not only prize-money equal to the privateersmen, perhaps, but monthly wages and pensions, and, lastly, bounty land.

The fact should be borne in mind that during the whole time of the last war with England, the United States Government received double duties on prize goods brought in by the privateersmen, which aided the Treasury materially, to say nothing about the heavy receipts in the shape of charges. There are but few privateersmen of that war left to enjoy our bounty, or the honor that it may be within our power to bestow, if Congress should please to confer one or both of them; and up to this day it is certain that the few are living without the honorable recognition of the Government which profited so largely by their gallantry. It is easy to call them freebooters, but it is unjust as well. It is easy to say that they grew rich out of their plunder, but impossible to prove it by facts and figures. A few owners may have been successful, but the seamen had no opportunity to get rich in the private-armed service, and the fact should be understood. After allowing double duties, United States marshals' fees, agents' charges, and others, then the owners claimed one half of what remained, then the captain had ten shares, and the subordinate officers a few shares less, and the seamen one share of one half of what the Government left for the division. This, in almost all cases, was a miserable pittance, indeed; and if the Government had placed more national ships in commission, possibly the privateersmen would have preferred the service to the private-armed service. It is convenient to save the public land, some of us believe; but it is far from being economical to do so at the cost of ignoring the services of men who have periled everything to obtain and hold it.

In the report which accompanied the bill for the relief of privateersmen, some general facts are set forth to which I would invite the attention of the members of this House. I shall call the attention of gentlemen to the subject at an early day by asking the House to pass the bill under

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the operation of the previous question. This being done will prove no hardship to anybody. The matter is easily understood, and the session is so rapidly drawing to a close that I shall trust to the chance of getting a majority of votes for a measure that I feel certain would improve upon discussion.

My impression is that there can be not more than one thousand persons who can claim land under this bill. Originally there were about fifteen thousand privateersmen; many have died, many have received land for services rendered on board Government ships at some time during the war, and hence are not entitled under the pending bill. Those who would be entitled under the provisions of this bill are scattered broadcast over the country.

PACIFIC RAILROAD.

SPEECH OF HON. F. P. BLAIR, JR.,
OF MISSOURI,
IN THE HOUSE OF REPRESENTATIVES,
May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. BLAIR said:

Mr. CHAIRMAN: I have risen to offer my views on what I conceive to be a subject of transcendent interest to the whole country, and especially to my own constituents. I allude to the question of a great continental railroad, from the Mississippi valley to the Pacific ocean. And in the outset, I desire to meet an objection which is much insisted on by those even who hold themselves out as the friends of this great work; but which, if admitted, is fatal to any work which will fulfill the conditions of a continental railroad, in its broad and national sense, and compel us to content ourselves with a road sectional, and not national in its location, and which, whilst it will subserve the interests of that section of the country in which it is located, but little, if any, better than the transit routes across the Central American isthmus; it will be useless to the country at large, and therefore cannot in any sense be considered a national enterprise worthy of being undertaken by the Federal Government.

The objection to which I refer, and which has been insisted upon so much by those who hold themselves forth as the friends of a continental road, is, that it is impracticable to construct a railroad north of the thirty-fifth parallel of latitude, between the Mississippi river and the Pacific ocean; and there are those who go so far as to assert the impracticability of any route north of the thirty-second parallel.

The alleged impracticability of any route north of the lines I have named, is based upon the difficulties said to exist in the face of the country to be traversed, and the obstacles interposed by the climate. I hope to be able to dispose of both of these objections in a way that will be entirely satisfactory to the country, and to show that there is no natural obstacle, which may not be easily overcome, to the construction of a road which will traverse the center of the continent, upon a line susceptible of settlement and cultivation throughout its whole extent, and which will equally accommodate the people of all sections of the Union, and thus fulfill every condition required to make it a great continental highway, which can justly claim the power of the nation for its construction.

I contend that there is no greater fallacy than the assertion that the line known as the central route is impracticable for a railroad, or, indeed, that any of the routes which have been spoken of in the last few years are impracticable. The assertion originated doubtless in the rivalry between the various routes proposed, and has been propagated, as I shall show, unfairly by those whose duty it was to examine and report truthfully in regard to all. So far from its being true that there is any natural obstacle which renders the central route impracticable, it is perfectly notorious from the time that a route to the Pacific became a necessity it has been the only route which has been used. It was the route by which the emigrants to Oregon reached that Territory; and by it the golden State of California was peopled with

such unexampled rapidity that it has been regarded as a marvel of progress. Never, in the history of mankind, has such an empire arisen from the wilderness as has grown up in the last decade upon the shores of the Pacific; and the living stream of population which has made this empire has poured across the continent upon that belt of territory known as the "central route," without aid or protection from the General Government, and indeed without a road except that which was made by nature. More recently our armies have marched across, and found no obstacle; even the army of Colonel Johnston might have proceeded to its destination but for the destruction of the grass by the Mormons, and the artificial barricades with which they have defended the passes of the mountains. Where were the obstacles so much spoken of when these thousands of unprotected emigrants, without other food for their horses and cattle than the natural forage of the country, its grasses, crossed these plains and the passes which pierce its chains of mountains? and why did they roll across the central route, in preference to the much vaunted routes on the thirty-fifth and thirty-second parallels? Because they only wished to accomplish their journey, and had no political objects to accomplish.

But it may be, and indeed has been, answered that those emigrants crossed the central route in the summer season; and that few have undertaken it in winter, when, as it is alleged, it is utterly impassable on account of snow. In comparing this route with those of the thirty-fifth and thirty-second parallels, it might be sufficient to reply that no emigrant has passed over either of these routes either in winter or summer; and the condemnation would thus apply to all alike. But a better reply is, that the summer season is the best for the overland journey; and for that reason the emigration selects that season, and the central as the best route. The objection to this route on the ground that it is obstructed by snows has, however, been so industriously and persistently urged as to require some attention. I call the attention of the House to the fact that the climate of the western part of this continent, like the western parts of the continent of Europe, is much milder than that of the eastern part. Italy, which is semi-tropical in its climate, is in the same latitude as New England; and the winter climate of Oregon, on the Pacific, which is in the latitude of Maine, is as mild as the winter climate of the Carolinas on the Atlantic. In forming a judgment, therefore, of the climate of the mountain regions on the western part of this continent, there are many circumstances to be considered, and which must enter into our calculations, without which, our conclusions will necessarily be erroneous.

At this point I shall call the attention of the House to a map of the "isothermal lines in North America," as determined by the Smithsonian Institution," and published in the agricultural report of the Patent Office for 1856. Upon this map are marked, by lines stretching across the continent from the Atlantic to the Pacific, the summer and winter climate and the climate of the whole year. And it will be seen that the winter climate of the thirty-third parallel of latitude on the Atlantic corresponds with the winter climate of the thirty-sixth and thirty-seventh parallels of latitude of the great mountain region of the western part of the continent. The climate for the year of the thirty-seventh parallel at the mouth of the Chesapeake bay corresponds with the climate for the year of the forty-eighth parallel in the great mountain region of the West; and the line which marks the winter climate of the thirty-seventh parallel on the Atlantic strikes the Pacific at the forty-ninth parallel and runs through the mountain region of the West from the forty-first to the forty-ninth parallel. The summer climate of Charleston corresponds with the summer climate of the western mountains in the forty-fourth parallel of latitude. These lines, however, do not show the actual climate of the mountains, for that is modified by the elevation of the mountains themselves. Professor Henry, in the memoir on meteorology explanatory of this map, contained in the same work and on page 483, speaking of these lines, says:

"They do not, however, in all cases, exhibit the actual temperature of the surface, for in order to show their rela-

tions, and render them comparable with each other and with similar lines in other parts of the world, it is necessary that the observed temperature in elevated positions, should be reduced to the level of the sea; and in the construction of this map allowance has consequently been made for decreasing temperature of one degree for every three hundred and thirty-three feet of altitude. The map, therefore, will present to the eye the lines along which the temperature of the air would be equal for the periods mentioned, were we to suppose the mountain ranges entirely removed and the air brought down to the level of the sea."

* * * * *

"These lines, at a glance, exhibit remarkable curvatures, particularly in the western portion of the United States, indicating a great increase of temperature in this region beyond that of the eastern and middle portion."

It may be fairly estimated, from this data, and from experience of travelers, that the highest elevations in the great mountain region on the line of the central route, do not give a greater degree of cold in winter than is experienced in the New England States. Shall it be said that any difficulties, by reason of cold or snow, can be found in any part of New England to the construction or operation of railroads? There are probably more railroads in successful operation in New England than in any other part of the United States of similar extent. It is singular, but not less true, that the further north you go in the United States, and the more snow you encounter, the more railroads you find. This may be accounted for on different grounds, not necessary to mention here; but it is, nevertheless, a complete answer to all the noise and nonsense we have heard about the impossibility of building and operating a railroad upon the central route on account of snow and cold. Away with this pretext! The snows of Russia, which overwhelmed Napoleon's victorious army of five hundred thousand men, and annihilated his power in the hour of triumph, does not impede the railroad between Moscow and St. Petersburg; and, sir, it is idle and foolish to say that we shall not be able to find men both willing and capable of constructing and operating a railroad on the great lines of commerce through our continent. I repeat once more, that there is no physical obstruction, and none occasioned by the character of the climate, which makes the central route impracticable. But it is not to be denied that there is a great and formidable obstruction, and one which, for the present, I fear, is insurmountable. This formidable and only difficulty is the so-called Democratic organization, or its representative, the present so-called Democratic Administration. So long as this organization is represented by an Administration—that is, so long as the so-called Democratic party is in power—this nation will have no continental railroad. We might as well make up our minds to this; and if we want such a road, we must first put our hands to the work of breaking down this organization, driving it from power, and thus remove the only obstruction which prevents the accomplishment of the greatest enterprise in the world; which will enrich the nation beyond the power of computation; which is to add to its strength, and bind us to our sister States of the Pacific with "hooks of steel."

I have said that the so-called Democratic party, or Administration, was the obstruction, and the only one, to building a central and therefore a national highway to the Pacific ocean. I will make good my words by proofs. It is well known that a majority of the members of that party are hostile on principle to the Pacific railroad, and their feeling upon this subject may be gathered from Senator Mason, of Virginia, who said, the other day, in answer to a question of Mr. Gwin, that he would rather lose California and our Pacific possessions than sacrifice the principle upon which he opposed the construction of the Pacific railroad. Mr. Mason is one of the representative men of the southern party which dominates the Democratic organization and gives it law. These men will vote for no railroad to the Pacific which is not, in fact, a southern road; and some of them, I believe, will not even vote for a southern road, unless it shall be built south of our territories, and in some foreign country. Nor will they allow the party with which they act to place itself in a position to support any national road.

Mr. WRIGHT, of Georgia. To what party does the gentleman from Missouri refer, when he says that there is a party organized in this country to build a railroad through the southern sec-

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tion of the country, and only through the southern section of the country?

Mr. BLAIR. The gentleman did not understand me. I said that the party to which the gentleman belongs is opposed, upon principle, to the construction of any railroad, unless it should pass through the southern part of the continent, and very far south at that.

Mr. WRIGHT, of Georgia. I understand that the President of the United States put his recommendation of that route upon the ground that it was the best and the shortest route, and not because it was a southern route.

Mr. BLAIR. It is easy to find plausible grounds for any recommendation.

Mr. WRIGHT, of Georgia. Does the gentleman deny that it is the nearest and the best?

Mr. BLAIR. I deny that there is any route there at all which can be operated.

The southern faction having the power of numbers in the organization, force the candidates of their party to succumb to their views, and dictate absolutely its policy. In proof of this, we see that whilst Mr. Buchanan was allowed to say he favored a Pacific railroad before the election, he comes out in his message in favor of the thirty-second parallel, which is about equivalent to the route by the isthmus; and, if rumor can be relied upon, he has made known in advance, to two Senators who went to see him in regard to the bill reported in the Senate, and which located the line along the central route, his intention to veto the bill, and his hostility to any except the route along the Mexican frontiers. Mr. Buchanan, like Mr. Pierce, and like any other national Democrat who may be President, is the creature of the majority of that organization which supports him in these Halls, and will do their bidding at any cost.

When the surveys for a route for a Pacific railroad were ordered by Congress, it was understood, and indeed no such order would have been made by Congress upon any other understanding, that the central route was to be surveyed by Colonel Frémont, who, having passed over all the different routes, had given his opinion in favor of the central. But the Secretary of War declined to give that employment to Colonel Frémont, on the ground, as I have understood, that he was not then an officer of the United States Army. He, however, placed Mr. Stevens in charge of the survey of the northern route, although he was not then, I believe, an officer of the Army. Captain Gunnison was placed in charge of the survey of the central route, but his instructions expressly limited him to a survey of a part of the route only; and this officer, without a previous knowledge of the country, or experience in railroad engineering, made the most egregious blunders in the survey of that part of the survey intrusted to him, as I shall presently show, and reported it impracticable. It is natural to suppose that renewed efforts would have been made to find a practicable route on this line, which was the only one which accommodated the entire people of the country. Nothing of the sort, however, was attempted; it was condemned by the Government, and its condemnation heralded as a triumph.

But on the extreme southern routes a different conduct was observed. When it was discovered that there did not exist a practicable route on the thirty-second parallel, within our territory, an ambassador was sent immediately to Mexico to negotiate and purchase a strip of territory from that Republic, where it was supposed that a road could be made, and Arizona was purchased for \$10,000,000. Finding that water was not to be had to quench the thirst even of the Government parties sent there to explore, a military command and a topographical officer have been detained there ever since, to bore artesian wells in order to overcome this difficulty, and ships have been sent to Asia and Africa to buy camels and import them for the purpose of traversing the sandy deserts in these southern parallels, thirty-two and thirty-five. It is said that water has been discovered by means of the wells, and that the camels have been successful in traveling ten days without water. The fact that the camels can endure ten days thirst will hardly invite to the country in which such endurance was imposed upon them, the people necessary to build and maintain a railroad, nor will the circumstance that artesian

wells are being bored for a supply of water, recommend the route where those wells are necessary, over the central route in which there has been found an ample supply for thirty thousand emigrants in one year, and the armies which have been recently sent out to Utah.

Why was it that an appropriation of \$10,000,000 to purchase Arizona, appropriations to import camels, to bore artesian wells, and to print an endless series of the most costly books—books which will cost, I understand, a million and a half or two million dollars—could be made during the dominancy of the so-called Democracy, and no effort whatever made to find a line for the central route after the report of Gunnison was received? The reason is transparent. It was not the object of the Government to find a central route; their effort was, and has been, and will continue to be, so long as the southern interest dominates the Government, to condemn that route, and carry the railroad, if made at all, to the extreme southern verge of our territories. In further confirmation of this view, I instance the action of the present Government upon the overland mail route. This mail was authorized by Congress upon the express understanding that the contractors should select the route upon which to carry the mail. The Postmaster General, with the sanction of the Cabinet and President, in violation of the express terms of the law, refused to give the contract to any one unless the contractor would agree to carry it on the route along the Mexican frontier on the thirty-second parallel.

I assert again, in view of these facts, that it is the Democratic organization, and its instruments in the Government, which constitute the only obstruction to a central Pacific railroad; and those who desire to see this glorious work achieved must first displace this obstruction. I shall, therefore, propose that Congress should take from the hands of the Executive, which has shown itself unworthy of confidence in this matter, all power over the subject, and pass an act to build the Pacific railroad between some central point in the Mississippi valley and San Francisco, and name, in the body of the act, commissioners who have the confidence of the nation, men having a competent and practical knowledge of railroad engineering, to locate the road on the best and most practicable ground between the points named. The present Administration, and, indeed, any Administration dominated by the same influence, cannot be trusted to the execution of this great work, and therefore Congress should take the matter in hand, and confide its execution to friendly and faithful hands.

While, however, the pseudo Democracy, through its chiefs, under a malign influence, have betrayed the great interests of the nation, and striven to convert this great national work into a sectional affair, happily for the nation there have been those who were prompted by the lofty motives of patriotism, and the love of an honorable renown to give themselves to the task of achieving this great enterprise of a continental highway. Among these, the youthful and intrepid Frémont, who, having led the way by an examination of the whole region lying between the Mississippi river and the Pacific, and opened up that vast country to the astonished vision of the civilized world, and who, having added California to our empire, determined, although no longer in the service of his country, to open the road to the empire won by his own valor. It was in the depth of winter, and at his own expense, that he determined to attempt this new labor, and encounter the perils and difficulties which attended the attempt to pass through hostile tribes of Indians with an insufficient escort and scanty provisions for subsistence. But the attempt was made, and with success. The result was then given to the world. He had neither the time nor the means of working out the observations then made so laboriously and painfully, but has since completed his calculations, for the purpose of publication—not, however, at the expense of the Government. The intrinsic value of the work renders it unnecessary to resort to such a plan, and enables him to find a publisher. From this work, now almost ready for the press, Colonel Frémont has allowed me to use a chapter, in which he sums up the results of his labors on that portion of the line which extends from Kan-

sas City, on the frontiers of Missouri, through the Cochetope pass. I give the chapter and shall let it speak for itself. It is illustrated by the map which I hold in my hand, and which has been constructed with the greatest care and accuracy by Colonel Frémont himself.

The chapter is written in journal form, the date the 14th of December, 1854, when he had passed the great dividing line of the continent and surmounted the greatest difficulty to be encountered upon the whole route, and his review of the line from the Missouri border to the crest of the continent upon which he then stood, will strike every one with its candor, power, and beauty. He says:

"We had now crossed the main dividing ridge, and, with the first fall of snow, pitched our camp upon the Pacific waters. We had left a comparatively open country for one thoroughly mountainous, to which the accident of dark and stormy weather lent a peculiarly rugged aspect. To our eyes, as well as to our minds, the change was abrupt and impressive. Our animals were poor, and our provisions nearly gone, and, in face of the rugged country and rugged season, our condition was by no means encouraging. Behind us the country had been cheerful with sunshine, the rare falling weather had been only autumn rains, and the country—grass-covered and entirely free from snow—had made traveling pleasant, and had given our animals the best chances for food which a hostile season could afford. Abundance of game had kept the party in good health and good spirits. The face of the country had been remarkably easy of travel, constituting, in its general character, an open plain, broken up to the crest which we had just crossed only by a single mountain range of singularly easy passage, and our road, of nearly a thousand miles, had been generally along the level lands of streams. Probably another thousand remained to be struggled over before we could reach the western settlements, and winter had suddenly come down upon the country, driven off the game, and shut us in with a narrow circle of falling snow. This afternoon a meager hour of faint sunshine lit up the snowy crests of the mountains, and showed the multitudinous ridges, which now stretch almost uninterruptedly westward to the waves of the Pacific ocean.

"The party had now crossed the summit-level of the continent, the highest point and most difficult which lie in way of the railroad line to the Pacific, and this is, therefore, the fittest place in the journal for such brief summary of the facts which had been collected, so far as they go to vindicate the character of the country for railroad constructions, and its capacity to support population.

"But, in this description of the country, and the obstacles on the line over which the party traveled, it is not by any means proposed to put it forward as the fit line for a railway. It was simply an exploring line—if, under the circumstances of adverse season and restricted means, it can properly be called so—which, in its general direction to the mountain passes, was governed in choice of route by the protection that wooded streams afford in the occurrence of the sudden snow storms, which are dangerous on the open plains.

"The region traversed under these circumstances lies mainly between the thirty-eighth and thirty-ninth parallels of latitude, and extends from the mouth of the Kansas to the Cochetope pass, twelve degrees in longitude. By the traveled line, the whole distance to this point is eight hundred and fifty-three miles, of which, eight hundred was in the valley of the Kansas, Arkansas, and Del Norte. But three obstructions are encountered along the entire line; the prairie highlands between the Kansas and Arkansas rivers, the Wet Mountains range at the head of the Arkansas, and the Rocky Mountain range at the heads of the Del Norte and Colorado. The distance traveled in the Kansas valley was about two hundred and fifty miles, along which the average ascent is less than three feet (two and three quarters) to the mile, and the country, for about two hundred miles, well wooded and beautifully fertile. At an elevation of one thousand three hundred and fifty feet above the sea, the route left the Kansas to cross the prairie—uplands lying between it and the Arkansas, and which constitute the first obstructions. It reached the Arkansas at an elevation of two thousand six hundred and seventy feet, the intervening distance being about one hundred and fifty miles. The general rise of the country westward, between these two points, is about nine feet to the mile. In its course over these plains, the route, for about eighty miles in a westerly direction, was upon streams tributary to the Arkansas. In crossing the uplands between these, the inclinations were from twenty to forty feet in the mile—generally about one in two hundred—the summit land being generally from one to two hundred feet above the streams. These are continuously wooded along their banks, and the soil good, and their valleys well adapted to settlement. The high plains entirely bare of timber, are covered with good grasses, and were occupied, in November, by multitudes of buffalo, which find there abundant pasturage. The buffalo sometimes winter on these plains.

"Up the Arkansas to the mouth of the Huerfano, the distance traveled was two hundred and thirty miles, the average fall of river for one hundred and forty of that distance being less than seven feet; and thence to the mouth of the Huerfano, less than ten feet to the mile. For about eighty miles of the lower part of the route, the river was nearly destitute of timber; the remaining one hundred and fifty miles it was abundantly wooded for settlements, soil good, and grasses for pasturage abundant. The Huerfano at its mouth is four thousand three hundred and seventy-five feet above the sea, and at its head—waters in the Wet Mountains about nine thousand. The course is in a broad, open-lying, well-wooded, and grass-covered valley, which makes an admirably unobstructed approach directly into the mountain passes. On either side it is separated from similar streams by the highlands, in which the mountain spurs terminate. From

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the mouth of the river to the Utah Pass at one of its head springs, and at the immediate foot of the pass, the route traced was one hundred and twenty-four miles, and the average grade thirty-six feet to the mile. From the mouth of the river, the point of the White Oak Mountains, the distance along the river valley is seventy-eight miles, and the average fall of the river twenty-two feet to the mile. Above this point the river lies in an amphitheater of mountains, but still preserves its broad bottoms and open valleys, the face of the country well grassed, with open smooth ridges and flats among wooded summits and wooded ravines. This character of country continued near to the very summits of the mountains, the grassy slopes reaching directly up to the rock which makes the immediate crest of the range. Here the river receives many small tributaries, and there are many sheltered nooks and coves of the mountains beautifully adapted for settlements; the soil fertile with sunny exposures, sheltered by the mountains from the prevailing winds. Timber, in quality and size suitable for railroad constructions and farming purposes, is abundant, many of the trees squaring fully a foot; and coal is found in the neighboring mountains. This character of country extends to over eight thousand feet in altitude; above it, nearly to ten thousand feet, grasses are abundant and nutritious. The nutritious grasses and good and abundant waters and mild climate would make that region peculiarly adapted for dairy farms.

"The mountain climate is altogether more agreeable and milder than in the open plains two hundred miles to the eastward. The mountain ranges protect the country lying along their base. On the open plains the snow falls deeper and lies longer and the winter climate is usually much more severe. On the 10th of December and near the mountain summits, the weather was mild and pleasant, and, except in the deep mountain ravines, the country was entirely free from snow.

"On both sides of the valley, bordering ridges afford every facility for easy development into the pass, which, at its summit on the narrow backbone of the ridge, is nine thousand four hundred feet above the sea. On the western side the descent is very abrupt to the Del Norte waters, at an elevation of eight hundred feet. At this place and about this elevation, a tunnel through the ridge would be about a thousand yards in length. The development of the line would probably increase the distance from the Arkansas perhaps ten miles, and the resulting railway distance from the mouth of the Huerfano to this point would be about one hundred and thirty-five miles, upon an average grade of thirty-four feet to the mile.

"From the Utah Pass to that of the Cochetope, the distance is a little over one hundred miles. Following the mountain foot around to the head of the San Luis valley, the line entered, at an elevation of seven thousand six hundred feet, the valley of the Sahwach river, which makes the approach to the Cochetope Pass in the main Rocky Mountain range.

"From the San Luis valley to the immediate foot of the pass, at an elevation of nine thousand eight hundred and twenty feet, the distance is about forty miles, and the average grade fifty-five feet to the mile. From this point, a tunnel of two thousand yards would carry the line to a conterminous elevation on the western side of the mountain, three hundred and fifty feet below the summit, and near to which our camp was pitched on the 14th December. Upon this day the snow in the pass, newly fallen, was four inches deep, and winter began regularly in the mountain region. A few days since, there was nothing to remind the traveler that he was approaching the summit line of a great mountain chain which divides the waters of a continent. The grassy and wooded slopes and rounded summits, the mild and open weather, the uncovered grasses, green in the prolonged sunshine of the Indian summer, were all unexpected in the heart of a mountain region.

"From knowledge obtained upon the spot and from report, there are doubtless other passes better adapted to railway purposes; but our condition did not permit us to make any examination outside the line of travel.

"Briefly, the results worked out in the journey to this place, supported by a previous journey at the same season of the year, go to show that the mountain regions exhibit no extraordinary rigor of climate. The autumns are prolonged and open. Up to the middle of December, there had been no snow either to impede travel, or to drive cattle from their open range, or to render shelter for them necessary.

"With the exception of about one hundred and fifty miles upon the high plains, or the Arkansas river, the route is continuously wooded; but along the whole distance, pasturage is excellent and abundant.

"In capacity to support population, in salubrity of climate and fertility of soil, the Rocky Mountain ranges which the line passed, are singular and exceptional. Singular in the great number of open, fertile valleys, and perhaps exceptional in the general availability and open character of the country, and in the remarkably small proportion of rugged and impracticable ground, when compared with European and especially Asiatic mountains.

"The line is direct, and the inclinations easy; the heavier grades together and continuous, and none heavy enough to make snow an impediment upon the rails. Upon the whole line, there are but two great obstructions, easily overcome by moderate tunneling and lesser grades than are now in use upon railways in England over which is passing incessantly the largest traffic of the world."

The most implicit reliance is due to the statements which Colonel Frémont has here given to the public, and on which he has here staked his character. In all the surveys with which he has covered the western half of our continent, and which have given him a renown throughout the civilized world, and which have been scrutinized by many men entirely competent to detect and expose an error, none have yet been able to detect a flaw. He has since been indorsed by half the

nation, and it is not to be supposed that he would put forth a statement of which he did not feel perfectly secure, and hazard that high reputation which he has so gloriously won and worn with a modesty so admirable.

I desire now to contrast his work with that of Captain Gunnison, who reported this line as impracticable, and it must be evident that the latter has committed an error, unpardonable, under the circumstances, unless it can be accounted for upon the supposition of his inexperience in railroad engineering. It is clear to me that his error has arisen from this fact, and that in running his line up the Huerfano, he has followed the water level from the mouth of that river, (and the other streams which he followed,) until he came up to the mountains themselves and found the grades too precipitous to be practicable for a railroad, instead of developing a route by working up gradually on the high lands at the mouth of the river, and thus averaging his grades through the whole distance, from the mouth of the river to the highest crest of the pass by which the mountain range was to be crossed. A man might as well attempt to follow the water line of Niagara river, from Lewistown to the great falls, with a railroad, and mount the falls perpendicularly, instead of beginning to develop the route by a gradual and easy ascent from Lewistown, by which means a railroad has been actually constructed between the points named, upon grades which were perfectly practicable.

Captain Gunnison has either fallen into this error, or he has failed to find the pass in the mountains which Frémont traversed, and therefore this negative testimony of an officer, without experience in railroad engineering, of his inability to find a pass, biased, too, as we may well conceive him to have been, by the wishes of those who sent him, should not be allowed to weigh against the direct and affirmative testimony of a man of experience as a railroad engineer, whose reputation stands as high as that of any man upon this continent. I assume, therefore, that the results which I have read to the House, and which show that the great dividing line of the continent can be passed by a railroad upon a grade of fifty-five feet to the mile, and which is less by about one half than the grade to be overcome upon any other route, is established by the most incontestable proof. Beyond the Cochetope Pass, the country is difficult, but entirely practicable, as is shown by the report of Colonel Frémont, published upon his return from his last expedition. From this report I make the following extract:

"Our progress in this mountainous region was necessarily slow; and during ten days which it occupied us to pass through about one hundred miles of the mountainous country bordering the eastern side of the Upper Colorado valley, the greatest depth of the snow was among the pines and aspens on the ridges, about two and a half feet, and in the valleys about six inches. The atmosphere is too cold and dry for much snow, and the valleys, protected by the mountains, are comparatively free from it, and warm. We here found villages of Utah Indians in their wintering ground, in little valleys along the foot of the higher mountains, and bordering the more open country of the Colorado valley. Snow was here (December 25) only a few inches deep—the grass generally appearing above it, and there being none under trees and on southern hill sides.

"The horses of the Utahs were living on the range, and, notwithstanding that they were used in hunting, were in excellent condition. One which we had occasion to kill for food had on it about two inches of fat, being in as good order as any buffalo we had killed in November on the eastern plains. Over this valley country—about one hundred and fifty miles across—the Indians informed us that snow falls only a few inches in depth; such as we saw it at the time.

"The immediate valley of the Upper Colorado for about one hundred miles in breadth, and from the 7th to the 22d January, was entirely bare of snow, and the weather resembled that of autumn in this country. The line here entered the body of mountains known as the Wah-satch and An-ter-ria ranges, which are practicable at several places in this part of their course; but the falling snow and desolate condition of many a pass again interfered to impede examinations. They lie between the Colorado valley and the Great Basin, and at their western base are established the Mormon settlements of Parowan and Cedar City. They are what are called fertile mountains, abundant in water, wood, and grass, and fertile valleys, offering inducements to settlement and facilities for making a road. These mountains are a great storehouse of materials in the construction and maintenance of the road, and are solid foundations to build up the future prosperity of the rapidly-increasing Utah State.

"Salt is abundant on the eastern border, mountains—as the Sierra de Sal—being named from it. In the ranges lying behind the Mormon settlements, among the mountains through which the line passes, are accumulated a great wealth of iron and coal, and extensive forests of heavy tim-

ber. These forests are the largest I am acquainted with in the Rocky Mountains, being in some places twenty miles in depth, of continuous forest; the general growth lofty and large, frequently over three feet in diameter, and sometimes reaching five feet—the red spruce and yellow pine predominating. At the actual southern extremity of the Mormon settlements, consisting of the two inclosed towns of Parowan and Cedar City, near to which our line passed, a coal mine has been opened for about eighty yards, and iron works already established. Iron here occurs in extraordinary masses, in some parts accumulated into mountains, which comb out, in crests of solid iron, thirty feet thick and a hundred yards long.

"In passing through this bed of mountains, about fourteen days had been occupied, from January 24 to February 7, the deepest snow we here encountered being about up to the saddle skirts, or four feet; this occurring only in occasional drifts in the passes on northern exposures, and in the small mountain flats hemmed in by woods and hills. In the valley it was sometimes a few inches deep, and as often none at all. On our arrival at the Mormon settlements, February 8th, we found it a few inches deep, and were there informed that the winter had been unusually long-continued and severe, the thermometer having been as low as 17° below zero, and more snow having fallen than in all the previous winters together, since the establishment of this colony.

"At this season their farmers had usually been occupied with their plows, preparing the land for grain."

In a letter recently received from Colonel Frémont, he expresses the belief that there are passes through the main dividing ridge still better than the Cochetope, and especially in reference to the country beyond. He says:

"In this view a better line can be found, and quite as direct, around the head of the San Luis valley, passing directly from the Arkansas waters to those of Grand river, or from the San Luis valley more in the neighborhood of the Cochetope, north or south of it."

And he inclined, in his own mind, to a line southward, around the waters of the Eagle Tail, a stream laid down in his map of 1848 as Eagle river: this river being a large stream, and cutting down into cañons, while the higher country is fertile, wooded, and grassy, with small streams, unobstructed, and running through open ground. Among other reasons inclining him to this course, he says:

"I had heard from Mr. Walker, and other mountain men, who had been with trapping parties in the region of the Lower Colorado, that the river was navigable for a very considerable distance up from the mouth of the Gila. Walker said that he knew it to be navigable for at least one hundred and fifty miles above the mouth of the Gila. As the two main forks drain a mountain region of great extent, and carry down a large volume of water, I have thought it probable that the main river is navigable to our present means of navigation, from their junction, which is a little north of the thirty-eighth parallel."

He remarks further, that—

"In crossing the country, the central route passes, in the San Luis valley, a point which would become a center of population, from which a railroad could be thrown down through New Mexico, and where an interior city would grow up. In passing the southern Mormon settlements—another station for way travel—there would be another such point. If, now, the Colorado be navigable at the junction, you see at once what a reason and support it would give to the central line. It would be like Pittsburgh at the junction of the Monongahela and Allegheny—the Pittsburgh of the Pacific. The head of navigation to a region of such great extent, crossed by a railroad uniting the two oceans, would certainly become a grand commercial point. If you will go to the trouble to look at the map to which I have referred you, and bear in mind that the true junction is above the thirty-eighth parallel, you will see that the idea has force. Beyond the Colorado, I judged from my examination that there is no serious impediment to carrying a railway line into the basin. As to where the line should cross the basin, whether by the Humboldt river, or by the line of the Rio Virgin, or by an intervening line, must of course depend upon the point at which it shall be decided to cross the Sierra Nevada."

For that division of the route which lies between San Francisco, crossing the Sierra Nevada, and connecting with the line of Colonel Frémont, in the Great Basin, I submit the following letter from William J. Lewis, a railroad engineer of great eminence, who was recently the chief engineer of the proposed railroad from San Francisco to San José; in 1837, he was one of the first officers in the survey of the proposed railroad from Charleston to Cincinnati, under General McNeill and Captain W. G. Williams. He had charge of one of the mountain divisions, and Frémont was in one of the divisions near him, making his first experience in engineering; it was here that Frémont made Lewis's acquaintance, in whose ability and experience he has the greatest confidence.

SAN FRANCISCO, September 29, 1857.

DEAR SIR: You may recollect that in conversation with you on the steamer John L. Stebbins I expressed an opinion that a practicable route could be obtained for the Pacific railroad crossing the Sierra Nevada at Johnson's Pass, near the head of the south fork of the American river. In 1855, Mr. Sherman Day made the location of a wagon road from the vicinity of Placerville to Carey's mill, in Carson, valley

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crossing the Sierra at Johnson's Pass. No part of his road had an ascent over five degrees, and the estimated cost of construction was only about one hundred thousand dollars. I send you a copy of the map made by him of the country in the vicinity of the road, and a profile of his located line. Assuming Sacramento as a point of beginning for the proposed railroad, the road would strike the western base of the foot hills of the Sierra Nevada, south of the junction of Weber creek with the south fork of the American river, and follow it to Slippery Ford. The distance from Slippery Ford to Lake Valley does not exceed four miles, and a tunnel at this point is the only serious difficulty in the construction of the road. The outlet of Lake Bigler is at the northern end, and its waters flow to the desert west of the Sierra through Truckee river. Whether the railroad should follow the shores of the lake and the valley of the Truckee river until it reaches the general level of the Great Basin, or should cross the ridge between the lake and Mormon station at some low point, and pursue a more direct route towards Salt Lake City, can only be determined by future surveys. The descent from the lake to the western plains is so entirely within the limits of railroad gradients, that I entertain no doubt that a practicable route can be found on one of the two lines indicated.

Let us now see what will be the grades on the proposed line. Beginning at the Sacramento, (sixty feet above tide,) and allowing the road to rise in the first twenty miles at fifteen feet to the mile, we arrive at the western base of the foot hills, at an elevation of three hundred and sixty feet. The distance of this point from Slippery Ford by the present road is seventy miles; but by the winding line of a railroad will be at least ninety miles.

On a grade of sixty feet to the mile, the road would rise in these ninety miles five thousand four hundred feet, and attain an altitude of five thousand seven hundred and sixty feet or four hundred and two feet above the wagon road at Slippery Ford. The height of the wagon road (which is fifty feet above the river) at Lake Valley is five thousand nine hundred and sixty-one, so that to bring us to the same level, there would be a rise of two hundred feet in the length of the tunnel—say four miles. Having now traced the route from the Sacramento to the western slope of the Sierra Nevada, and the waters flowing into the Great Basin, let us make an estimate of the extreme cost from Sacramento to this point:

From Sacramento to western foot of Fool Hills, twenty miles, at \$30,000 a mile.....	\$600,000
From western base of Fool Hills to Slippery Ford, ninety miles, at \$100,000 a mile.....	9,000,000
From Slippery Ford to Lake Valley tunnel, four miles, or twenty-one thousand one hundred and twenty feet, at \$201 a foot.....	4,321,000
Total from Sacramento.....	\$13,821,000
And from Sacramento to Benicia.....	3,000,000
Total cost from Benicia.....	\$16,821,000

Let us compare this with the cost of the road on the Noble's Pass route, west of the Sierra, as estimated by Captain Humphreys and Lieutenant Warren in their report on the explorations for railroad routes, page 66:

Portions of the pass of the western ridge of the Sierra Nevada, 17 miles, at \$100,000 per mile.....	\$1,700,000
From the head of the first cañon on Sacramento river to the termination of the mountain passage of the river, seventeen miles above Fort Reading, 135.5 miles, at \$150,000 per mile.....	20,325,000
Thence to Fort Reading, on the Sacramento river, 17 miles, and thence to Benicia, 180 miles, being about 200 miles, at \$50,000 per mile.....	10,000,000

Cost on Noble's Pass route, west of the summit, \$32,025,000	
Cost on South Fork route, west of Bigler lake.....	16,821,000

Difference..... \$15,201,000

From Benicia to Noble's Pass.....	352 miles.
From Benicia to Bigler lake valley.....	184 "

Saving in distance..... 168 miles.

I have now given you my speculations on this matter; but I would much prefer that you should have an interview with Mr. Day and Mr. Goddard, both of whom are familiar with the topography of the country in the vicinity of the proposed line, and would be glad to aid you in your inquiries.

Yours, very respectfully, WM. J. LEWIS.
Colonel JOHN C. FREMONT.

Upon this letter of Lewis and the map of Sherman Day which accompanies it, and which I hold in my hand, Colonel Fremont, in a letter dated New York, February 28, 1858, says it shows—

"That at the first place in the Sierra Nevada where the necessities of the settlement require communications, a good wagon road was easily found, and that this wagon road survey shows also that a railroad is entirely practicable in the same place; that this is in the line of the proposed central road, between the thirty-eighth and thirty-ninth parallels, that any line coming across the Great Basin would reach San Francisco bay by a very considerable saving in distance and expense, compared with any other and less direct line running more to the northward. For instance, the surveyed line with which Lewis institutes his comparison, and which line in coming from the eastward very nearly joins Lewis's, (both I believe being then upon the Salmon Trout or Truckee river as it is generally called.) Take notice that the Rocky Mountains and the Sierra Nevada are great mountain chains, and that there are two passes through them, (Sherman Day's road pass and the Cochetope) and almost exactly in the same latitude, both being between the thirty-eighth and thirty-ninth parallels. Remember, too, in regard to this line of Sherman Day's, that the information

which it gives us is the accidental result of the first survey which the necessities of population required to be made. Can we not with certainty expect much better, when the Sierra Nevada comes to be surveyed with the direct purpose of building a railroad across it?"

Again, speaking of the two passes in the two great chains and the country between, he says:

"My judgment is unhesitatingly, that the country between these points is entirely practicable for a railroad. And does it not appear upon its face absurd to say, when the two great chains of the continent are practicable, the intervening country is not so? When droves of cattle of all kinds by thousands, wagons and caravans are passing constantly over it in its natural state, that the railroad science of this day cannot get across? A man's ignorance must be audacious when he can undertake to publish it in maintaining such an assertion."

It will thus be seen that the central route, running for its whole length between the thirty-eighth and thirty-ninth parallels of latitude, is firmly and conclusively established. Upon this line stands the capital of the nation, on the Atlantic slope of our continent; fixed here because it was central to the North and South. It is the line of the Ohio river in almost its whole length; the line upon which stands St. Louis, the great central city of the Mississippi valley; the line of the Missouri river for three hundred miles beyond, to where it defects abruptly to the north; the line of the Kansas river, which is navigable for near one hundred miles due west, thence stretching up the Arkansas river, and the Huernano, and crossing the mountains, and striking the Colorado river upon the same parallel, at its true junction with Grand river, and to which it was supposed by Colonel Fremont to be navigable from the sea. The supposition has since proven to be true, by the survey of Lieutenant Ives; and thence through the Great Basin by Parowan and Cedar City, and the great iron mountains, to Carson's valley; and thence in the same parallel, by the route indicated by Mr. Lewis, to San Francisco on the thirty-eighth parallel. A route cultivable and inhabitable throughout its whole extent, with water, grass, wood, coal, and iron, and capable of supporting a population for the construction and maintenance of the road, when built. This route follows the lines of commerce, the center of population, and of our territories upon both oceans. In all these respects it fulfills the conditions of a national work and should be constructed by the nation.

I have spoken of the persistent efforts of the pseudo Democracy to undervalue the central route, and force the construction of a railroad upon a remote southern route; but there are also efforts from other quarters equally hostile, and somewhat more insidious. I shall, I hope, be pardoned for a brief notice of one of these, since those who have made themselves prominent in the affair have sought to cover themselves by taking the name of the central route for a southern one.

One of my colleagues [Mr. PHELPS] has favored me with a pamphlet copy of a letter which bears his name, and is addressed to certain citizens of the State of Arkansas. Upon reading the letter, I have been struck with the propriety which dictated its address to the citizens of that State, and I am constrained to say that it would have been in all respects appropriate if it had emanated from an Arkansas member. I will read some of the passages which seem to me the most striking. He is arguing that the route is best, even for the few lowland Gulf countries of Georgia, Alabama, and Mississippi, and says:

"My answer is, that the road from Vicksburg should go directly to Shreveport, and to Preston on the Red river, and thence northwest up the False Washita river, and intersect the Charleston, Memphis, and Albuquerque road in the beautiful valley of the Canadian river, at or near the one hundredth degree of longitude, some five hundred and fifty miles from Vicksburg. That, in my humble opinion, is the true Vicksburg route, and for two reasons: it is the best and shortest route, and it would develop a fertile and unsettled country of vast importance to the trade and strength of the South."

It is "the trade and strength of the South" to which this road is of such vast importance. He goes on in the same strain:

"The route from Vicksburg up the Red and False Washita rivers is, therefore, (as is easily observable from a map,) the shortest and the best. Not only so, but second, this right-hand route along the Red and False Washita rivers would develop a fertile and unsettled country of vast importance to the trade and strength of the South. It is a country filled with rivers and streams—the Arkansas, the Red, the False Washita, the Verdigris, the Canadian, the Red Fork, the Salt Fork, the Neosho, and many others of great value. It is admirably suited for the cultivation of cotton, and the

higher portions of it for hemp, tobacco, and grains. Settled and cultivated, it would enrich the South and strengthen it. Texas is developed and is secure. This country should be. Delay will not prevent its settlement, nor benefit the South."

"Delay will not prevent its settlement, nor benefit the South." There is something peculiar and significant in this iteration of the same idea. He adds:

"It is deeply to the interest, therefore, of South Carolina, Georgia, Tennessee and Arkansas, if they would protect and increase the trade of the principal commercial cities, that the Charleston and Memphis railroad shall be extended directly west to Albuquerque, and then to San Francisco."

It is to "protect and increase the trade of the principal commercial cities" of the South that this central route is advocated. And again he asserts:

"But Virginia cannot reasonably be asked to go four hundred miles too far South, when a good pass and a better route can be had, three degrees of latitude to the north of it, and also when the more convenient and shorter route will open up to settlement a country of an importance to the South which it is quite impossible to overestimate—a country large enough to make two States, each larger than Ohio, and of a climate and soil like that of northern Louisiana and Arkansas."

Why may we not reasonably ask it of Virginia, if he can ask it of his native State, Connecticut, and his adopted State, Missouri? I can readily understand the importance to the South of making two slave States larger than Ohio. But is the whole nation to be asked to make this road for this purpose? But he says:

"More than TWENTY MILLIONS of PEOPLE live on and north of the thirty-fifth parallel route, and they cannot—and ought not, to be asked to go across that line, when everybody knows that the line is almost two hundred miles further south than they ought to be asked to come."

"Everybody knows that the line (of the thirty-fifth parallel) is almost two hundred miles further south than the twenty million of people who live north of it ought to be asked to come." And it is called the central route!! Finally, the people of Arkansas are informed:

"But the thirty-fifth parallel route through Albuquerque is three and a half degrees south of St. Louis. The southern portion of the slaveholding States have, if the Albuquerque route is adopted, by reason of their geographical position, a decided advantage in the matter of distance over the northern part of the slaveholding, and over all of the non-slaveholding States, whose railroads center at St. Louis."

"By using the Vicksburg branch, up the Red and False Washita rivers to Albuquerque; the Memphis branch to Albuquerque, and the St. Louis branch to Albuquerque, the slaveholding States can far more easily reach San Francisco than can any one of all the large Atlantic cities of the Atlantic non-slaveholding States."

There is much more to the same purpose, but this is sufficient to show what sort of a central route this is that my colleague advocates. It should be called the "False Washita route," which, I presume, derived its name from the fact that somebody mistook it for the "true Washita," as my colleague has mistaken this line, which is "two hundred miles farther south than the people of this country ought to be asked to come," for a central route. Although my colleague has given his name to bolster this route, it is but fair to him and others to say that its paternity belongs to a gentleman who formerly lived in St. Louis, and who still claims to live there, although he has lived here for many years, with the design, I presume, of having some pretext to speak for Missouri. The gentleman I refer to is Mr. Corbin, a man of talent, of energy, and industry, who has been a successful operator, and has made himself extremely useful to members of Congress. He originated the "false Washita" route, and the arguments used by my colleague remind me of him and of an incident in his history which occurred when he lived in St. Louis.

There was a vacancy from the county of St. Louis, in the Missouri Legislature. Mr. Corbin and another gentleman were candidates before the Democratic convention, and both pledged themselves to abide the decision of the convention and not to run against its nominee. The other gentleman was nominated, and to the astonishment of all, and greatly to the chagrin of the Democratic party, Mr. Corbin still persisted in being a candidate. Being reminded of his pledge not to run against the nominee of the convention, he replied that it was true he had given the pledge and intended to redeem it to the letter, but he did not consider that his pledge prevented him from running, it only bound him not to run against the nominee

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of the convention; he should therefore run, but not as against the nominee. And so it may be said of this "false Washita" route. It may be called a central route, but no one who reads the arguments upon which it rests, can fail to perceive that even if it is a central route, it is not a central route "as against the South." It runs "two hundred miles further south than the twenty million living north of it ought to be asked to go," and then when it reaches the Pacific side has to run two hundred miles back again to the north to reach San Francisco. It requires the railroad to commence on the Mississippi river, and thus loses four hundred miles of water navigation, furnished by the Missouri and Kansas rivers, in their course due west, and may thus be said to throw away seven or eight hundred miles.

On the true central route, availing ourselves of the navigation of the Missouri river and striking the great Colorado of the West at its junction with Grand river, where Fremont supposed it to be navigable—and which supposition has since been confirmed—we should only have a thousand miles of railroad travel between the navigable waters of the two oceans. This is the great feature of the central route; and, taken in connection with the superiority of its soil and supply of wood and water, has heretofore given it the preference with the emigration to the Pacific, and dotted the line with settlements, whilst the other routes have never been used by the emigrants in their exodus to the Pacific, and remain uninhabited.

EXPOSITION OF THE KANSAS CONFERENCE ACT.

SPEECH OF HON. H. BENNETT,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. BENNETT said:

Mr. CHAIRMAN: An act has been passed by this Congress, relative to the admission of Kansas, sending back to the people of that Territory the Lecompton constitution, which they had rejected, offering them large inducements to accept it, and enacting severe penalties if they refuse—an act intended to force upon them a constitution which it is known they have disapproved and condemned—a most improper and unprecedented intervention by Congress with, and an attempt at coercion over, the people of Kansas. And this act has been so artfully devised as to receive different interpretations. Its meaning is a subject of dispute. It is a curiosity in more than one respect. A correct exposition of this extraordinary act, passed under the operation of the previous question, is a matter of great public interest; and I now avail myself of the first opportunity to examine "the Kansas conference act," intending only to give an outline of this leading measure of the Administration—to point out its false pretenses and false statements; to expose the frauds concealed and the purposes designed; to predict beforehand the course of proceeding that will be adopted under it; to hold it up in its true character to the scorn and condemnation of all honest men. Here, and now, I desire to place upon record my exposition of that act and my predictions of its consequences. Time will verify their truth and justice.

All that is important in the pretended facts set forth in the preamble are notoriously false! and every material provision of the act covers a fraud!

I. The preamble states in substance that the people of Kansas did, by a convention, "form for themselves" the Lecompton constitution! The people of Kansas never made or adopted that instrument. It was the work of a faction, accomplished by fraud. The convention that made it was illegally called by an unauthorized Legislature, was illegally chosen and constituted; and did not, in any sense, represent the people of Kansas. I prove this:

1. By the Delegate representing the people of Kansas in Congress, who denies its authenticity and brands it as a fraud.

2. By the Legislature of Kansas, who deny its validity, and unanimously condemn it as false and fraudulent.

3. By the People of Kansas themselves, who compelled its submission, and then spit upon it and spurned it! A few stragglers—128—voted for it. But the people denied that it was their act or deed, by a vote of 10,226! Could there be any stronger condemnation, or any higher proof that this thing was not made by the people?

4. By this very Congress that has passed the act. This House, by a majority of eight, rejected the Lecompton constitution and adopted the Crittenden amendment, sending the whole matter back to the people, because they had been allowed no voice in making or ratifying that constitution! In spite of party drill and discipline, and in defiance of sectional prejudices, a majority of this House determined that the people of Kansas should not be forced into the Union under this constitution, got up fraudulently by a minority, to establish slavery, but should be allowed to make a constitution for themselves!

Amongst those so voting, and, as they declared, for that especial reason, were the two members from Indiana, [Mr. ENGLISH and Mr. FOLEY;] the six members from Ohio, [Mr. COX, Mr. COCKERILL, Mr. GROESBECK, Mr. HALL, Mr. LAWRENCE, and Mr. PENDLETON;] and the member from Pennsylvania, [Mr. OWEN JONES;] they first voted for the Crittenden amendment! and afterwards voted for this act! and without their votes it could not have passed! How could these men sanction this falsehood against all their previous declarations, letters, and speeches, and against their recorded votes?

II. It states (as a distinct and separate matter) that an ordinance was also adopted. Calhoun certifies that the ordinance was "submitted as a part of the constitution by the convention." The ordinance is here represented as a separate instrument; because it is intended to submit the ordinance to a vote; but not to submit the constitution, and the fact is misstated accordingly.

III. It is also stated that the constitution and the ordinance were presented to Congress, and that the ordinance was not acceptable to Congress. In legal effect, that is the same as saying the constitution was acceptable, and the ordinance objected to. "*Expressio unius, exclusio alterius.*" That is falsehood number three. It was the constitution that was not acceptable to Congress, because it never had been sanctioned by the people, but had been rejected by them. No attention was paid to the ordinance. It fell, of course, with the constitution of which it formed a part. As a separate matter it was not objected to, or even considered or voted upon by Congress. The members I have referred to opposed this constitution, and voted to substitute the Crittenden amendment; yet now they vote to declare that this constitution was acceptable to Congress!

After these false statements, it declares the object of the act; that it is to ascertain whether the people concur in the changes in the ordinance, (not in the constitution,) and desire admission upon the terms proposed.

The act proposes the terms; all of which are upon the express condition that Kansas shall be doomed to slavery forever, under this rejected Lecompton constitution, which establishes slavery, and provides that it shall never be abolished! The terms are not offered to the people of Kansas, upon their admission as a State, but only in case of their admission under, and submission to, this rejected pro-slavery minority constitution. They are to be allowed no choice as to what constitution they shall adopt. They must accept the one to which they are opposed, but which is demanded by this Administration and the slave Democracy, or all the offers made by this act are withdrawn. Unless they will make Kansas a slave State, they can have no terms; and it is only with slavery that they can be admitted as a State under this act!

IV. The first section of this act offers the people of Kansas two sections of the public lands in each township for schools, (equal to one eighteenth part of all the public lands;) seventy-two sections for a State university; ten sections for public buildings; twelve salt springs with six sections of land adjoining to each, and five per cent. of the

proceeds of the sales of all the public lands in the Territory. I have procured from the Land Office a statement of the amount:

Area of Kansas.....	126,283 sq. miles.
Equal to.....	80,821,121 acres.
School grant.....	4,490,062 acres.
154 selected sections.....	98,560 acres.

Grant in lands..... 4,588,622 acres.

Worth at least (say).....\$20,000,000

The five per cent. (say)..... 4,500,000

Value of proposed terms.....\$24,500,000!

Estimating the population of Kansas at forty thousand, (a fair estimate,) here is a bribe offered out of the public property of more than six hundred dollars each, to every man, woman, and child, in the Territory, to induce the people to change their votes, and make Kansas a slave State! A bribe in case the people surrender their right of adopting such a constitution as they approve, and accept the one dictated to them by the slave power, which they have once rejected, by a vote almost unanimous! To be paid, if they accept the price and change their votes, otherwise to be withheld! If an individual had offered a voter five dollars to change his vote on the same subject, he would justly be subjected to criminal and infamous punishment! Yet this act proposes a wholesale system of bribery, for the purchase and sale of a majority of all the voters in the Territory! And that, too, without any regard to the ordinary rules of economy.

When the managers on the part of the House and Senate met to devise this scheme, a few votes were wanted in Congress, and a great many in Kansas, before the Lecompton constitution, by any artifice, could be adopted and put into operation. Had this act made a "proposition," without any cover or indirection, to give every man in Congress, or in Kansas, who was opposed to the Lecompton constitution, and who would change his vote and support it, 2,000 acres of public lands, and a preference over all others in its selection and location, it would have been less objectionable than in its present form. It would not have included those who were already in its favor, and who therefore needed no bribe; it would not have included and insulted honest men, who would not take a bribe; it would have been a corrupt and immoral "proposition," but made only to the venal and corrupt; I have no doubt it would have saved three fourths of the amount that this act offers to give; and it would have said what it meant, plainly and directly.

But the infamy of this act is not yet fully disclosed. Not only does it offer a reward, if slavery is accepted, but it provides a penalty in case it is refused. It provides that Kansas shall not be admitted except as a slave State; shall not be admitted except under this constitution. If slavery and Lecompton are rejected, Kansas cannot be admitted as a State—not under this act; not for many years; not with its present population; not till it has been more than doubled; not till Congress sees fit to have a census taken; and then, (in case it has the required population,) as a slave or free State, as time and chance may determine. The people of Kansas may decide for slavery; but not for freedom!

This act allows the people of Kansas to choose whether they will accept the proffered bribe, but not what their constitution shall be. That is dictated to them, and against their will—imposed upon them. If they decide to be admitted, it must be as a slave State, or not at all. If they will not consent to slavery, they are to be sent back to that bitter school in which they have been instructed for the last four years, to learn submission. They are to be remanded back to a territorial condition, to the tender mercies of that odious despotism, beneath which they have suffered so long, and from which they are struggling for deliverance.

An insulting discrimination is made against freedom, in favor of slavery. It can be admitted now as a slave State, with a population of only forty thousand. But it cannot be admitted as a free State. And this odious distinction—this preference of slavery over freedom—is made in reference to a Territory that was pledged to freedom

"forever!" for a full consideration accorded to the slave power. And when that pledge was broken, in violation of all good faith, another was made—to leave the people free to decide. They have decided for freedom; emphatically, almost unanimously. And then comes this act of Congress, saying to the people of Kansas: "no matter for your decision; you can come in as a slave State, or you shall not be admitted!" The time may come when these instructions in congressional non-intervention may return to plague the inventors; when the discrimination will be against slavery, and in favor of freedom.

The offer contained in this act has no precedent or parallel. The only thing at all resembling it occurred more than eighteen hundred years ago. When Satan tempted our Savior, and offered Him all the lands they beheld from the top of "an exceeding high mountain," if He would fall down and worship him, he made very much such an offer as this act makes to the people of Kansas, if they will fall down and worship slavery. But to give the Devil his due, he had not the impudence to couple with it any promised revenge in case it was refused, such as this act provides! This proposition far outdoes that in its meanness and malignity. The penalty enacted for non-acceptance is more oppressive and tyrannical a hundred fold, than even the proffered bribe! Take it all in all, it is the most infamous proposition ever adopted by any legislative assembly! The most insulting one ever submitted to any people who claimed to be free!

V. Section second is a master-piece of ingenuity in devising ways and means to render certain the success of the Lecompton constitution and of slavery, at the election provided for; if not by the votes of the people, at least by the returns of the officers, who are to be put in charge, with full power to accomplish that purpose.

It provides that the Governor, Secretary, and District Attorney—all appointed by the President—and the Speaker of the House, and President of the Council, shall be a board of commissioners under the act; any three of whom shall constitute a board; and that this partisan pro-slavery board, appointed by the President, shall have power—

1. To establish new precincts for voting.
2. To cause polls to be opened at such places as it may deem proper, in the counties and election precincts.
3. To appoint three judges of election at each place of voting, any two of whom may act.
4. To appoint such persons as they may deem proper, in the place of the sheriffs and their deputies, to preserve peace and good order.
5. To appoint the day of holding said election.
6. To prescribe the time of said election.
7. To prescribe the manner of said election.
8. To prescribe the places of said election.
9. To direct the time within which returns must be made.

10. To declare the result of said election.

Unlimited powers, without any appeal or review!

By the organic act, the people were to be left perfectly free to form their own constitution in their own way. There was to be no intervention by Congress or by the President. The President has no right to appoint any of the officers of election in any organized State or Territory, or any board to appoint them, and never should be allowed to do so. It is intervention, and most improper intervention. These are local officers, chosen and qualified according to law, and with whom the President has no right to interfere. Why are these officers all removed, and this power to appoint them taken out of the hands of the People and given to the President? Is it that he may fill their places with such men as Calhoun? Can any other reason be rendered? The people have a right to appoint these officers. And no law giving this authority to the President was ever before devised or enacted.

It is true, the Crittenden amendment provided for a board of commissioners, composed of the Governor, Secretary, President of the Council, and Speaker—two of them appointed by the President, and two elected by the people. But the reason for that was because the free-State party, having all the officers of election, (rightfully, for

they had the majority,) and desiring no fraud, offered this to the other party as a pledge of fairness at the election. It was like the law of New York, which requires the Inspectors of election to be elected equally from the different parties—each holding a check upon the other. This the free-State party offered, to remove all suspicion of an unfair party board. This board is not made up in that manner. Three out of five are appointed by the President, and three are declared a board. The board is therefore appointed by the President, who represents the minority, or the pro-slavery party, in Kansas, and is their most willing and willful confederate! The two others have no power; they need not be consulted or notified! This act places, therefore, in the hands of three men, appointed by the President, the power of selecting every judge and officer of election in Kansas, the power of fixing its future destiny, by declaring it entitled to admission as a slave State! (But not as a free State, for fear of some unlucky accident!) Can any one doubt the result? Knowing what has been done in Kansas; knowing that fraud, forgery, perjury, and murder, have all been committed there to establish slavery, is there any reason to doubt they will be again resorted to, if necessary, in this last effort? Is there any reason to doubt that enough forged and false returns will be made to secure its triumph at this election? In December nearly 3,000 fictitious votes were returned from four precincts, merely to keep in practice, and make up a show, when no votes were given by the other party. Now, with every means for cheating given by this act, and the strongest motives for fraud, will these same men become suddenly honest against all temptation?

Congress never before interfered with any State or Territory having election districts and voting precincts established by law; Judges, and Officers of election, and Sheriffs chosen and qualified according to law; to annul the laws, change the precincts, and remove the officers; allowing the President to appoint in their places three unscrupulous partisan commissioners, removable and changeable at his will, with full and unlimited power, to appoint all the Judges, Officers of election, Sheriffs, &c.; establish precincts and places for voting; to aid their party in any way they please; to do in all things as they please, control the whole matter, make what rules they please, admit or reject what votes or returns they please, decide as they please, and declare the result; giving to them, as to this election, absolute, unlimited power; answerable to no one, accountable to no one; and without the slightest check or restraint imposed!

It is said unscrupulous partisans will not be appointed. No others can be, or will be, appointed under this Administration. It is morally impossible. In all this matter the most reckless leaders of a desperate faction have been the advisers of the President. Infatuated and obstinate, he will listen only to them. "None are so blind as those that will not see, or so deaf as those that will not hear."

The favored appointees of the President have all been men like Calhoun and Lecompte, the worst of pro-slavery partisans. When any man is found to be honest, he is removed. Honesty is a disqualification; for that Geary, Walker, and Stanton were removed! If an office-holder tells the truth when under oath as a witness, it is sufficient cause for removal; for that Dennis was removed!

Will the people of Kansas maintain their rights like freemen, or submit like slaves? If they will surrender their principles, their independence, their inherent and inalienable right of self-government, promised to them by the organic act, and guaranteed to all by the Constitution, they are offered a large reward, and immediate admission? If they will not submit to this degrading dictation; if they dare to maintain their own opinions, and to prefer freedom to slavery, pains and penalties are provided, and a severe punishment inflicted. They are left perfectly free to do—as the slave power commands! Free to decide for themselves between liberty and slavery! But slavery established in the Territory by Congress, shall be established as a State institution! Free to form their own constitution—but they must adopt the one framed at Lecompton, or none! Free to accept slavery, but not to reject it! They may be ad-

mitted as a slave State, but not as a free State! Even the bogus convention allowed a choice between two pro-slavery constitutions! This act allows no choice! It insults the people of Kansas by demanding submission to that very constitution upon which they have placed the seal of their condemnation!

The people of Kansas will not be seduced by the promised reward, or intimidated by the threat of punishment; they will scorn the one and defy the other. But the people of Kansas cannot control the tools the pro-slavery party will prompt the President to use, or the judges and officers of election that will be appointed! And it is by fraud that this "proposition" will be declared accepted, and Kansas admitted as a slave State; and that is the design! And mark the prediction: Calhoun will now declare the pro-slavery State officers, and perhaps Legislature, elected, contrary to the truth, as certified by Governor Denver. It will all aid in the intended purpose of this Administration and of the slave Democracy—that of forcing slavery upon the people of Kansas!

Let us examine in detail the powers of this pro-slavery board, imposed by this act upon a free people, to appoint their local officers without their consent, after removing those legally appointed by them.

1. To establish new precincts and places of voting! This they may do at any time, or in any manner, and without any notice. On the morning of election every precinct may be changed, and the polls opened in any remote corner, or cabin. And not a free-State voter need be informed where he can vote, or towards what point of the compass he must direct his steps to find the polls! What a splendid chance for Delaware Crossing returns! And all according to law!

2. To cause polls to be opened at such places as they may deem proper! Under this act, polls may be opened in any back room of this extended and thinly-settled Territory, and votes returned to any amount. What a coaxing invitation to a few border ruffians, with a Directory, is here extended, and perfect protection given by law!

3. To appoint three judges of election, any two of whom may act! By this, the legal judges and officers of election are displaced, and these commissioners may appoint others—they will appoint partisans, of course—to do any part of this work they may hesitate to do themselves. This is the intention. It will be strange if they cannot find, among the border-ruffians of Kansas, at least two men in each precinct willing to do anything necessary for the triumph of slavery. Judges of election must be men of some character to hold the place. But these temporary judges, who hold office only for a single day and for a specific purpose, will be those who are the most reckless and who will do the most to accomplish the result desired by the appointing power!

4. To displace the sheriffs and their deputies, and appoint others to preserve the peace! This is rather strong. It probably will admit of a military force, to act as a posse comitatus, to vote and to keep away free-State voters. The border-ruffians of Kansas have an instinctive fear of sheriffs and their deputies! This act respects their prejudices!

5, 6, 7, and 8. To fix the day for election, and to prescribe the time, manner, and places of election! This power is unlimited in every respect. No notice of the day of election need be given; or if given, they judge what is sufficient notice. Nothing is fixed by law; everything is left to their discretion, that they may act as circumstances may require. So as to each of the other provisions as to the time, manner, and places of election. The power of establishing new places of voting is deemed so essential that it is twice enumerated!

9. To fix the time for the return of the votes! This is also left to their discretion. It may be fixed so short as to exclude the returns from all the interior and western counties, where the free-State vote is nearly unanimous. Half the returns may be excluded under this act, just as half the counties were disfranchised under the registry law.

10. To announce the result! Again, at their discretion, after rejecting such returns as they hold are not properly made, or not in time, and such votes as they call illegal for any reason, or without any reason, they can do as Calhoun did, de-

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clare the result when it is expedient, and not before. There is no limitation or restriction. Indeed, they may require another election; the act says "elections," and may be intended for two or more. They can announce the result when one county is canvassed, or keep back their decision for months or years!

The powers given by this act are so general that any or all of the things I have stated, and many more, may be done; besides the *false returns* that may be made from any place of voting, by the judges who will be selected by the commissioners, for their zeal in the cause, as Mr. Hand was elected clerk of the Lecompton convention, by acclamation, because he had been engaged in election frauds! Power given is always used; and this will be used to its utmost limit, in favor of the border-ruffian party.

I am told that no men would outrage public sentiment by doing anything so unfair as I have supposed, although they might have the power under this act.

Gracious Heaven! What is it that can outrage public sentiment, that the pro-slavery party have not done in Kansas? And are not all their acts defended by the Administration and the dominant party here? When a judge, appointed by the President, discharged an indicted murderer without trial, and the Governor complained of the outrage and asked his removal, the Governor was first treated with insolence and then removed, and the judge retained in office! He that talks of the restraints of public sentiment upon the pro-slavery officials of Kansas, can know but little of its past history, or of the border-ruffian party. Public sentiment will be no restraint; a military force is stationed in Kansas to crush it out, and to enforce the law—when it favors slavery!

This act gives full, free scope to fraud, without one word to provide against or prevent it. I assume it was intended to be used for that purpose, and could not be intended for any other. Men are presumed to intend the natural and necessary consequences of their acts. And knowing the frauds that have been committed by the pro-slavery party of Kansas at their elections, this act is sent to them, containing ten distinct provisions, each opening wide the door to unnumbered frauds, and inviting to their commission. The means are provided for those who are ready to use them, and a pro-slavery board is given to prompt them on, and to appoint pro-slavery judges and officers of election at every place of voting, who will be aiding and assisting, or the principals to see that the right returns for their side are made!

If instruments for counterfeiting should be furnished to a band of men known to have been for years engaged in that business, those who furnished the means would be as criminal as those who used them, or put the money into circulation. The law would presume they intended, when they sent the tools, that they should be used, and would hold them equally responsible. Yet no engraving was ever made more perfect for counterfeiting than this act is made for the commission of election frauds. I defy the ingenuity of man to make it more so. It is an enabling act, giving impunity to fraud, with proper judges and officers of election, and they will be selected; it is perfect. Is not this act, by which the legal judges and officers of election are removed, and a party board appointed to choose others, for party purposes, in their places clothed with unlimited power, itself a fraud and an invitation to fraud? Could anything be more dishonest or more villainous?

VI. By the third section, all white male inhabitants who could vote under the law for the election of the Legislature in October last, and no others, are allowed to vote. By this law, no person who had not been for six months previous an actual resident, could vote at that election. This law only added an additional disqualification of six months' residence, and in no other respect altered or repealed the general law. By the general law, every free white male citizen of the United States, and every free male Indian, who is made a citizen, over the age of twenty-one years, "who shall be an inhabitant of the Territory, and of the county or district in which he offers to vote, and who shall have paid a territorial tax, shall be a qualified elector."

But no person convicted of any violation of any provision of the fugitive slave act of 1793, or of

the fugitive slave act of 1850, shall be allowed to vote—

"Whether such conviction were by criminal proceedings or by civil action.

"And if any person offering to vote shall be challenged, and required to take an oath or affirmation, to be administered by one of the judges of the election, that he will sustain the provisions of the above recited acts of Congress, [the fugitive slave acts,] and of the act to organize the Territories of Nebraska and Kansas, approved May 30, 1854, and shall refuse to take such oath or affirmation, the vote of such person shall be rejected."

The general law also provides that when a voter is challenged—

"The judges of the election may examine him touching his right to vote, and if so examined, no evidence to contradict him shall be received; or the judges may, in the first instance, receive other evidence, in which event, the applicant may, if he desire it, demand to be sworn; but his testimony shall not then be conclusive."

By a subsequent act, the test oaths required to be taken in order to vote, have been repealed.

1. Under this act of Congress, and the laws of Kansas, a citizen, to be entitled to vote, must have resided six months in the Territory. This will exclude thousands of bona fide citizens; all who have gone there this season, although actual and permanent residents of Kansas, and as much entitled to a voice in framing its organic law, under which they are to live, as any other citizens. Emigration is greatly in favor of the free-State party, and therefore this six months' disqualification and this exclusion!

2. Must have paid a territorial tax. This, if enforced, will exclude thousands more, in fact a great majority of the free-State party!

3. Must have sustained all the fugitive slave acts, at least, not have violated any provision of any such law. This, it is not likely, would exclude many voters. But it is worthy of note, as a specimen of the Democratic negro mania in legislation, both in Kansas and in Congress. It shows the animus by which that party are actuated. I call it the *slave Democracy*, because it has no longer any distinctive principle beyond the extension of slavery. The name is therefore appropriate and expressive of the present condition and policy of the Democratic party.

When voters are challenged, these party judges of election can swear the voter, if he is of their party; and, if he thinks or claims to be a voter, his evidence is conclusive and cannot be contradicted; but if he is a free-State voter, the judges can "receive other evidence;" and then, if the voter is sworn, his evidence is not conclusive. It is, then, a question of evidence, for the judges to decide. In one case, the vote must be admitted; in the other, it can and will be rejected! Is not this law as fair and as impartial as the party board of commissioners; or as the judges they will appoint to administer it?

VII. This act does not submit the constitution to the people, it requires the people to submit to the constitution! The only thing to be voted upon is, whether the people of Kansas will accept a gift worth \$24,500,000? Every voter in Kansas is in favor of that proposition! And if accepted, they are to be admitted as a State. That is a still stronger inducement. But the law enacts, that if the gift is accepted, and the State admitted, it must be as a slave State, and under the Lecompton constitution! If that is refused, they are not to have the gift, and are not to be admitted. Admission as a slave State, under that constitution, can never be consented to, let the consequences be what they may. That should be the unalterable determination of the people of Kansas and of the free States. While the people of Kansas would gladly accept the gift, and while they earnestly desire admission, yet not for this—nor for any offered price—will they abandon their principles, or surrender their just rights!

They will reject this "proposition," and yet by fraud and false returns, it will be declared accepted! (unless these party judges are alarmed into being honest, by an indignant people) and slavery forced upon Kansas! When that is done the question will not be settled—like Banquo's ghost, it will rise again before you, to push from their seats the doughfaces that passed this act. It will present the fraud and demand redress. It will not down. It will never be settled, until justice is done, fairly and honestly, to the people of Kansas; then, and not till then, will this question be settled.

PACIFIC RAILROAD.

SPEECH OF HON. I. I. STEVENS,
OF WASHINGTON,

IN THE HOUSE OF REPRESENTATIVES,

May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. STEVENS said:

Mr. CHAIRMAN: My object in addressing the committee is to present some observations in regard to the Pacific railroad. I am not impelled to speak because I have been connected with the explorations. I am not here the explorer; nor do I rise here to speak as the explorer, but as the representative of the most distant people of our country, situated on the shores of that great ocean, soon, I trust, to be joined with the shores of the ocean hitherward by roads of iron. This is a great national question, and should not be discussed in a sectional point of view. As a western-coast man, dear as is to my heart the home of my adoption—Puget Sound and the Territory of Washington—I see not Puget Sound; I see not the Territory of Washington, but Puget Sound, the Columbia entrance, San Francisco, San Diego, and the other ports of that extended coast. I see Washington, and Oregon, and California. As a national man, crossing the Rocky Mountains, I see both our water lines. Northwards, the line of the great lakes, the New York canals, the river St. Lawrence, its vast and rapidly increasing commerce; great grain ports, from which vessels without breaking bulk, pass on to Europe; grain ports surpassing the grain ports of the olden world; and the line of railroads upon the northern and the southern shore; and southward, the Mexican Gulf and the Caribbean stretching not half way across the continent, but reducing that continent to a narrow isthmus, from whose heights one hears the roaring surges of either ocean. From her ports, Galveston, Matagorda, New Orleans, Mobile, and Pensacola, issues forth the great bulk of our foreign exports; and there we have a commerce rivaling the commerce of the most favored sea.

Such is our rounded and ample domain, magnificent water lines, and a teeming commerce, north and south—vast ocean coasts, east and west, making our country the natural center of the communication, population, and civilization of this habitable globe.

From this stand point, national and comprehensive, I will now proceed to take a survey of our country. First, I will glance at our western coast, show its resources, and ultimate development; then I will endeavor to grasp and present the very genius of our interior; then I will dwell upon the tendencies of population, and communications from our line of frontier States, moving onwards to the peaceful conquest of that interior, and that slope, by occupation and settlement; which done, I will endeavor to deduce the governmental action required by the spirit of the age in which we live, demanded by the exigencies of the public service, looking to the national defenses; looking to the business of the Government, as a great landed proprietor; as a carrier of the mails; as having to transport troops, supplies, and munitions of war; and endeavor to show that all these require that we should carve our way, not on one, but at least on three routes, to the shores of the great western ocean. And first the western slope.

It is scarcely ten years since we had a western coast. We have acquired California only within about ten years; Oregon became ours by the treaty of 1849—nine years ago; and yet, in this space of nine or ten years, we find that we have planted upon that coast, civilization and empire; and six hundred thousand American freemen, whose hearts beat responsive to the hearts of their brethren on this side of the mountains, have there made known the arts and arms and future destinies of this great country—all this in the short space of nine or ten years. Look at the obstruction in the way of this development of the western coast. One half the time the emigrant routes have been blocked up, death was upon the route, savage foes, calamity, and dire vicissitudes, and our

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hardy pioneers found their way to the Pacific coast by the waters of two oceans, and across the isthmus, at great expense, not simply of money, but of health, and oftentimes of life.

Eight years ago, when the cry of California gold gave such an impulse to emigration, California was regarded as worthless as an agricultural State. It was predicted of her that but little of her land was arable; that there would be severe droughts, which would always make her crops uncertain; that she was worth little or nothing, except for the miner. But still our people went there; they became acquainted with the country; they became acquainted with the climate; and California stands forth this day confessed a great agricultural community. Her wealth consists not so much in her mines as in her rich and remunerative soil. If you will examine the records of the Land Office, among the slopes of the Sierra, which, but a short time since, was supposed to be, and simply fit to be, the home of the grizzly bear and the California lion, you will find rich agricultural tracts adapted to settlement and occupation. The land surveys have shown that California, east of the Sierra, the western portion of the Great Basin, is arable, and will reward cultivation. In all portions of California the cereals and vegetables thrive well, and she now invites people to her borders, more by her agricultural resources than by her mineral wealth.

Go further north, go to the Oregon of song, and to the present Oregon and Washington. That country was regarded as a magnificent country, not in its resources, but in its scenery. There was the beautiful Oregon winding its way to the ocean; there were the snow-capped Cascades, the Blue and the Rocky Mountains inviting admiration by the grandeur of their scenery. But an agricultural, a grazing community—a community having large resources, it was not admitted to be. Oregon is now seeking admittance into the Union as a sovereign State, glorying in her eighty thousand people, with a well-ordered population, and a well-settled country—a country having great wealth in her soil; great wealth in her timber; great wealth in her genial and delightful climate.

If I go further north to Washington, why it is but a few years since—within the last four or five years—Washington has been regarded as a *terra incognita*. Puget Sound was almost unknown. It was frequently confounded with Nootka Sound. It was supposed to be some far-off body of water, lying somewhere under the arctic circle. Yet there we have Puget Sound, and the country west of the Cascade Mountains, in Washington Territory, equaling the State of New York, almost, in extent, having two thirds the area of the State of New York, and, in proportion to her area, having as much arable land, and having a climate as mild in the winter as the climate of the Carolinas. We have that splendid and capacious Puget Sound, the most magnificent roadstead on the shores of all the oceans, with her sixteen hundred miles of shore-line, and her numerous harbors, defensible, land-locked, and commodious. We have on the shores of that sound a forest growth which will supply the markets of all the ports of the Pacific with lumber, and the navies of the earth with spars, for all time to come. The Territory is rich in coal, and in the fisheries of her coast—fisheries of cod, halibut, and salmon. If we go east of the Cascade Mountains, either in Oregon or Washington, we come there to a delightful pastoral and agricultural country, inviting not only the grazier and the wool-grower, but the husbandman. I suppose that, within the limits of our Union, there is no portion of the country where wool-growing will be so profitable as it will be on the interior plains of these two Territories. In southern Oregon and northern Washington there are extensive and rich gold fields. Thus, that country, which was supposed to be simply a country for miners and for a few traders, is this day a country of great agricultural capacity, as well as of great mineral wealth. Its mineral wealth I have not dwelt upon, because it is known of all men. The lumbering and timber I need not do more than merely allude to, as I have done. On another branch of the subject, I shall come back to Puget Sound and San Francisco, in connection with the trade of the Pacific, and I

shall then take occasion to present some more observations in regard to their resources.

We will now examine, for a few moments, the interior. I recollect that years ago, when I first gave my attention to the interior, the impression was made upon my mind by the narratives of the trappers (and that impression has been made generally on the public mind) that the interior was worthless and uninhabitable. I wish to redeem the interior from this reproach. I desire to present the interior as it is in the light of exploration, and to show that it can be occupied and is habitable. I do not approach the subject as a sectional man or as the partisan of a route, but looking to the whole interior, from the thirty-second to the forty-ninth parallel.

I will commence my observations about the interior at the thirty-second parallel—the parallel of the Gila and its tributaries. It has been described in former reports, and especially in the narratives of the trappers, as a barren, sandy, desert waste, utterly incapable of occupation and utterly incapable of supporting a civilized community. But as exploring parties passed over it, arable tracts were developed, timber was found, and the admission was at last made that on this barren and desert route oases were to be found, and that there was here a place and there a place which invited not to repose, but to the occupation of the country by our hardy people.

But as the matter has become more fully developed, we find that the country changes its aspect entirely; not that there is not much land which is uncultivable, not that there are not tracts of sand, not that there is not here and there a considerable space without water, but we find a considerable area of arable land all through on that route; and we find, from the reliable explorations made by Mr. Gray, in 1853–54, that on what was called a desert there is most delightful grazing during a portion of the year. Those who have read the admirable memoir of Lieutenant Mowry, the Delegate from Arizona—a gentleman I have known long, and known to be entirely reliable—are astonished to ascertain the condition of that country in a past generation. One hundred or one hundred and fifty years ago, when there was something of force and vigor left in the Government of Mexico, when their hero priests went northward, carrying civilization in their train, we find that the country was occupied by a farming population, and especially by a mining population. They had their silver mines by the dozen, and their religious establishments for the improvement of the people in considerable numbers. To be sure they had in part to resort to irrigation; but still there is evidence that a very considerable population occupied that country, and that there was considerable land in the hands of the husbandman. I have seen a most reliable report recently, from Colonel Bonneville. I have known Colonel Bonneville on the fields of Mexico and on the waters of the Oregon, and I have crossed his track in the exploration of the continent. He has the fit conditions of an observer. He is a man of clear observation, a man who has a spirit which seeks to grasp any field that is brought under his observation. In this report he describes the northern tributaries of the Gila and their agricultural capacities; and he states that each of these tributaries will support an agricultural population of twenty thousand souls.

Thus much in regard to the southern portion of the interior, for the purpose of redeeming it from the reproach of being a barren, sandy waste, unfit for the purposes of civilized man. I do not propose to dwell particularly upon the railroad route of the thirty-second parallel, or upon that of the thirty-fifth parallel surveyed by Lieutenant Whipple. The merits of the route of the thirty-fifth parallel; and of the country bordering it, have been thoroughly developed in the reports of the explorations. There is no more reliable officer than Lieutenant Whipple. Since Whipple has passed over that route, we have learned more of it by subsequent explorations. The recent trip of Lieutenant Beale, in mid-winter, with his camels, redeems that route from the charges of being obstructed, and made impassable by deep snow.

I will now pass to the northward, to the South Pass route. I have met many emigrants in Oregon and Washington, who have passed over that

route, and who have told me of the sufferings they experienced, how long distances in many instances they went without water, and how many animals they lost from being poisoned by the alkali of the water, and from the dearth of grass. Yet as more is learned of the country, it is found, by side routes and cut-offs, that routes can be followed where there are grass and water all the way, and that the alkaline water can be avoided. We have had recent explorations on this route within the last year. I refer to the exploration of Mr. Lander, who has found, a little northward of the usual emigrant trail from the South Pass to Snake river, routes with water at short intervals and grass all the way. These explorations have developed a large extent of arable and grazing land on the upper tributaries of the Colorado and Snake rivers, and in the midst of the mountains. We have had another exploration within the last year. I refer to that of Lieutenant Warren. He examined a country from Fort Laramie one hundred and seventy-five miles northward, and thence eastward to the Missouri; and found among the Black Hills a tract of six thousand square miles of pine timber. A large portion of the country embraced in this exploration is a beautiful grazing and farming country, abounding in streams of pure water, having a rich soil and furnishing good homes for our people.

I now come to the northern route. I speak of that route from the reports. Of course, here in my position, I refer to the reports of that route as to those to the other routes. I stand here in my representative capacity. The reports of that route show that the Rocky Mountain region, instead of being closed up with ice and snow eight months in the year, is a delightful pastoral and agricultural country, where cattle can graze the year round; where neither the Indians nor the whites have to furnish fodder for the winter; where heifers bring forth young at eighteen months; where the cattle grow large. And this is the character of that Rocky Mountain region route, between the forty-seventh and forty-eighth parallel. We find on that route no desert; we find on that route no tremendous snows; we find the country there nearly all arable, and adapted to grazing; the arable tracts always at short distances apart, and many large bodies of arable land distributed all along the route. On the whole route from the Mississippi to Puget Sound and the Columbia valley, there is not ten miles of sage.

When we look at the changing aspect of the interior in the light of exploration and discovery, we are reminded of the prophet thousands of years ago. The prophet Ezekiel, in the valley of dry bones, breathed upon that valley, and the dry bones came together, bone to bone; and he breathed again, and flesh came upon those bones, and living men stood forth like an army with banners. The genius of American liberty breathed upon our interior, and high mountain ranges rose up, and vast deserts came to view. The genius of American liberty breathed again, and the mountain crests were bowed down, and the desert places disappeared; the dry bones became living men, and the deserts green pastures by sweet flowing waters.

Now, we will consider the tendencies of population and communications from our line of frontier States westward, and the time which will be required for an uninterrupted line of settlements to the shores of the western ocean. It is estimated that the frontier is moving westward at the rate of one hundred miles a year; some estimates put it at seventy. Nine years ago the distance between the frontier settlements of the Mississippi valley and the shores of the Pacific was about two thousand miles. The frontier advanced westward from the Mississippi and eastward from the Pacific, and the distance from frontier to frontier has now dwindled down to about one thousand miles. Even this interior of one thousand miles, by scattered settlements, has been gradually preparing for the movements which will soon cause the whole of it to be occupied and developed. Settlements are now moving westward on an unbroken front, extending from the forty-ninth parallel to the Mexican gulf. They have struck the Red River of the North and have moved westward upon its Cheyenne tributary. They are moving up the Missouri and its tribu-

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taries in Nebraska and Kansas. We find it moving through Texas; and thus, in nine or ten years, have our hardy American people reduced the intermediate unsettled distance one half, reducing it from two thousand to one thousand miles. This movement is not looking to a particular pass of the mountains, to a southern pass, or to a northern pass, or to a central pass; but backed up by all these States, it is moving upon them all. These are obvious facts which have only to be mentioned to be assented to.

How is it with our communications? Congress has as yet done nothing in regard to the special measure of a Pacific railroad; but, under the auspices of Congress, it has been working out its own success for years. Congress has made grants of lands to States and Territories; and with these grants the genius of our country, as embodied in its railroad enterprise, has been pushing the roads into the interior, and toward that western slope. Are these roads looking to a southern pass, or a northern pass, or a central pass, or are they marching upon all the practicable passes of the mountains and looking beyond those mountains to the ports of the Pacific coast? This statement will receive the assent of every man. It will receive not only the assent of this committee, but the assent of every well-informed man in this country. Whether we come from the Atlantic or the Pacific coast, we are all proud of this movement of our country. Why, sir, Minnesota is not content with one road westward: she must have three to her western frontier, striking it at Pembina, at the Bois de Sioux, and on her southern line; Iowa has seven; Missouri several; Arkansas three; Texas at least one; and Nebraska now is asking Congress for grants for some three roads.

Whilst we see this great spectacle, roads in all the States moving westward, we, as a nation, are doubting whether we shall simply direct these tendencies in such a way that they shall be consummated as they have begun. We are doubting whether we shall do that, or simply fix on some one route, a northern, a central, or a southern route, and that, too, as I have said, when no State or Territory is content with one road looking westward. Congress has indorsed this action of constructing those several roads in the States and Territories, by making grants of land for that purpose, showing what was its idea of the duty of the Government, as a prudent proprietor, in the way of bringing its own lands into market, and as a business operator in carrying the mails and transporting troops and supplies. I take it that the principle upon which all these grants have rested looks to the duty of the Government as a landed proprietor, and a business operator. It made grants of land for railroad purposes, because by so doing it brought the remainder of the land into market, and derived from it a larger revenue than it otherwise would have got from the whole; and besides that, when constructed, these railroads have answered to carry the mails and the troops and the munitions of war of the Government.

I have glanced in the briefest manner at these tendencies, both of population and of communication from our western States, and it seems to me obvious, that in looking to this great question of a Pacific railroad, it would be wise and prudent for the Government to adopt a policy which will carry out those tendencies to their full fruition. Therefore I would not carve our way to the Pacific by a single route. It would not satisfy the country. It is not for its peace and harmony politically. It could not do the business of the country. It is not up to the exigencies of the occasion. But carve your way to the western ocean with at least three roads. The tendency of railroads westward is rather to three roads. Those in Minnesota, and certain roads in Iowa, look to the northern route. The greater portion of the railroads in Iowa, a portion of the railroads in Missouri, and those asked for in Nebraska, look to the South Pass. The other roads look to the Albuquerque route, or the route of the thirty-second parallel. Then cherish the tendencies of all of these roads. Let us, by wise and prudent arrangement, endeavor to give to all sections of the country their full measure of justice.

It is somewhat difficult, Mr. Chairman, in the

brief space of an hour, to occupy the field and yet do justice to many of these important considerations. I propose, now, to consider the economical question. It is unquestionably a great undertaking to complete even one Pacific railroad. No man should deceive himself in this matter. Least of all should he allow himself to deceive others. It is a great undertaking to complete even one road; of course it is a much greater undertaking, and will much more task the energies of the country to complete three. The question is, will they pay? The Government is now sending its mail by the southern route to the western coast. It is sending its mail by the central route. It will soon send it by the northern route, over which an order was given, little more than a year since, to move a regiment and a half of troops, and was not carried out only because of the lateness of the season. The troubles in Utah occurred, and prevented the renewal of the order the present year.

We are now moving to Utah with troops, and they are moving to and fro upon the southern route. Thus there will be business upon each of those three routes, carrying the mails and transporting troops and supplies. A railroad upon the southern route will do but little, if anything, towards the services of the other routes. It can perhaps do something for a short distance over the extremity of those routes looking to the Pacific.

Now, will there be sufficient business upon these roads, in addition to the business of the Government, to make them pay? Well, that is dependent upon two elements—the one is way business and the other is through business. It has been urged against these several roads that there would be no way travel; and then, the experience of roads at home, connecting populous cities, being dependent upon the way business, has been brought to bear, to prove that the roads to the Pacific must depend upon way business. I admit it all, and I will speak upon that point for a few moments. You will observe that in the railroad movements in the States, all the railroads have been going on *part passu*, twenty, thirty, or forty miles apart; and that the way business is only what has been furnished from ten, twenty, or at most thirty miles, on each side of the road. And yet we see how large a way business is developed along these routes. How will it be upon the great Pacific road? Suppose we have three roads. They will range from three to four hundred miles apart, and that would be quite sufficient to furnish way business for the roads. In the States the roads are so near together that they even compete for the way business, reducing fares and freights, and, of course, returns upon capital. There will be no such competition in the way business of the roads to the Pacific. Granting that you would have nothing but a grazing population, yet you would have a greater population per mile than you have in the most thickly settled agricultural portions of our country. But it is not simply the question of a grazing population, but of a grazing and agricultural population; and on the northern route the latter will predominate.

But it is said, how will the people get there? I will answer the question. How was it with the grants of land made to the States for constructing railroads? In many cases how many people were upon the route? How many people were at the western terminus? Every man knows that the grants were made and the roads commenced going into a country almost unoccupied. And those were not roads which occupied ten or twelve years in their construction, but simply three or four years; and yet in that short time the people went in, and the roads at once found a population to furnish the requisite way travel. How will it be with the great Pacific routes, having twelve years instead of three or four years in which to fill up with population? There is now but about a thousand miles of country not occupied by settlements. The frontier is moving a hundred miles a year; and even without this great stimulus of railroad operations, experience shows that in ten years to come population will spread over the whole of this distance. Let certain Indian treaties which are now before the Senate be confirmed, and this year and next the population of Oregon and Washington will spread over the interior plains of those Territories, and the frontier will be ex-

tended two or three hundred miles further eastward from the shores of the Pacific. We have arrived at that point where there is a reflex movement from the Pacific. The wave of population has reached the Pacific, and is now rolling back towards the Rocky Mountains. The tide of population is moving westward and eastward from the two frontiers, and under the impulse of a railroad it will soon fill up the entire interior.

Now, what will be the effect of even two years employed in locating a railroad? It is a large operation to locate a railroad from the Mississippi valley to the Pacific. Parties will have to open wagon routes, and will have to winter on those routes. The very act of location will carry with it trains of emigrants. I venture the prediction that when the Pacific railroad is commenced, you will find the emigrant wagons distributed over the route; and before the road is half completed you will have a continuous settlement along the line.

But it is objected, again, that we have, on several of those routes, snow and ice; that you cannot work in the construction of the road for a long time in winter; and that you cannot run the road many days in winter after it is completed. Well, Mr. Chairman, I can only say that this idea of snow and ice is the veriest myth which ever hung around the brains of sensible men. It exists in the face of all our experience. Our immense railroad developments have not gone on in a country where snow and ice are unknown. The greatest railroad development of this continent is in the northern States of this Union and the Canadas. When I went to school as a boy in the old Bay State, I had to trudge through larger snowbanks than any to be found upon the divides of the Rocky Mountains on the northern route. I speak from personal and most careful information. In 1853-54 my parties crossed, in the depth of winter, the Big Hole Pass, Hell Gate Pass, the Little Blackfoot Pass, and Caelot's Pass, and the greatest depth of snow, except when drifted, was one foot; and where drifted, never exceeded two feet. Through these passes, every winter, the Indians of the eastern portion of Washington pass—not single men, but whole tribes, with their men, women, and children, and their animals laden down with meat and buffalo robes. Nor will there, in my judgment, be any serious obstructions from snow on the South Pass route, or on any of the other practicable routes. As Johnson once said to Boswell, "empty your head of Corsica," I do beg men to empty their heads of this bugbear of snow and ice. The idea should not be entertained as a serious objection to any route.

And now I will come to the defense of the southern route in one particular. I believe the difficulties there, in regard to the heats of summer, are overestimated. It is said that men cannot labor there three months of the year. I cannot speak of that from a thorough knowledge, as I can in regard to the snow and ice of other routes, but I have had some little experience in a somewhat similar region of country; and from the information I possess, I have no question that, by a little management in the hours of working, a party could be kept at work there all the year round. I would like to give my reasons for that judgment, but my time is nearly out, and I have two or three more topics to touch upon.

In the remarks which I have thus far submitted, Mr. Chairman, I have refrained from going into any elaborate statistics. They do not convince much; they simply weary one, and I have preferred to rest my case upon obvious and ascertained facts which come within the experience of all intelligent men.

But I wish, now, to enlarge upon a topic which will require me to refer to some statistics, and that is, that the country requires three routes, and that each is a national route. As regards the southern route, its office is not simply to carry freight and passengers from the Atlantic coast to the southern portions of our Pacific empire, but it has relations with powers south of it, and hence it becomes emphatically national. There are silver mines in Arizona, which will supply the whole country with that metal, and probably the world. There are silver mines in Sonora, also; and the wealth of Sonora, and other parts of Mexico, will find its outlet through that road. That road becomes

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national, therefore, as regards the whole country, looking to the products of the mines and its influence on a neighboring Power.

As regards the South Pass route, I will observe that there is a larger population on the western slope, on this route, than on either of the others; that it has the direct relations with the great center of the country; and in all respects, except contiguity to foreign Powers, and the carrying trade from Asia to Europe, is entitled to consideration with the other two.

The northern route is, however, preëminently a national one, for the question there is, shall the road which must pass from the great basin of the St. Lawrence, from the great chain of lakes, to the shores of Puget Sound and the Georgian bay, pass through American or through British territory? That is the question.

Sir, great injustice has been done to the country between 49° and 54° 40'. Rejoicing in the acquisition of Arizona, I only wished that her southern line had gone still further south, so as to give us a good port in the Gulf of California. I trust we will have it yet. But it has been our misfortune that we have lost that rich and inviting country between 49° and 54° 40'—a country rich in mineral wealth, in mines of gold, and lead, and platinum, and copper, and sulphur—extending from the shores of the ocean to the Rocky Mountains. At this moment, miners are going to that country from California, and to the northern portion of Washington, where there are equally extensive and rich gold fields, by thousands; and the information which I have is entirely reliable as to the large returns which labor has got there this spring.

Now, the English Government are looking to their communication with the Pacific coast. They have had an examination of the country lying north of the forty-ninth parallel, east of the Rocky Mountains. It is an extensive and splendid grazing country, and has large tracts of arable land adapted to all the cereals and vegetables. They know the wealth of the western coast itself, in its fisheries, in coal, and in all the elements of national prosperity. The question simply is, shall the great line of communication go through American or British territory? I propose to give some figures relative to the question. I have put them in round numbers; but they are very near the mark. The distance from Puget Sound, or Vancouver, on the Columbia, to St. Paul, or the western end of Lake Superior, is eighteen hundred miles; from Benicia to Rock Island, in the Mississippi, by the route of the South Pass, twenty-three hundred miles; from San Francisco to Memphis, by the route of the thirty-fifth parallel, twenty-three hundred miles; from San Francisco to Gaines, by the route of the thirty-second parallel, twenty-two hundred miles. And the distance from Benicia, via the valleys of the Sacramento and Willamette, Vancouver, and the northern route, to St. Paul, is twenty-five hundred miles. If we take the equatic distance, allowing for grade, which, though not important as regards passengers, is an indispensable element as regards freight, we find that the distance from Benicia to St. Paul and the western end of Lake Superior by the northern route, is twenty-nine hundred and fifty miles; from San Francisco to Gaines, by the route of the thirty-second parallel, three thousand miles; from San Francisco to Memphis, by the route of the thirty-fifth parallel, thirty-three hundred miles; and from Benicia to Rock Island, by the South Pass route, twenty-eight hundred and fifty miles. I have made the comparison to the Mississippi river, because this river will be the great artery on which to distribute freight coming from the ports of the Pacific by rail throughout the Mississippi valley.

Thus you see, that looking to the present great commercial depot on the Pacific, San Francisco, the northern route gives her the shortest and best connection with the Northwest and the country lying upon the great lakes, and that this connection is absolutely shorter than her connection with the Mississippi, by the routes of the thirty-fifth and thirty-second parallels. Looking, however, to Puget Sound, and taking the equatic distances, you find that the equatic distance from the Sound to the Upper Mississippi and the great lakes is two thousand two hundred; whereas,

from San Francisco to the Mississippi it is two thousand eight hundred and fifty, three thousand three hundred, and three thousand miles, by the routes respectively of the South Pass, the thirty-fifth, and the thirty-second parallels.

But besides the other advantages of the route, Puget Sound is nearest to Asia. The mouth of the straits leading to Puget Sound is on the line of sailing vessels from San Francisco to the ports of China, Japan, and Russia, on the Pacific, and therefore Puget Sound is as much nearer to those countries as is the distance from the entrance of the Straits de Fuca to San Francisco, some seven or eight hundred miles.

Considering, therefore, the greater shortness of the northern route, and its nearer connections with both Asia and Europe, it must become the great route of freight and passengers from Asia to Europe, and even of freight from Asia to the whole valley of the Mississippi.

I have adverted to the views of the English Government in regard to an overland communication through its own possessions. We are contiguous on the forty-ninth parallel to that powerful foreign sovereignty. Which will give us the most strength? which will most add to our defense? which will most stimulate our own genius and force? which will most spread population through our borders and best evoke the resources of our country? which will give us the best footing in the Northwest, and enable us best to hold in our hands the key of the Pacific? a railroad on our own soil, and a great port on our own ocean coast, or a road passing over the soil of that powerful foreign sovereignty, and a great port on its ocean coast? The question of the control of the commerce of the Pacific and of the ascendancy of American genius and enterprise there, is involved in the solution of this question; and therefore I claim for the northern route the friendly consideration of gentlemen from all quarters of the Union, as not a sectional, but as preëminently a national route.

I am of opinion there will be a great freight business on all the routes of Asiatic supplies. By the time the roads are completed, there will be, unquestionably, a population of nearly one million of souls on the line of each route, furnishing the basis of way business, in addition to a vastly larger population resting on the present western line of States, and in the general vicinity of the eastern termini, which will receive their supplies of Asiatic goods by the rail. On the Pacific railroads a great variety of Asiatic products will be distributed to all quarters of the country, and even on these roads pass to Europe. No costly or perishable article, or article which deteriorates by crossing the tropics, will reach our Atlantic ports or the ports of Europe by either cape. Silks, spices, and teas, will go to our depots in the Pacific, and will be taken over the great overland routes to all the States of the Union, to the Canadas, and to Europe.

The imagination of man can scarcely set bounds to the future grandeur of our Pacific empire, and the magnitude of our interests throughout that great sea. Already a commerce is springing up between us and the Russian possessions on the Pacific, by the line of the Amoor, navigable two thousand miles for steamers, whose mouth is but about four thousand miles from Puget Sound, and which will early bring us into connection with thirty millions of people. Lines of sailing vessels now run from our Pacific ports to the Amoor, Japan, China, and the islands of the sea. Fabrics and merchandise of various kinds from San Francisco, but lumber and spars mainly from Puget Sound. San Francisco and Puget Sound are the two great natural centers of commerce on the western coast, and both are essential to its development and control by us, American freemen having a great destiny before us. San Francisco, more developed than Puget Sound, having a much larger immediate population backing it up, is the natural port of California and of our southern States; Puget Sound of our Northwest and our North, and it will be the great port of all the carrying trade by rail from Asia to Europe.

For these reasons, Mr. Chairman, I urge moving to the Pacific on at least three roads. I deem them all national, and required by the exigencies of the age. I beseech American statesmen to take

an enlarged and comprehensive view of this great subject; to endeavor to realize our future growth; and, by firmness and wisdom in the policy which they will now inaugurate, to make us one compact and continuous nationality, to make us, in truth, the ocean-bound Republic, controlling the commerce of the world.

HOMESTEAD BILL.

SPEECH OF HON. JOHN KELLY,
OF NEW YORK,IN THE HOUSE OF REPRESENTATIVES,
May 25, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. KELLY said:

Mr. CHAIRMAN: I regret that the bill which I had referred to the Committee on Agriculture at the early part of this session has not as yet been reported on, as I would have much preferred addressing whatever remarks I may desire to offer on the homestead question to the bill itself. But the session is now drawing to a close, and the few weeks yet remaining admonish me to avail myself of the privilege offered by the rules of the House, which allow members to speak on all matters appertaining to the general state of the Union. I will take occasion, however, to observe in passing, that the committees of this House have been uniformly prompt in making their reports, even on matters that sink into insignificance when compared with the question of giving a humble homestead to actual settlers on the lands of the Government; and, I will add further, that if the committee should think proper to delay their report much longer I shall feel it to be my duty, at an early day, to move for their discharge from the further consideration of the subject, and ask leave to bring the bill directly before the House. If the Senate bill does not reach us in the mean time, I may fail even in this way to secure a vote on the question; but I will have the consolation to know that I have done my duty to those of our fellow-citizens who are either too modest or too poor to command much influence in this Hall.

I am fully conscious, sir, that this theme is not the most *fashionable* one I could discuss; to many honorable members it may not even be the most acceptable in other respects to which I might invite their serious attention. But notwithstanding I feel that I shall not appeal in vain, when I invoke this House as I do, most earnestly, to give at least an hour's consideration to the claims upon our liberality and justice, which the bill granting a home on our public lands to actual settlers presents, and thus establish our claims as wise lawmakers and faithful Representatives, to the gratitude of our constituents and the admiration of the world. It has, already, as we all know, become a standing subject of reproach and obloquy upon our national Legislature and upon our Republic, in many of the pampered journals of Europe, that the Congress of the United States can legislate in earnest only when some question connected with slavery or involving the negro race is the subject of deliberation; and it must be confessed that our proceedings, so far, during the present session, would seem to give some show of truth to the unjust and malevolent imputation.

Can we better refute such unfounded calumny, or more forcibly signalize our devotion to the simple republican institutions under which we live, than by adopting every legitimate means within our power; every means which our unparalleled progress as a nation demands, and the Constitution sanctions, to extend the boundaries of our advancing civilization; to people our almost limitless domain with the hardy sons of industry and toil; to expand the wings of commerce, by multiplying our staples of production; and above all, to elevate to the true standard of American freemen, physically and morally, as well as politically, the thousands of our fellow-citizens who are scattered throughout this broad Confederacy of States; who have the heads to conceive; the hands to toil; the unconquerable will to persevere; but, unfortunately, lack the means to purchase an humble homestead, even under the present unexceptionable system of disposing of our public do-

main. To me, sir, it is a noble theme; one worthy an American Congress, and more than any other which can claim our attention, calculated to illustrate the simplicity and grandeur of our admirable system of government, and to demonstrate its entire capacity to insure to every citizen the full enjoyment of those inalienable rights with which he is endowed by his Creator—life, liberty, and the pursuit of happiness.

The main provision of the bill now before the committee consists in the liberal appropriation contained in the first section, in the following words:

"That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his intention to become such, as required by the naturalization laws of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands which may, at the time the application is made, be subject to private entry, at \$1 25 per acre, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed."

The other sections of the bill are either explanatory of the first or designed to guard against mistake or fraud in its execution. Its general purport and object is, as its title indicates, to secure homesteads to actual settlers on the public domain.

What is the extent of this domain, or rather of the area of the public lands of the United States, unoccupied and open to settlement at this time? The last report issued from the Interior Department supplies the necessary data to answer this question. "The public domain," the Secretary of the Interior informs us, "covers a surface exclusive of water, of one thousand four hundred and fifty million acres. It stretches across the continent, and embraces every variety of climate and soil, abounding in agricultural, mineral, and timber wealth, everywhere inviting to enterprise, and capable of yielding support to man." The title of the United States to this almost limitless territory is derived from the voluntary cessions of several of the original thirteen States; from the Louisiana purchase under the treaty of 1803; by the treaty of 1819 with Spain; by the treaty of 1848 with Mexico; by the boundary agreement between the Government and Texas, and lastly, by the accession of territory in 1854, from Mexico, known as the Gadsden purchase, by which we acquired twenty-three million one hundred and sixty-one thousand acres south of the river Gila. To ascertain more accurately the quantity of public lands now undisposed of, we take from the whole number of acres, namely, one thousand four hundred and fifty million, that which is disposed of, whether by private claims, grants, sales, &c., namely, three hundred and sixty-three million eight hundred and sixty-two thousand four hundred and sixty-four, and we have an area still to be disposed of, namely, one thousand and eighty-six million one hundred and thirty-seven thousand five hundred and thirty-six acres.

Let us suppose that, by some miraculous manifestations of Him who ruleth the Universe, the United States were called upon to become the grand almoner of mankind—to provide a homestead for every white man, woman, and child on the globe; what would be our first step in fulfilling this apparently impossible requirement? We would ascertain first, how many we would have to provide for; and second, how much we could give to each without disturbing the present condition of landed property, or interfering with existing rights. The population of the globe is estimated at one thousand million, of which the Caucasian or white race, including all the nations of Europe and their descendants in America, also the Hindoos, Persians, and Arabians in Asia, and the Abyssinians, Egyptians, and Moors, in Africa, comprise about four hundred and twenty million souls. Strange as it may seem, it is nevertheless true, that, with the present area of the public domain, which our Government holds for the general benefit of all the people of these United States, we could give to every member of this great Caucasian family, in fee simple, a homestead of over two and a half acres of good cultivable land. Nay, sir, such is the munificence with which a kind Providence has endowed our young and prosperous Republic, that we could, at

this moment, give to every one of the inhabitants of the globe, white, black, and red, without either crowding or jostling our own population of twenty-five millions, a lot of ground sufficiently large to build a dwelling and necessary out-houses, and raise a sufficiency of produce for comfortable subsistence.

The proper disposal of the public lands has proved to be a fruitful subject of controversy ever since we became an independent people. It formed a most serious obstacle in the way of a mutual understanding and agreement among the original Thirteen States, at the time of the formation of the Confederation. Some of these States, as it is well known, set up an exclusive right to large tracts of land, which others of them regarded as common property acquired by conquest, and that, in consequence, the title was in the whole Thirteen States, in common, and not in any one of them, separately. This controversy assumed a grave character, and presented a formidable difficulty in forming the Articles of Confederation; and we find that, when these articles were under consideration, the following amendment was proposed:

"That the United States in Congress assembled shall have the sole and exclusive right and power to ascertain and fix the western boundary of such States as claim to the Mississippi or South sea, and lay out the land beyond the boundary so ascertained into separate and independent States from time to time, as the number and circumstances of the people may require."

On this amendment but one State, Maryland, voted; and when the Articles of Confederation were subsequently submitted for ratification, this very question proved to be the most fruitful source of embarrassment, and delayed for a length of time the consummation of the general design. Ever among the first of her sister States in all that concerns the safety or honor of the Union, New York came forward with a proposition for a settlement of the question on a basis that would prove acceptable to her sister States. In March, 1780, her Legislature passed an act proposing to make the cession of these public lands on terms that would prove satisfactory to all, and which ultimately resulted in putting an end to the controversy.

In the preamble to this act, the cause of difficulty is succinctly recited; and an earnest desire is expressed on behalf of the people of the State of New York to remove the impediment. This act of the Legislature of my State was referred to Congress; and the whole subject was ably reviewed by a committee of that body in a report setting forth the necessity of a general cession of the public lands, and the uses to which they should be appropriated, under the control of the General Government. Soon after, and early in 1781, the cession of New York was executed. The deed of cession conveys the property to the United States; and restricts the right of disposal to Congress, and only for the benefit of the whole people. The words of cession are "cede, transfer, and forever relinquish," &c., "to be granted, disposed of, and appropriated in such manner only as the Congress of the said States, or confederated States, shall order and direct." The deed of Virginia was executed in 1784; and cedes unto the United States, in Congress assembled, all right and claim, as well of soils as of jurisdiction, of her public domain. Massachusetts followed, then Connecticut, South Carolina, and subsequently, to the formation of the Constitution, North Carolina and Georgia. All the deeds of cession conform, in spirit and letter, to the resolve of Congress on the subject, adopted on the 10th day of October, 1780, in these words:

"That the unappropriated lands that may be ceded or relinquished to the United States by any particular State, pursuant to the recommendation of Congress of the 6th of September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the Federal Union, and have the same right of sovereignty, freedom, and independence as the other States; that the said lands shall be granted or settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or any nine or more of them."

The title is thus vested in Congress by the several ceding States, and the power to dispose of them, conformably to the conditions of the several grants, is expressly declared in that clause of the Constitution which provides that:

"Congress shall have power to dispose of, and make all

needful rules and regulations respecting the territory and other property belonging to the United States."

These are historical facts which underlie the public-land system of the United States—constitutional landmarks which must ever be closely observed in any disposition which shall be made of this great public trust.

It is true, that in the mist and fogs of party strife, and in the dim twilight of accidental and short-lived power, when the sun of Democracy had suffered partial eclipse, or when some other similar phenomenon had, for a time, obscured our political firmament, these facts were forgotten and these landmarks were overlooked; but the brood of unconstitutional measures, which, during these intervals, sprung up, with reference to the public lands, soon died out. But few of them emerged from their chrysalis form, and all we know of them is that they dragged with them, into the grave of oblivion, to which they have long since been consigned, the political reputation of every man who shared in their paternity. And here I wish not to be misunderstood. Without committing myself by any declaration of how I should have voted on particular occasions, and in reference to particular bills disposing of portions of our public lands to the new States, I have no hesitation in excepting from the general class of measures to which I have just alluded, three classes of grants—two of which stand upon their own inherent, and, to a certain extent, inalienable merits, and the other upon principles of expediency suggested by a wise and prudent performance of the public trust. I refer to the measures appropriating school lands, swamp lands, and land for railroad purposes.

It is known that, without some express stipulation to the contrary, the new States created out of the territory of the United States, would have the unquestionable power to tax, for State purposes, all the lands lying within the limits of their jurisdiction, without reference to ownership. The exercise of this power by the States, over the public territory within their limits, would necessarily complicate the land system of the United States, and might lead to unpleasant, and perhaps dangerous collisions between the Federal and State authorities. To guard against these difficulties, it has been the practice of the Government, from our earliest history, to enter into a compact with the State seeking admission, by which the United States agrees to transfer to the new State one section of land in each township for "the use of schools," and five per cent. of the net proceeds of the sale of the public lands lying within the State, after deducting all expenses incident to the same for public roads.

"Provided, That the foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to bona fide purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents."

In reference to this provision the Hon. Mr. FAULKNER, of Virginia, in his instructive and able address on the land policy of the United States, says:

"The grant of school lands, &c., is made as a consideration for the attainment of three important objects:

"1. That the State shall never interfere with the primary disposal of the soil within the same by the United States.

"2. That no tax shall be imposed on lands the property of the United States.

"3. That in no case shall non-resident proprietors be taxed higher than residents."

"The importance of these stipulations," continues Mr. FAULKNER, "may be at once seen by reference to the fact that we have at this time, exclusive of California, four hundred and seventy-one million eight hundred and ninety-two thousand four hundred and thirty-nine acres of land lying within the jurisdiction of the States, which is altogether exempt from taxation." As remarked by Mr. Webster, in January, 1839:

"Whilst held by the United States, these lands are not subject to State taxation. They contribute nothing to the burdens thrown on other lands. Here is a great proprietor in a State, holding large territory, exempt from common burdens."

On the subject of the swamp lands, Mr. FAULK-

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NER is so full, and at the same time so concise, that I shall again quote from his excellent essay:

"In almost every State or Territory of the United States, where the Government holds public lands, and more particularly in the southern States of Louisiana, Arkansas, Missouri, and Florida, are found large parcels of it overflowed by water. These lands are entirely unfit for cultivation, indeed not susceptible of being surveyed, and serve but to infect the States in which they are situated with disease, not confined to the lands themselves, but spreading far and wide in the adjacent country, and depreciating the domain belonging to the Government within the reach of the miasma arising from them. The existence of such a nuisance in the States was, for many years, a subject of loud complaint. Congress at length yielded to these just complaints, and by act of the 28th of September, 1850, granted to the States in which they were located, 'the whole of those swamp and overflowed lands, made unfit thereby for cultivation.'"

"Provided, That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands." The States would, doubtless, have much preferred that the General Government had retained the lands and undertaken itself the work of drainage. But in the absence of any such improbable action by the Federal Government, it was not to be endured that these lands should remain in their then condition, unfit for sale, destructive of the value of the adjacent public domain, and a source of disease and death to the inhabitants of the States. So manifest seemed the propriety of this measure, granting the 'swamp lands' to the States for that purpose, that the bill passed the Senate without a dissenting voice, while in the House it passed by a vote of 120 yeas to 53 nays."

The other class of grants, namely, railroad grants, do not rest upon the same obvious and indefeasible grounds of consideration and necessity. Still they are supported by strong arguments, and perhaps by stronger names. The late Secretary of the Interior says, in reference to them:

"The right to donate a part for the enhancement of the value of the residue can no longer be questioned. The principle has been adopted and acted upon for nearly thirty years, and since experience has shown it to be productive of so much good, no sound reason is perceived why it should now be abandoned. It has been of incalculable importance to the great West, and either directly or indirectly to all the States."

That the policy of railroad grants, however, is liable to abuse, and perhaps to extravagance and corruption, is not so free from doubt as is the mere question of its constitutionality. Few of our citizens can ever expect to occupy the alternate sections as actual settlers, because few such can gratify the enormous cupidity of the speculators into whose hands they most generally pass. This, however, is one of the evils which the present bill proposes to remove, and which, on this ground, if no other existed, should commend the measure to universal acceptance. On the subject of these railroad grants, however, I am willing to indorse, to the fullest extent, the views of the present Executive, as communicated to this House in his last annual message:

"Whilst the public lands, as a source of revenue, are of great importance, their importance is far greater as furnishing homes for a hardy and independent race of honest and industrious citizens, who desire to subdue and cultivate the soil. They ought to be administered mainly with a view of promoting this wise and benevolent policy. In appropriating them for any other purpose, we ought to use even greater economy than if they had been converted into money and the proceeds were already in the public Treasury. To squander away this richest and noblest inheritance which any people have ever enjoyed, upon objects of doubtful constitutionality or expediency, would be to violate one of the most important trusts ever committed to any people. Whilst I do not deny to Congress the power, when acting *bona fide* as a proprietor, to give away portions of them for the purpose of increasing the value of the remainder, yet, considering the great temptation to abuse this power, we cannot be too cautious in its exercise."

With respect to the various other modes proposed at different periods, and by different parties, to dispose of what Mr. Clay, in 1832, properly denominated "a great public national trust," there is now but one opinion among all classes of politicians. They have passed away; and I trust we shall hear of them no more. The questions of dividing the public lands among the States, of distributing the proceeds of the public lands, &c., were in such palpable violation of the constitutional powers of Congress, that for twenty years an express clause was inserted in the national platform of the party with which I am connected in the following words:

"That the Constitution does not confer authority upon the Federal Government, directly or indirectly, to assume the debts of the several States, contracted for local and internal improvements, or other State purposes; nor would such assumption be just or expedient."

"That the proceeds of the public lands ought to be sacredly applied to the national objects specified in the Constitution, and that we are opposed to any law for the dis-

tribution of such proceeds among the States, as alike inexpedient in policy and repugnant to the Constitution."

These and other objections which have been urged, and I must confess with much force, against distribution or cession among the States, as well as against any disposition of the public lands, having a partial or special application whether to States or corporations, disappear in view of the general application contemplated by the provisions of this bill. Indeed, in carefully reading over the arguments, as to the constitutional question, of Webster, Clay, Calhoun, Benton, and of others whose names are prominently connected with the different land questions, I find that the very terms in which these objections have, at different periods, been stated, not only logically imply, but in some instances directly declare an assent to the principles and a concurrence in the general objects of any bill which, in the language of Mr. Clay, assumes that the General Government is "bound to hold and administer the lands ceded as a common fund for the use and benefit of all the States, and for no other use or purpose whatever," and on this assumption, proposes to dispose of this common fund in such manner as will benefit the whole people without discrimination, and in an equal degree. And the reason must appear obvious to every one, because what was ceded expressly for the benefit of the whole people "of all the States," and what was acquired by the common blood, or the common treasure of all alike, should inure to the common benefit of all, and not to the exclusive use of private monopolies, or even of individual States. I apprehend, however, that we shall encounter but little opposition on constitutional grounds; that gentlemen will hardly be willing to go before their constituents and tell them that, because of constitutional objections which do not exist, they voted against a measure so essentially Democratic and popular, so imperatively demanded by the great mass of our fellow-citizens, so just and so necessary, in view of the investigations of the last and present Congress, that I look upon the homestead bill as the only means now left us to cut off forever the fruitful source of the corruption and perjury which have already disgraced us in the eyes of the world. And here I might pause, and be willing to trust the fate of the measure I advocate to the influence which this view cannot fail to suggest in its support.

It is objected by those who have heretofore opposed bills of this kind, that the loss of revenue which would accrue to the Government forms one of the principal grounds on which their objection rests; and the precise form in which they are enabled to present this difficulty gives to it an apparent weight which has influenced, to some extent, the public mind. They parade before us the Treasury reports, and marshal in their defense quite a formidable array of dollars and cents. Of the many objections urged against the homestead bill, this revenue one I regard as the most fallacious, and least creditable to a great, prosperous nation like ours. Our progress in the career of national greatness is unequalled in the history of man. In territorial extent, as we are informed by the last census, we are ten times as large as Great Britain and France combined; three times as large as France, Great Britain, Austria, Prussia, Spain, Portugal, Belgium, Holland, and Denmark together; only one sixth less than the area covered by all the Empires, States, and Republics of Europe; and of equal extent with the Empire of the mad Macedonian who wept tears because he had no more worlds to conquer.

We stand first among the nations of the earth in commercial power, and we yield to none in that spirit of national pride which attaches more or less to every man who has a country he can call his own. Our population has increased from a little over three millions to nearly thirty millions, and we have not yet much exceeded the span usually assigned to the life of man. And yet, in legislating for the masses of the American people who constitute this great nation, in devising the best means to give profitable employment and permanent homes to the pent-up thousands who are found in our large cities, without employment and without the means of subsistence; when we desire to subdue our unbroken forests and spread out our population across the Rocky Mountains, and over the fertile plains which our new Terri-

tories have added to the sum of our national resources, we are met with the paltry objection that it will diminish our revenues by the stupendous amount of about three million dollars a year! This is about the average sum which our public lands yield one year with another. Three million dollars! Let us look into this argument for a moment. Suppose that ten thousand male adults should apply for the benefits of this bill the first year after it has become a law. It would require one million six hundred thousand acres to give each one the prescribed quantity. Are we to suppose that these ten thousand citizens are to be mere drones in the body-politic of the nation; and that these one million six hundred thousand acres of land are to remain unproductive? That they will not yield sufficient corn and wheat and hemp and tobacco and perhaps cotton to swell our national exports, and to increase our national imports? The supposition, even if the bill did not exact permanent occupation and cultivation as a condition requisite to perfect title, would be ridiculous and absurd. And it should be borne in mind that, assuming twenty per cent. as an average rate of duty on imports, it would require an increased importation of only \$15,000,000 in value, to make up dollar for dollar the amount of the revenue from lands which would be retired by the passage of the bill. And another fact gives still greater force to this view of the case. It is this: the public lands, as a source of revenue, must go on diminishing from year to year until they are entirely exhausted, while the augmented revenue arising from the operations of the homestead bill will increase from year to year, and continue increasing so long as we exist as a civilized nation.

But, sir, after all, this is but the Shylock view of a question fraught with so much that affects our glorious destiny and our future progress. If we look at it as becomes patriots and statesmen, mere dollars and cents will vanish altogether from our view, and the living, moving elements of our real national wealth will rise up in all their grandeur before our eyes. Dollars and cents are the miser's argument, but they are not a nation's wealth. That, sir, consists in dross; this is composed of freemen only. The mother of the Gracchi uttered a sentiment worthy the best days of Rome, when, pointing to her sons, she said, "these are my jewels." Truly has the poet answered his own interrogatory:

"What constitutes a State?
Not high-raised battlement or labor'd mound,
'Thick wall or moated gate."
* * * * *
No: MEN, high-minded men,
* * * * *
Men who their duties know,
But know their rights, and knowing, dare maintain them."

Sir, fill up your frontier settlements with such men; give them an interest in the soil; let them erect their log-cabins, and plant their crops, and they will protect both from the marauding Indian until he adopts the habits of civilized life, or quietly recedes before the onward march of American progress. They will constitute a permanent reliance for protection and defense, obnoxious neither to the apprehensions which dread the influence of large standing armies upon our institutions and our liberties, nor to that tender solicitude which would spare Mormon polygamy the indiscriminate slaughter of a disciplined soldiery. This is the way in which Great Britain fills up and protects her colonial territories. She not only gives to her emigrant subjects homesteads, but the means also of reclaiming them to agricultural purposes. It was by such measures Great Britain has succeeded in building up that stupendous colonial empire which has never been equaled by any nation, whether ancient or modern. Says one of her own writers:

"To that empire, Great Britain owes her present exalted station; and to that empire must she look for its preservation and for the preservation of the many advantages she possesses over other nations. But, unless her colonies are productive; unless they are stocked with inhabitants, by whose industry her merchant ships are loaded, how could the colonies subserve to that permanent object?"

Thus, it has always been her policy to grant Crown lands, on easy terms, to actual settlers. She does so at the present day, and on a principle which combines protection with production. It has ever been one of the cardinal principles of British colonial policy to consider as forfeited the

lands of such of the aborigines or natives of her possessions as refused to acknowledge her dominion or rebelled against her usurped authority. On this principle some of the richest portions of Ireland, whose lawful and hereditary owners spurned British alliance, and have bravely struggled against British usurpation, were parceled out to the Saxon adventurers who, at different periods, accompanied the armies of England into that beautiful but down-trodden island; and on this principle she sought to purchase the loyalty of the disaffected, during our own colonial struggles, by profuse largesses of land and money. This principle is still recognized in her possessions in South Africa, and a regular system introduced in distributing homesteads to such as may be willing to accept and defend them. I have recently come across a book in which I find the conditions and covenants upon which the Crown lands and those forfeited by rebellious natives are now disposed of.

Here are the leading points—outlines of the conditions and covenants upon which Crown lands will be disposed of:

1. The farms to be from three hundred to four thousand acres.

2. Each proprietor shall be an efficiently armed man, and for every thousand acres, over one thousand, each proprietor shall, in addition to himself provide one armed man for the defense of the district.

6. The farms to be occupied three months from the date of this notice.

8. The grantee to reside upon his farm and in case he shall, without actual necessity, absent himself for so long as six months or upwards, the Government shall be entitled, should it seem fit, to take possession of the farm and grant it out again.

9. The farms to be granted on perpetual quit-rent not redeemable, averaging from two dollars and forty cents to four dollars per one thousand acres. The survey, and inspection expenses to be paid by the grantee.

10. Proprietors of farms after three years' occupation, but not before, to be at liberty to subdivide or sell.

This is the way in which Great Britain builds up her vast colonial power, and extends the limits of her empire, on which, it is said, the sun never sets. But a few years back, and this colony was given up to the native Hottentot and Kaffir; now it boasts of all the arts of civilized life, its churches, colleges, and schools, and a thriving, industrious, and intelligent population of two hundred thousand British subjects, and about one hundred thousand natives reclaimed to a state of civilization and independence, under the colonial rule of Great Britain. What strength is thus added to the power of Great Britain, and what new fields are opened to her commercial enterprise? I have a statement showing the value of her exports to this Cape Colony alone for a period of five consecutive years, and I present it as illustrating the wise policy which dictates the liberal terms on which Great Britain offers her Crown lands to actual settlers:

Value of Exports from Great Britain to the Cape Colony, from 1846 to 1850.

1846.....	\$2,404,895
1847.....	3,441,040
1848.....	3,226,090
1849.....	2,604,805
1850.....	3,983,000

For these exports Great Britain receives in return colonial produce, which enables her to put her looms in motion, to give employment to her operatives, and scatter her manufactures throughout every quarter of the globe. I shall refer to only one of these staples—wool—and show the astonishing progress made within a few years in raising this article in the colony. In 1833, the exports from the colony amounted to one hundred and thirteen thousand and seventy-seven pounds. In 1843, they reached one million seven hundred and fifty-four thousand seven hundred and thirty-seven pounds; and in 1850, they rose to seven million seven hundred and seventy-three thousand five hundred and five pounds, with an annually increasing quantity since. When we consider that, next to cotton, wool is one of the most indispensable raw materials entering into the mammoth system of British manufactures, the commercial benefit to Great Britain of homestead

grants to actual settlers cannot better be demonstrated than by subjoining the following table, for which I am indebted, through the politeness of the Secretary of State, to the statistical office of that Department:

Statement showing the exports of wool from Port Elizabeth (Cape Colony) from 1832 to June 30, 1857:

1832.....	5,925,059 lbs.
1833.....	6,160,916 "
1834.....	6,446,866 "
1835.....	9,096,256 "
1836.....	11,892,305 "
To June 30, 1857.....	7,659,781 "

Or, at the same rate, during the last six months of 1857, from six million pounds in 1852, to fifteen million pounds in 1857. The trade of Great Britain with her Australian colonies shows similar results; and it may not be unworthy of notice in this connection that, besides her homesteads to her male emigrants to these colonies, Great Britain has, of late years, in the plenitude of her philanthropy, legislated husbands for such of her female emigrants as chose to try their fortunes in the wilds of Australia. The policy is a wise one. Look at its results, even as a question of dollars and cents:

Statement showing the exports from Great Britain to the Australian colonies in 1853, 1856, 1857:

1853.....	\$31,394,830
1856.....	49,562,875
1857.....	58,130,730

And it must be borne in mind that these figures exhibit the trade of only one division of the British colonial possessions. The results for all of her colonies are so marvelous that we could scarcely credit them, if we did not know that they were derived from official sources. Here is a brief summary.

Total value of exports from Great Britain to all her colonial possessions in 1853, 1856, 1857:

1853.....	\$132,760,000
1856.....	166,500,000
1857.....	185,575,000

These are the results of her system of colonization, of her homestead grants to actual settlers; and this is the true meaning as well as the apt illustration of the passage which I have already cited from one of her own standard commercial writers—Irrving on Commerce of India:

"But unless her colonies are productive, unless they are stocked with inhabitants, by whose industry her merchant ships are loaded, how could the colonies subserve to that permanent object?"

We have all read of the successive commercial ascendancy of Venice and the Republics of the Mediterranean; of the Portuguese, and of the Dutch, in what was then known as Hindostan. The Spanish and French, the Swedes and Danes, the Prussians and Austrians, even played their parts; but, except in the case of France, they have left but little trace of commercial success. And why? Because colonization and settlement did not enter into their commercial speculations. They acquired no territory, and offered no homesteads to industrious emigrants. Great Britain has done this, and now behold in the figures I have given, the stupendous results of her judicious policy. Her manufactures enter into every district of that limitless country, and her merchants, in literal fulfillment of the prophecy of Ezekiel, (xxvii. 24,) introduce "all sorts of things in blue cloths, and brodered, and in chests of rich apparel, bound with cords, and made of cedar, among her merchandise."

With such results as these before our eyes, gentlemen stand boggling at the paltry sum of \$3,000,000 a year, while we have a country unbroken and unoccupied, as fertile and as salubrious as any watered by the Ganges or the Nile; capable of sustaining a population of two hundred million freemen; of swelling our imports and our exports far above those of Great Britain and France united; ready for the woodman's ax, and the energy and skill of the adventurous pioneer; but hermetically sealed against the productive labor of the country, now unemployed, except in clamoring for a subsistence which in its present narrow confines it cannot, if it would, procure by honest toil, and which must be supplied while we remain subject to the laws of our common Creator. Let me, therefore, beg of gentlemen, who oppose a homestead bill because it may deprive us of a few million dollars now de-

rived from the sale of the public lands, to take up any of our Treasury reports and compare our commerce and our resources in 1800, with our commerce and resources in 1850; then compare our population at the former period with our population at the latter, and ponder the results for five minutes in their mind. After they have done this, I am willing to trust the fate of this bill to their patriotism and judgment.

In this connection, the following statements, which I have borrowed from the census of 1850, will not be irrelevant. They will show, at least, that we need entertain no fears that our population can ever be too dense for the area of territory now comprised within our limits. Before that contingency can happen, the manifest destiny which is hurrying us onward in our career of national glory, will have opened new fields for our enterprise, and new countries for the influence of our institutions, which are now desolate and blighted under the baneful curse of traditional misgovernment:

Statement exhibiting the population, and number of inhabitants to the square mile, of various American and European countries, from the census of 1850.

Countries.	Population.	Density.
United States.....	23,191,878	7.90
Canada.....	1,842,265	5.31
Mexico.....	7,661,919	7.37
Central America.....	2,049,950	10.07
Brazil.....	6,065,000	9.19
Peru.....	2,106,492	3.63
Russia in Europe.....	60,315,350	28.44
Austria.....	36,514,406	141.88
France.....	35,783,170	179.74
England.....	16,921,888	332.00
Great Britain and Ireland.....	27,475,271	225.19
Prussia.....	16,331,187	151.32
Spain.....	14,216,219	78.03
Turkey in Europe.....	15,500,000	73.60
Sweden and Norway.....	4,645,007	15.53
Belgium.....	4,426,202	368.60
Portugal.....	3,473,758	95.14
Holland.....	3,267,638	259.31
Denmark.....	2,296,597	101.92
Switzerland.....	2,392,740	160.05
Greece.....	998,266	55.70

The States, taken together, have a density of about sixteen to the square mile; the Territories have one inhabitant only to every sixteen square miles. Texas and California together have less than one to a square mile, whilst nearly twenty-five persons inhabit a square mile in the region east of the Mississippi, and nearly twenty persons in the Atlantic slope. In the Mississippi valley there are only about seven persons to the square mile; west of the Mississippi less than one person to the square mile; on the Pacific slope less than one person to every six square miles. With the density of the Mississippi valley, the United States would have but twenty-one million inhabitants; with the density of the southern States, the number would have been nearly forty-five millions; with the density of New England, one hundred and twenty-three millions; and, with the density of the Middle States, one hundred and seventy millions. According to Tucker, a population of two hundred millions would not require a density of more than seventy to a square mile, and the preceding statement shows how largely that is exceeded by some of the most advanced countries of Europe.

But, sir, humanity claims for this bill the serious consideration of every member of this House, more especially of those who, like myself, represent, in part, any of the large and populous cities of the Union. For the laboring, working classes, large cities, with superabundant populations, are but the portals from wretchedness to death. They can find no employment whereby to "earn their bread by the sweat of their brow;" and idleness, poverty, and crime, are the legitimate results. The very shifts they resort to—the avocations they follow, even if they desire to live honestly, in quest of subsistence, yield but scarcely sufficient to supply unwholesome, scanty, unnutritious diet, and hence the statistics of city life exhibit a frightful mortality. Hear what one of the most logical writers in this or any country says on this subject.

"But the most disastrous and appalling consequences of city avocations is the waste of human life. In the city of New York, the deaths last year (this was written in 1849) exceeded fourteen thousand, or one person out of every twenty-eight; and it was a year of no uncommon mortality for that place. And the mortality of New York is much greater than it seems; because being so largely emigrant from the interior and from abroad; the proportion of adults

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in her population is much greater than ordinary, and among adults mortality is not so great as among her children. New York has fifty thousand children less than her share. In the last twenty years, the population of New York has nearly doubled, but its mortality has nearly trebled. According to an official statement of the duration of human life, in the several avocations in Massachusetts in 1847, it appears that the average of agriculture is 64.14 years, merchants, 49.20 years, mechanics, 46.45 years, laborers, 46.73 years. This is the average life-time in the several occupations beginning at twenty years. According to this the three avocations of city life, merchants, mechanics and laborers, average about forty-six and a half years, whilst farmers live more than sixty-four years, or one third longer."

Thus, a homestead bill which will make farmers of all who apply for its benefits will not only contribute to our national wealth and increase our comparatively limited population, but it will rob death of its prey, and rescue from his cold embrace one third of his city victims.

But there are other considerations which appeal to our humanity, as enlightened legislators, no less powerfully than this almost atrocious destruction of human life; for it is not only atrocious, but inexcusable to permit it, when it can be so easily obviated—I mean the alarming pauperism and consequent demoralization which prevail in our large cities. The statistics of every populous city in the Union, from Boston to San Francisco, present melancholy details of the alarming condition of society. The annual reports from the poor commissioners, as well as the enormous expenditures called for every year, all of which fall in the first instance on the tax-paying communities of the different cities, though they are ultimately wiped out by the sweat of the laborer's brow, would appal gentlemen if I were to present them now, even in their aggregate magnitude. In some cities we find one pauper for every five; in others, one for every eight; but in all, the proportion of paupers to the whole population is such as to claim and demand the most serious consideration of the law-making power, as well as of the philanthropist and Christian. Does not humanity, then, as well as patriotism, invoke our favorable action on a bill which will withdraw from our large cities this overplus population, and by giving a proper incentive to its industry and labor, rescue it from pauperism and death? It is not for the worthless vagrant who is found in every large city, lurking amid the haunts of vice and wretchedness, I appeal. This pauperism strikes down those who are able and willing to work, and therefore fit subjects for the bounty of Congress. It is a truism in political economy, that when pauperism seizes upon this class of citizens, the wages of labor are reduced to the cost of subsistence. The whole class must therefore be subjected to the necessity of working, rather to avoid the poor-house than of bettering their condition. There is but small hope of laying up a provision for the rainy day, and still less for leaving any means of subsistence for their families, should death snatch them away from the miseries of earth. This kind of pauperism is even more hopeless than that which finds a refuge in the poor-house, because there, in sickness and in health, without destroying or overtaxing the vital powers, the inmate is supplied with healthy food and all that his necessities require; while the industrious laboring classes too proud to depend on charity, struggle on, in toil and labor, until exhausted nature sinks under the burden, and a premature grave closes the scene. Rescue these, and such as these, not from New York, or Boston, or New Orleans, or Baltimore, but from every city and town and village in the Union—rescue them from drudgery and death; transform them into useful, industrious citizens of a free and prosperous Republic; and the day is not distant when two hundred million American freemen will recur with emotions of gratitude and praise, to the crowning act of the Thirty-Fifth Congress. The earth which God made is man's. His title to it is recorded in heaven. Give him, at least, a share of it—a spot for a cot, and a garden, and a grave when he dies, else God will hold us as usurpers, and faithless stewards, when the great day of reckoning shall come.

There is nothing agrarian in this. The rich are not despoiled of their wealth for the benefit of the poor. Our act will be doubly blessed—for it will bless him that gives as well as him that receives. What we grant will make no man

poorer; it will lessen the burden of taxation, while the gift will contain the germ of a development in our country's progress that will push us onward to a higher point of national grandeur and glory in a few years than, under ordinary circumstances, we could hope to attain during a whole century. Agrarianism is but the popular name for spoliation. We only give to the people what belongs to them of divine right—to the people of the North as well as of the South—to those of the East and to those of the West—to every section, without distinction, provided they are citizens, or intend to become such. It is folly to say that in any particular section of our common country this bill would be fruitless of benefit. Last session, such an assertion was made by an honorable member from North Carolina; but the facetious manner in which he attempted to prove the assertion, soon convinced us that the gentleman was only *poking a little fun at us*. He remarked:

"Do you say that the citizen of North Carolina may, equally with others, avail himself of its provisions? I deny it. You require him to cease to be a citizen of North Carolina, and to become a citizen of one of the western States or Territories before he can avail himself of them. His being a citizen of North Carolina stands in the way of his receiving the bounty of his Government. He is condemned to 'outer darkness,' to 'eternal woe,' where the genial rays of his country's favor can never reach him, because he is a citizen of North Carolina and will not consent to leave her."

The poetry of this argument is, I believe, borrowed from Milton; and as that writer flourished long before the days of our Revolution, he cannot be expected to know much about American progress, and still less about the impoverished, worn-out lands of some portions of North Carolina. If the citizen of the Bay State, however, would, in reality, rather pine away and toil on his worn-out acres, or continue to breathe in his virtuous poverty, rather than emigrate to the West, and cultivate his one hundred and sixty acres of virgin soil, granted him by a generous Government, then would the poetry become a reality indeed, and in his case, at least, "truth would be stranger than fiction." The gentleman did not surely forget that, in the remotest corner of our territorial limits as well as in the gallant State of North Carolina, the stars and stripes are floating in the breeze, and the emigrant settler, whether he may have come from North Carolina or from Plymouth Rock, may proudly exclaim, "I am an American!"

If there be any one feature in the bill which more than another commends it to general favor, it is the entire equality with which it embraces and extends to every citizen, of every degree. The millionaire and the day laborer are treated alike, without fear, affection, or favor. It is more just, as well as more equal, than any former bill granting public lands. The last act of this character—that of 1853—is, perhaps, the most liberal on the statute-book. It grants one hundred and sixty acres to every man who had served but fourteen days in the military service. Here the patriotic intention was rewarded. But why stop here? Why discriminate? The bounty of the Government attached to the good fortune of being accepted into the service, and not to the patriotism of being willing and ready, if required, to enter the ranks of our country's defenders; and it would be a libel upon our countrymen to assert that those who were ready at a moment's notice, but were not required, were not as patriotic and deserving as the more fortunate, who were first at hand, and consequently, first called into service. The homestead bill abolishes this unjust discrimination, and regards every American citizen as a patriot and a soldier. It goes further; for it gives to every man a homestead to fight for, and a domestic hearth to incite his courage, should the foeman ever dare invade our soil. And it has, besides, the merit of keeping the homestead out of the hands of speculators, by not being assignable—an inherent curse in all former laws granting the public lands.

At the close of the war of the Revolution, the area of the United States comprised eight hundred and twenty thousand six hundred and eighty square miles, or five hundred and twenty-five million two hundred and thirty-five thousand two hundred acres; now it has expanded to about three million square miles, or within a fraction of

two thousand million acres. In the States of Ohio, Indiana, Illinois, Missouri, Alabama, Mississippi, Louisiana, Michigan, Arkansas, Florida, Iowa, Wisconsin, and California, together with Minnesota, Oregon, Washington, New Mexico, Utah, Nebraska, Indian territories, and Kansas, embracing an aggregate of fourteen hundred and fifty million acres, there are still unsurveyed ten hundred and forty-one million eight hundred and five thousand acres, inviting the onward march of American civilization, and awaiting only the liberal action of an American Congress to become the theater of a progress unparalleled in the history of the human race. How many homesteads, of one hundred and sixty acres each, would this unsurveyed land alone supply? Not less than six million five hundred and eleven thousand two hundred and eighty-four; or, allowing ten persons to every one hundred and sixty acres, we have a sufficient quantity of public lands—unsurveyed, not yet brought into market, but even now ready for the industry and skill of the adventurous pioneer and the hard-fisted emigrant—for an additional population of sixty-five million souls. What a glorious destiny awaits us, if we are only true to ourselves, and to the high mission which Providence has marked out for us!

There is, perhaps, as little of the enthusiast or the filibuster in my composition as in that of any other member in this Hall. I neither magnify what we have, nor am I apt to covet unjustly what we have not. Still, sir, I am not deaf to the teachings of the past fifty years, nor am I altogether blind to the glorious future which already dawns upon the country. Our destiny, I think, embraces a still wider scope than that included within the figures I have given. It stretches beyond our present confines, and beckons us onwards to regions which are yet to feel the humanizing influence of American institutions. On the north civilization was planted by the Gaul and the Briton; but the growth has been slow; and even now the country, in many places, is but little advanced from a state of primeval barbarism.

The progress made in British America, covering as it does upwards of three million square miles, or nearly two thousand million acres, is not such as befits so near a neighbor of this great American Republic. Of this northern portion of our continent, Canada, which embraces about two hundred and twenty-two million acres, cannot much longer be kept out of the American Union. She has long ago been drifting in this direction, and when she comes we will receive her with a hearty and cordial welcome into the family of free States. After Canada, the other portions of British North America will soon follow; for New Britain, Nova Scotia, New Brunswick, Prince Edward's Island, and the other political divisions of this portion of our continent, are not more closely allied to each other by geographical lines and political ties, than the whole are to us by the inevitable union of interests, destiny, and race. Think you, sir, that the two million people who, as subjects of Great Britain, inhabit the fertile valleys and are thinly scattered over the rich soil of East and West Canada, would not soon multiply into ten times the number when, under the benign influence of American institutions, they became transformed into free citizens of a mighty Republic? There are now, it is believed, nearly sixty thousand living in Canada who were born in the United States, (and there are there no Know Nothings to molest or oppress them,) and a large number of descendants of United States loyalists, whose immediate ancestors sided with the British during the American war. The latter we will forgive for the sins of their parents; we will blot out their iniquities, and extend over them the protection of good laws and free government.

The day may not be distant, when, under the provisions of a homestead bill similar to the present, the new States, of what was once British North America, will become the most populous and thrifty in the grand confederacy of the American Union. Then further down south, Cuba already beckons us onward. She is ours by nature—she must soon be ours by right. The South American States are convulsed—anarchy broods over them all. Central America is dismembered, and Mexico is rent asunder by dissension and strife. Let us then be true to our destiny—true

to the principles of republican government, and above all, true to our own adventurous and enterprising people. Let our population advance, and with it the principles of free government. Let every citizen have a home, and in every home there will be an altar to freedom.

Sir, the past history as well as the future destiny of our glorious Republic alike demand that this bill should no longer be postponed.

LEGISLATION OF CONGRESS UPON THE AMERICAN FISHERIES.

SPEECH OF HON. S. C. FOSTER,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

May 24, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. FOSTER said:

Mr. CHAIRMAN: It has been the uniform policy of this Government, from its foundation, and under all changes of Administration, with a single exception, to encourage our cod and mackerel fisheries, by bounties and allowances for the salt consumed in curing the fish. This proposition will not, I think, be controverted by any one who will investigate the subject. And it is equally clear to my mind, that the object of the Federal Government, in thus fostering the fisheries, has been to train seamen for the public service in times of war.

I will proceed, briefly, to establish the historical proof of these propositions, and to show the wisdom of the course which has been pursued. Sir, the second act of the First Congress, passed July 4, 1789—an act for raising revenue—was not unmindful of the duty of protecting the fisheries. The fourth section of the act is in these words:

"That there shall be allowed and paid on every quintal of dried, and on every barrel of pickled fish, of the fisheries of the United States, and on every barrel of salted provisions of the United States, exported to any country without the limits thereof, in lieu of a drawback of the duties imposed on the importation of the salt employed and expended therein, namely:

"On every quintal of dried fish, five cents;

"On every barrel of pickled fish, five cents;

"On every barrel of salted provisions, five cents."

The first section of the act laid a duty on imported salt of six cents per bushel. It also laid a duty of seventy-five cents per barrel on imported pickled fish. (See Stat. at Large, vol. 1, page 24.)

It may be alleged that this bounty was only intended as a drawback of the salt duty. But the allowance or drawback is accompanied by heavy duties upon imported pickled and dried fish—duties ten times the amount of the salt duties—and furnishing a most ample remuneration for the latter. How then can it be doubted that the object and purpose of the First Congress was to foster the fisheries?

In August, 1790, the same Congress passed another revenue act, doubling the tax on salt, and doubling the allowances to exporters of fish. (See Stat. at Large, vol. 1, page 180.)

In 1792, February 16, Congress passed another important act touching the fisheries, and leaving no doubt on the mind of any one that the object was to protect, encourage, and foster them, as schools for seamen. The previous act paid the allowances to the exporters of fish—in other words, to merchants who bought fish in the markets for exportation. The fish consumed in the home market produced no bounty to the catcher, or to any one else, except that indirectly accruing from the high duties upon foreign fish. But the act of 1792 went much further, and paid bounties directly to the owners of vessels and crews. A proviso of this act goes still further to remove any lingering doubt as to the real object and purpose of its framers, by requiring that the fishing vessels shall remain at sea, engaged in the business of catching fish, at least four months of the fishing season. If the object of the bounty was simply to refund the salt duty, there would not be the slightest propriety in any of these regulations. With such an object in view, the Government, by the plainest dictates of common sense,

would only require the production of the salted fish as a condition of refunding the duty on salt; and it would be equally absurd and unjust to interfere with the contracts between the fishermen and their employers, or to require four months in the performance of a labor which might be dispatched in two or three. I will read the material parts of this act, in order that the committee, and those who may think proper to read my remarks, may see that I have not misrepresented it. It was passed, as I have said, on the 16th of February, 1792, and is entitled "An act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein." It enacts:

"That the allowance now made upon the exportation of dried fish of the fisheries of the United States, in lieu of a drawback of the duties paid on the salt used in preserving the same, shall cease on all dried fish exported after the 10th day of June next, and, as a commutation and equivalent therefor, there shall be afterward paid, on the last day of December, annually, to the owner of every vessel, or his agent, by the collector of the district where such vessel may belong, that shall be qualified agreeably to law for carrying on the bank or other cod fisheries, and shall actually have been employed therein at sea for the term of four months at least of the fishing season next preceding—which season is accounted to be from the last day of February to the last day of November in every year—for each and every ton of such vessel's burden, according to her admeasurement as licensed or enrolled; if of twenty tons, and not exceeding thirty tons, \$1 50, and if above thirty tons, \$2 50. Of which allowance aforesaid, three eighths parts shall accrue and belong to the owner of such fishing vessel; and the other five eighths thereof shall be divided by him, his agent, or lawful representative, to and among the several fishermen who shall have been employed in such vessel during the season aforesaid, or a part thereof, as the case may be, in such proportion as the fish they shall respectively have taken may bear to the whole quantity of fish taken on board such vessel during such season: *Provided*, That the allowance aforesaid on any one vessel, for one season, shall not exceed one hundred and seventy dollars."

The second section extended the allowance to fishing boats of five tons and under twenty tons, at the rate of one dollar per ton, provided they land at least twelve quintals of fish per ton. This statute was to continue in force seven years, and to the end of the next following session of Congress (See Stat. at Large, vol. 1, page 229.)

It will be seen that every clause of this act, proviso and all, keeps in view the leading idea of fostering a school for seamen, while the restoration of the salt duty is either lost sight of or merely used as a pretext. In the first place, the bounty is paid without reference to the exportation of the fish; second, it is paid, not in proportion to the fish caught and salted, but with reference to the size of the vessel. If under twenty tons, only one dollar per ton is paid, on the principle that such a vessel or boat is not calculated to afford the best discipline for seamen; vessels of twenty to thirty tons in admeasurement are treated a little better; they receive one dollar and fifty cents, while all above thirty tons burden are to receive two dollars and a half. Third, the bounty is not paid unless the vessels are at sea, engaged in catching fish, at least four months during the fishing season. If one vessel should be out two months, and catch five times as many fish as another which remains out four months, the latter would receive the bounty, while the former would receive nothing. Could the object of this regulation be made plainer? Is it not clear that the salt had nothing to do with it? Fourth, the bounty was to be divided between the shipowner and the seamen, in certain proportions. The former was to receive three eighths, in consideration of the risk of his capital and superintendence, while the sailors were to receive five eighths. Is there the faintest trace of a purpose to restore the salt duty in this regulation?

The act of May 2, 1792, raises the duty on salt by altering and reducing the standard of the bushel measure. This was done by substituting the weighed bushel of fifty-six pounds for the measured bushel of eighty-four pounds. The effect of this upon the fishing interests was counteracted by increasing the bounties twenty per cent. (See Stat. at Large, vol. 1, page 259.)

The act of July 8, 1797, raises the duty on salt from twelve to twenty cents per bushel of fifty-six pounds. The bounty on pickled fish is raised from eight to twelve cents per barrel; on salted provis-

ions it is raised from five to ten cents on a barrel; and the bounties to fishing vessels are still further increased thirty-three and a third per cent. (See Stat. at Large, vol. 1, page 533.)

The principle upon which these acts is founded is identical with that of February 18, 1792, above recited. I notice them, in order to present a continuous though brief history of the legislation of the country upon this subject. The act of March 2, 1799, increases the allowance on pickled fish exported, to thirty cents per barrel, and on salted provisions exported, to twenty-five cents per barrel. The act of April 12, 1800, continues the preceding acts, laying duties on salt and giving bounties and allowances. (See Stat. at Large, vol. 2, page 36.)

The act of March 3, 1807, reverses the policy of the Government in relation to the fisheries, and repeals the bounties to fishermen, with the salt duties. (See Stat. at Large, vol. 2, page 436.)

This act was passed at the recommendation of Mr. Jefferson, in his annual message of December 2, 1806. It is well known that he discountenanced the idea of building up a navy, and with such views he very consistently and properly opposed the policy of fostering the fisheries as a school for seamen. Had he been persuaded, as the men of all parties are at the present day, of the utility and essential importance of that arm of the national defense, I cannot doubt that his recommendation would have been entirely different. Could he have foreseen the glory which the little nucleus of a navy won for the country during the Administration of his successor, he would never have done anything calculated to cripple that navy, or to weaken the sinews of its strength.

Sir, a navy cannot be spoken into existence at the fiat of the greatest conqueror, with unlimited resources of money and landmen at his command. Bonaparte had all these in abundance, but he was compelled to acknowledge his inferiority to England upon the sea. He had had sad evidence of this inferiority before the battle of Trafalgar swept his navy out of existence, and forever sealed its fate.

How marked the contrast, if we turn to the history of American engagements with England! France could command every element of naval greatness but one, namely, men trained to manage ships. We, in our struggles with the great naval Power of the world, lacked everything but men. Our exchequer was meager, our policy had been narrow, and, as experience has demonstrated, most unwise; but our little ships were manned by intelligent, disciplined, and brave American seamen, who, in a large degree, were graduates of these very fisheries. Sir, I need not stop to recount their achievements; I should not do them justice. It is the task of a poet. The reports and dispatches from our naval heroes read more like the creations of poetry and fiction than sober realities; and I am not surprised that our great master of romance, our American Scott, has been charmed away from his realms of fiction by the truths, "stranger than fiction," to be found in the archives of the Navy Department.

Mr. Jefferson lived to see his error. He admitted, in numerous letters from his philosophical retreat at Monticello, that his prejudices against the establishment of a navy had been ill-founded, and that his great rival, Mr. Adams, was chiefly entitled to the credit of building up the Navy. Those who cling to the secondary error of Mr. Jefferson regarding the fisheries, long after he has himself abandoned and refuted the primary error in regard to a navy, show themselves singularly superstitious in their reverence for the letter when the spirit has left it. He was opposed to the system of supporting a school for seamen, because he was opposed to the establishment of a navy. His modern professed disciples are continually augmenting the Navy, and are willing to expend millions in the construction of ships and the establishment of naval schools for the education of officers, while they will not allow a cent for the instruction and discipline of men as sailors.

Our fathers pursued a different policy; they first took care to have their naval vessels well manned, by training men to the service, and it somehow

happened that the same training served the double purpose of fitting some to command, and others to obey. The Hulls, Perrys, and Decatur, were not educated in naval schools; but the men whom they commanded were, in a large degree, educated in the fisheries, whose prosperity, if not their very existence, is dependent upon the system of bounties.

In 1813, the country returned to the system of salt duties, and bounties to fishermen. In the meantime, during the six years which intervened between the repeal of the bounties and their revival, the fisheries had no other support than that derived from the tariff on the importation of foreign fish. That tariff was seventy-five cents per barrel on imported pickled fish, and fifty cents per quintal of dried fish.

The act of July 29, 1813, not only renewed the system of bounties, but increased their amount; and, like the acts repealed in 1807, it gave the bounty to the ship-owners and seamen, in consideration of their spending four months of the year in fishing. No condition was annexed, requiring the exportation, or even the catching of fish—a clear proof that the object of the act was the protection and encouragement of fishing as a school for seamen.

The first section imposes a duty of twenty cents per bushel upon the importation of salt. The second section provides for the payment of twenty cents per barrel upon the exportation of pickled fish of the fisheries of the United States, cured with foreign salt. The fifth section gives a bounty to vessels engaged in the cod fisheries, and is as follows:

"Sec. 5. That from and after the last day of December, 1814, there shall be paid on the last day of December, annually, to the owner of every vessel, or his agent, by the collector of the district where such vessel may belong, that shall be qualified agreeably to law, for carrying on the bank and cod fisheries, and that shall actually have been employed therein at sea for the term of four months, at least, of the fishing season next preceding, (which season is accounted to be from the last day of February to the last day of November in every year,) for each and every ton of such vessel's burden, according to her admeasurement, as licensed or enrolled: if of twenty tons, and not exceeding thirty tons, two dollars and forty cents; and if above thirty tons, four dollars; of which allowance, three eighths parts shall accrue and belong to the owner of such fishing vessel, and the other five eighths thereof shall be divided by him, his agent, or lawful representative, to and among the several fishermen who shall have been employed in such vessel during the season aforesaid, or a part thereof, as the case may be, in such proportion as the fish they shall respectively have taken may bear to the whole quantity of fish taken on board such vessel during such season: *Provided*, That the allowance aforesaid on one vessel, for one season, shall not exceed \$272."

The sixth section gives \$1 60 per ton to vessels or boats under twenty tons, and with the condition annexed that they land not less than twelve quintals of fish for every ton of their admeasurement. (See Stat. at Large, vol. 3, page 49.) It will be seen that the same discrimination is made in favor of large vessels, which I formerly pointed out. There can be no mistaking the object of this discrimination. It is clearly on the principle that the larger vessels are the better calculated to discipline seamen. The duration of this act was limited to one year after the termination of the war with Great Britain.

The act of February 9, 1816, continues in force the former act of July 29, 1813, indefinitely. It is as follows:

"That the act entitled 'An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries,' passed on the 29th day of July, in the year 1813, shall be, and the same hereby is, continued in force, anything in the said act to the contrary notwithstanding."—*Statutes at Large*, vol. 3, page 254.

The act of March 1, 1817, goes still further to illustrate the object of the bounty system to fishermen. It requires the owners and three-fourths of the crews of fishing vessels claiming the bounty to be citizens of the United States. Section third is as follows:

"That after the 30th day of September next, the bounties and allowances, as now granted by law to the owners of boats and vessels engaged in the fisheries, shall be paid only on boats or vessels the officers, and at least three quarters of the crews, of which shall be proved, to the satisfaction of the collector of the district where said boat or vessel shall belong, to be citizens of the United States, or persons not the subjects of any foreign prince or State."—*Statutes at Large*, vol. 3, page 351.

This act removes all doubt as to the object of the bounty system.

The first act of 1789 may, with some plausibility, be said merely to refund the salt duty to the exporter. Subsequent acts, however, paid the quarter part of the bounty to the seamen directly, with the evident purpose of encouraging not only the business of fishing, but the profession of seamanship. But it was ascertained that foreigners availed themselves of the benefit of the bounty laws in proportions so large as in some degree to frustrate the purposes of Government. This act of March 1, 1817, is therefore intended to supply this defect, and to place the leading objects of the bounties beyond all question.

The act of March 3, 1819, increases the allowances to boats and vessels under thirty tons, placing those between five and twenty on the same footing as those between twenty and thirty. Those above thirty are allowed a reduced bounty, in case they shall be engaged three and a half months, but less than four, provided their crews consisted of ten persons. It is in the following terms:

"That from and after the passing of this act, there shall be paid on the last day of December, annually, to the owner of every fishing boat, or vessel, or his agent, by the collector of the district where such boat or vessel may belong, that shall be qualified agreeably to law for carrying on the bank and other cod fisheries, and that shall actually have been employed therein at sea for the term of four months at least of the fishing season next preceding, (which season is accounted to be from the last day of February to the last day of November every year,) for each and every ton of such boat or vessel's burden, according to her admeasurement as licensed or enrolled; if of more than five tons, and not exceeding thirty tons, three dollars and fifty cents; if above thirty tons, four dollars; and if above thirty tons, and if the crew consist of ten persons, and having been actually employed in the cod fishery at sea, for the term of three and one half months at least, but less than four months of the season aforesaid, three dollars and fifty cents: *Provided*, That the allowance aforesaid on any one vessel for one season shall not exceed three hundred and sixty dollars."—*Statutes at Large*, vol. 3, page 520.

This act has been said to repeal the act of 1817, requiring the owners and three-fourths of the crew to be citizens of the United States. But there is not the slightest warrant for such an assertion. The former act is not so much as referred to, and therefore all parts of it which are not specifically changed by the act of 1819, remained in full force. The rate of allowance is enhanced, and the term required for a certain class of vessels to be at sea is modified; but in every other respect the act of 1817 remained in full force. On the supposition that this act repeals the former, the salt duties would stand repealed, since they were not reenacted by the act of 1819; and in that case the bounty system would stand aloof from any pretense even of refunding the duty on salt. But this question is authoritatively settled by the regulations of the Treasury Department, which require, in conformity with the statute of 1817, that the master and three-fourths of the crew of any vessel claiming bounty must be proven to be citizens of the United States. (See Circular Instructions, dated February 20, 1852, issued by Secretary Corwin.) It is to be noted that the acts passed since the revival of the system of bounties are silent as to the bounty being in lieu of the salt duty, or being measured by the amount of the duty collected. These acts are still in force; while the bounty has continued at the highest point which it ever attained. The salt duty has been reduced from twenty cents the bushel of fifty-six pounds, to less than two and a half cents the bushel; in a word, the increase of the bounty went on *pari passu* with the diminution of the salt duty. The exact figures, which I find in the recent report of the Senate Committee on Commerce, are two cents and thirty-three hundredths per bushel. It is clear, therefore, that the system of bounties, though originating in the salt duty, has gradually been separated from it, and now stands upon its own merits as an independent policy. It has been in existence, with an interval of six years, from the organization of the Government to the present time; and I think that I have abundantly shown, from the very terms of the several acts on the subject of bounties, that a leading object in the inception, and the sole object for forty years past, of their continuance, has been the maintenance of a school for seamen.

Sir, these bounties to the hardy fishermen of

New England stand before the American people, for their vindication, upon the same footing with the Naval School at Annapolis, and the Military School at West Point. I admit that the system of bounties as a means of stimulating industrial enterprises is objectionable, and, indeed, indefensible. But, where the object is avowedly the training of American seamen, with a view to the national defense, there can be no more objection to this particular plan than to those adopted for the education of officers at the Military and Naval Academies. It is no objection to it that a branch of private industry is fostered by it; but, on the contrary, that circumstance is a strong recommendation to it; for, by the aid of the fisheries, the Government is enabled to accomplish, with three or four hundred thousand dollars, what millions would scarcely do without them.

The expenses of the Navy Department for the last fiscal year, according to the report of the Secretary of the Treasury, were \$12,726,000; and this sum exceeds, by more than half a million, the whole amount of bounties paid, according to the same authority, from the foundation of the Government to the present time. The average amount of bounties per annum has been about three hundred thousand dollars. In 1856, it was only \$134,000; in 1857, the amount ran up to \$601,000.

Sir, can that be regarded as an expensive system of training seamen, which, for the paltry sum of \$300,000, gives the best kind of practical instruction to thirteen or fifteen thousand men yearly?

Your Naval Academy at Annapolis cost \$39,000 during the last fiscal year, which is more than a tenth of the average yearly expense of the school for seamen. Your Military Academy at West Point cost \$175,000, which is more than half the expense of training thirteen thousand seamen. Are you ready to abolish these institutions? Have they not vindicated their utility? But, sir, they stand on the same footing with the school for seamen, and must fall with it.

Mr. Chairman, while the duty on salt has been reduced to a very low figure, thereby furnishing the opponents of the bounty system with what they regard as an unanswerable argument in favor of repeal, it must not be forgotten, on the other hand, that protection against foreign competition has been withdrawn from our fishermen in a great measure. I have already drawn attention to the protection afforded by the act of 1789, when a duty of seventy-five cents per barrel was imposed on imported pickled fish, and fifty cents per quintal on dried fish. Under the tariff of 1846, the duty was twenty per cent. on all imported fish, but, by the reciprocity treaty with the British Provinces, we were deprived, in 1854, of the advantages this duty gave us in the domestic market, and our immediate neighbor and greatest competitor in the production of fish was placed on a footing of equality with us. They are given by that treaty the freedom of a market among thirty millions, and we have the benefit of their market of three millions. In other words, we are permitted to carry coal to Newcastle!

The tariff of 1857 still further reduces the duty on imported fish, so that now the whole benefit of that sort of protection amounts to fifteen per cent. *ad valorem* upon the products of countries of whose competition we have little to fear, even without protection. Here, then, is an additional reason for bounty, unless the policy of Government is to break down the fisheries.

I will proceed to show that the condition of the fisheries is by no means prosperous, and without some efficient protection from the Government, they must sink into insignificance. In order to place the matter beyond dispute, I will quote from an authority which cannot be gainsayed. The Committee on Commerce, in the other wing of the Capitol, have reported in favor of the repeal of the fishing bounties. They say nothing of the repeal of the salt duties, and we are therefore left to infer that they desire to burden the fisheries with that duty, at the same time that they deprive them of what was originally designed as an equivalent.

The report embraces a table marked B, which is too large for my purpose, else I should be glad to incorporate it into my speech. I must content

35TH CONG....1ST SESS. *Legislation of Congress upon the American Fisheries—Mr. Foster.*

Ho. OF REPS.

myself with the following portions of it, which relate more immediately to the subject in hand:

COD FISHERY.

Years.	No. of vessels.	Tonnage.	Crews, men.	Allowances to fishing vessels.
1815.....	530	26,510	3,711	1,811
1816.....	757	37,879	5,303	2,435
1817.....	1,078	53,990	7,558	19,915
1818.....	1,170	58,552	8,190	148,918
1819.....	1,300	65,445	9,105	161,622
1820.....	1,216	60,843	8,517	197,833
1821.....	1,026	51,351	7,189	170,054
1822.....	1,168	58,405	8,176	149,897
1823.....	1,340	67,041	9,385	176,711
1824.....	1,364	68,239	9,552	197,179
1825.....	1,412	70,626	9,886	198,728
1826.....	1,270	63,535	8,894	215,860
1827.....	1,474	73,710	10,318	206,185
1828.....	1,498	74,946	10,491	239,147
1829.....	1,956	97,869	13,704	261,071
1830.....	1,160	58,041	8,125	197,641
1831.....	1,144	57,239	8,012	199,631
1832.....	1,034	51,725	7,240	219,747
1833.....	1,170	58,569	8,198	245,183
1834.....	1,049	52,473	7,345	218,220
1835.....	1,049	52,473	7,345	223,787
1836.....	1,168	58,413	8,176	213,090
1837.....	1,511	75,055	10,507	250,180
1838.....	1,279	63,974	8,955	314,150
1839.....	1,305	65,268	9,136	319,855
1840.....	1,358	67,926	9,508	301,631
1841.....	1,211	60,656	8,477	355,141
1842.....	988	49,940	6,391	235,613
1843.....	1,098	54,901	7,686	169,934
1844.....	1,562	78,179	10,943	249,075
1845.....	1,396	69,826	9,774	280,830
1846.....	1,450	72,516	10,151	274,944
1847.....	1,402	70,178	9,823	276,427
1848.....	1,653	82,652	11,571	243,434
1849.....	1,477	73,882	10,342	287,604
1850.....	1,712	83,446	11,990	286,796
1851.....	1,749	87,476	12,245	328,267
1852.....	2,053	102,659	14,371	304,569
1853.....	1,999	99,990	13,997	323,199
1854.....	2,043	102,194	14,306	374,286
1855.....	2,038	102,928	14,408	346,196
1856.....	1,916	95,816	13,413	134,659
1857.....	1,935	104,573	13,545	601,453
59,498		2,983,029	416,561	12,128,532

Sir, this table presents in a nut-shell the history of the cod fisheries. Compare their progress with that of almost any branch of industry in the country, North or South, and their barrenness and unprofitableness to those engaged in them will be made conspicuous. Compare them with the whale fishery statistics, which the Senate committee embody in the same table with those I have quoted. There were but four vessels, with 1,230 tons, and ninety-eight men, engaged in the whale fishery in 1815. In five years, the number of vessels had risen to 103, the tonnage to 32,367, and the crews to 2,590 men. The table exhibits a rapid and almost uninterrupted rate of increase down to 1857, when the number of vessels was 816, the tonnage 195,772, and the crews 19,584 men. Compare the progress of the cod fisheries with that of the production of pig-iron. According to the last annual report of the Secretary of the Treasury, the production of pig-iron in 1820 was 20,000 tons; in 1830, it was 165,000; in 1840, it was 375,000; in 1850, it was 564,755; in 1855, it was 1,000,000; and to-day it is doubtless a million and a quarter tons, or more than fifty-fold in thirty-eight years.

If we compare the cod-fisheries of New England with the coal productions of Pennsylvania, the contrast is still more striking. In 1820, according to the Secretary's report, the coal product of that State was only 365 tons—barely a load for a schooner; in 1830, it amounted to 174,734 tons; in 1840, to 865,414 tons; in 1850, to 3,254,321 tons; and in 1856, the coal product of Pennsylvania was 6,751,542 tons!

I find, in the report of the Secretary of the Treasury, a statement of the export of cotton from 1821 to the present time. The total production of the country would present a still more striking contrast with the progress of the cod fishery. In 1821, the export of cotton was 124,893,000 pounds; in 1830, it amounted to 298,459,000; in 1840, to 743,941,000; in 1850, there was a temporary falling off, the amount being 635,381,000 pounds, while in the preceding year it exceeded 1,000,000,000 pounds; in 1856, the export amounted to 1,351,431,000 pounds. In marked contrast with these characteristic developments of American industry, how beggarly do the statistics of the cod fishery appear! Thirty years ago, the number of men employed was equal

to what it is at present, and the tonnage nearly as great. It is true, that within a few years (seven or eight) an unusual rate of advancement is observable; but if the bounties be withdrawn, we shall quickly see the cod fishery abandoned for more lucrative pursuits. No one will question the assertion that the men engaged in it are among the most enterprising and intelligent of the American population. It is enough to say of them that they are New Englanders, to procure universal assent to the proposition; and it may be laid down as an axiom in political economy, that any branch of industry which flags in the hands of New England men must be essentially unprofitable.

Mr. Chairman, I now beg leave to present a few brief extracts from high authorities upon the importance, in a national point of view, of preserving the fisheries as a school for seamen. The French Government pays a bounty of fifty francs per man to sailors engaged in the cod fisheries. It is admitted that the bounties are essential to the existence of the fisheries. "The cod fishery," M. Senac says, "furnishes more than a fifth part of the number of our seamen, and by far the best portion of them. There is no cheaper, better, or more useful school for the formation of seamen for the Navy, and none is more capable of extension and development; the doubling of the consumption and exportation of the products of the fisheries would furnish our fleets with twelve thousand more seamen." In 1841, M. Rodet affirmed that "without the resources which were found in the sailors engaged in the fisheries, the expedition to Algiers could not have taken place."

The English have always fostered their fisheries by bounties. I might give some amusing illustrations of this fact, which have been collected by my intelligent and indefatigable friend, Mr. Sabine, in his report on the fisheries, published by the Secretary of the Treasury in 1852. He cites from a British statute passed in 1653, which provided:

"That as well for the maintenance of shipping, the increase of fishermen and mariners, and the repairing of port towns, as for the sparing of the fresh victual of the realm, it shall not be lawful for any one to eat flesh on Wednesdays and Saturdays, unless under the forfeiture of £3 for the offense, excepting in cases of sickness, and those of special licenses to be obtained. For these licenses, peers were required to pay about six dollars, knights and their wives about three dollars, and other persons one dollar and a half."

I might give from Mr. Sabine's report a curious specimen of these indulgences to eat on prohibited days, but the clock admonishes me that my hour is running out. I refer all who wish to be thoroughly informed on this subject of fishing, to the admirable report of Mr. Sabine, who seems to be inspired with a relish for wholesale fishing, as ardent as that of Isaak Walton for the more quiet and pleasant amusement of angling.

I will here notice some statements and arguments which were made some weeks ago in the other wing of the Capitol. The distinguished gentleman who introduced the proposition into that body for the repeal of the fishing bounties, and which has passed, attempts to ridicule and understate the present importance of the cod fisheries, compared with their condition when the Constitution was formed. He presents us with figures or statements to show that in 1790 the tonnage employed in the cod fisheries constituted an eighth of the total tonnage belonging to the country at that time; while at the present time the proportion is as one to forty-eight. The Senator has been led into this error by an error in the Treasury statement of the total amount of tonnage. This statement will be found at page 277 of the financial report for the last fiscal year. The registered sail tonnage for 1790 is put down at 346,254; the enrolled and licensed sail tonnage in another column at 132,123, and by a clerical error these two sums are added together in the column of totals as making only 274,377, as stated by the Senator. The actual amount is 478,377. This is blunder number one, and a very material one to his argument.

He states in round numbers that the present aggregate tonnage of the United States is 5,000,000, adding 60,000 to make the numbers round. The exact figures are 4,940,842, but this includes the steam tonnage, amounting to 705,784. The Senator from Alabama resides some hundreds of miles from the sea-shore, I believe, but he ought to be

aware that sailors are not required to man steam-boats. The officers of steam vessels are engineers, and the duty of the "sailors" is not to climb ropes, but to heave coal or wood into the furnace. If this class of persons are to be put upon our marine list, we may multiply it almost indefinitely by going into our steam factories and workshops; and I see no reason why hod-carriers may not be added with equal propriety. Deducting the steam tonnage from the aggregate, therefore as having no more to do with the training of seamen than the railroad tonnage, and instead of 5,000,000, we have only 4,235,058. This is error No. 2, and a pretty considerable one.

The Senator from Alabama assumes, in his speech, that in 1790 the tonnage employed in the cod fisheries was 31,842. He has not given us his authority for this statement. I find in a public document already referred to, a document published by the Treasury Department, Mr. Sabine's report, that the tonnage employed in the cod fisheries was 28,348. This is error No. 3, and not unworthy of notice.

Now, sir, with this corrected data, I will submit the results of my skill in arithmetic. The total sail tonnage in 1790 was, as I have shown, 478,377; and, according to Mr. Sabine's report, the tonnage of the cod fisheries at that period was 28,348. Instead, therefore, of the cod fishery tonnage being one eighth of the total in 1790, it was only one sixteenth and six sevenths, or, in round numbers, one seventeenth. The sail tonnage of the present day, as I have shown, is 4,235,058; and the tonnage employed in the cod fisheries is, as he states, 104,573 tons. Dividing the greater number by the lesser, and we have a quotient of forty, or a proportion of one to forty, instead of one to forty-eight, as stated by the Senator.

The Senator rounds off with the assertion—
"Since 1790, the cod-fish tonnage has increased but three fold, while the other tonnage of the United States has been increased about twentyfold."

Let us see. The cod-fish tonnage of 1790 was 28,348; that of 1857, 104,573, and the proportion is as one to three and two thirds. The total sail tonnage in 1790 was 478,377; the total sail tonnage in 1857 was 4,235,058. The proportion is as one to eight and five sixths. These are material abatements from the sweeping assertion of the Senator. The cod-fish tonnage has increased nearly fourfold instead of three, as he states it; while the total sail tonnage has increased less than ninefold, instead of "about twenty."

Says the Senator:

"In 1804 the total domestic exports of the United States were \$11,467,477, of which exported cod made \$2,400,000; at this time, the proportion is as one to seventeen and two tenths. In 1857, however, the total domestic exports of the United States were \$338,985,065, of which the value of the exported cod was but \$570,348; the proportion being about as one to six hundred."

This is true; but it is also true that the increase of population has, in the mean time, been fourfold, and the facilities of internal transportation have increased tenfold; and from these two causes we may assume that the home market for fish has increased fortyfold. The Senator underestimates the importance of the cod fisheries as a school for seamen, by saying that the number of seamen employed in them is insignificant, compared with the whole number of the seamen of the United States. He says:

"In 1792, the cod fishermen comprised nearly half of the whole number of American seamen; now, they comprise not more than a thirteenth part; for we have over one hundred and sixty thousand seamen engaged in the mackerel fishery, in the whale fishery, in the merchant service, and the military marine of the United States."

This is true; but the Senator from Alabama omits to state, what is the well-known fact, and what a Senator from my State brought to the attention of the Senate, namely:

"That something like three fourths of this formidable number of seamen are foreigners, aliens, without any fixed abode; while the cod fishermen are almost exclusively native-born citizens."

The law requires that at least three fourths of them shall be American citizens. The whole fishermen, on the other hand, are said to be almost exclusively foreigners. The Senator from my State, alluded to, has discussed this branch of the subject so fully, and presented it so ably, that I deem it unnecessary to do more than allude to his facts and arguments. He has produced the tes-

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SENATE.

timony of high officers of the Navy, and that of other official persons, to sustain his statements; and I think that no candid man will deny that he has more than answered the Senator from Alabama as to this point. He also produces the same high authority to show the eminent services which the cod fishermen have rendered the country in times of war. Commodores Stewart and Shubrick agree entirely on this point with Messrs. Benton, Everett, Webster, and others, whom I shall presently quote; and their high authority will generally be considered a fair offset to that of the miserable stipendiaries of the Administration, quoted by the Senator from Alabama, who, to gratify their masters, have traduced their neighbors and countrymen.

The Senator from Alabama raises the sectional hue-and-cry against Maine and Massachusetts, because their citizens are the chief participants in this fishing bounty. He denounces the bounty system as unjust and unequal, although its design is to train sailors to defend the whole country.

Now, sir, I will call attention to another little sectional bounty, in which the people of Alabama are rather more interested than the people of Maine or Massachusetts. I allude to the Post Office bounty. According to the last annual report of the Postmaster General, the total expenses of the Department in Maine and Massachusetts, for the last fiscal year, were \$537,456; the receipts were \$734,512; leaving an excess of \$147,056, which is taken from the people of those States to carry the mail in States whose expenses to the Department far exceed the receipts. I will point out the shortcomings of one such State, for the edification of those who heard or have read the speech of the Alabama Senator. According to the same report of the Postmaster General, the expenses of the mail service in Alabama were \$304,610, and the total receipts \$115,397; leaving a deficit of \$189,213.

The excess in Maine and Massachusetts falls a little short of this deficit; but if we take in the whole New England States, which are interested more or less in the fisheries, the Alabama burden upon the Treasury will be made good. This total bounty to Alabama is something more than half the amount of the fishing bounty; and if we add the like bounty paid to any one of a half dozen States whose Representatives will vote for the repeal of the fishing bounty, the aggregate will exceed the latter. Take Georgia, for instance, whose bounty is \$184,000; or South Carolina, whose bounty is \$173,000; or North Carolina, whose bounty is \$161,000. Add any one of these to the Alabama bounty, and the sum total will exceed the average fishing bounty. The total postal bounty paid to the South, out of the United States Treasury, is \$2,500,000! Is it not injudicious for southern men, under such circumstances, to quarrel with the little insignificant fishing bounty?

The same remarks will apply to several of the western States, which are in the receipt of this postal bounty. New England, New York, and Pennsylvania, pay their postalexpenditures, and leave a large surplus. The States south and west of them (excepting little Delaware) do not pay, but fall far in arrears every year. These facts should teach their Representatives to be a little chary in their assaults upon the New England cod-fish bounty.

I now quote a few American authorities, and I begin with the late Colonel Benton, who signalized his opposition to the fishing bounties in a vigorous report, as chairman of a select committee, in 1840. Near the close of that document I find the following passage:

"Far be it from this committee to depreciate the value or underrate the importance of the northeastern fisheries. It would argue but little knowledge of their own country, in relation to this source of wealth and power, or the contests of other nations in relation to it, so to depreciate or underrate them. They know them to be valuable—of inestimable value—as well for the subsistence they furnish to man, as for the mariners which they create, and the hardy and manly qualities which they cherish in those who pursue them. As a nursery for seamen, they possess a great and lasting, but no longer an exclusive, importance. Things have changed since 1789."

Mr. Cooper, in his naval history, says that "the fisheries may be considered as the elementary school of American nautical enterprise."

Mr. Everett, while Minister to England, in a

letter to Lord Aberdeen, dated March 25, 1845, says:

"It is no doubt true that the British colonial fish, as far as duties are concerned, enters the United States market, if at all, to some disadvantage. The Government of the United States, he is persuaded, would gladly make any reduction in these duties which would not seriously injure the native fishermen; but Lord Aberdeen is aware that the encouragement of this class of the seafaring community has ever been considered, as well by the United States as by Great Britain, as resting on peculiar grounds of expediency. It is the great school, not only of the commercial but of the public marine, and the highest considerations of national policy require it to be fostered."

These, Mr. Chairman, are high tributes from high sources, to the fishermen of New England. I will add one other from New England's great orator and statesman, Webster, among the last words, perhaps the last public speech he ever uttered. It will be remembered by many that, in July, 1852, being then Secretary of State, he visited his home, and was publicly greeted by his neighbors at Marshfield. There was much excitement at the time in the fishing world, in consequence of the enforcement of some severe regulations of the British and Nova Scotia Governments in regard to the fishing grounds. Mr. Webster made this subject the theme of his address. I will quote his eloquent and emphatic testimony:

"The most important consequences are involved in this matter. Our fisheries have been the very nurseries of our Navy. Our flag-ships have met and conquered the enemy on the sea, the fisheries are at the bottom of it. The fisheries were the seeds from which these glorious triumphs were born and sprung."

Mr. Chairman, this is or should be a Government of the people. We need no standing army to keep the people in awe. We are separated by the wide ocean from the great Powers of the world, and we have no necessity for large armies to defend us against their sudden irruptions, or their more premeditated attacks. The citizen soldiery of America are amply able to defend their firesides. But, sir, we do need a navy to defend our commerce. We are rapidly becoming the greatest commercial State in the world. Our tonnage and our trade, if not now equal to that of Great Britain and her dependencies, is only second to hers. No other nation of the earth approaches within a bow-shot of us in commercial importance, and, indeed, I believe I may safely say, that the foreign commerce of all other nations, combined, would be inferior to our own. Our sails whiten every sea; and I know not how many countless millions of American property are every hour and moment afloat on the wide ocean, exposed to the depredations of pirates, or of peoples unfriendly or uncivilized.

Sir, this immense property, this vast public interest, demands protection at our hands. Armies can afford it no assistance. A navy is what we need, and a navy cannot be constituted without disciplined seamen. American commerce is every day growing and widening its sphere of operations. We have sent expeditions to China and Japan, at great expense, to back up our commercial negotiations. We have partially succeeded; and there is a prospect of still greater success. We have States growing up on the opposite shores of the Pacific, and a trade and intercourse of vast and indefinite extent is destined to spring up between them and the hitherto exclusive and unsocial, but industrious and wealthy Chinese and Japanese. Here is a boundless field for American commercial enterprise, but one which peculiarly demands the protection of a navy. The civilization of China and Japan is very peculiar; they understand the arts of life well; they have the elements of an immensely valuable trade in the products of their agriculture and mechanical industry; but they are wholly ignorant of the European and American system of international law, and they are prone to treat all foreigners, or "outside barbarians," as enemies, when they happen to fall into their hands.

These people must be schooled in the laws of nations. They must be made to respect the rights of foreigners, individual and national. The only way to compel attention to these lessons is to send an efficient naval force into their waters. The Asiatic character is peculiar in this respect; you must first present the argument of force, or you will not be listened to.

Mr. Chairman, this is not the time to relax our efforts for the maintenance of a home-bred race of

seamen, whose patriotism may be relied upon in the event of a war. Are we not at this moment threatened with a war? Has not our flag been insulted repeatedly within the last month?

Sir, when our intercourse is rapidly increasing with all nations, and especially with this new commerce of the Pacific dawning upon us, would it not be most unwise for the Government to fall into the new policy which has been proposed, of crippling our naval forces? Is this a time to abandon a system which has been deemed essential to the existence of a navy by every Administration, from Washington to the present? For Mr. Jefferson is no exception to the remark, since he was opposed to the establishment of a navy while President, but became convinced of his error when he saw what a navy could achieve under the administration of his successor. He saw defeat succeed defeat, and disaster follow disaster, on the land. He saw the spirits of his countrymen droop, and their hearts almost die within them, in view of these saddening events. But he saw that hour of national sorrow, shame, and despondency, relieved as often as tidings came up from the sea. Our Navy consisted of a few small vessels. A mistaken policy had regarded it as of secondary consequence, and treated it accordingly. That policy had provided only a small handful of vessels for this great emergency; and doubtless the general expectation was, that our little fleet would be swept from the ocean by the invincible power and prowess of England. But its achievements have added permanent glory and honor to the nation, and in the hour of greatest need rendered it essential service.

But, sir, I will trespass no longer on the patience of the committee. I will conclude by repeating, in the language of Mr. Webster, that "the fisheries were the seeds from which these glorious triumphs were born and sprung."

FIFTEEN MILLION LOAN—HOME VALUATION.

DEBATE IN THE SENATE.

TUESDAY, May 25, 1858.

The Senate resumed the consideration of the bill (S. No. 396) to authorize a loan not exceeding the sum of \$15,000,000, the question being on the following amendment of Mr. SIMMONS:

SEC. 1.—And be it further enacted, That the provisions of the sixteenth and seventeenth sections of the act of 30th August, 1842, the eighth section of the act of 30th July, 1846, and the first section of the act of 3d of March, 1851, so far as the same relate to and direct the manner of ascertaining and determining the value of merchandise imported into the United States, at the principal markets of the countries from which the same are imported, shall remain and continue in force; and in all cases, when the same is practicable, the invoices of all goods, wares, and merchandise at the place or port of exportation shall be verified by the certificate of the consul of the United States at such port; and in no case shall the duties upon goods be levied in any port of the United States upon an amount less than the value stated in such invoices, as required in the proviso to the eighth section of said act of 30th July, 1846, unless the quantity of the articles imported shall be lessened, or the quality injured upon the voyage of importation.

SEC. 2.—And be it further enacted, That, in order to prevent the continuance of fraud upon the revenue by the under-valuation of foreign imports, and to provide for the valuation of imports in the same currency in which duties are paid, to wit: the legal currency of the United States, it is hereby provided that, in addition to the existing provisions of law for the entry and appraisement, or valuation of any goods, wares, or merchandise imported into the United States, it shall be the duty of the owner, importer, consignee, or agent of any goods, wares, or merchandise imported into any port of the United States, to exhibit to the collector or other proper officer of the customs of such port, a true invoice of the goods, wares, and merchandise entered by such person or persons at such port, embracing a statement of the quantity, description, nature, quality, and the true wholesale market price or value of the same or similar articles in the principal market of the United States, to wit: the city of New York, at the time of such entry of importation, or at the time nearest thereto which is practicable; and such invoice shall be verified and proved by the oath of the said owner, importer, consignee, or agent, who, on conviction of false swearing thereon, shall be subject to the forfeiture and penalties as provided by the laws of the United States in like cases, and prosecuted as for willful and corrupt perjury; and, upon such wholesale market price or value, to include the foreign cost, all charges, duties, and profits, or so much thereof as may enter into and become a part of such wholesale market price or value, the rates of duty imposed by the existing laws of the United States, at the time of entry of such importation, upon each article enumerated in such invoice, shall be assessed and paid: Provided, That if any collector or other proper officer of the customs shall have doubts as to the correctness of the valuation as above described, or should complaint or information be made or given by any person or persons of the incor-

rectness of any such valuation, it shall be the duty of the collector or other proper officer of the customs to cause the true and actual wholesale market price or value of the same or similar articles in the city of New York, at the time of entry at the port of entry, to be ascertained and appraised in the same mode and manner as the wholesale market price or value is now ascertained and appraised in the principal markets of the countries from which the same is imported; and it shall in every case be the duty of the appraisers of the United States, and every of them, and every person who shall act as such appraiser, or of the collector and naval officer, as the case may be, by all reasonable ways and means in his or their power, to ascertain, estimate, and appraise the true actual market value or wholesale price of such goods, wares, and merchandise, in the city of New York, at the time of entry of such goods, wares, and merchandise, at the port of importation, without regard to any other invoice, valuation, or appraisement, or verification of the same by oath or otherwise, or the difference of any such invoice or valuation to the contrary notwithstanding. And if such last mentioned appraisal or valuation shall exceed by ten per centum or more the value so declared on the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid, a duty of twenty per centum *ad valorem* on such appraised value, as provided in the eighth section of the act of the 30th July, 1846, entitled "An act reducing the duties on imports, and for other purposes." And the several collectors or other proper officers, under such regulations as may be prescribed by the Secretary of the Treasury, whenever they shall deem it necessary to secure the proper payment of the revenue due to the United States upon the importation of any goods, wares, or merchandise, may, and they hereby are required, whenever the same is practicable, to take the amount of duties chargeable on any article bearing an *ad valorem* rate of duty on the article itself, according to the proportion or rate per centum of the duty on said articles; and such goods so taken the collector or other proper officer shall cause to be sold, at public auction, within twenty days from the time of taking the same, in the manner prescribed by law, and place the proceeds arising from such sale in the Treasury of the United States. And the said collector or other proper officer of the customs is further authorized and required, when he shall deem it necessary to secure the proper payment of the duties accruing to the Government of the United States, to proceed in the manner prescribed in the eighteenth section of the said act, approved the 30th day of August, 1842, even though no fraud or intentional undervaluation shall be imputed; and, as compensation to the collector and appraisers for their services in such proceeding, they shall be entitled to a commission of one per centum, to be shared by them, upon the amount of duties thus secured and paid, in addition to such other compensation as they are, by law, entitled to.

SEC. —. *And be it further enacted*, That should any person or persons complain or give information to the collector or other proper officer of the customs that any false or undervaluation of any goods, wares, or merchandise, has been made by any owner, importer, consignee, or agent, as aforesaid, under the preceding section of this act, or of any existing law of the United States, with a view to defraud the Government of the duty legally due upon the same, the proper officer shall proceed to ascertain and appraise the true market value, as provided for in the preceding section and according to law; and if any forfeiture or penalty shall be incurred by any such owner, importer, consignee, or agent, one half the amount or value of such forfeiture shall accrue to the benefit of the person or persons complaining, or giving information which may have led to the detection, of such fraud or undervaluation.

SEC. 4. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed.

Mr. HUNTER. I raise a point of order that this amendment is in the nature of the origination of a bill to raise revenue. It is undoubtedly designed to increase the revenues from customs. It is a proposition to assess the duty, not on the foreign value as the present laws provide, but on the home value, and a value which is to be increased by all the costs and charges of bringing the goods here, and by the duty, too, as I understand, for it is the market value in New York. I maintain, that by the Constitution, we have no authority to originate any such measure; and to show what has been the sense of the Senate, I beg leave to refer to the action taken in 1844, upon the bill which Mr. McDuffie introduced, "to revive the act of the 2d of March, 1833, usually called the compromise act, and to modify the existing duties upon foreign imports in conformity to its provisions." Mr. Evans, from the Committee on Finance, reported back that bill without amendment, together with the following resolution:

"Resolved, That the bill, entitled 'A bill to revive the act of the 2d of March, 1833, usually called the compromise act, and to modify the existing duties upon foreign imports in conformity to its provisions,' is a bill for raising revenue within the meaning of the seventh section of the first article of the Constitution, and cannot therefore originate in the Senate; therefore,

"Resolved, That it be indefinitely postponed."

The vote on the first resolution was 33 yeas to 4 nays. The yeas were—Messrs. Allen, Archer, Atchison, Bagby, Barrow, Bates, Bayard, Benton, Breese, Buchanan, Choate, Clayton, Dayton, Evans, Fairfield, Francis, Hannegan, Henderson, Huntington, Jamnigan, Merrick, Miller, More-

head, Niles, Porter, Rives, Semple, Simmons, Sturgeon, Tallmadge, White, Woodbridge, and Wright. The nays were—Messrs. Haywood, Huger, McDuffie, and Woodbury. That was the action of the Senate in regard to a proposition similar in nature to the one now offered by the Senator from Rhode Island; and I submit that it is against a constitutional rule of order for us to attempt to originate this revenue measure.

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Chair will suggest that this presents a constitutional question as to the power and privileges of the Senate, and not a question for the Chair to decide as a mere question of order; but it is a question to be submitted to the consideration of the Senate, whether the amendment shall be received as in order.

Mr. SIMMONS. I have heard a great many questions of order and questions of constitutional power raised, which seemed to me to be very strange. I endeavored to get some amendment to the Treasury-note bill, but then there was a question of order, a constitutional question raised. I asked the Senator from Virginia at that time if it would be in order and constitutional to introduce in the Senate such a proposition as I then indicated, and he said it would if it did not raise the rates of duty. I continued to press the matter until I had the assurance of the Senator that he would go as far as he who went furthest to try to prevent frauds on the revenue.

Mr. HUNTER. In regard to that, I will say that I will go for any measure that I think is designed to prevent frauds on the revenue; but I certainly never meant to indicate to the Senator from Rhode Island, (and if he so understood me he is mistaken,) that it was my opinion we could originate in the Senate bills designed to raise revenue. I never entertained that opinion; on the contrary, I have stated, during the whole time the practice of the Senate has been otherwise, and I thought justly so.

Mr. SIMMONS. I would put this question to the Senator from Virginia, and to the Senate: can you introduce a bill to prevent fraud on the revenue in any form, which will not increase the amount of revenue collected? Most assuredly, if you succeed in accomplishing the prevention of fraud, you increase your revenue.

Mr. HUNTER. That may be. You may introduce a bill which is merely designed to prevent fraud; but here is a proposition which is designed to increase the revenue. That is the object, and the Senator cannot deny it.

Mr. SIMMONS. If it increases the revenue, it does so only by preventing frauds.

Mr. HUNTER. And by raising the duty.

Mr. SIMMONS. No, sir, I do not propose to raise a single rate of duty in the whole tariff. Not only do I not, by this proposition, undertake to increase the rates of duty, but I do not propose to change the principles of the existing laws on the subject of the collection of the duties. The whole theory of our present laws is based upon the system of home valuation; and it is only by the most mysterious and unaccountable conduct of the officers of the Treasury, that the provisions made on this subject, from time to time, by the Congress of the United States, have invariably been evaded from the year 1799 to this time. No matter what has been the form of the law, the construction given by the Treasury Department has always been in favor of the importers.

Mr. HUNTER. I hope we shall have a decision of the question of order. Let that be submitted to the Senate.

Mr. SIMMONS. I understood it to be decided that it was not a question for the decision of the Chair.

The PRESIDING OFFICER. It is a question for the Senate to decide.

Mr. HUNTER. I understood the Chair to say that he would submit the question to the Senate whether they would receive the amendment.

Mr. SIMMONS. I do not know that we are to take the dictum of the Senator from Virginia as to the objects and purposes of my amendment; but I think I may be permitted to explain its objects, so that the Senate may understand whether or not it is a proposition to increase the rates of duty.

Mr. COLLAMER. I would suggest that, if

the constitutionality of a bill or an amendment is not a question of order for the Chair to decide, it is not a question of order which the Chair can submit to the Senate. In the very case cited by the honorable Senator from Virginia, a resolution was introduced calling upon the Senate to pass on the question; but it was not passed upon as a question of order at all, either by the Chair, or put by the Chair as such to the Senate. If this course were allowable, it would put an end to the discussion of almost any question; for a gentleman might rise and say that he viewed it to be unconstitutional, and insisted on having that point decided before receiving the proposition. For example: a gentleman might say that he viewed it to be unconstitutional to pass any law making any discrimination for the purpose of benefiting American industry, and insist that that should be put to the Senate as a question of order. I think whether a proposition is constitutional or not is a matter to be considered by the Senate, and by each Senator in voting upon it after a full hearing.

Mr. SIMMONS. The instance cited by the Senator from Virginia, to show that we cannot entertain the proposition which I have offered, is a most singular one, and it seems to me to have no connection with my proposition. That was a measure to reduce the duties on imports more than one half. It was introduced in the early part of the session of 1844, and was debated here for three months—introduced purposely for debate, and not with any view on the part of anybody here to change the tariff. It was introduced to enable gentlemen to make speeches which should control the next presidential election. Then, for the first time, the doctrine was inaugurated, or, at least, fully elaborated, that there was a certain revenue standard which should pervade all tariff measures in this country, in order to make them constitutional. Without any two members of the Senate who believed in this doctrine exactly agreeing, they all seemed to consider that the revenue standard necessarily ranged from twenty to twenty-five per cent.; and any departure from that range was considered unconstitutional by those who advocated that measure. The party who took that ground at that time, and who debated it during the succeeding presidential canvass, succeeded. When they came into power, they carried their doctrine into practical effect by the tariff of 1846, in which you will find this revenue standard varying from five to one hundred per cent. That was the practical carrying out of this great doctrine of a constitutional revenue standard! I recollect that debate very well; and I cannot imagine how it can be tortured into sustaining the present position of the Senator from Virginia. Upon his rule of construction as to the constitutional power of the Senate, he would deprive us of the power to originate any measure to prevent frauds on the revenue—to prevent smuggling even.

Mr. FITZPATRICK. Allow me to suggest to the Senator from Rhode Island that perhaps it would relieve the Chair from embarrassment in the matter, if the question on the constitutional power were submitted to the Senate at once.

The PRESIDING OFFICER. The Chair submits the question to the Senate, as he is authorized to do under an express rule of the Senate.

Mr. SIMMONS. I will argue that question to the Senate, and undertake to show that the amendment I propose to this bill is perfectly within our power. I had hoped that I should have the assent of the Senator from Virginia, in an endeavor to relieve the present embarrassments of the country, by preventing what is known to be an extensive system of fraud upon the revenue by the undervaluation of foreign imports. Everybody knows it. I have not departed, in this amendment, from the theory of our present laws for the collection of the revenue and the enforcement of the revenue laws. There is, in the present laws, a provision which authorizes the collector, if he has any suspicion of fraud, to take the duties on the article itself, according to the rate imposed upon that article, and sell it within twenty days, in the market, and put the money into the Treasury, as an equivalent for the duties. I so far vary that provision, and so far only, as to authorize the collector, or other proper officer, to do it, (for, I believe, we have a great many surveyors in small ports where there is not a full

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board of collection officers.) I provide that the collector, or other proper officer, if he deems it necessary to secure the just payment of the duties required by law to be paid into the Treasury of the United States, may take the duties on the article itself, following the precise language of the law now in existence. I hold that when a collector believes that a man is fraudulently undertaking to enter goods, the proper remedy is to confiscate the goods themselves, and condemn them. I understand that that practice is now prevailing to some extent. I called the attention of the Senator from Virginia to that provision for taking the duties in kind, and he thought it was a penalty. In that, I think, he is mistaken. The penalties for undervaluation are in the two preceding sections of the law.

According to the eighth section of the act of 1846, whenever the undervaluation amounts to ten per cent. or upwards, the penalty provided is a forfeiture of twenty per cent. of the amount of the goods. Under the provision I propose, if a man undervalues his goods nine per cent., though he would not be subjected to a penalty, the collector would have power to take the duties in kind. The present laws provide that the officers shall receive no compensation for this service, and for that reason they do not do it. I propose to give the collector and appraisers one per cent. of the proceeds of those sales as a compensation for doing this service, with a view that they may have some interest in guarding the revenue. Is that unconstitutional? Can we not give the collectors and appraisers one per cent. whenever they resort to a more certain mode of collecting the revenue, though a more difficult and laborious one? I think we can. Under the existing law, we can take the duties in kind according to the rates imposed, and put the proceeds into the Treasury. Take the case of one hundred tons of pig iron imported into New York. If the collector thinks there has been an evasion, and it is necessary for him to take the duties on the article itself, he takes twenty-four tons of that iron, and sells it in the market, under the present law; and he gets the wholesale market price in the city of New York for those twenty-four tons of iron, which is the legal duty payable on the importation under the present law. I only carry out the same principle.

There is another provision in my amendment which I do not think disturbs the principle of the tariff bill at all, by which importers may value their entire invoices, and retain that portion that we have a right to take for duties, provided they satisfy the officers of the customs that the United States will not be injured thereby. If they make out a sworn invoice, stating the value of the merchandise they import, and the collector is satisfied that it is a fair one, I propose that the collector may abstain from resorting to what he is now authorized to resort to—the taking of the duties in the article itself, and, instead of that, let the importer retain the whole of them, and pay to the collector the value of that portion which he is now allowed to take. That is the whole change proposed to be made in the existing law; and I should like to know if there is any constitutional objection to our permitting an importer to retain the whole of his invoice, rather than for us to take twenty-four per cent. of it, if he satisfies the collector that he pays him as much money as twenty-four per cent. of the article would bring in the market? If it is constitutional to take twenty-four tons of iron out of a hundred for the duty, it is constitutional for us to provide a mode by which the importer can retain the twenty-four tons of iron, and pay us their equivalent in money—one is just as constitutional as the other. That law has been in existence the last sixteen years, and I have yet to hear the first strict constructionist or abstractionist dispute its constitutionality. No man ever thought of disputing it. I dare say the Senator from Virginia, if he was in Congress at that time, voted for it. He certainly voted for the tariff of 1846, which included it. Here is the penalty in the tariff of 1846, that I have provided, in the same language, for an undervaluation exceeding ten per cent. Pretty nearly all these provisions are in the existing laws, with the single exception that instead of taking the duties in kind, I provide a mode by which the importer may retain the whole invoice, satisfying

the collector that he pays the fair market value for that portion which, by existing laws, we have a right to take as duties.

I acknowledge that I have not a very nice mind to discriminate about constitutional scruples. I generally try to keep about right and honest, and I think that is constitutional; but it may not answer in these days. I have heard a great many speeches here about the unconstitutionality of improving a river or a harbor in our own country; and yet, at this very session, a law has passed through Congress for paying light-house dues in Denmark. It passed through this body so quickly that I could not get a chance to say a word. We can pay light-house dues in Denmark, but we cannot light our own coast because of constitutional scruples! I prefer to take care of our own country, rather than support the light-houses of any other, and I believe it is more constitutional to do it. When a man does not want anything to pass, it is a very easy matter to raise a constitutional question. All I have to say is, that if it be unconstitutional to prevent fraud for the reason that if you succeed in preventing it you increase the money in your Treasury, then you might as well give up that frauds are not to be prevented by any action of this body. It is the first time I ever heard that there was any constitutional barrier to preventing frauds.

The Senator from Virginia yesterday went into an exposition of the revenue system of the country. I think he can have no doubt, that with our present rates of duty, we shall need all the revenue we can collect by a home valuation or foreign valuation. He can have no doubt that all the revenue we can get is wanted for the actual expenses of the Government, without any danger of piling up a surplus. I had hoped that if a measure could be framed to secure to honest importers the trade of this country by preventing frauds on the revenue, at the same time increasing the means in the Treasury, I might obtain the aid and support of the friends of the Administration in accomplishing these desirable objects.

I have said all that I propose to say on the constitutional question; and it is suggested to me that perhaps it would be proper to take the sense of the Senate on that point before I proceed to elaborate and explain what will be the operation of my proposition if adopted. Some gentlemen around me think I had better go on and explain its operation at once; but my health is not very good, and I should not object to being spared unnecessary labor.

Mr. HUNTER. It was not my purpose to prevent the Senator from speaking. I shall listen to him with great pleasure now; and when he concludes, I shall raise the question of order. I shall waive it for the present, if he prefers going on now.

Mr. SIMMONS. It was with a view of preventing waste of breath that it was suggested to me we had better take the question first. I should hope that, if there were no constitutional obstacle, I could induce every man who has examined the subject to support this proposition. I did not exactly understand the Senator from Virginia this morning, when he interposed with a view of explaining some mistakes he had made yesterday. I understood him to say yesterday that he contemplated for next year's revenue \$20,000,000 for the first six months, and \$32,000,000 for the last six months; making \$52,000,000 for the entire year.

Mr. HUNTER. I estimated yesterday that, for the next fiscal year, if there should be a revival of trade, we had a right to expect \$52,000,000 from customs.

Mr. SIMMONS. That was the Senator's anticipation under all the circumstances, and that we should get ten or twelve millions from public lands. He said this morning that he was mistaken as to the amount from lands.

Mr. HUNTER. I estimated \$7,000,000 for lands for the present fiscal year, and in that I was mistaken. They do not estimate so much at the Department for this year; but they do estimate \$10,000,000 for the next fiscal year.

Mr. SIMMONS. I understood the Senator to say that, although he made a mistake of some two millions in the lands, he underestimated the receipts from customs.

Mr. HUNTER. For the present year.

Mr. SIMMONS. Well, the bill is not for the purpose of providing for the present year. I listened to the Senator's estimate, and to his general views as to the increase of the trade of the country. He thinks that within eight months from this time the revenues from customs will be at the rate of \$64,000,000 per annum.

Mr. HUNTER. No, sir.

Mr. SIMMONS. If I can reckon the months, we shall commence the last two quarters of the next fiscal year in eight months from this time; and the Senator said that in the first two quarters of the next fiscal year he estimated \$20,000,000 from customs.

Mr. HUNTER. I made no estimate for the first two quarters. I said the Secretary of the Treasury estimated the first two quarters at that; but I made the estimate for the year, not dividing it into quarters.

Mr. SIMMONS. The Senator said he set down the receipts for the last two quarters of the year at \$32,000,000.

Mr. HUNTER. I set down the whole year at \$52,000,000; but I did not divide it into quarters.

Mr. SIMMONS. The Senator adopted the estimates made by the Secretary of the Treasury, \$20,000,000 from customs, \$5,000,000 from lands, and \$15,000,000 of a loan by this bill; making \$40,000,000 of receipts for the first two quarters of the next year; and he estimated an expenditure of \$37,000,000 for the same time.

Mr. HUNTER. I gave that as the estimate of the Secretary—not my own.

Mr. SIMMONS. The Senator gave \$52,000,000 for the whole year; and if I can put the figures together, it amounts to \$20,000,000 for the first two quarters, and \$32,000,000 for the last two.

Mr. HUNTER. If the Senator will look into my remarks as reported, he will find that I said nothing about the last two quarters. I made the estimate for the whole year.

Mr. SIMMONS. Well, adopting the Secretary's estimate for the first half, it must be that the calculation is that we are to have \$32,000,000 from customs for the last two quarters of next year.

Mr. HUNTER. I did not say I adopted it. I gave my estimate for the whole year, and his estimate for six months. It might be that I expected more than \$20,000,000 in the first six months.

Mr. SIMMONS. Putting the two statements together, they make out one year; and the Senator may divide it as he pleases. I divide it as the Senator did himself, and I was surprised to hear it said that the last two quarters of the next fiscal year might be expected to yield \$32,000,000 from customs, so that if there should be a gradual improvement in the condition of our country, it would be reasonable for us to expect more than \$64,000,000 for the four quarters commencing in January next. Putting these facts together, I was astonished at the Senator's proposition to make this loan for fifteen years; and therefore I asked him yesterday if, with his notions about the income of the Government, he would think it judicious to make a loan for fifteen years, pledging the country for an amount of interest nearly equivalent to the principal. I do not want to elaborate the point, but that was the reason I asked the question.

I know that when the Treasury-note bill was passed, it was urged upon the ground that it was a temporary matter, for the use of a year or two years, to authorize the issue of those notes for a year from next January; and I thought that if there was any soundness in such a calculation, it was the worst argument in the world in favor of a fifteen years' loan. That is the way I reasoned. When I heard the Senator from South Carolina say that he knew of a friend who had been cut off in his income the present six months, and would realize his full income after the 1st of July—and he put it to the Senator from Vermont if he would not hire money to maintain his family in the interim—I wanted merely to suggest to the Senator if he would think such a man, if he was prudent, would give his note for fifteen years if he expected a full income in the next six months? No, sir; he would give a short note, and pay it at the end of

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the time; and that was my view about the length of this loan.

Now, Mr. President, I think the Senator from Virginia, and the Secretary of the Treasury, and, to some extent, I believe the whole country, labor under an error as to the extent of the changes made last year in the rates of duty by the tariff of 1857. I am perfectly clear that it could not be possible, in the Senate, for anybody, at that time, to make any correct estimate in regard to its effect. It was brought in, and hurried through, as I understood, in one night. Here I will call the attention of the Senator from Virginia to the fact of what were the rates of duty under the tariff of 1846. The rates of duty are fixed in the law, and do not alter, although the amount of revenue derived from imports may vary, on account of diversity in the character of the imports. In one year there may be more free goods than another, a great many more goods coming under the schedules that bear a less rate of duty than the average; and, from a variety of such causes, the average rates of duty actually collected upon the goods imported will vary; but the rates of duty do not vary. If the Senator from Virginia will take his pencil, and put down and add up the rates of duty upon each of the schedules, by the act of 1846, in the old-fashioned way we used to do such sums when we were boys, he will find what were the average rates under that tariff; and I will tell him what the rates were. Schedule A was one hundred per cent.; the next was forty; the next thirty; the next twenty-five; the next twenty; the next fifteen; the next ten; and the lowest five. There are eight different rates of duty, and their aggregate amount is two hundred and forty-five. If we divide the aggregate by the number of rates, according to the old-fashioned way, we shall get the average. When you divide two hundred and forty-five by eight, you will get thirty and five eighths per cent. as the average rate of duty imposed by the tariff of 1846 on the dutiable goods; and, if there was an equal amount imported under each schedule, there would be thirty and five eighths per cent. collected on the entire importation on dutiable goods.

There is another schedule that is free, and if you want to have the average on the dutiable and free goods, you must divide two hundred and forty-five by nine, and that will give you twenty-seven and two ninths per cent. as the average rate of duty on all imports, dutiable and free. I heard the Senator from Virginia say yesterday that it was twenty-five per cent., and so said the Secretary of the Treasury, and when I come to that point I shall explain the reason why it was twenty-five per cent. on the actual importations, but I wish now to make a contrast between these rates and those imposed by the tariff act of 1857. The Secretary of the Treasury says that the act of 1857 reduces the rates of 1846 one fourth, and on that calculation all his estimates are based, and so, I suppose, are the estimates of the Senator from Virginia. Let the Senator, by the same old-fashioned rule of arithmetic, see what the rates of 1857 average. In the first place we have a rate of thirty per cent., another of twenty-four, another of nineteen, another of fifteen, another of twelve, another of eight, and another of four. The aggregate of them is one hundred and twelve, and there are seven rates. If you divide one hundred and twelve by seven you have sixteen per cent. as the average rate of duty. That is a reduction of nearly one half on the rates of 1846. That, however, is not a fair way to make the comparison. In order to make the comparison a fair one you must put two thirty per cent. schedules in the figures, because there are now two thirty per cent. schedules. That will make the aggregate one hundred and forty-two, to be divided by eight rates of duty, and that will give you seventeen and three fourths per cent. as the average rate on the dutiable goods. The comparison, then, between the present rates of duty on the dutiable goods and the rates on the same by the act of 1846, is as seventeen and three fourths to thirty and five eighths. If in the same way as before you put in the free list, and make your schedules nine, you will have to divide one hundred and forty-two by nine, and that will give you fifteen and seven ninths per cent. as the average on the entire importations, dutiable and free. The comparison,

therefore, is fifteen and seven ninths under the present bill as against twenty-seven and two ninths under the old bill. If anybody can say that that is only a reduction of one fourth, I do not know how to cipher, and let me say they do not know either.

I know very well that there may be circumstances affecting the importations of the different classes of goods, and I agree most cordially with the Secretary of the Treasury, that owing to the revulsion in trade, the operations of the tariff in the present year have been of an exceptional character, and cannot give ground for a just estimate as to whether the proportion of goods in the different schedules will continue as they have generally ranged for the last ten years. I have no doubt, however, that our experience for ten years, under the tariff of 1846, may be considered a just and fair criterion as to the amount of importation under the different schedules for the next ten years; and I suppose the Senator from Virginia can see no reason why it should not be so. I suppose nobody can give me any reason why we should not continue to import about the same proportion of goods, classed in the different schedules, for the ten years to come, that we have in the ten years past. I have had prepared a statement embracing the imports for ten years under the tariff of 1846, with a view of showing what had been our experience as to the proportion the schedules bear to each other; and as I looked it over this morning I discovered that either the Senator from Virginia, or the one who made out my tables, had made some mistake as to the amount of goods that were warehoused last year. He asserted that there was an accumulation of \$20,000,000 worth of goods in warehouse during the year 1857.

Mr. HUNTER. I said that on the 1st day of July, 1857, there were twenty millions of goods in warehouse more than in July, 1856. There were about forty-two millions in warehouse on the 1st of July, 1857, and twenty-one millions, I think, on the 1st of July, 1856.

Mr. SIMMONS. I cannot conceive how the man who made out my tables could make such a difference as to the goods in warehouse.

Mr. HUNTER. I can refer the Senator to the page in the annual report of the Secretary of the Treasury, where he will find it.

Mr. SIMMONS. It is of no consequence to me. I find that from the 1st of July, 1856, to the 1st of July, 1857, the goods "consumed and on hand"—and I am not aware of any goods on hand, known to the Government, except goods in warehouse of that year's importation—were \$336,914,000, and the goods entered for consumption were \$333,511,000, showing a difference between the goods imported and those represented in the tables, as entered for consumption, and those as consumed and on hand, of less than three and a half million dollars. I discover that for eleven years, the difference between the goods consumed, and those on hand, of the goods entered for consumption—and the difference must, of course, be the goods in warehouse—has been about twenty-two millions on the average. In 1846, embracing five months covered by the operation of the tariff of 1842, and seven months of the tariff of 1846, the amount of goods imported, and classed as consumed and on hand, was \$138,000,000, and the goods entered for consumption, \$116,000,000, leaving \$22,000,000 in warehouse that first year, and it has averaged about as much ever since. They were put in warehouse to wait for the reduction of duties, to take place under the tariff of 1846, no doubt.

Mr. COLLAMER. That was the first year the warehouse system was established.

Mr. SIMMONS. It was established with a view to let importers keep their goods until we could reduce the duties low. I have indicated to the Senator from Virginia what rates per cent. were imposed by these two laws, and I will now state what were actually collected on the goods by the tariff of 1846. In the first year of its operation, which embraced five months of the tariff of 1842, and seven of the tariff of 1846, the rates of duty averaged, on the whole importation, 20.42 per cent., and in 1848, they were 22.57 per cent., and in 1849, 21.38. The actual rates continued the same all the time, averaging 27.2-9 per cent. on

dutiable and free goods. In 1851, the average, taking the total amount of duties, and the total amount of imports entered for consumption, was 24.18, and in 1854, 24.45. The averages continued to rise for the first five years, and from that time to the end of the tariff they continued to decrease. In 1852, they were 24.26 per cent.; in 1853, 23.47; in 1854, 23.27; in 1855, 22.89; in 1856, 22.55; and in 1857, 19.15. Last year, upon the whole importations entered for consumption of goods, dutiable and free, we actually collected but 19.15 per cent., with an average rate of 27.2-9 per cent. I shall not give my opinion about how this state of things happens, showing a steady decline in rates for six years, but I will state what the late Secretary of the Treasury, Mr. Guthrie, said about it. I think that this result has been produced by fraudulently placing goods in schedules paying low rates; but he is a little milder in his language than I am. He accounts for it in this way:

"In carrying into effect the tariff of 1846, considerable difficulty has been encountered under the eight schedules of that act, imposing different rates of duties on the merchandise embraced in each. The difficulties, instead of diminishing, as the adjustment of the questions arising at the Treasury, and in the courts takes place, seem to increase, owing to the ingenuity of foreign manufacturers and merchants in mingling materials, and modifying fabrics, and giving them new names, until it is not possible to have uniform action in levying duties at different ports, &c.

"In remodeling the tariff act of 1846, I think it would be proper to retain schedule A of that act, and constitute another schedule to include iron, manufactures of iron, steel, &c., and all fabrics of silk, wool, cotton, flax, or hemp, &c., and to impose a duty on the same of twenty-five or thirty per cent." and to reconstruct the free list so as to include all raw materials used in our manufactures, and to impose on all articles not in the above schedules, or in the free list, a duty of not less than fifteen nor more than twenty per cent."—Mr. Guthrie, *Financial Report*, December, 1855, page 12.

I think that is a pretty sensible way of accounting for the duties, running down from twenty-four and a half to nineteen per cent., and a pretty sensible remedy; he recommends that all articles, when duties are designed to encourage our labor, be put into one schedule, except liquors, and to put twenty-five or thirty per cent. on them, and then put fifteen per cent. on the articles not enumerated and make free all articles used as materials for manufactures. Now, I should like any man here to tell me whether he deliberately believes that, with an average rate of duty of sixteen per cent., under the present tariff, upon all the goods dutiable and free, we can expect to get any such revenue as \$64,000,000 per annum, within the next five or six years, according to the estimate of the Senator from Virginia? or of \$69,500,000 for next year, according to the annual report of the Secretary of the Treasury? It would require an importation of \$400,000,000 of foreign goods annually to get that much revenue, if you collected the whole of the average rate of duty, and were not defrauded. I ask the Senator from Virginia if, practically, the revenue actually collected is not likely to fall just as much short of sixteen per cent., under the present tariff, as it has, under the tariff of 1846, practically fallen short of twenty-seven per cent.? Will there not be the same ingenuity in putting articles in the low schedules as has existed for the last ten years? I would ask him further, if he does not know that the average rate of duty, to be collected upon the whole imports, will depend very materially upon the amount imported in the free list? The greater their relative proportion to the aggregate amount of importations, the less is the rate of duty actually collected, and the free list was largely augmented at the last session of Congress. I see, by the tables I have, that the imports of free goods during the first three quarters of the present year, excluding specie, are about \$45,000,000, at the rate of \$60,000,000 a year. If \$60,000,000 be our ordinary importation of free goods, it is nearly double the average of the last ten years. I have no idea myself, nor do I believe there is the least ground for any expectation, that we shall be able to import and pay for as much merchandise as we did last year, at any time within the next five years. We know very well it is a matter of demonstration that the importations returned have not come within hail of representing the real amount of importations we make by any fair estimate I ever knew made at the Treasury. According to the Treasury returns, the exports of

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this country, with an addition of ten per cent. for the earnings of freight, would leave a balance in our favor, for the last ten years, of about two hundred million dollars; but it is as well known as almost any fact of common report, that, instead of having a balance in our favor, we have actually got in debt to England, for that is the place where the debt concentrates, to the amount of about five hundred million dollars, in the form of United States and State stocks, and railroad stocks and bonds, during the ten years. The exportations and importations of last year, according to the Treasury books, without reference to freight, would show a balance in our favor of \$2,000,000, and yet we all know that there was a balance against us the whole time, and a continual payment in bonds and stocks.

The Senator from Virginia said yesterday that it was unfair to impute to him and his friends, who thought it was safe to reduce the duties, a design to approach free trade and direct taxation. I do not impute that to him; but he said, in the same connection, that he did not believe anybody thought the reduction of duties last year had anything to do with the monetary revulsion which is not yet over. I am not one of those who think it had a great deal to do with it. I believed, before that fatal blow was struck, your system was a gradual consumption of the prosperity and wealth of the country. There were causes at work then that would have ultimately prostrated the industry of the country; but the very great reduction that took place on the 1st of July last was the occasion of the revulsion. Anybody who will look at the imports and exports for that quarter, can come to no other conclusion. The year before that, with an importation of \$336,000,000, we exported \$69,000,000 of coin. We exported more coin than the whole product of the mines of California; and, of course, that drew on the reserved funds of the banks. In the first quarter of the present fiscal year, the importations were \$108,000,000. No man who pays attention to the course of trade in this country, and to the effect of over importations upon its prosperity, can fail, in my judgment, to perceive that it was the over importation which took place from the 1st of July to the 1st of October last, that occasioned the revulsion. The imports for these three months were \$108,000,000; the exports of domestic products and specie were \$53,000,000, of which specie formed about \$14,000,000, leaving a commercial balance of \$55,000,000 for a single quarter, to be paid off in coin or stocks; and every man who knows anything about the subject, knows that about the 1st of September railroad stocks and bonds ceased to answer the purpose of remittance to Europe to liquidate debts; and thus this commercial balance was thrown upon the bank vaults, and we had not at that time \$60,000,000 in all the bank vaults in the country. If anybody supposes that a commercial debt of \$55,000,000, in a single quarter, can be paid by the banks in three months, he must, in my opinion, never have had anything to do with business. It was just as impossible to avoid revulsion and suspension under such circumstances as it would be to build a new world. The only complaint I have ever made in regard to it was that the banks did not suspend at once as soon as the case arose, that nothing but specie could pay this balance; they might then, to a great extent, have saved the failure of the merchants. They would not have had any more denunciation than they have now. Everybody who does not understand the question lays the whole financial troubles of the country to the banks, and to what they call an inflated paper currency. To talk about an inflated paper currency, with interest on money at thirty per cent. per annum, is perfectly ridiculous. There must be a great plethora of money when it bears thirty per cent. per annum, as it had borne for a year before this crash came!

There were other causes. The importations of 1857 were \$110,000,000 more than the average for the ten years preceding, and \$33,000,000 above the average of the five preceding years. Such an excess is about as much as our people can well take care of; but when you come to \$55,000,000 in a single quarter immediately following, it is such a balance as no country could ever meet in coin. A great deal has been said about an inflated

paper system; and it is complained that the banks had not coin enough on hand; that they had trash instead. Now, sir, if you look into the cities that were most affected—the importing cities—where the crash bore with the most resistless fury, you will find that there has been no time within the last year when they had not more coin on hand than bills in circulation, except, perhaps, for a fortnight just before they suspended. I look occasionally at the bank returns of the city of New York; and nine times out of ten they have twice or thrice as much gold and silver on hand as they have bills in circulation; and besides that, their bills are secured by State stocks deposited in Albany; and yet such bills are called trash.

If anybody will look, he will see that our troubles resulted from over importations. When prices rule high throughout the country, it would be just as impossible to do the business of the country without an increase of the currency as it would be to transport a large crop of cotton without a large number of ships. The volume of the currency depends on the prices of commodities. It is a very convenient way to denounce the banks whenever there is a revulsion; and I am willing to admit that I have no great love for them. I would like them a great deal better if they never charged more than six per cent. That is all the objection I have to any money-lenders, corporate or individual.

I have before me a statement as to the failures, taken from a paper called the Commercial Agency; and these people have the failures with wonderful accuracy. I have made a comparison of the failures in the different cities, and I find that the more wealthy the city, the larger the failures; the more coin in a city in proportion to the circulation, the more failures there were. The aggregate of the failures during the present revulsion in the United States, up to the 1st of January, amount to about \$290,000,000; of which \$135,000,000 was in the city of New York, \$42,000,000 in Boston, \$32,000,000 in Philadelphia, and \$6,000,000 in New Orleans. I have looked over the bank returns of those four cities to see the relative proportion of their coin and circulation, and I found that they recently had \$51,000,000 of coin in the bank vaults to about \$15,000,000 of bills in circulation—between three and four dollars in gold and silver to one in paper. Then I took the city of Charleston, which did not run into over importations. They have, I believe, about one hundred thousand people, as I was told by the late worthy Senator from that State; and I heard his successor say, the other day in the Senate, that the imports this year had been two thirds what they ordinarily were.

Mr. HAYNE. We do not wish to appear under borrowed colors. The population of Charleston is about sixty thousand.

Mr. SIMMONS. Well, it is a pretty old city, and a good one, and, I think, a very respectable one. The failures there did not amount to over one million dollars.

Mr. HAYNE. Bless my soul, sir! we had not a single failure that I know of.

Mr. SIMMONS. These things are pretty apt to be correctly stated by such papers as I quote from.

Mr. HAYNE. The Senator says that Charleston is not an importing city. Although we do not import directly from England, we do in some measure import, and import largely, from New York, and from Boston, and from Philadelphia, and pay just as much, and more, than if we imported from abroad directly.

Mr. SIMMONS. If I can get this system going, I hope to give you a fair share of the importations. I find that in the city of Providence, with a population of about fifty thousand, a population less than that of Charleston, the failures amounted to \$4,500,000. We are connected in trade with the large cities; we sell our products in New York, where it is mingled with the importations, and an over importation is just as fatal to the producer who sells his produce in these great markets, as if he was engaged in importation himself, for the produce is sold to the same class of purchasers, and their failure involves everybody that deals with them. The Senator from South Carolina is mistaken. I find, on reference to the figures, that the failures in

Charleston were thirty-one in number, and amounted to \$992,000.

Mr. HAYNE. I think that is a mistake.

Mr. SIMMONS. I think my statement is correct. The failures in Charleston were the least of any seaport town of any magnitude in the United States. The city of Providence has a bank capital of \$14,000,000, just about the same as the bank capital of the whole State of South Carolina; and we had a circulation at the time of the suspension of about one million eight hundred thousand dollars, with coin to the amount of, perhaps, five hundred thousand dollars, deposits in other banks, and other means that we could draw on to meet it.

Mr. SEWARD. Where was your circulation? Mr. SIMMONS. All over the country—West, and everywhere. That city had failures to the amount of \$4,500,000, five times as much as the city of Charleston; and the banking institutions of South Carolina, with \$14,000,000 of capital, had \$16,000,000 of immediate liabilities in the form of circulation and deposits, with less than a million in specie to meet them; and yet that was the most sound city in the United States, showing that the proportion of coin had no more to do with the revulsion than the cotton which will be raised next year had to do with it. Over importations upset the country. It seems, however, there is the same feeling in South Carolina that there is in the Senate; and I received a speech from a gentleman in the South Carolina Legislature, which he made in December last on the subject; and the Senator from South Carolina gave me a copy of their bank returns—the report of their comptroller on finance. The comptroller of finance recommended to the Legislature of South Carolina, in order more severely to chastise the delinquent banks, to increase the penalty on them for issuing bills when they were under suspension, from five per cent., as it then was, to ten per cent., and denouncing them in the strongest terms. The gentleman who sent me his speech did not fall into that notion, but proposed to repeal the penalty altogether, and carried it through the South Carolina Legislature.

Mr. HAYNE. Not altogether, sir. The penalty on the first two installments exacted by the State, the banks were required by the comptroller general of South Carolina to pay, and did pay, and never refunded. I am of the opinion that the cause of a portion of our banks having suspended, is to be traced to this fact: we have a bank, the capital of which is owned exclusively by the State, and must partake of the character, more or less, of a political bank, subject to no responsibility, and, at the period of the crisis, its circulation was so large it was compelled to suspend; but if the bank of the State had not been the very first to suspend—no bank suspension—none of our banks in South Carolina would have refused to continue to pay specie.

Mr. SIMMONS. I think it is very likely.

Mr. HAYNE. In Alabama, they tried the experiment, and my friends can say they lost the whole of their capital there.

Mr. SIMMONS. I never knew banks that would be likely to suspend if they never accommodated a customer. Everybody can manage a bank so that there will be no suspension, by not lending money. I think the bank of the State of South Carolina is the only bank that deserves a banner in the State, if the rest did not loan their money, and they did. I honor them for it. It is what they were incorporated to do.

Mr. HAYNE. They all did it but the Charleston Bank and the Union Bank.

Mr. SIMMONS. Tell me about the banks sustaining themselves against a pressure, when the whole mercantile community are falling about them, and not loaning money. They will find no sympathy from me in such a course. I am not condemning the suspension; I am only saying that, after this denunciation of the banks by the officers of South Carolina, they had intelligent men in the Legislature who got this law repealed; and they continued suspended after the banks in the northern cities had resumed, and wisely so continued. Instead of laying this revulsion on the banks, I think that those who continued to accommodate the community, and sustain the crops, acted wisely. At the time resumption was

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talked of in South Carolina, cotton in Liverpool was five and a half pence a pound. It had gone down in four months from nine and a half to five and a half pence, eight cents on the pound. If they had resumed specie payments at the time it was talked of, and other southern banks had done so, and pressed their debtors, the whole crop would have gone at five and a half pence; but since that, by accommodating the public without a resumption, it has gone up to seven and a half pence. That item alone will make more difference to the cotton crop of the cotton-growing States than the whole bank capital in them.

But, sir, that is a matter rather aside from the proposition before the Senate. I have undertaken to show that the rates of duty imposed under the last tariff act cannot be considered adequate to supply the Government with revenue for its use; and if the revenue decreases as the rates are diminished, we should not collect \$40,000,000 a year on the same importations upon which we collected \$63,000,000 under the former tariff. You will have to add seventy-two and a half per cent. to the present rates of duty to bring them up to the rates under the tariff of 1846. As I said before, I do not give any opinion as to what the amount of importations may be. I see no reason, in the value of any great staple product of the United States, to justify any hope that you can increase the amount of exportations and importations; and unless there is some new basis of credit introduced, I agree that this proposed loan of \$15,000,000 will increase your importations \$15,000,000. It will all be in England in less than six months, if there is any revival of trade; and having \$15,000,000 of good evidence of debt; its tendency would be to make other stocks and bonds appreciate. That is the way we got into credit at the commencement of the Mexican war. The Senator from Virginia said yesterday that everybody predicted there would be an insufficient revenue under the tariff of 1846. Well, sir, I happened to be here when it passed, and in two months from the time it went into operation, I know there was such an opinion; but I ventured to declare that we should have revenue enough under that tariff; that the issue of bonds for the war with Mexico would raise you credit in Europe; and if you would issue six per cent. bonds of the United States, you could import foreign goods as long as you would send such bonds abroad; and so you will again; and they will take a pretty large proportion of that which is worthless in payment of their goods, if you will only send them a few of these bonds. It was the resumption of the payment of interest by the different States, after we had redeemed our foreign indebtedness, that gave the State stocks and railroad bonds of the country a currency in Europe; and they have now got \$500,000,000 of them. If you were to take the books of the Treasury as authority, instead of our having got in debt to them \$500,000,000, they ought to owe us \$200,000,000 for the last ten years. This difference is occasioned by undervaluation—I call it fraud.

There is one remarkable fact in reference to the mode of collecting and levying duties. We have had different forms of expression in different laws of the United States, with a view of having the revenue collected on the value at the port of entry.

In 1795 it was provided that the officers should take the value at the port of exportation and should add charges, except commissions, outside packages, and insurances. In 1799 the phraseology was changed, and the law said the valuation should be made at the port of importation, including all charges except outside packages, insurance, and commissions. In three or four months after that law passed, invoices came from London containing freight in the schedule of charges. An invoice came into Charleston with an item of £321 as freight upon goods sent; and the collector of Charleston, not knowing that the phraseology of the law had been changed, wrote to the Treasury Department to know what he should do with this new item embraced in the charges. The Comptroller of the Treasury happened to be absent, and the clerk wrote him a letter giving him directions. The clerk wrote that the charge for freight would be a proper charge at the port of importation; but as the law required the value to be made up at the port of exportation, he should

exclude it, and he would have him strike it from the items of cost and charges, unless he found some other practice in other ports of the United States; and if he did, he must submit the matter to the Department and they would give further instructions. A few months afterwards the Department received a similar letter from a collector in Virginia, stating that an invoice had come from London with a certain item for freight among the charges. Mr. Steele had then got home, and he wrote pretty lengthy instructions, stating that as the language in the sections of the acts of 1795 and 1799 were word for word identical, the same ruling must be applied to each. One law required the value to be fixed at the place of exportation, and the other at the place of importation, and yet the Comptroller said they were identical! I have had some curiosity to look into these matters, and I find that is the way it happened that the legal principle came to be settled that it is unconstitutional to include freight among the dutiable charges upon imported goods; and I suppose it will be settled forever hereafter that that is unconstitutional, because this clerk did not happen to read the law, or failed to perceive the change in phraseology, as compared with the former one.

In the year 1816 Congress revised the tariff laws, and provided that—

"In all cases where an *ad valorem* duty shall be charged, it shall be calculated on the net cost of the article at the place whence imported, exclusive of packages, commissions, and all charges, with the usual addition established by law, of twenty per centum on all merchandise imported from places beyond the Cape of Good Hope, and of ten per centum on articles imported from all other places."

That was pretty plain, and they rightly continued and applied the same instructions to imports under that law.

In 1818 Congress revised the law again, and put in this phraseology, that the dutiable value should be made up at the port of importation, to include the original cost, including all charges except commissions, outside packages, and insurance, with the twenty and ten per cent. additions as before. This as clearly included the freight as the other excluded it and all charges; but Mr. Steele, referring the collectors to his letter of 1799, which referred to the act of that year, again repeats, the laws remain the same as to including the freight.

I happened to be here when the compromise tariff was made, when there was much debate in the Senate as to the reduction of duties proposed to be made. Some urged that that law was one abandoning the principle of protection; but I happened to be in favor of the compromise. In the course of the debate, the very distinguished Senator from Kentucky, Mr. Clay, said that he found by conversation that a great many of the manufacturers were with him on that question. The distinguished Senator from Massachusetts, Mr. Webster, got up and said, "those are the cotton manufacturers; they are not affected by this reduction; they are protected by the minimums—by the legal valuation of the goods in the law." Mr. Clay said that that legal valuation was put in for another purpose, to prevent frauds, and that of course nobody expected the minimums to be disturbed. That was the general current of opinion throughout the Senate, and it was agreed to be the proper construction of the law. But Mr. Clay suggested to me, in conversation, that we had a very peculiar kind of Comptroller, and it was best to give the original reasons for putting the minimums in the law; and I sketched out a few of them, and the paper was handed to Mr. Grundy, who agreed to give it to the Secretary of the Treasury, and insist that that should be the construction; but before the law took effect, the Secretary concluded that the minimums were repealed, and gave such instructions, illustrating them by forty bales of blue cottons. On the 26th of December, 1833, the Comptroller issued his instructions to the collectors to take effect January 1, 1834, and he told them to put the minimums aside; that they were to take twenty-five per cent. and to strike off ten per cent. of the excess over thirty, &c. This made considerable noise; and when Congress met resolutions were passed calling on the Secretary for his reasons for this. A peculiar part of the Comptroller's second letter of instructions was, that he found he himself was mistaken in the letter of the Secretary; but that letter was just

as plain as his instructions were. A law as plain as that was construed in that way. If there is a law to repeal or diminish duties, there is no constitutional objection to any construction you may please to place upon it; but if you undertake to get what the law exacts, every item is unconstitutional; every provision you propose to make is offered in the wrong place, at the wrong time, and to the wrong bill, and it has been so ever since I knew anything about tariffs.

It is a matter of demonstration that, unless the character of the imports be very much changed from what it has been in previous years, the present tariff will not yield us sufficient revenue. Last year the amount of imports entered for consumption was \$333,000,000, yielding a revenue of \$63,000,000; but, under the present tariff, the same amount of imports, if of the same character and description, would not yield more than forty million dollars. Surely, nobody can believe that we can pay for a larger amount of importations than \$333,000,000 for any length of time. Why, sir, flour, a great article of exportation, has not been so low for ten years as it is now. Cotton is twenty per cent. lower than it was last year; so of tobacco; and can anybody see anything in the commercial relations of the world to justify the hope that there is to be any great advance in the price of our great staples? I see none; I wish the prospect was better. If we are to continue this business of importing and getting in debt, I would much rather have direct taxes. Such a system is absolute ruin, dependence, and degradation. I would rather we should owe anywhere and to any class rather than to foreigners.

We never have a discussion on any of these subjects when constitutional objections are not made. Now, sir, I never knew so extravagant an application of constitutional doctrines as that which says it is unconstitutional to levy duties with a view to incidental protection—I call it with a view to encourage the industry of the country, I care not what others call it, if they will only think of the labor of the country when they are levying the duties—as an abstract proposition. I have heard nearly every one of our strict constructionists, during the present session, say that they believed the only way to bring the Government back to a fair amount of expenditures was to resort to direct taxation; not because it was exactly the best mode, but because it was the only mode to make Congress honest, and prevent its squandering the public money. That is a kind of incidental use of the power to levy taxes that I never heard of before—that you are to levy direct taxes for the purpose of making members of Congress honest! You cannot levy indirect taxes with a view to encourage industry, but you may levy direct taxes with a view to make the members of the Administration and the members of Congress honest. That is an incidental power I never expected was to be derived from the Constitution.

We have had one law that imposed a duty on goods at their fair market value at the port of importation, called the compromise act. We had a long debate about the constitutionality of levying duties upon a home valuation. It lasted two months; and, in the course of that debate, I witnessed one of the greatest evidences of the effect of public sentiment and public discussion upon the human mind that I ever saw in my life. A distinguished Senator from South Carolina—a man of as high character, honor, and truthfulness as ever lived on this earth—called me to order three times in the Senate for saying that he voted for an amendment levying duties on the home valuation. He said that he had never voted for it; that he always insisted that it was unconstitutional; and he believed it as much as I believe that I am standing in the Senate Chamber, and persisted in it until he went into the other room, and got the Journal of the Senate, and found his own name recorded in favor of putting that amendment into the bill. I mention this as an instance of how a protracted and excited discussion in the public press, and by the public men of the country, will literally wear a channel into everybody's mind, so that a man will come to believe almost anything. I do not blame any man here for believing that anything is unconstitutional. If that idea goes through two or three presidential

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elections, the whole public will be imbued with it. When the compromise bill—to which there were such peans sung in every State of the South, praising it and its illustrious authors—approximated towards its final close, one of those abstract constitutional propositions got across the mind of our President, that he could not levy duties on a home valuation. The duty was twenty per cent. on a home valuation, but he finally instructed collectors to collect sixteen and two thirds; and that would be perfectly constitutional! Only reduce the duty, and any of those propositions are constitutional in the minds of the most thorough abstractionist that ever lived. Only put the duties low enough, and there are no constitutional scruples in the way. I think our duties now are practically low enough for any constitutional objector. All I ask, is, to try to stop cheating, for the benefit of the prostrate labor of the country; and do not throw constitutional abstractions in their way, blocking their path to an honest livelihood. If I thought I should lose a vote for this proposition by any constitutional scruple, I would almost be willing to withdraw it; but I do not see how that can be. Sir, I believe there are men in this country who would take up fraud and cheating, and make a party hobby of it, if they thought they could win an election by it; but, if there is anything unconstitutional in trying to have a duty fairly and honestly levied on everything that is dutiable, I am at a loss to know why it should be so. It is a mere variation of the existing law; and if any part of the present system is constitutional, I do not see why this is not.

I had intended to say something more on this subject; but I fear I have exhausted the patience of the Senate, and I know I have exhausted my own strength. I will say to Senators who have troubles about incidental protection and incidental encouragement to labor, that, although I do not propose to raise a dollar more, or to vary, to the amount of one eighth of one per cent., any rate of duty now imposed by the law, I should consider it a great blessing to the laboring men of this country, if Congress would call this law a provision for the encouragement of American labor. Nothing has tended more to discourage the laboring men of our land, than the deliberate turning of the backs of the public men of the country upon the products of their labor. Sir, you are decorating, in the new Senate building, a room to represent the agriculturist, for the Committee on Agriculture; but you have discontinued the committee. You have no organ by which the tillers of the earth can reach the ears of the Senate. You have turned your backs on them, as if they were of no account. So it is with the manufacturers and mechanics. I regret that such should be the case with the Government of the United States. It is not the case with the Government of England. Their Lord High Chancellor—principal man—sits upon the wool-sack, and every emblem points to some branch of labor as the source of the greatness of that great country. I wish we could come back to the ways of our forefathers, who, when they made the first law for revenue, put in it a preamble, saying that it was done with a view to "the encouragement of manufactures." The simple fact that the dignitaries of this Government regarded the pursuits of labor, would give a stimulant to every man engaged in it. I would keep up a Committee on Agriculture here, even if I knew the farmers would be so independent that they would not petition you for anything in a century. The effect of Congress recognizing that great pillar of national strength would, of itself, give it encouragement and cheering hope, and would be seen in the countenance of every plowboy as he whistles to his team. These things go further than we think. There is not a mechanics' shop in the United States where the men, if they thought the President or any member of Congress was coming to visit them, would not make another effort to give a little higher polish to their work, to make it more slightly for their gratification.

Sir, in my deliberate judgment we have got far off from the old-fashioned path of true republican government. I speak somewhat warmly, but not unkindly to anybody. I know, in my own heart, that I feel just the same interest for the working men of the land who reside in Louisiana, as I do

for those who reside in Rhode Island. I will advocate their rights and refuse to withdraw the encouragement they receive just as readily in the one case as the other. I think it a great advantage to the productions of the South that the sugar duty should be retained. I think it will give a great deal more protection if the sugar is valued in this country than if it is valued in Cuba. We had a case before us the other day from New Orleans, showing a series of under valuations in four years, of certain importations, to the amount of over eighty thousand dollars, depriving the Government of \$24,000 duty. It was suggested that the Government was cheated by carrying out the prices in the invoice. I intimated that the exporters of sugar at Cuba, making out their invoices in arrobas and reals, made the computation very easy. It is a pretty uniform practice, as I am told, for the exporters of Cuba to make out two invoices for every shipment they make—one true and one false invoice.

The arrangement in the New Orleans case of which I speak, was made with the young man who was finally detected; he became a partner with two respectable men, because he was well acquainted with the custom-house portion of the business. I do not say that the respectable men in New Orleans shared in the profits; but I have no doubt that the men who made the consignments had an understanding with him. It is so all over the country. Cheating the Government in this way is as much a system as it used to be in this country to get an honest livelihood.

I said the other day, in the sugar discussion, that there was not a man in the employment of this Government who had upon his back a broad-cloth coat made in this country. I believe I stated, in December, that when I began to think of this question, it was on account of seeing in an English Review, which made a sort of left-handed acknowledgment of the prowess of our naval forces in the war of 1812, a statement that Americans were pretty hard fellows to fight; but concluded by exultingly asking, who wears an American coat, or who reads an American book? Sir, it is disreputable to the people of the United States that no man here to-day wears an American coat. We have been listening to this siren song of free trade for twelve years, and we have forgotten our duties to our country. This Government spending its \$70,000,000 which it levies on the people, is, in its effect, like \$70,000,000 levied on the people of Ireland, and spent abroad—an aristocratic levying upon a degraded and dependent tenantry; for no man in the service of this Government spends his earnings or his salary in the products of the labors of the people who pay him. I do not mean to complain of any party for this, but I say it is a great mistake to have it so; and it is the duty of Congress to alter such a condition of things as soon as possible, and it will cost no man a dollar to do it.

I do not expect to enlighten the Senate by what I have to say on such subjects. I have, before now, served a term of six years in the Senate. I was in it at a time when it had some men of more extended renown, and more universal reputation for talent, than any I now see about me; but, in my deliberate judgment, there has been no Senate since the foundation of the Government, that had a larger aggregate of talent than the one I now sit in. I say this, after having been an attentive observer while I have sat here—having served in the present Senate one year, and listened with great admiration and delight to the debates. I will say one thing further: that having formerly served here with some Senators more distinguished, or rather with more wide-spread renown, than any now living, that for what I call eloquence—that which is effective to convince and to move men, which springs from the heart, and beams from the eye, and finds utterance in words fully spoken—I have never known one here who surpassed the Senator from Kentucky, who now sits near me, [MR. CRITTENDEN.] Sir, when the Senator introduced a resolution, in December last, declaring it as the sense of the Senate that, to prevent frauds, Congress should provide for a home valuation of foreign imports, he related what had recently been told him in Philadelphia, by a man who had recently been obliged to discharge some seventeen hundred men from work in some of the iron works

of Pennsylvania. His plain, but graphic picture of that occurrence showed that he loved his country and his countrymen, and that with him the laboring men of his country are his fellow-countrymen. All men can love their country, but few men can urge upon others the practice of that virtue as effectually as that Senator can.

I invoke Senators, if it be possible, to overcome their constitutional scruples, and try to prevent these frauds, that are like mill-stones around the necks of the laboring men of this land. I know what it is to labor. I know what it is to have labor receive the encouragement of the Government it loves. I know what it is to have a public sentiment everywhere speaking the language of patriotism. There is no patriotism that does not center in the laboring men of the country; for it is the industry of the country to which you must look not only for pecuniary aid to Government, but for general sustenance, civilization, and renown. I would say a word about fashions, and the current notions that prevail among moralists, as to the way to get out of these difficulties. I always take notice and listen with great delight to the clergymen of our land. Both moralists and political economists, as a general rule, attribute the disasters of the times to extravagance, and recommend economy as the remedy; that people should economize; and that there have been extravagant expenditures. That, to some extent, is true; but when there is pecuniary revulsion and distress among the laboring classes, it would not be my mode of getting out, to recommend to those who are blessed with affluence that they should economize their expenditures. On the contrary, they should enlarge them for the benefit of those in distress. I know it is a ready way of accounting for trouble to lay everything to extravagance; but I do not believe the resources of any nation in the world were ever crippled by the extravagance of its people, if they laid their money out upon the products of their own country, and the labor of their own countrymen. There would be no distress in Ireland if the landholders spent their rents upon that island.

Sir, this Government is pursuing the same course in reference to our people. Professing to be democratic, they buy clothes made abroad; they import their breadstuffs from Canada; and I saw a notice in the Union yesterday morning that there was a little revival in trade, some increase of the importation of market vegetables from Bermuda. That is your system; buy your marketing in Bermuda, your wheat in Canada, and your clothes in England and France; and that is the way these \$74,000,000 go—not to the people who pay it, but abroad. The people of this country are like the tenantry of Ireland. I do not profess to have any great knowledge on these subjects; but I know the influence of fashion; I know the influence of public men upon public opinion; and I invoke them, and invoke the females of this land, instead of decorating themselves with fabrics from abroad, in times of distress at least, to expend their means in adorning their persons with articles which are the handiwork of their own countrywomen. They can make as fine articles as those made by any women in the world. They may cost a little more; but what of that? If the cost is to be a matter of consideration, buy less of them; but let what is laid out exert a beneficent influence upon our own people.

I say this, Mr. President, in no spirit of a cynic; I am no disciple of Diogenes. I like articles of taste, and like to see people wear them; I recognize the influence of the beautiful in elevating society everywhere, and especially the influence of ladies in our society; but I ask you, sir, if by this exclusive use of foreign fabrics, they are not forgetting the jewel in their care for the casket? Are there not, in times of general distress such as we are passing through, considerations of a higher character than those of mere outward ornament? These are times when, by judiciously employing the skill of their own people, they may send comfort to the homes of many who are destitute, and thus add to the beauty of exterior ornament the internal graces of an Annie Andrews and a Florence Nightingale, which have attracted the admiration of the world.

Sir, if we could individually, as Senators, make up our minds, and if this Government and its em-

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playes would determine, from this hour onward, to countenance and encourage the labor of our people, this would be the last revulsion in the history of this country.

Mr. HUNTER. Mr. President, it is not my purpose, for I am anxious to conclude this question, if we can, to-day, to enter into an elaborate reply to the Senator from Rhode Island; but, in order to show that the point of order which I raised was well taken, I will refer to this provision in his amendment:

"And upon such wholesale market price or value, to include the foreign cost, all charges, duties, and profits, or so much thereof as may enter into and become a part of such wholesale market price or value, the rates of duty must, by the existing laws of the United States at the time of entry of such importation upon each article enumerated in such invoice, shall be assessed and paid."

That is to say, we now impose the duty upon the foreign value, upon the value at the place of shipment, including all the charges of putting the goods on board the ship there; and he proposes that we shall levy the duty upon the market value in New York, including the duty, the profits, the freights, and all these charges. In other words, his proposition is, upon all the high-priced schedules, to raise the tariff, in some instances, I believe higher than it would have been in 1846. Take, for instance, the thirty per cent. schedule, and there are a large number of articles imported in it. He would lay the thirty per cent. duty on the duty, profits, and charges, so that he would raise that more than nine per cent. He would raise the thirty per cent., in that way, to something like forty.

Mr. SIMMONS. The articles that now pay thirty per cent., under the tariff of 1846 paid, some one hundred per cent. and some forty per cent.

Mr. HUNTER. Very well; but those articles the Senator would raise to over forty per cent., because the addition would be nine on the duty alone, to say nothing of the profits and charges. On articles paying twenty-four per cent. duty, he would lay twenty-four per cent. on that duty and charges. That was reduced from thirty to twenty-four per cent., and the result would be that he would raise the duty beyond thirty per cent. On articles now paying nineteen per cent., he would lay the same duty upon the duty, profits, and charges. So that upon all these high schedules, and under these most of the importations are made, he would increase the duty so as to put them back to nearly where they were before. But upon the low-priced schedules, those upon which low duties were laid for the benefit of manufacturers, the increase would be hardly anything. On the four per cent. schedule the increase would not amount to one per cent. Thus he has introduced a cunningly-devised scheme by which there is hardly any increase on the articles which the manufacturer wants, while on those upon which high duties are laid, he gets a very large increase, and so far as sugar and iron are concerned, it will be worse for the consumer under this tariff if his scheme be carried, than it was before; and yet he talks about offering this proposition to prevent frauds on the revenue. That is a question which I do not wish now to go into; I do not wish to go into that unless the Senate shall determine that it is in order to offer such a proposition as this; but I think if I did, it would not be difficult to show that there are ten times, yea twenty times, the opportunities for frauds under such a scheme as this, as there are under the old system. To undertake to value a yard of cloth in New Orleans or in San Francisco at what it would cost in New York, who does not see the difficulties to which such a law as that would subject the importer? But into that question I do not choose now to enter. It is enough for me that this scheme proposes in effect to raise the tariff very largely, that this is a measure to originate revenue, and I hope we shall have the opinion of the Senate whether, under that view, such a measure can be originated here.

Mr. TOOMBS. I feel myself constrained to maintain the point of order raised by my honorable friend from Virginia; while, in the few observations I now intend making, I shall concur very much in the policy proposed by the Senator from Rhode Island. The Constitution says that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other

bills." If this amendment should be added to the bill for borrowing money, which I do not intend to support, this would be the bill by which the taxation of the country in the future would be assessed and collected; and therefore it is a bill for raising revenue. I have not been able to bring my mind to the conclusion that a bill for raising revenue means a bill for increasing the revenue. They are different words, and they mean different things. If a bill were introduced into this body to levy one half the present duties on imports, the objection would be just as good. Suppose a bill were here introduced that all duties now levied on imports should be reduced one half, and all other laws on the subject repealed: that would then be the only law by which taxation should be levied for the support of this Government; and hence it would be a bill for raising revenue; it would be the only bill for raising revenue; and it strikes me that is conclusive on this point. I should be glad if this objection could be got rid of on the present occasion; but this proposition does raise revenue; it does repeal three or four sections of the existing law.

Mr. SIMMONS. It does not repeal any sections.

Mr. TOOMBS. I thought there were certain sections of the old law repealed.

Mr. SIMMONS. No, sir.

Mr. TOOMBS. Whatever it may be, whether it repeals any portion of the existing law or not, if it should be passed, it would be the bill by which revenue would be assessed and collected. The custom-house officer must be guided by this rule prescribed by the supreme power for raising taxes upon imports.

Mr. SEWARD. Only for part.

Mr. TOOMBS. But the essential part. Now my own opinion is that it will increase the revenue, as the Senator from Virginia says, on some things, and diminish it on others; but I do not put my objection on that ground. I cannot vote for it as an amendment to this bill, because it is a proposition to raise revenue. If it had nothing to do with taxing the amount to be paid, and nothing to do with the collection of the revenue, I would go for it; but in its present shape I regard it as a revenue bill, and it is as such a revenue bill if it diminishes revenue as if it increases revenue; and I am not able to see the distinction.

I am sorry that the question has struck me in this light, because I have looked at it rather with a view of being convinced on the other side; for I am quite satisfied that the existing mode of levying the revenues of the country is improper. I believe the views of the Senator from Rhode Island and on the point are correct. I am satisfied that so far as our dutiable imports are concerned, we lose duties upon about one hundred million dollars of goods a year. I should not mind that much if it was a real relief to the people; but it is not. As duties are levied, say upon two thirds of your dutiable articles, allowing one third for undervaluation, that one third will be sold in the market for the same price as the two thirds that pay duty; and therefore it is no ease to the consumer, the tax payer. It is a mere bounty upon fraud, and, as such, I desire to defeat it; and I am willing to confess that I know of no mode that is so proper and so just as a home valuation. My honorable friend from Virginia says it will be a bad rule to adopt, for the valuation at New Orleans and San Francisco, the price at New York. I admit that is rather bad; but I suppose the main object of the Senator from Rhode Island, in making that provision, was to meet objections heretofore made. Some gentlemen from my section of the country supposed it in some form conflicted with the Constitution. I do not think so; but I was very glad that he adopted that rule to meet prejudice, and not argument; for that is all there is in it. It was to meet false opinions upon the great questions of revenue in the past, that ought to be buried with the past.

My reasons for supposing that the revenues of this country are defrauded to an enormous extent, are formed upon a few facts which I can state to the Senate in five minutes. It will appear by reference to the table of the imports of this country for the last three years, that our exports have exceeded our imports to the extent of \$28,000,000. That does not include the earnings of freight or

insurance, or profits upon commodities exported. These are great elements, and they must amount, I think, to twenty-five per cent., certainly not less than twenty. That would give us, on the exportations of \$307,000,000, at least \$62,000,000 per annum. Add that to the \$28,000,000 of excess of exports, and there are \$90,000,000 per annum that our imports are short of our exports. There are but two ways of accounting for this. Have we been doing an unprofitable business in exporting our commodities? I say we have not. On what basis do I say so? During this year, by looking at your tables of exchanges between this country and all the nations of the earth, you will find that the exchanges have been in our favor, and chiefly with the great commercial nation from whom we import the most, England. That is a business which my own pursuits in life have led me closely to examine, because I have a personal interest in it. During all this time, exchange between us and England has been below par. This conclusively shows that we have not done an unprofitable business. The commodities valued at our own ports, sent abroad, have sold for more in foreign ports than they were valued at home. This is evidenced conclusively by the state of the exchanges. That no man can gainsay.

What are the only two elements that can effect this result? We are sometimes told that we have sent our bonds abroad; they do not appear in the exports, and if they did they would enlarge the exports, and, therefore, make a greater difference than the state of the tables, as now presented at the Treasury Department, shows. The dollars we borrow do not appear in the exports, but appear in the imports; because we bring back the value of these bonds in gold and silver, or in commodities; and, therefore, every dollar we borrow should appear in the imports, though it does not in the exports. There is but one other element to interfere with this calculation of mine, and that is the interest which we paid abroad upon previous loans. If our borrowing abroad for these three years was only equal to the interest we paid in the three years, that account ought to be balanced. That it is greatly more, is very clear; because that is subject to another element. All the bonds that have been sent abroad, at a period of revulsion, come home for a market whenever they are higher in New York than in London, because they are the cheapest mode of remittance.

These elements I throw out, and I merely take nakedly from the reports of the Secretary of the Treasury for the last three years the exports and imports of commodities, leaving out the bonds and interest in regard to which, as I have already shown, the balance would be entirely in favor of our own country; that is, we have borrowed more than the amount of our interest on previous loans. I wish it was not so, but it is the truth. Then our imports for the last three years have shown a difference of \$28,000,000, or about \$10,000,000 per annum in our favor. I state it in round numbers rather than exact figures. For the years 1854, 1855, 1856, and 1857, the exports amounted to \$1,239,000,000, averaging \$309,000,000 per annum; and the imports to \$1,243,000,000, averaging \$310,000,000. In 1854 the balance is rather against us. But take the three years 1855, 1856, and 1857: in 1855 the imports were \$261,000,000, and the exports \$275,000,000; in 1856, the imports were \$314,000,000, and the exports \$327,000,000; in 1857, the imports were \$360,000,000, and the exports \$363,000,000. These three years show a difference of \$28,000,000—a surplus of that amount that we have had, exclusive, as I before observed, of the earnings of freight and insurance, and the profits on the exports. Put these at twenty per cent., and we should have above \$60,000,000 besides the \$10,000,000 per annum, making a total of \$70,000,000 a year that our exports have exceeded our imports; and therefore if we bought the same amount in the foreign country, there ought to have been \$70,000,000 more imported than exported, or the trade was a disastrous one, and would ruin the country if it was followed; but I have shown that it was a good trade, because the exchanges were in our favor. Now, what becomes of the \$70,000,000 a year? I want to know if there are not other elements that do not appear in the tables except those I have stated—loans and interest abroad? and I would ask my honorable

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friend from Virginia if he knows of any other element that would disturb the calculation?

Mr. HUNTER. There is another one which I believe does disturb it: that is, smuggling.

Mr. TOOMBS. That may be; but I have looked upon smuggling as a very small item, considering the force we have in the revenue department; and I am sure, if they work faithfully, there ought to be but little of that. I have no doubt, however, there is some of it.

Mr. CAMERON. I would suggest to the Senator from Georgia that the foreign valuation makes up the difference.

Mr. TOOMBS. I am coming to that point; that is the basis of my argument. I say we are cheated to the extent of \$70,000,000 a year; and I want all the elements my friend from Virginia can give me. What will he allow for smuggling? Twenty million dollars a year on the foreign values I think would be a very fair estimate for smuggling.

Mr. COLLAMER. It depends on what you call smuggling. Is it this cheating?

Mr. TOOMBS. No; by smuggling, I mean illicit trade brought in by going around the custom-house. No doubt a great deal of it is done in Vermont, [laughter;] and the Senator ought to be acquainted with it, as he represents a frontier State.

Mr. COLLAMER. There is very little of it since the reciprocity treaty.

Mr. TOOMBS. I should suppose there would have been more. The greatest objection I had to the reciprocity treaty, was that it would increase smuggling; but I confess I have always had a rather tender regard for the smuggler. I thought that, as we brought in all the products of Canada free, the manufactures of England and other countries might be brought in through Canada; and I have no doubt that treaty, instead of diminishing, has increased the facilities for smuggling; because, when you open trade with a country, and bring in a great many articles free, it is very easy to put illegitimate articles with the legitimate; I have no doubt, with no practical information on the subject, simply reasoning, that there is more smuggling than before. I counted that in when I voted for the treaty; and, by the way, I would remark that I find, from the developments of open session here, that very few voted for that treaty, though it got a two thirds vote in the Senate.

Mr. CAMERON. There is nothing to be smuggled now.

Mr. TOOMBS. British manufactures that are subject to a duty of thirty per cent. would pay for smuggling, I think. I have given the statement of difference between the exports and imports, and I believe I have left out none of the elements of the calculation; but I should be glad if any could be suggested. Deducting \$20,000,000 for smuggling, it would leave \$50,000,000 as the extent of undervaluation. I believe it reaches \$100,000,000.

There is another very important element we ought to consider. In the three or four hundred million dollars of imports there is a very large amount of specie and other articles that do not pay duty, and they, of course, will not be smuggled. There is no reason for smuggling any article that does not pay duty; while, on the other hand, there is a motive for increasing its valuation. If a merchant, who wants to sell an article that he imports free of duty, can make the purchaser believe that he gave a great price for it abroad—as, for example, coffee in Rio Janeiro, or tea in China—he can sell better; and the fraudulent man is more apt to put his invoices on free articles up than down. The greatest smuggling will, of course, be in regard to those goods paying the highest duties, except as this is controlled by the facility of smuggling. Of course, a man would smuggle more jewels at ten per cent. than sugar at thirty, because jewels are more easily secreted; but that is the only abatement of the principle which I lay down, that the great body of the undervaluation is upon the highest and most convenient dutiable goods.

Among our imports there are some articles very little liable to undervaluation. Iron, that is brought in by the bonds to which I have alluded, is very little liable to it, because a price current comes with every steamer; the iron men in Eng-

land are in the habit of getting together and fixing the price for thirty days ahead; there is a combination among them. But when you come to textile fabrics, spirits, and wines, where the price cannot be readily ascertained, where it requires skill, and that skill even is defeated by the circumstances of a voyage—for I have been told by importers that wines get drunk as well as those who use them, and this makes very great difficulty in detecting their real value—the case is different. Taking all these elements into consideration, the deficiency is upon goods which bear the highest duty, and the tables show it cannot be less than fifty millions, and I think, on fair principles, it might be shown to be \$100,000,000.

How are we to prevent it? What is the best means? It is notorious to every well informed man, that, as a general rule, there are two invoices sent with every cargo from a foreign country. Custom-house oaths have become a proverb. Everybody knows that you can buy wines from the best cellars in France, for as little money, in New York, as you can in France; and I presume they would not follow the business unless they made money somewhere.

There is another element in reference to *ad valorem* duties, as laid by the act of 1846, which makes undervaluation greatly to the detriment of your own traders. For instance: a man will go to Oporto and buy wines, say at fifty dollars a pipe. He buys them of a merchant in Oporto and ships them in a vessel at that price. Probably the same vessel will carry the same description of wine valued at twenty-five dollars a pipe. Why? It is true it did not cost the merchant in Oporto more than twenty-five dollars: he paid that to the grower, and he pays only half the duty of an honest merchant of this country, who buys his wine there at fifty dollars a pipe. I know of no means on earth, even on the broadest principles of free trade, by which this can be prevented, except by putting the duty upon the value at the place where imported. That can be tested. You have your prices current in New York, Savannah, San Francisco, New Orleans. It takes but a moderate degree of honesty to tell what a thing will sell for in the market among merchants and traders. If there is any better plan than to put the valuation on the article at the place of importation, I do not know it; but if my friend from Virginia can suggest a better one that will defeat the frauds, I shall go for it. I have shown from the tables that there are frauds—frauds greatly to the detriment of the honest trader; frauds greatly to the detriment of the Government revenue, and not in ease and favor of the people. I might put up with the frauds if they only cheated the honest trader or only cheated the Government, especially the latter. I might be reconciled to them if they benefited the people; but they do not benefit the people. If a man who imports one hundred hogsheads of sugar, undervalues the importation to the extent of fifty per cent., so that he actually pays duty on but fifty, the whole hundred will bring the same price in the market necessarily; and therefore the people are not benefited; the Government is not benefited; but the ruin of the honest trader is effected. I want to defeat that. When you levy taxes of five, or ten, or twenty per cent., as long as you lay duties on imports, I want them levied fairly and honestly.

I admit that the argument used by my friend from Rhode Island is a very good one. Believing myself that the best way of levying the revenues of this Government is by indirection—by duties on imports and not by direct taxation; and in that I agree with my honorable friend from Virginia; for, like him, I do not wish to resort to any other mode than indirect taxation. I consider the principle of the act of 1846, as I declared in a speech I made in the House of Representatives when it passed, was to discriminate for the protection of the industry of the country; and as far as that bill did it, it met my approbation then, and does now. I would levy twice the duty on sugar that I would on coffee, because coffee is not raised in this country. I would levy duty on an article raised by my own countrymen. In laying taxes for revenue, I would rather do it so as to benefit my countrymen than put them on what would not benefit them. These are the principles I have acted on through life. I have read and

studied this question as thoroughly as I am capable of, and these are my opinions to-day.

Well, have you a better mode than home valuation? I think this is a fair mode. As to the small difference there might be in selling goods in New York and San Francisco, I do not attach much importance to it. The Senator from Rhode Island has endeavored to get rid of an objection in that respect, and I should like to have it got rid of if possible. It is rather a bungling mode I admit; but I do not believe it is possible to avoid difficulty on that point. Whether it can be done or not, fixing the price of the articles according to their value at the place sold is the only mode I have been able to elaborate, or have heard from others, which will correct this great evil to the honest trader, to the public revenue, or to the people; and therefore I am in favor of it.

Hence I say that I regret that I cannot support this amendment now, because I believe it is a proposition to raise revenue which this body is prevented from originating by the terms of the Constitution. I am willing to admit that the reasons do not exist to-day; but if my ancestors made a provision in the Constitution upon a reason that has passed, I must stand by it as it is. I am well aware of the reasons which led to the insertion of this clause in the Constitution, but they have no application to this country, though our ancestors did not think so. Their idea was taken from the best friends of British liberty, that inasmuch as the Commons were the people who paid the taxes, they wanted to keep the purse-strings always in the hands of the Representatives of the people, and not with the Lords, or the Crown, and they adhered tenaciously and wisely in their day and generation, and considering their form of Government, to that principle; but in a republican Government like ours, where I am as much a representative of the people as any man who sits in the other House, elected by them, interested with them, standing for them, the reason has ceased; but the law exists. Acting upon fallacious ideas, the framers of the Constitution put down this rule for me. I intend to observe it, whatever may be the consequences. Inasmuch as I was compelled to support my honorable friend from Virginia, though in favor of the amendment or principle of my friend from Rhode Island, I have deemed it necessary to say what I have said, that I might not be misconstrued. I was very much obliged to my honorable friend from Kentucky, who introduced the proposition at an early period of the session, and to my friend from Rhode Island for pressing it, and I only wish they had brought it here through that Department of the Government to which it is properly consigned by the Constitution.

Now, a word in reference to the question of expenditure, and I shall no longer detain the Senate. I stated that I would not vote for this bill. Why? I approve the policy which is laid down by the Secretary of the Treasury, and I intend to follow it, and it is because I do approve it that I will not support this loan. I do not intend to vote for the appropriations demanded by the Departments, and therefore I will not raise the money. Those gentlemen who intend to vote for the appropriations, however, may very well vote for this measure. I consider it no statesmanship, I consider it dishonorable for me to vote for estimates here to support the Government, and then to refuse to raise the revenue necessary by loans or taxation, and to go about through the country and stifle about economy. I will act upon no such principle for myself. I will vote to raise by taxation, or by loans, every dollar that I will vote to spend; and, ordinarily, I will vote to raise what my fellows do, until they have transcended a principle I lay down for my action, and which I now desire briefly to state.

When the tariff of 1857 was passed, the revenues from customs were \$63,000,000 a year. In a speech which I made in the place where I now stand, in favor of the bill which received the vote of every man in this body but eight—the Republican, the Democrat, the outsider, all supported it except eight—I avowed that it would reduce the revenues \$15,000,000, and they being then \$63,000,000, that would bring them to \$48,000,000. That was the avowed principle of the supporters of that measure. My own opin-

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ion was that it would yield a revenue of between forty-five and forty-eight million dollars. My honorable friend from Virginia told me the other day that he had a calculation made at the Treasury, and that according to it, the imports of last year under the tariff of 1846, would have produced \$48,000,000 with the present rates of duty. That is exactly what I expected this tariff to do, and by turning to the Globe you will find that I said I expected it would reduce the revenue to \$48,000,000 a year, and therefore I am not disappointed in the money I sought to raise off the people. This tariff will raise exactly what I expected it to raise. I voted to reduce the custom revenues of the country, from \$63,000,000 to \$48,000,000, and adding the proceeds of the lands, we should have fifty-two or fifty-three millions in the Treasury. When I voted for that, I intended to bring the expenditures of this Government down to \$50,000,000, and I intend it now. I have not changed my policy. Then it was a Democratic policy, then it was a Republican policy, then it was a national policy. In the other branch of Congress two thirds of the members of which, when elected, were against the Democratic party, and the outsiders who joined them on the then issues before the country—and a great many gentlemen from my section of the country united with them on the pending issues then with regard to their essential rights, but, put them all together, there were two thirds of that body against the Democratic party, and by a majority of fifty-four, including I believe every Democrat, as far as I know, this tariff bill was passed. It met the support of the Senate, consisting of about two thirds Democrats, and of the House of Representatives of two thirds Opposition. I looked upon it as a fair national policy. It struck me as a matter to rejoice at, and I have alluded to it before my constituents in Georgia. I thought it was a harbinger of better times; I thought it was a lesson of wisdom, that Massachusetts, that sternest friend of the protective system, upon which twenty years before a large portion of the people of my country were ready to dissolve the Union, voted side by side with South Carolina upon a system of revenue; for the Senators representing those Commonwealths both voted together on that point.

I intended to bring your revenues to that point, and to bring your expenses to that point. I had considered the question, and I gave in my place my reason for supporting the measure to be, that it was a reduction of public taxes. It has, therefore, produced precisely what I supposed it would; but its operation has been disturbed by a commercial revulsion. The honorable Secretary of the Treasury tells us we shall get but \$41,000,000 this year on that account; and therefore he is \$7,000,000 short of my calculation. To that extent I will borrow money, if it is a temporary deficiency; and we have already borrowed to the amount of \$20,000,000 by Treasury notes.

There is another element. If there was an extraordinary temporary expenditure, I would borrow for that, for there are two disturbing elements. I will borrow for a deficiency of revenue from temporary and extraordinary causes, and I will borrow for temporary and extraordinary expenditures. I have accounted for the extraordinary deficiencies—only \$7,000,000 below my own estimate. What are the extraordinary expenditures? Very reluctantly, and I must say, on further consideration, with great regret—though I voted against the bill finally, when you had struck off some amendments of small amount—I voted for the estimates for the Army in the deficiency bill; but having done that, I intend to raise the means, and we have done it. That bill amounted to \$9,000,000, and, adding \$7,000,000 for the deficiency of revenue, you have \$16,000,000 to be provided for. A bill for \$20,000,000 of Treasury notes passed before I came here, thus more than providing for the deficiencies arising from these extraordinary causes—principally the Utah war, as it was called, but by others it was more justly called the contractors' war. It seemed at one time to be regarded as likely to be a formidable one, for the Secretary of War wanted five regiments, and the Military Committee wanted nearly as many; but, according to the statement of the chairman of the Committee on Finance, we have

probably got rid of that expense. It is true Congress subsequently provided for raising three regiments of volunteers. Now it is in our power not to call them out, and I will not call them out. In my opinion, we have more troops in the field than we have use for. The Utah war has passed; I never believed it had an existence; I believed it was got up on false rumors; I believed it was got up by contractors; I believed it was got up for the sole purpose of a foray on the Treasury, and not on Salt Lake City. It will partially answer that purpose, but I wish to stop it when I can.

Then having borrowed all the money which the revenue fell below my estimates, and having provided for all the extraordinary expenses, I will not go further. I do not look on the extraordinary expenses in the light of my honorable friend, the Secretary of the Treasury, in whose ability and integrity I have the most unlimited confidence; and I am quite satisfied that if all the Departments of the Government brought their estimates as rigidly within the wants of the Government as he did, this loan would not have been demanded. But, however that may be, my duty as a Senator is to take care of the interests of the people. That is my first business, and that I intend to do. Having raised enough to meet the deficiency in the revenue, and enough to meet the extraordinary expenses, I will not raise another dime. The Army has been carried up under the discretion vested in the President, in reference to frontier posts, to sixteen or seventeen thousand men. I do not believe there ought to be any of them, or at least, not beyond the ten thousand men we had a few years ago. They have got up a quartermaster's department that is magnificent for spending money, but for nothing else. As to the appropriations for volunteers, I will not vote a dime for them. The Government can reduce the quartermaster's department, and I wish to reduce wherever I can.

I understand my friends here have got into a difficulty with England, and that is made an excuse. Well, sir, she has acted very badly, and nothing would have given me more pleasure at any time for ten years past, than a war with England. We have had cause of war for the last ten years, and I think it has been a scandal to this people that we have not had it. So I am always ready for it. If I have not got the particular reason you have, I have other reasons: she interferes with our business; and, therefore, whenever you want to fight her, put me in for one chance. I am ready for that at any time, but I do not think there are half as many difficulties growing out of these questions of war, as people generally imagine. They say they want to build more ships. I am willing to give great efficiency to the Army and Navy, but I find that the same troops we kept up twenty years ago, now cost us twice the money; and I find that when we have run our Navy up from \$3,000,000 to \$16,000,000 a year, we do not float a single additional gun. England is kicking you all over your own neighborhood, here in the Gulf of Mexico, that ought to be a *mare clausum*. It is our sea, and that ought to be a sufficient right to keep her out of it. While she is searching your ships, and kicking you out of your own water, the best public ship in the world, the best in your Navy, certainly, is toting her cable from one of her dependencies to the other. I think you had better have it down in the Gulf protecting your commerce. At the very moment your vessels are being searched, disgraced, fired into, spit upon, right here in sight of your own coast, by British gun-boats, the best ship in the American Navy is engaged in laying down a cable to connect two British possessions. Gentlemen must excuse me from that expense. I will not submit to it.

I will bring the force of the country where it is needed to protect its honor; I will give every dime that is necessary to protect the honor and the safety of my country; I will throw in its purse, and I would throw its people even in the fiery furnace, to its maintenance; but such occasions are merely made excuses and pretexts for an increase of the public expenses. I suppose when Congress has voted six sloops and ten gun-boats, we shall receive an apology: they will have got the money and we shall have the insult pocketed.

That is the way it will turn out. Well, sir, I have been fooled so before, and I do not intend to submit to it. I will not pay. You will not get up ships now soon enough, unless you make war. As to the idea of building your ships with a view of going to war, I think that is bad policy. I know I am running against great authority, but I think it is much better to get ready to fight when you have a fight on hand. You have the men; you have the money; you have the materials to build ships; and if you are fit to defend yourselves, you will do it, and I have no doubt the country is fit to do it. It has all the materials of war; and when you want the mere instruments of war, (cannon and ships,) you can make them as quick as the enemy can get to you, or as quick as is necessary to defend your honor in the cheapest way.

There being no war, I do not intend to raise a false cry of war, to make a foray on the Treasury. I do not want to do it with regard to Utah or England. If you want to fight England, I am with you, and will give you plenty of money to do it. I say you have plenty of cause to do it. It is a shame that you allow her to come to your own seas, fire into your own vessels, and search them. The Government ought to send a force to the Gulf, and seize the vessels committing these outrages, and either sink them or bring them to our ports and hang the officers. If the Government of England does not authorize it, let us have somebody to hold accountable; but as for their apologizing to us, I suppose I could take a wringing of the nose patiently once, with a decent excuse, if it was by a mistake; but I do not think I could keep taking them. I suppose we have had about twenty such cases in the Gulf of Mexico, and I think it is time to stop that business. I think it is time for us to have something to apologize for ourselves; and I am willing to make an occasion for an apology, and I will apologize when I have got satisfaction. It is becoming my honor to do it then. If I have sunk the enemy's ships, I can make an apology respectably. But all these things are to be made now excuses for increasing the revenue. I cannot do it. If you want war, say so, and I will give you war supplies; if you want peace, I will give you peace supplies; but everywhere there can be retrenchment. When I voted to reduce the revenue, I intended retrenchment, and I did not intend to carry the ordinary expenses of this Government over \$50,000,000 last year, and I do not intend to do it now; and therefore I must tell my honorable friend from Virginia that I will vote for none of his loan bills.

Mr. HUNTER. Mr. President—

Mr. SEWARD. Will the honorable Senator give way for a motion to adjourn?

Mr. HUNTER. No, sir; I have not a great deal to say, and I still hope that perhaps we may get the question this evening. Mr. President, my friend from Georgia, in the course of his remarks, it seems to me, has made some unjust strictures on the *ad valorem* system, founded, as I think, on a mistaken comparison between the imports and exports. In the first place, he wishes to ascertain whether we receive as much back, in the shape of imports, as we export, or whether our official tables show the same amount returned in imports as we send out in exports. He ought to take the exports at the market value of the country into which they are sent, compared with the imports at their market value here. Instead of being contented with that, he adds to the exports the profit on that side, and says nothing of the profit to be put on the foreign value of the imports when they come here. But be that as it may, he seems to think that if there be this difference, there is no other way of accounting for it except by under valuation. He allows nothing for smuggling; he laughs at the idea that we can be cheated in that way, while he thinks it is palpable, and easy to prove, that we can in the other. Now, sir, I submit that with such a coast as we have, with the long, unguarded frontier between this country and Canada, from which they can bring in manufactured goods at any time without paying duties, if they choose to do so, it is far easier to smuggle than it is to deceive the appraisers by under valuation.

Sir, what system could we establish that would

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be better calculated to prevent fraud than the identical system we now have, and which has been in force since the institution of this Government? We take the foreign value, and we submit that to experts who are appraisers. If the invoice show that it is under the foreign valuation—and with that they are acquainted by information from the consul, and by prices-current—they have a right to put it up; and if, in their opinion, the invoice is to be put up more than ten per cent., the importer forfeits twenty per cent. If the invoice shows such an undervaluation as to amount to fraud, the cargo is subject to seizure, and the vigilant custom-house officers who thus subject it to seizure are entitled to a portion of the fines and penalties as their reward.

We have, under the present system, as a check upon fraud, first the foreign invoice; then the opinion of the appraisers, from whom an appeal can be taken, if necessary, to the merchant appraisers and the appraisers-general with regard to the value; and they have the power, if they believe an article is undervalued, to put this up; and if the decision of the appraisers be, as I said before, that it was undervalued more than ten per cent., the importer forfeits twenty per cent. With all these means of detecting fraud and all these safeguards against it, is it reasonable to suppose that we should be cheated by the undervaluations of goods which thus pass through the hands of skillful and expert men, than that we should be cheated by smuggling goods into the country? The temptation is greater to the one than to the other, because the profit is greater; and it is perfectly true that the smuggling would only be upon goods which paid duty, as the undervaluation would be; but I do not see what that proves in the argument. I believe, that whenever we come to compare the present system, which is the system founded at the very origin of the Government, with any other that is proposed to be substituted in its place, it will be found to be fairer than any other which can be substituted for it. If you take specific duties, there is as much chance for being deceived in regard to the quality as there is in regard to the value under the present system. If you take a home valuation, you either have it impracticable, as in this scheme of the Senator from Rhode Island, or else you have it unconstitutional, for the Constitution does provide that you shall give no preference to the ports of one State over those of another. Will the Senator say that it is no preference given to the ports of one State when you impose on an article imported from Liverpool into New York only the lesser costs and charges of freight, &c., and impose upon the article imported from the same place into New Orleans the greater costs and charges? This difference of freight constitutes an immense element in the value. Take, for instance, goods carried to San Francisco from England; the freight enters as an immense element into the value of the coarser and the cheaper varieties of goods.

I believe, then, that whenever the comparison shall come to be fairly instituted, it will be found that the present system, which has been approved by experience, and which has been improved by practice, will be found to be safer than that which may be proposed to be substituted for it. Why, sir, how can it be said that it is easier to ascertain the market price in New Orleans, or New York, or Boston, or Baltimore, than it would be for skillful and expert men to ascertain the market prices in Liverpool or in Havre, when they come to be tested as the laws and regulations of our country require them to be tested?

But, as I said before, Mr. President, I am anxious to get this question. I will not enter into the general argument, but merely say so much by way of caveat; for when the question does come up, I, for one, shall be ready to enter into it; and I believe it will be easy to show that the present system is a fairer system than that which is proposed to be substituted for it. But it seems to me to be so obvious that this amendment is one which cannot now be entertained, by reason of the constitutional objections which I have raised—not because we cannot entertain a thing which is unconstitutional, but because it is contrary to a constitutional rule of order—that it can hardly be necessary for me to go beyond that question itself.

It does, as my friend, the Senator from Georgia, has said, give us a new revenue system. It does originate a revenue bill, and for that reason I think ought not to be entertained. At least, I hope we shall take the sense of the Senate upon that question before we go further into the debate.

Mr. SEWARD. I am totally at a loss to understand how the question of the constitutional power of the Senate to pass this amendment becomes a question of order. There must always be, as the jurisdiction of the Senate is limited, a question in every case, if any one shall see fit to raise it, whether any action proposed is constitutional or not. There is no rule of order of the Senate that they shall first determine what is consistent with the Constitution and what is inconsistent with it. That is a question which goes to the final passage of every bill, and every amendment to every bill that is proposed. This is not a court of law in which a plea to the jurisdiction or a plea in abatement may be interposed before a trial upon the merits; but every bill goes through its three consecutive readings, and at every stage a question may be raised whether the Senate of the United States have power to perform the act which is proposed. I therefore see nothing to be gained by interposing this question.

Mr. President, I am equally at a loss to understand how it is that it is fancied that this amendment conflicts with the constitutional power of the Senate. The British constitution, which was before the framers of our own when ours was made, provided that all money bills should originate in the House of Commons. The money bills included bills for the expenditure of moneys as well as bills for the levying of taxes or the raising of money. The framers of our Constitution left to the Senate, between which and the House of Lords they imagined a kind of resemblance, the power to originate bills for the appropriation of moneys, and to amend all bills which were proposed to them for the raising of moneys, leaving to the House of Representatives nothing peculiar and exclusive in regard to money bills except the right to originate, which is of quite little value, because their bills can be changed by the Senate; and a bill which levies a tax of one per cent. as originated in the House of Representatives, may be raised by amendments in the Senate so as to levy a tax of one hundred per cent. on any article, or a bill proposing to levy \$1,000,000 when it originates in the House of Representatives and passes there, may be made in the Senate a bill to raise \$100,000,000, and sent back to the House of Representatives in that form. Nothing is left to the House of Representatives, then, that is exclusive in regard to this question, except the power to originate the bill.

Now, here is a proposition which does not propose in any way to levy any tax whatever. Our imposts upon foreign commerce are regulated by a tariff which imposes a duty of thirty per cent. on one class of articles, twenty-four per cent. upon another, and nineteen per cent. upon another, and four per cent. upon another, and which bill specifies in what class every article that is or can be imported into the United States shall fall. If we add this amendment to this bill and pass it, we do not tax one article more than it is already taxed, nor do we impose upon any article that is taxable by the existing law a duty of one per cent. more, or one fraction of one per cent. more, than the duty which is already imposed upon it. What is it, then, that we do? We propose to amend the details of the imposition and collection of these duties, and nothing more. Suppose, on this question of undervaluation, that, having ascertained that goods are undervalued at the custom-house, we, in passing this bill, should think that we might guard against that fraudulent undervaluation by directing that the shipmaster should take an oath different from the one which he now takes, or that the collector at the custom-house or the tidewater should be sworn? Have we not a right to amend the oath? Suppose it should appear that, although the oaths are prescribed by the existing laws to secure an honest and just collection of the revenue, yet that, owing to some default in our law, the punishment denounced against them cannot be enforced: could we not amend the system by an amendment to this bill which would enforce the penalties or punishments for the tak-

ing of oaths falsely and fraudulently? Suppose we should ascertain there was a place near to the vessel to which goods were taken from on board ship, and were concealed, hidden; could we not in this bill amend the law, so as to prevent that concealment?

I state these illustrations for the purpose of showing that what is proposed here is a mere detail; and the fact that the price, or cost, or valuation of the article is to be affected by the amendment which is proposed, does not at all take it out of the class of details for the collection of the revenue which I have described. Let us suppose that instead of fraudulent undervaluation, there was a fraudulent misstatement of weights or measures; that frauds were committed by passing off a hundred pounds of any given article, or a hundred gallons, under a fraudulent representation that there were fifty of either, could we not in this bill guard against frauds thus misrepresenting weights and measures? It is precisely in the same class with them.

I am, therefore, unable to see how it is that this constitutional question is supposed to arise here. Something has been said by the honorable Senator from Virginia about a parallel case which occurred in the year 1844. I can only say that if the Senate was constituted then as it is now—and I suppose it was very much the same thing then as now, and always will be—probably the interests or passions of the hour influenced the determination which was then arrived at, and that at least, with the lapse of time and the increase of human knowledge, we are quite as well prepared to decide a constitutional question to-day as the Senate of the United States was in 1844.

I have but one word to say to enforce the peculiar propriety of this provision as an amendment of the present bill. We are brought to the necessity of raising \$15,000,000 by a loan. I think it has been demonstrated with great success, with triumphant success, by the honorable Senator from Rhode Island, that the passage of the provision he offers will save to the Treasury, in one year, one half of the whole amount which it is proposed to borrow. I have no doubt that will be the effect of it; and that, year after year, we shall save the same sum.

The honorable Senator from Virginia thinks that, on this side of the House, we misestimate the loss which the Treasury sustains by these frauds; that we ought to take into account the loss which occurs by smuggling. We must lose by smuggling so long as we maintain the system of indirect taxation; for smuggling has been incident, from the beginning of the world to this day, to every system of taxation on imports from foreign countries. But because we lose so much by smuggling, which we cannot prevent, is it necessary to enhance the loss perpetually by adding the loss sustained by fraudulent valuations?

The time, the place, the circumstance, everything, seems to commend this proposition to the acceptance of the Senate and of Congress; and, if there was any confirmation of the argument of the Senator from Rhode Island necessary, there is one circumstance to which he alluded, but did not fully enforce, and that is the fact that the importation of foreign merchandise in our great cities has fallen altogether, or nearly so, exclusively into the hands of foreigners; that they have control of the importations of foreign merchandise, by reason of the fact that they have skill in manipulating the invoices, so as to exclude our own citizens from this most important branch of commerce.

Mr. STUART. This, sir, is certainly a very important question in either aspect—one upon which I should have been very glad to submit some views myself; but I think it has been very fully elucidated by the Senators who have participated in the debate. I shall therefore refrain from going into any discussion here at all, in the hope that, in view of the shortness of the session, and the many important subjects which we have before us, which we are all anxious to dispose of, we may be able to get a vote on this question to-day. I make this suggestion with great respect to others, but in the earnest hope that we may dispose of this matter to-day.

Mr. CRITTENDEN. Mr. President, if I understand the object and effect of this measure, it

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may be summed up in a very few words. It is to substitute a home valuation on dutiable articles for the foreign valuation on which we now assess the duties. That is the great object. The objection to it is, that in the first place, it is unconstitutional, that it conflicts with that provision of the Constitution which declares that bills for raising revenue shall originate in the other House. It seems to me that no just construction of these terms can exclude the Senate from the power of making any changes or alterations in the mode of collection, although the effect of those changes may be either to diminish or to enhance the revenue. Still they are different subjects of legislation. Nothing can be more distinct than the revenue which is collected, and the means or system which you employ for its collection. On one subject only are you inhibited, and that is, from originating a bill of revenue. We may originate a bill here altogether altering and changing the laws which constitute our system for the collection of the revenue. The revenue and the system of laws for its collection are distinct and separate things. We are only precluded from originating bills for raising revenue.

But can this provision offered by the Senator from Rhode Island be brought within the prohibition contained in that section—the prohibition upon the Senate? If a gentleman shall trace out the change in the mode of collection, and show that it would, by preventing frauds or otherwise, increase the amount of revenue, can he therefore on this construction turn around and say, "You cannot change the mode of collection; that is beyond your constitutional power?" By this sort of construction, how much power might be brought within the influence of this clause of the Constitution, and how might the force of the Senate upon many questions of legislation be withered and made entirely nugatory? Can you do nothing to increase the commerce of the country, to encourage industry, to increase its importations and its exportations, because thereby the revenue would be increased? Can you not change the mode of collection, or adopt any other means within your competency and the wisdom of the Senate to increase the revenue by increasing the subjects of commerce, the amount of importations and exportations? Why might not gentlemen, by the same sort of construction of the Constitution, bring all these subjects within the influence of this provision of the Constitution? Sir, where is the policy, where is the propriety of the Senate of the United States making this sort of construction, and then construing these constructions, and extending and widening out this prohibition as far as possible? Why should we be guilty of this species of industry merely for the purpose of circumscribing our powers?

It is the privilege of the House of Representatives, if we infract our duties and undertake to originate bills of revenue or bills that can be fairly considered as conflicting with their power of originating bills of revenue, to take the exception; but if we add all the exceptions which may be taken here to serve a particular purpose on a particular occasion, and the House of Representatives sets up pretensions there, between the parliamentary doctrines which may be urged here on a particular occasion and the pretensions which may be got up in the popular branch of the Legislature, what is to become of the power of the Senate? Sir, I will give to this provision of the Constitution as strictly fair and as fairly strict construction as I can; but, by mere construction, I will not divest the Senate even of a doubtful and questionable power. If it is a doubtful one, there is no necessity for us to surrender it at discretion—make a voluntary surrender. If the House of Representatives can find in it any encroachment on their privileges, let them make the objection, let them take the exception. I do not think there is any fair ground of exception here or there; but if there was any constitutional question presented now to the Senate and involved in this amendment, I confess my surprise that it is attempted to reduce that question to a mere question of order. Questions of order are generally summarily decided. They relate merely to the proceedings of the Senate. When was it thought of before that upon every bill which might be introduced here, a question of order may be made and the Presid-

ing Officer called upon to decide that point of order, involving, in that very decision, whether it is constitutional or not? Suppose you were to put the question of order, which is still persisted in: sir, how would you put it? "The question is: is this amendment constitutional or not?" When was such a question ever heard of as being put otherwise than when you come to vote upon the passage of a bill, from one stage to another, or upon its final passage? That is the solemn decision which every constitutional question must have. Suppose, upon putting it in that way, a majority could be found in the Senate to decide that it was a question of order, whether a bill, or any particular provision of a bill, was constitutional. The Senate, then, having settled the question, when the next bill comes forward and the same point is raised, who is to settle it? It has been already determined that it is a question of order; then it devolves on the President of this body to decide; and although, in the first instance, it being a new question, it is referred to the body to decide it, yet, if it be a question of order, it is the business of whoever occupies your chair to settle it, and if that question should again occur to-day on another bill, is it to be continually referred to the Senate? Questions of order are a proper subject of decision by the Presiding Officer. If this is decided to be a legitimate course of proceeding, the gentleman who occupies the chair must decide it in the next case, and the next. To be sure, there is a right of appeal; but this summary decision is on the most important question we can have in our legislation. It is no question of order; it is a solemn decision to be made upon the final disposition the Senate makes of any question submitted to it, and cannot be brought within the range of that summary authority which is to be exercised by the Presiding Officer. Questions of order are hastily sprung; and should be decided summarily and promptly, in order that business may proceed; and if this summary jurisdiction of the Chair is to be extended to embrace all constitutional questions, we shall be eternally debating abstract questions, whether a bill is constitutional or not; and then, when we come finally to act upon it, every Senator will vote according to his own final judgment and opinion. What do we gain by deciding that it is unconstitutional? Nothing at all. It is a question of a much more important and serious character.

But, sir, I have said more than I intended on this subject, and I shall detain the Senate but a short time longer. I agree with my honorable friend from Georgia in every position he has taken in regard to the merits of this amendment, and I feel gratified at having his concurrence in these provisions. A home valuation is the only fair and safe one. To say that we cannot have one that will be fair under our Constitution, is to suppose our Constitution a failure. There is nothing in the Constitution to intimate that we are to look to a foreign country to furnish us with the means of making up that uniform value to which taxation is to be applied throughout the United States, upon all imported goods. It is to be uniform; no preference is to be given. Why cannot we tax that uniform value here? There is no reason why we cannot. It may be more difficult, but that does not show that it cannot be done. It may be more easy, and I think it is. If fairness is one of the objects to be attained by valuation, if prevention of fraud is to be an object, undoubtedly it is the best means of countervailing fraud. Every Secretary of the Treasury who has spoken on this subject tells you that the foreign valuation is the source of frauds, to a vast extent, upon the revenue of the country. We know it. The gentleman from Georgia has demonstrated that from fifty to one hundred million dollars of the goods imported into this country are left out in the valuation to which we apply our taxes. Shall we not, then, in the face of this state of things, endeavor to counteract this great evil—a fraud upon our Treasury, a fraud upon every fair competitor in carrying on the commerce of the United States, a fraud upon the people to whom these goods are sold for the same prices as if they had paid the duty? It is nothing but a fraud in all its characteristics and in all its operations. It is a fraud upon the industry of your country; it is a fraud upon every man engaged in the production of the

same articles here, thus cheapening the products of his labor.

The effect of this measure, I presume, will be, of course, to enhance the aggregate of duties which we are to collect; but still the rate of taxation is the same. It is only an enforcement, and a fair and thorough enforcement, of the laws which now exist. Suppose we were to look for analogies to what occurs in our States; I will take the State of Kentucky, for instance. A great deal of live stock is imported from Europe into the United States. Suppose a gentleman who is applied to by the tax-gatherer, in Kentucky, where taxes are paid according to the value of the property, was to say: "Now, sir, make up the value by taking the price of this animal in England; I got him on board the vessel for so much, and that is all I will pay taxes on." He would be answered: "That is not the rule we apply." We find out the home valuation, and, if he does not value his animal at a proper price, the tax-collector does, and he pays it. That, in its simplest form, is the justice of the case, and that is the proper rule for taxation. A home valuation only applies the principle, in that simple case, to this more complex one—that is all.

These frauds affect our revenue. They affect the industry of our country. I want to give that industry every advancement I can, and set our people to work. Labor is the source of all value—of all property. Why has not your commerce increased? Why has it not revived according to the calculations of the Secretary of the Treasury? Because that labor which is productive, that labor which consumes, has been paralyzed, and is not able to sustain itself as it used to do; is not able to purchase as much. That must be one of the causes. Money is abundant in the country; we have a great many wealthy men able to buy; but yet the demand for foreign goods is diminished, and continues at a lower rate than has been estimated by all calculators on the subject. Why? Because that great fund, amounting to millions and hundreds of millions, the product of the labor of the laboring men of the country, has been paralyzed, and they are yet unrewarded for their labor to such an extent as to enable them to be the consumers of goods. That far the demand is diminished; and that far, of course, the supply is diminished. I venture to say that the commerce of the country will increase just exactly in proportion as you set the wages of the laboring class of our countrymen everywhere increase; I do not mean mere mechanical labor, but agricultural labor and every sort of labor. When that comes to its reward, when that is fairly remunerated, the parties remunerated will be able to purchase foreign goods, and then commerce will supply them, and then commerce will revive.

Now, sir, we must set the hand of industry into activity. We have the means of doing it abundantly, as I am induced to believe by my friend from Rhode Island, who is my pilot on this subject. Any fair and just revenue, collected with proper discrimination upon foreign goods for the supply of the Treasury, will furnish, by fair, incidental operation, all the protection which the labor of this country now wants. It will set the men of Pennsylvania to work; her hills and her valleys will pour forth their treasures of coal and of iron, and the labor of the country everywhere will rise up and enrich and strengthen our land. That is our great resource. That is the great source from which our strength and our greatness are to come. Yet we find the Government admitting and tolerating these frauds in our foreign commerce, thus checking the hand of industry; checking the progress which, as a nation, we ought to be making in all that relates to the development of the natural resources of our own country and our own labor. Sir, I want to see something done in this direction. I think we can do it without offense to any, without offending any principle that has ever been announced, North or South, to our own general and universal benefit.

I agree with my friend from Georgia, that the expenditures of this Government ought to be, and must be, diminished. Instead of that, they have increased, and are increasing. Another thing must be done. Public prodigality, public extravagance, is public profligacy—they are one and the same thing. If we want to preserve our Government,

if we want to protect ourselves against exorbitant impositions and taxations, we must put a stop to this. The honorable Senator from Tennessee [Mr. Johnson] said, the other day, that our expenses had become enormous; that they were increasing; that they ought to be diminished; that they were leading to corruption, and making this Government one of the most corrupt in the world; that he would reiterate these declarations and these lessons in the ears of his countrymen on all occasions. I hope he will go on to do so.

It is within the recollection of every gentleman here that a great outcry was made against Mr. Adams's administration, but a short while ago, for expending, upon an average, thirteen million or fourteen million dollars a year to carry on this Government; but under a Democratic rule almost ever since, Democracy has increased the expenses of this Government from thirteen million dollars until they are now over seventy million dollars, which is the least sum computed as necessary for the annual expenses of this Government. In this last year you have spent, as has been shown, if there is any truth in arithmetic, \$37,000,000 more than your revenue of \$48,000,000—I speak in general numbers, not exactly according to the figures. We are approaching another year, and before we set our feet upon the threshold of that coming year, before its first hour has come, we are met by a demand for a loan of \$15,000,000 to commence with; and when a proposition is made to accompany it which has the effect of increasing the revenue, the Senator from Virginia denounces it as raising revenue contrary to the provisions of the Constitution, which forbid us to originate a bill for raising revenue. Sir, ought we not to begin to look about and see how we are to redeem the debts that we are contracting so rapidly? When the first loan of \$20,000,000 was applied for, at the beginning of the session, I thought and said then that we should accompany the measure for incurring the debt with some measure for its redemption. That was not listened to. You have come again, at the same session, for another loan; and yet a feeble hope is expressed that our revenue need not be increased—that it will increase itself when commerce revives. The Senator from Georgia tells you that he never estimated that your present revenue law would produce you more than fifty millions. How are you, out of that \$50,000,000, to pay the current expenses of the Government and accumulate a fund to pay off the debts you have contracted? We are dreaming, sir. These calculations are such stuff as dreams are made of, and nothing better. We sit down idly, and borrow and borrow money from day to day—two loans in one session, and they only to provide for six months. The times are such that no calculation can be made for distant periods. Our Secretary does not venture upon them, wisely and prudently enough. We are like a man borrowing money to go to market every day, hawking about our credit from one year's end to another to raise money to defray the ordinary expenses of the Government; and yet those who manage the affairs of the Treasury turn a deaf ear to every proposition for increasing our revenue for the purpose of meeting these extraordinary demands.

Sir, has it not been demonstrated, and is it not demonstrable that in the next year you will require \$100,000,000 to defray the expenses of the Government, and pay off the \$20,000,000 you have borrowed? The Government has estimated for over seventy millions. That will be increased. The current expenses of the next year, according to appropriations, and according to estimates, will not be less than eighty million dollars. The \$20,000,000 of Treasury notes to be redeemed, will make \$100,000,000 to be met; and in the face of these circumstances, gentlemen put aside the disagreeable necessity of making provision for payment, by saying trade will revive, and the revenue will enable us to go on in our course of expenditure, and give us a fund to pay all these debts. I do not believe any such thing; but I think the fair, honest, and bold way is at once to face the difficulty. It is idle to blame the past for what has been done. What has been done, has been done. We are in debt. We want \$100,000,000 next year, and we are relying upon a revenue that will bring \$50,000,000. That is not provident or wise, I think; and I vote

for the amendment, because, though it is not, in the sense of the Constitution, a revenue bill, yet by a better means of collection and valuation which it applies, it makes the same rate of taxation more productive. Though it does no more than affect the system of collection, and therefore steers clear of the Constitution, which says that bills for revenue shall not originate in the Senate, I vote for it because it prevents cheating; and because, by preventing cheating, it makes the amount of duty larger on foreign goods, increases their value, and to that extent affords an encouragement to the labor of our own country. I look to that also.

Sir, I do not know that any application has been made to us to increase the revenues of the country in anticipation of a war with England. If the accounts we have received of wrongs and insults committed on the commerce of the country, in the Gulf of Mexico, by British cruisers, be true, I think we ought to be prepared and ready to resist them to extremity, and the utmost extremity, of honorable warfare. I am of no belligerent temper; I want the peace of the world and the peace of nations preserved; but I do not want to see it preserved if it can only be preserved at the sacrifice of the rights and honor of this country. I consider it a great aggravation of these wrongs, a great aggravation of the insults, that they are committed in our own face, as it were, right on our own coast. If these wrongs be vindicated, and be avowed and justified by England, I see no peaceful escape for us but in pusillanimity and disgrace. I would no longer dispute with England about any error of her abstract doctrine as to the right of search or right of visitation. The war of words is over; the argument is exhausted. I care not what title she pleases to give to the principle she contends for; I care not from what ancient records, or what ancient pretensions she derives it. She may indulge her own theory, and pride herself in her own pretensions as long as she pleases; but the moment she, under color of them, or under any other color, commits an act of aggression on our rights, an aggression on our honor, I will fight her with effect. She may have the argument on the principle; I make no war on that; I leave her to distinguish between the principle which she will not renounce, and the act which she cannot justify. I will not quarrel with her about the principle, or her laws and rights on the sea, though we have our own notions about them. Our vessels engaged in lawful commerce on the seas are not to be called and stopped on their way. The summons of the British cannon shall not make one of them change her course, and command her to give an account of herself. No, sir; that is a state of degradation and disgrace to which I will not see my countrymen reduced, if it can be prevented by any extremity of war. I am ready for it whenever that necessity shall come. I want to raise up no belligerent feeling in the country. My policy, like my feelings, is all for the preservation of the peace and harmony of the world, as most advantageous to its liberties, and most advantageous to the prosperity and advancement of mankind; but war is not the worst thing in the world. The silent submission to wrong, or puling about it awhile until it is forgotten, and then letting it pass—that is not the way in which this brave nation should act. No, sir; her honor, her character, her rights as a people, must not be allowed to be violated with impunity. I will vote, then, with my honorable friend from Georgia on that point, when that time shall come. I hope that time is far distant. I believe the British Government will disavow the act, and will give us atonement, as we have a right to expect, and that she will make all the atonement which the honor and rights of the United States of America require. I believe she will do it. I cannot think it possible that she will justify the aggressive and offensive attack that has been pursued by her cruisers in the Gulf of Mexico in all these cases.

I am happy to agree with my friend from Rhode Island, and my friend from Georgia, as with all those who have spoken upon the subject who have spoken in favor of this amendment, and with some of those who are not in favor of it. I have not usually been so exceedingly cautious, perhaps, as I ought to be in regard to the expenditures. I

have been willing to trust the Administration—every Administration. Constitutionally they have, to some extent, a claim upon our confidence. Personally I am willing to give it. Then, again, there is the risk of necessity. Those who have the machine in their hands, those who manage it, and those who work it, say it must stop unless you give so much money. I say it is prodigal to demand so much money; that you have abused the public confidence, and wasted the public money; but still the machine must not stop, and I must give the money.

Sir, you talk about reform. The White House is the center from which all economy and all reforms must proceed. As long as that great head of the Government shall abstain from applying himself to the work of reform we cannot do it. What do I know about the estimates that the Government send to me here? What do my brother Senators know about these estimates in any sense whatever? Very little; very little indeed.

I have reason to believe that everything this Government wants to purchase costs them an enormous price—not for want of fairness in the administration of our Government, but on account of the men who come around them and make these contracts, and they have to pay the highest price for everything. There can be no economy unless it begins there. You can have no system of economy unless it comes from there. You will have bills for deficiencies, you will have extravagances and money badly laid out, unless you can get a system of economy which shall proceed from the executive officers who control and manage the disbursements. We may stop the wheels of Government by refusing to allow them money, but that is a dreadful remedy—a remedy worse than the disease. You submit to the disease rather than make the fearful experiment of stopping the Government, and yet you cannot, for the soul of you, make those estimates and make those calculations which would enable us to see what is the minimum sum for which this Government can be respectably administered. You can know it only by historic fact. You know that twenty-five or thirty years ago the Government was administered for thirteen or fourteen million dollars. You know that during the Mexican war it was administered, with all the war expenses, at \$48,000,000. You see the annual expenditures now, in time of peace, without extraordinary causes, increased to seventy-five or eighty million dollars. You see the estimates for the next year, when all those extraordinary causes have passed away, and what are to be our expenditures next year? Eighty million dollars for current expenses, and \$20,000,000 added for sums anticipated by loans and by Treasury notes, making, altogether, \$100,000,000.

I agree that the progress of the expenses of this Government has been frightful; that it calls upon us by every consideration to apply ourselves, by all means in our power, to correct this great and growing and destructive evil. But, I say again, the people of the United States must go to the Executive Departments for any effective system of reform to be shortly applied. My friend from Georgia, I fear—though I am willing to see that experiment made—cannot bring down the expenses of this Government simply by saying “I will vote no more than \$50,000,000.” It is enough. God knows it is enough. Still, you will be pressed with these evils of extravagance, and these deficiency bills. That is what I am afraid of—that they would be encouraged to make contracts imposing obligations upon us. I doubt whether we can do it in that way, or in any other, unless the President of the United States, now when his attention is called to this great and growing and overwhelming evil, shall apply himself to one of his greatest and highest constitutional duties—to enforce the administration of every department of the Government to the strictest accountability.

Sir, we may find extravagances, useless expenditure, here in the Senate of the United States. I have no doubt of it. The expenses of the judiciary department have increased in a most extraordinary and unexampled manner. So it is in every department of the Government. Everywhere there can be means found for retrenchment. None can do it so well as the Executive Departments, each for itself. The President, pre-

siding over all, can alone give the impulse to the correction of this evil, or save us from evils untold that are yet to come if we go on in this way. If twenty or thirty years have advanced our expenditures from \$14,000,000 to \$75,000,000 a year, what will they be in twenty-five years more? The enormity of them is frightful. We must stop. We have not the means of going on in this course of extravagance. Let us do this while we can. Let us raise this little protection. Let us cure these frauds that are practiced upon our revenue, small as they may appear to be. We cannot originate a bill in the Senate for raising revenue, I acknowledge. If we could, I should deem it the bounden duty of the chairman of the Committee on Finance to introduce a bill instantly upon that subject; but I hear of no such thing anywhere. Borrowing money is an easy mode of obtaining it; but to think of collecting and getting together means to pay debts, is a more disagreeable obligation, a more disagreeable duty in respect to individuals, as well as to States. That is the disagreeable part. To borrow is easy, almost as easy as it is to beg, and pretty nearly as bad. Borrowing is rather superlative, and begging the positive. That is about the whole of it. I do not say that it is unwise under the circumstances to borrow. I say it is wise; but to borrow \$35,000,000 in one year, I confess astonishes me.

I hope, Mr. President, that the amendment of my friend from Rhode Island will be adopted. If adopted, I may vote even for this bill, because I do not know how to avoid it; but it is not as a matter of volition, not as a matter of judgment, but as a matter of necessity, that I shall vote for it.

The PRESIDING OFFICER. (Mr. FOSTER.) The bill authorizing a loan not exceeding the sum of \$15,000,000 is before the Senate, to which bill the Senator from Rhode Island moved an amendment, to which amendment the Senator from Virginia took exception, making a point of order that the amendment cannot be received in consequence of a constitutional inhibition.

Mr. STUART. I desire to appeal to the Senator from Virginia to waive that preliminary question. The same result will be arrived at on a vote. I confess I should prefer that course. I hope he will agree to it.

Mr. HUNTER. I will do so if the Senate are ready to vote, so that we may have one vote instead of two. ["Question! question!"]

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island.

Mr. DAVIS. The closing remarks of the Senator from Kentucky impose upon me very reluctantly the necessity of making some reply. In the same breath he argues for economy, and for an increase of the revenues of the country. Blowing hot and cold he proposes to increase the duty upon imports, in order that he may reduce the expenditures of the Government. If his purpose were economy, it would seem that he would take the other direction, that he should seek rather to depress than increase the revenues of the country, known to fill the Treasury to overflowing whenever our commerce is in a prosperous state. It is temporarily checked by the revulsion which has met our commerce at home and abroad; but that constitutes no rule which is applicable for any longer period of time to come.

Then the Senator says that we are to look to the White House for all retrenchment and reform and progress in economy. Now, to take a supposable case: if the honorable Senator were in the White House, what power would he have to take one dollar out of the Treasury? None, sir. Money can only be drawn from the Treasury by appropriations of Congress. What power would he have to impress upon Congress retrenchment and the reduction of expenditure? None, save the veto power, and that has been exercised against his vote for expenditure, time and again. Whatever be the motive of economy, it is as operative on the position of a Senator here, as upon the Executive in the White House. The Senator who votes large appropriations here, and seldom votes against them, is hardly the man to demand to be selected to resist those appropriations, if he should be transferred to another sphere.

But, with a view to make a lick at what he pleased to call the Democratic rule of the country, he al-

luded to the very low expenditures which existed in Mr. Adams's time, and the heavy expenditures which have been incurred since. But the Senator had a more intimate connection with an Administration of a more recent date. Why did he not take that, when the expenses rose steadily until the obligations incurred in the last year of that Administration went over \$44,000,000, \$46,000,000, \$50,000,000? There has been a necessary increase of the expenditures of the Government, and some of it has been unnecessary; but the responsibility rests not upon the executive department only; it begins here. It is not, as argued, the result of the estimates which are sent to Congress. Those estimates are the result of the laws you make. If you desire to reduce the expenditures of the country, legislate upon the object of those expenditures. Change the service, and then the expenditure goes down at once. If you insist upon maintaining the service in any particular form, it belongs then to the executive officers of the Government to estimate for the money that will effect the service which the legislation of the country requires.

This is the place to begin retrenchment—the Congress of the United States. Much more frequently have I seen recommendations from Executive Departments to change the service so as to promote economy, than I have seen votes in Congress to sustain the recommendations. Spasmodic exhibitions of an economical desire are frequently brought forth in both Houses of Congress; but the votes upon the great appropriation bills, the objects of the expenditure to which the estimates are made, I have seldom seen.

What shall we gain, sir, by refusing a carefully prepared statement of the Secretary of the Treasury, sustained by the Finance Committee, for a loan? Do you reduce the expenditures by refusing a loan? If they need the money to execute the service imposed upon them, the necessary consequence is one of two: either that the service fails, or that they run in debt and come back with a deficiency bill. I prefer to meet questions face to face. Let reform begin here, by changing the objects of expenditure. Let it be in a direct manner; then cut down the estimates to correspond to the service to be rendered; and then appropriate according to your reduced estimates. It is worse than idle to say I will withhold this or that sum contained in an estimate, and yet require the service to be performed.

Mr. BELL. Will the honorable Senator allow me to interrupt him a moment?

Mr. DAVIS. Certainly.

Mr. BELL. I see, by the tenor of the Senator's remarks, that it is impossible for this debate to be closed to-night until a late hour.

Mr. DAVIS. I can close mine. You may go on if you please.

Mr. BELL. That is not my object. Will the Senator allow me—

Mr. DAVIS. To do what?

Mr. BELL. I think, from the position the honorable Senator has assumed here, that economy must commence in Congress, not depending on the will or policy of the Executive, that he will be obliged to extend his remarks to a considerable extent in order to support his position; and I trust he will give way to a motion to adjourn now, after the remarks he has already made. ["No! no!"]

Mr. DAVIS. I will merely say that the position—

Mr. BELL. I do not propose, if the honorable Senator will permit me, to speak against the will of the Senate; but I should feel compelled, on a measure of this importance brought to the notice of the Senate only yesterday, that it should not be concluded under such circumstances without further investigation.

Mr. DAVIS. I have nothing to do with forcing a vote. It is very little that I intend to say, and if I stop now, I shall never add anything to what I have said.

Mr. BELL. Very well; I only made the suggestion. I see there is a very great anxiety to get a vote.

Mr. DAVIS. I thank the Senator from Tennessee; but I have no extended speech to make. The little I have to say I prefer to say now.

The Senator misunderstood me in supposing I

said economy was not at all affected by the Executive Departments. Both are responsible; and that man of so long experience and such demonstrative capacity, Mr. Calhoun, once said on the floor of this Chamber that it was not to be done here, it was not to be done in the executive department alone, but in the two co-operating together. A judicious expenditure of the money appropriated, and estimates for no more than is absolutely required, belong to the Executive. The objects of expenditure and the money granted belong to Congress. Would you hold a Secretary or a President responsible for large expenditures for internal improvements, where both are opposed to them—the one giving his vetoes on bills for such purposes, and the other charged with the disbursement of money found in his hands appropriated by Congress? If so, it would be vastly unjust. But if he squandered the money in his hands, if he applied it to other purposes than those contemplated by legislation, then, I say, he would be responsible. Then you might charge him with wastefulness, with improvidence, with malfeasance; but the just application of the appropriation made to the object for which it was made, is the duty of the Executive.

Then, again, your deficiency bills show you conclusively, I think, that the estimates are made at the lowest possible figure to execute the work. Those estimates from exports, I may say, are very frequently cut down after they are brought in to the officer who has closely examined the subject, under some hope that a change in your administration will reduce the expenses. At last some contingency arises, and a deficiency occurs. If you lay your hand upon an occasion where an executive officer himself departed from a just and wise course of administration, and thus created a deficiency, there you arraign neither the man's head nor his motive; but executive officers, no more than ourselves, are prophets. When this session began, we found in progress a campaign against the Mormons, in the Territory of Utah. I had not the foresight that enabled me to tell what would be the result. I have not now, notwithstanding the rumors which are flying through the air. I doubt if there be a great deal of truth in them. I think there is reason to hope that there will be no conflict of arms; but, as I said on a former occasion, that does not vary much the service or the expenditure; that, to preserve order in that country by military force, if that be the policy, will require nearly as much money without conflict as with it.

The Senator from Georgia [Mr. TOOMBS] did injustice to the Committee on Military Affairs. He spoke of a proposition to raise five regiments being a recommendation, at the beginning of the session, from the executive officer in charge of the War Department; and he spoke of the Committee on Military Affairs as bringing in about the same thing. It was not the same thing.

Mr. TOOMBS. It was for the same number of men.

Mr. DAVIS. No, sir; it was not for the same number of men.

Mr. TOOMBS. My impression was that it proposed an equal, if not a greater number.

Mr. DAVIS. Then I am sure the Senator will not object to being corrected. It was to make each regiment consist of twelve companies; that is, fifteen regiments were to be increased by an addition of two companies; that is, thirty companies, or three regiments of ten companies each.

Mr. TOOMBS. Then there was another section to carry up the number of each company to ninety-six.

Mr. DAVIS. It was to increase the maximum of each company under certain circumstances.

Mr. TOOMBS. I think that carried it further than the five regiments, and it exceeded the demand of the Department for men. I should be glad to be corrected if I am in error.

Mr. DAVIS. That was never put to a vote. My recollection is that it was withdrawn by the committee.

Mr. TOOMBS. I spoke of the report of the committee.

Mr. DAVIS. Thirty companies were all that it was proposed to add; and it was proposed to add them with a view to the service then pressing upon us, without any possibility, on the part

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of the committee, to foresee when that necessity would cease. Since that time, however, the Congress has been pleased to add three regiments, one of mounted men and two of infantry, it seems, though all might be mounted. The addition proposed would have just been equal to three regiments of rank and file. One of them would have been mounted and two of them necessarily on foot; whereas now, it is a matter of discretion with the executive department. But then all the field officers and staff were added to the bill which Congress chose to prefer to that reported by the committee, and the expense was increased for an organization of the same character of troops. It was a bad stroke of economy. It increased the higher officers, it increased the staff, and it gave the same number of effective men.

As to the number of troops that are necessary, it is an endless question. It is a thing, at last, which is a matter of speculation. Men will differ, from the different points in which they view it. I should be very glad, indeed, were I to see arise a spirit in Congress that sought to draw in the small posts they have thrown out beyond the reach of civilization, concentrate them in large garrisons, and thus have a service by which great economy can be obtained. More efficiency, and a vast saving of money, would be the result of that policy. Thus far, exactly the reverse has been the case. It is Congress that has driven the Executive to that dispersion of military force; so much so that I doubt very much indeed the prudence or propriety of any executive officer undertaking to change the whole system of the disposition of military force, without first having an expression from Congress in relation to it.

I am, Mr. President, opposed to the amendment. I think the question of order was fairly raised. I understand that is withdrawn. Being withdrawn, I have nothing to say upon it. I am opposed to the amendment for a few reasons, which I will attempt, very briefly, to give. The home valuation is to make the goods worth different prices in different parts of the United States. It is to give the advantage of one port over another. It is to aid the centralizing power of commerce—as centralizing as the exterior pressure—to bring the whole trade into one great metropolis, and, from that, to allow it to radiate to the smaller towns. Paying less duty in New York, and charged with no additional duty when sending from New York to other ports, there would be a direct interest to the importer to bring his goods into New York, and then send them to other ports of the United States.

Mr. SEWARD. The amendment proposes a valuation at the city of New York, in all cases.

Mr. DAVIS. How can you establish a valuation in New York, when you add to the foreign value of the goods the freight and charges at San Francisco? How are you to know the value of those goods in New York? How can you possibly do that? It would be unequal in its operation. Still more, sir, would it throw wide and open the gate to fraud. Constantly it has been assumed that this was a measure to check fraud; and how? You have appraisers now; and the appraisers and the invoice are checks upon each other. Then you abandon the invoice, and rely on the appraiser alone. If a man be ignorant or corrupt, you turn him loose to every species of corruption, and to every possible degree of avarice. Now, it is a part of the appraiser's duty to examine the invoice, and examine the goods, and if they be below value in his judgment, then the importer is subject, in one case, to an increased charge, and in another, to a forfeiture of the goods for a fraud. Are you to get better men by changing the law? Are you to change the mode of appointment? Are you to secure experts under one system and not have them under another? I take it for granted that the appraisers will not be improved. It is upon your appraisers now you are compelled to rely. You have appraisers who pass from point to point. You have such officers now. They might seek thus to render uniform the duties and valuations. That it is their duty to perform now. Now you have the invoice of the foreign value. Then you could have the inspection of the goods and the invoice also. You can resort to the inspection now, whenever you choose. The appraisers have all the power now

they would have then. They have less temptation to fraud now than they would have under a change of the system. I rely upon the maxim of Mr. Jefferson: trust nothing to man; fetter him in the chains of the law. The present law is more restrictive; your appraisers are now more confined to the performance of their duty with integrity, than they would be if you abandoned the present system, and left the appraisers to fix the home valuation. Home valuation is another mode of discriminating between the less favored ports of the Union. Home valuation is but another mode by which we are proposing now to increase the commerce of cities; and home valuation, instead of being the means by which we would get rid of fraud, according to my judgment, would render us more liable to fraud, and it would increase the number of our custom-house officers, now swollen beyond the limits I am willing to bear. These are my opinions.

Mr. BELL. I have been looking through this question, Mr. President, and the proposition which I supposed would come from the Executive for an increased means of carrying on the Government in the present fiscal year as a test of what we might expect as to the future policy and destiny of this country. Here is a proposition to increase the debt of the country for the present fiscal year in a time of profound peace; and this is acknowledged by the chairman of the Committee on Finance, who represents the views of the Government of the country, as an inevitable necessity, that the Government cannot be carried on without this additional supply. I remember that when the proposition was made to issue \$20,000,000 of Treasury notes, it was stated that that was contemplated as a temporary relief—

The PRESIDING OFFICER. There is too much disturbance in the Chamber.

Mr. BELL. I am very well aware, sir, that I am speaking against the sense and wishes of a large majority of the Senate, and even of many of those whom I should expect to listen to me. But I was proceeding to state that I consider this as a great test question—

Mr. DOUGLAS. Will the Senator from Tennessee yield?

Mr. BELL. I do not; and yet I think it will be in vain to attempt to proceed, from the temper manifested all around, with which I am utterly astonished.

Mr. DOUGLAS. I think it is the desire of the Senate to adjourn.

Mr. BELL. I wish to say that I do not mean that this question shall pass away until I have an opportunity at least of invoking the Senate to a more serious consideration of the importance of the question which is pending, and what the consequences of it will be when it is announced to the country under all the circumstances of the case.

Mr. MALLORY. Will my friend from Tennessee allow me to say a word?

Mr. BELL. With great pleasure.

Mr. MALLORY. It is very evident that we cannot get through to-night. It is now close upon six o'clock; and I therefore move that the Senate adjourn.

Mr. BELL. I am very happy to yield for that purpose.

The motion was agreed to; and the Senate adjourned.

PERSONAL EXPLANATION.

SPEECH OF HON. HENRY M. SHAW,
OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1853.

The House being in the Committee of the Whole on the state of the Union—

Mr. SHAW said:

Mr. CHAIRMAN: I am very reluctant in obtruding myself on the attention of the committee at this late period of the session, particularly on a question that is not immediately before the committee. But I feel that the provocation under which I now speak must be a sufficient apology, in the estimation of every gentleman in this House.

It will be recollected, perhaps, by some gentlemen present, that some time since I addressed the committee on the question of the admission of Kansas under the Lecompton constitution. I think I can appeal to you, Mr. Chairman, and to every gentleman who heard me on that occasion, in proof of the declaration I now make, that, from the beginning to the end of that speech, I treated my colleague from the fifth congressional district of North Carolina, [Mr. GILMER,] to whom I then replied, with the utmost courtesy. What, sir, has been the course of my colleague?

Mr. GILMER. Will my friend allow me to ask him a question right there? I want to know why my colleague represents me in his speech as being opposed to the admission of Kansas as a slave State—using the words, “otherwise as a slave State?”

Mr. SHAW, of North Carolina. I will answer the gentleman on that point, before I resume my seat, as I should have done if he had not called my attention to the subject.

I ask again, what has been the course of the gentleman towards myself? Why, sir, on the evening of Saturday week, my colleague came into this Hall after I had left it, (having been here many hours,) and announced that it was his intention to address the committee in reply to me; but, with an affectation of generosity, of liberality, and of magnanimity, which I believe never found a lodgment in his heart, he pretended that he could not do so because I was not present. Sir, if the gentleman had desired me to be present when he made his speech, it would have been a small tax upon him to have indicated the fact to me. On the following Monday evening, after the House had resolved itself into Committee of the Whole for general debate, it being understood that no business was to be done, having seen my colleague take his hat and leave the Hall, and being wearied and exhausted by a continuous session of seven or eight hours, I followed his example, and retired to my hotel. He returned and made the assault upon me, to which it is now my purpose to reply.

It was not till the next morning that I saw it reported in the Globe that he had given notice on the previous Saturday night of his intention to reply to me, and this was the first intimation I had of his design. I repeat, if he had had a desire, or the least disposition, to have me present when he made that reply, why did he not state it to me, so that I could have been present? But, sir, while professing regret on account of my absence on that occasion, he went so far as to say that in making the speech which I did the 20th day of April, I had studiously and intentionally waited till he had gone to North Carolina—and for what? In order that I might take advantage of his absence to do him injustice. Now, sir, I tell the gentleman, what I believe he feels and knows, that there is nothing about him, physically or intellectually, that I fear, and nothing that should have caused me to desire his absence when I spoke.

For a considerable time after the publication of his speech, whenever the House went into Committee of the Whole, it was for the consideration of a special order, which, as you are aware, and as my colleague, I presume, knows, excludes general debate, so that, as many of my friends know, I was unable to obtain the floor for the purpose I had in view, until the time I made my reply. But my colleague says that the gentleman from Virginia [Mr. LETCHER] obtained the floor soon after he made his speech, and replied to a portion of it. That is very true; but my colleague knows it occurred before his speech was printed, and I was unwilling to reply to him until I had seen his speech in print, for I was determined to do him no injustice.

My colleague saw fit to apply to me injurious terms and offensive epithets. I shall not enter into any such contest with him; he is a proficient in an accomplishment which my tastes never led me to cultivate. If I have a personal grievance to redress I will seek a proper opportunity to do it, and a more appropriate arena than this Hall. Moreover, when my colleague was called to account for the offensive language which he applied to me, he declared that he did not intend to be personally offensive; and yet, sir, he suffered his speech to go into the Congressional Globe, the

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official paper of this House, without any correction or qualification of the offensive terms! Was that fair, was it manly, was it just? Mr. Chairman, I will not undertake here properly to characterize such an act; but I will undertake to say that whenever I make a speech upon this floor and pronounce another, made by any colleague of mine, or any one else, to be unjust and untrue, prevaricating, and unworthy the gentleman who made it, I never will go out of this Hall and say that I did not mean to be personally offensive. Never, sir! And if, in the heat of debate and the excitement of discussion, I should use language toward a gentleman which upon cool reflection I was forced to consider unjust to him, never would I be found guilty of the injustice, the gross injustice to him, the injustice to myself, of sending that speech abroad to the world without retraction or qualification. And yet, sir, with all his prating about fairness and justice, that is what my colleague did, after having made the retraction to which I have alluded, and made it in his own hand-writing, and over his own signature!

Sir, the gentleman has applied to me a number of anecdotes by way of disparagement and ridicule. This, too, is a favorite mode of warfare with my colleague. Where a lawyer or a statesman would use an argument, my colleague applies an anecdote; one gentleman on the other side was so deeply impressed with his ability in that way that he declared, (as I was informed,) during the delivery of my colleague's first speech, that he was "as good as a comic almanac." He has already acquired for himself the *soubriquet* of the "funny Representative from North Carolina," and is fairly entitled to that of "the little joker." Let my colleague cultivate his talent and increase his fund of anecdote, and he may look forward with confidence to the time when he will be able to obtain an engagement as chief buffoon in some strolling circus. But, sir, I shall not follow his example in this regard either; if, however, my tastes and my sense of propriety led me to do so, instead of treating this enlightened assemblage of the people's Representatives to the stale anecdotes and coarse jokes which my colleague has indulged in, I would procure a copy of Joe Miller and read from its pages such as would be vastly more amusing, though a hundred times repeated, than any that my colleague has so far entertained the committee with.

Now, sir, my colleague charges against me that I took the ground in my speech, that he voted in favor of the Green amendment, which was attached to the Senate bill when it came to this House, while I, at the same time, was found advocating the views of the Executive in regard to the principle of that amendment. He goes on further, and denies that the gentleman from Mississippi [Mr. QUITMAN] moved to strike out that amendment. He denies that I voted to strike it out. He denies emphatically that he voted against striking it out. Now, sir, what are the facts? First, does the Green amendment embody the doctrine which my colleague says is contained in the special message of the Executive? Does that amendment declare, as I understand the President to have said in his message, that the people of Kansas would have a right to alter and amend their constitution after they had been admitted into the Confederacy, without regard to the restrictions contained in that instrument itself? I ask the House if the Green amendment embodies that doctrine? I say it does not. The most that can be said of the first branch of the proposition contained in the Green amendment is, that it is a negative pregnant; while the second branch absolutely and unqualifiedly asserts that the Congress of the United States has no right to declare the construction of the constitution of a State. But have I sustained, in any speech which I have made, here or elsewhere, the views of the President of the United States in regard to this particular doctrine? My colleague cannot show it in my speech. It is true that I commended that special message, as it had been commended throughout the length and breadth of the country by the conservative and patriotic throughout the land. I approved of the general principles there set forth; but I did not approve, and I take occasion to say here that I do not now approve, the doctrine that the people can alter or amend their constitution without re-

gard to the restrictions contained in the instrument itself.

But suppose the Green amendment had contained that doctrine: how can my colleague object to it? Does it lie in his mouth to get up here or elsewhere and condemn it? And here let me say that my colleague has brought another charge of injustice against me on account of the reference which I made to his position in the Legislature of North Carolina, in relation to a similar question. Now, what was the position of my colleague as a Senator of the State Legislature of North Carolina? It is well known by intelligent gentlemen here that the constitution of that State declares that no convention of the people of North Carolina shall be called to amend the constitution of that State, except by a two-thirds vote of both branches of the State Legislature; and yet my colleague, as a member of the North Carolina Senate, supported and voted for the proposition of Governor Graham, which was intended to provide that the question of a convention to amend the constitution should be submitted to the people of the State by a bare majority of both branches of the Legislature; and if a majority of the people voted for a convention, then the people should proceed to elect delegates to amend the constitution, although that instrument itself says that no convention shall be called unless it is by a vote of two thirds of both branches of the Legislature.

Mr. GILMER. Will my colleague allow me to correct him as to a matter of fact?

Mr. SHAW, of North Carolina. I owe the gentleman no courtesy, and will not allow him to interrupt me, especially as I am sure the Chair will have the liberality to award him the floor at the close of my remarks, when he will have an opportunity to say all that he may desire. I say, then, that my colleague, in voting to sustain the proposition of Governor Graham in the Legislature of North Carolina, has himself sanctioned and approved the doctrine which he now denounces, but which I say is not set forth in the Green amendment.

But if the special message of the President does contain this doctrine, which has now become so odious to my colleague; and if he has changed his course since he was in the Legislature, why have we not heard his thunder sooner? I have here an editorial article from the leading organ of the party to which the gentleman belongs—the *Know Nothing* party of North Carolina—in which, in speaking of the President's message and of this very doctrine which the gentleman so vehemently condemns, the following language is used. I quote from the *Raleigh Register*, of the 10th February, 1858:

"According to promise we lay before our readers to-day the President's message recommending to the favor of Congress the Lecompton constitution. We are not much given to paying compliments to Democrats, and rarely indeed do they deserve any at our hands. We hope, however, that we can do justice, and it is in a spirit of fair dealing that we say that Mr. Buchanan's message is a most excellent one."

"Besides all this, as the President very well contends, as soon as Kansas is admitted as a State, she can call another convention to make another constitution, and it can then be ascertained whether the friends or opponents of slavery are in the minority in the State. This seems to us exceedingly simple and plain, and the furious opposition to the President's views can only be accounted for by the fact that certain politicians in Congress desire to prolong this agitation for their own purposes, and with a view likewise of asserting, if possible, the principle that slavery shall not spread beyond its present limits. As a citizen of the United States, then, and a lover of law and order, and a most earnest desire to see Kansas admitted with an amendment to the constitution, and let her future struggles, if any shall ensue, be carried on upon her own soil as a sovereign State, and be settled by her own citizens. Then, and not before, will her matters cease to be so many fire-brands, threatening the destruction of the Union."

There, sir, is the same doctrine held by the leading organ, in North Carolina, of the gentleman's own party, and I have never yet heard any denunciation of that article by my colleague or any member of his party at home. But after the gentleman had concluded to oppose the admission of Kansas under the Lecompton constitution, he finds that this is an odious doctrine, and one which ought not only to condemn the President, but the Democratic party also, and me too, who never adopted it!

Now, sir, as to my colleague's denial that the gentleman from Mississippi [Mr. QUITMAN]

moved to strike out the Green amendment. That has become a matter of history; it is upon your record, and I ask you, and I ask the gentleman from Mississippi whether the effect of his motion was not to bring before the House the Senate bill without the Green amendment?

Mr. QUITMAN. Certainly.

Mr. SHAW, of North Carolina. I must say I was surprised, when I read the speech of my colleague, to see the charge brought against the gentleman from Mississippi, of being guilty of duplicity in bringing forward that amendment in the manner he did. If there is any one trait which stands out in bold relief in the character of the gentleman from Mississippi, it is his directness, his straightforwardness, and the moral courage and boldness with which he marches up to every question which it is his duty to meet: he is not the man who would lend himself to any such course as that charged by the gentleman from North Carolina.

Mr. QUITMAN. It was only yesterday that I read the remarks of the gentleman from North Carolina, [Mr. GILMER,] and I have been thinking very calmly upon the question whether I should notice them or not. I will not, at any rate, take the time to do so now. Perhaps I may notice them, and I may think them unworthy of notice.

Mr. SHAW, of North Carolina. I was saying that the record will show that the gentleman from Mississippi moved to amend the bill then before the House, by submitting the Senate bill without the Green amendment, as an amendment to the Crittenden bill, offered by the gentleman from Pennsylvania, [Mr. MONTGOMERY.] The effect of that would have been to have brought before this House the Senate bill with the Green amendment, and the Senate bill without the Green amendment. Now, sir, I voted for the proposition of the gentleman from Mississippi, and my colleague voted against it; and I repeat, that I have done him no injustice in placing him in the position that I did.

But my colleague says he voted against the motion of the gentleman from Mississippi, [Mr. QUITMAN,] not because he was in favor of the Green amendment, but because the success of that motion would have defeated the Crittenden bill, which he was in favor of; and that I was unjust towards him in not stating that fact. To show how much justice there is in this charge, I will be excused, I trust, for quoting a brief extract from my speech, which will be a sufficient answer to the gentleman's accusation:

"But the gentleman may say that he voted against the Green amendment in order to save, if possible, the House bill. I do not by any means admit that he can thereby find a sufficient justification of his vote; but I am willing, for the sake of the argument only, to give him the benefit of that position; and now let us see whether he is justifiable in taking the Crittenden amendment in preference to the Senate bill."

My colleague, in his speech, stated that I read from the Lecompton constitution, to prove that that instrument prescribed a proper qualification for voters; for the purpose, as he supposed, of having it go abroad that the Crittenden bill, for which he voted, contained no such safeguard. If the gentleman read my speech carefully, he must have known that I read from that constitution for no such purpose; and the same injustice which he has improperly, and without the least cause, charged against me, of perverting and misrepresenting his arguments, he has committed against me, in this, as well as in numerous other instances. I showed that by the Lecompton constitution, aliens were prohibited the right of suffrage. I went on then to show that by voting down that constitution, as the gentleman endeavored to vote it down, and by passing another bill, the Crittenden bill, by which the people of Kansas would have been authorized by my colleague to vote upon the Lecompton constitution, and if they saw fit to reject it; (and the whole tenor of his argument, from one end to the other, was to the effect that that constitution was not the voice of the people of Kansas, and that if submitted to them, they would vote it down;) they would then have power under the Crittenden bill to make another constitution, in which they might, and in all probability would, ingraft the doctrine of alien suffrage; yes, even free-negro suffrage—and I was warranted in saying that; for the Leavenworth

constitution, then recently made and published, was said to contain, not only the principle of alien suffrage, but of suffrage to free negroes; and that constitution, thus authorized, would entitle Kansas to admission into the Union. That was the argument I made; and my colleague, unable to meet it, has only sought to pervert it.

But the gentleman says I accused him of taking the position that if the Lecompton constitution should be voted down, the people of Kansas would seize upon eighty millions of the public lands. Is there anything of that kind to be found in my speech? If so, I call upon the gentleman to bring it forward and present it to the House and the country. Did I say any such thing? I said nothing of the kind; and I think my colleague must know that that was not what I said. He knows, if he has carefully read my speech, which he has in his possession, I said that in the Lecompton constitution there was ample and sufficient guarantee to secure to the several States their interest in the public domain lying within the borders of Kansas; and that, if the people of Kansas came in under that constitution, the rights of all the States—North Carolina as well as the rest—would be amply secured. I said that if my colleague should succeed in voting down that constitution, if he should succeed in passing the bill he was advocating, he would place it in the power of the people of Kansas to seize upon and appropriate to their own use every single acre of the public domain within their borders. How did I prove it? By showing that if the people should vote down the Lecompton constitution, they would be authorized by the Crittenden bill to frame another constitution; and without any terms or conditions precedent in regard to the public domain, or anything else, they were to be inducted into the Union by the mere *ipse dixit* of the President of the United States, and there would be no remedy to us if they should assert their right to the public lands, even to every acre within their limits.

The gentleman, in his speech, quotes an extract from a letter of Senator DAVIS, of Mississippi, written on 14th May, 1858, to sustain his position. In doing so, however, he attributes to him language which is not to be found in the extract which my colleague quotes. Nor is it to be found in any other portion of that letter. He says that Colonel DAVIS lays down the principle that the "condition precedent" must be contained in the "act of admission." This is an unauthorized amendment to Colonel DAVIS's letter, made by my colleague for a purpose which must be obvious to every one—it was absolutely necessary to make out his case. Here, sir, is the extract which my colleague quotes and adopts:

"The consequence of admitting a State without a recognition precedent of the rights of the United States to the public domain, are, in my opinion, the transfer of the useful with the eminent domain, to the people of the State thus admitted, without reservation.

As you will see, Colonel DAVIS does not say that the "condition precedent" must be in the "act of admission." He says no such thing.

But my colleague demands, with an air of triumph, what safeguard there is in the Senate bill for the admission of Kansas, for the security of the public domain in that Territory, which the Crittenden bill does not also contain? and in this connection, and with a flourish of trumpets, he quotes a clause from the Crittenden bill, and with an air of complacency adds, "I shall append to my speech the Minnesota bill, which contains no such guarantee and no security whatever." Now, sir, if my colleague was able to meet the argument I made, why did he resort to the artful dodge of drawing his parallel between the Senate bill and the Crittenden bill, or the Minnesota bill, instead of meeting the point I distinctly made as to the power he proposed to confer upon the people of Kansas, to absorb and appropriate the public lands in case they should chose to vote down the Lecompton constitution, which was to be submitted to them for ratification or rejection by the Crittenden bill for which he voted? and the whole scope of his argument went to show that if submitted to them, they would vote down that constitution; his main objection to the admission of Kansas, under the Lecompton constitution, being that it was not the will and the voice of the people of that Territory.

Now, sir, strange as it may seem, my colleague

in his desire to sustain his unfounded charge against me, that I had surrendered the rights of the United States to this public domain, by my vote for the Minnesota bill, which he voted against—adopts the very principle which I asserted in my speech of the 20th April, by which I showed, that by conferring upon the people of Kansas, as he proposed to do by his vote for the Crittenden bill, the right to frame a new constitution and be admitted into the Confederacy by the proclamation of the President, without any condition precedent to secure the right of the Government to the public lands in Kansas—my colleague has clinched the argument I made against him on that point. I repeat, I undertook to prove, and did prove, to my own satisfaction, at least, that the people of Kansas would have been enabled, had my colleague succeeded in his effort to defeat the Lecompton constitution and carry through the Crittenden bill, to seize upon every acre of the public lands in that Territory; and my logical and sagacious colleague has fully sustained my point by adopting the very principle upon which I based the whole argument.

Now, in reference to the charge that I voted for the bill to admit Minnesota, which, he says, does not contain one word by which the Government is secured in the public lands. Has my colleague put this case fairly? Has he sustained the grave charge he makes against me, of having abandoned the rights and surrendered the interests of North Carolina in the public lands in Minnesota? Sir, has he told the whole truth in the matter? In his schoolboy days, my colleague learned the Latin maxim, "*suppressio veri*;"—but, sir, I have said I will not bandy epithets with my colleague, and I will not finish the sentence. I will recall what I have said. My colleague may not have read the "enabling act," by which the last Congress authorized Minnesota to form a State constitution preparatory to her admission into the Union; he may have voted against her admission without having informed himself of the facts in the case. Now, sir, I shall quote the proviso contained in the fifth clause of the fifth section of the enabling act, by which ample security was made for the rights of the Government in the public domain. Here is the proviso:

"Provided, The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State, shall provide by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non resident proprietors be taxed higher than residents."

And here I am reminded by the chairman of the Committee on Territories [Mr. STEPHENS] that the constitution of Minnesota ratified and confirmed this land provision. I quote here the third section of the second article of that constitution:

"The propositions contained in the act of Congress entitled 'An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States,' are hereby accepted, ratified, and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States, and in no case shall non-resident proprietors be taxed higher than residents."

Now, I submit to you and the committee, I submit to the people of North Carolina, whether there is the smallest degree of fairness or justice in the gentleman's charge against me as to this matter.

Another charge alleged against me by the gentleman from North Carolina is, that I had done him the injustice to place his opposition to the admission of Kansas under the Lecompton constitution, upon the ground that she would thereby be admitted as a slave State. Is there any such charge in my speech? My colleague cannot show it. I made no such charge. I said:

"He bases his opposition to the admission of Kansas under the Lecompton constitution, in other words, to her admission as a slave State, upon three points of objection: first, that the Green amendment affirms the right of a ma-

jority of the people to change the constitution at any time they please; and that, by the establishment of that principle, slavery may be excluded whenever a majority of the people choose; second, that the population of Kansas is not sufficient to entitle her to admission; and, third, that the constitution framed at Lecompton is not the will of the people of that Territory."

Now, sir, is that charging him with opposition to the admission of Kansas, because she would come in "as a slave State?" My charge against him was that while "Kansas was as much a slave State as Georgia or South Carolina, under the Lecompton constitution," by voting down that constitution, and enabling the people of Kansas to frame another, if the opinion he gave as to the will of the majority in that Territory was correct, slavery would be abolished, and she would become a free State. I shall not stop here to make an argument upon this point. Everybody knows that the seventh article of her constitution established slavery by every guarantee that could be thrown around that institution. It was opposed by the Black Republican party upon that ground. The President announced the fact in his special message, that Kansas was as much a slave State as Georgia or South Carolina, and my colleague labored throughout his whole speech to prove that the people of Kansas would vote down the Lecompton constitution if we submitted it to them, and would, as certainly, frame a free-State constitution in its stead.

But, sir, my colleague says he was unwilling to bring Kansas into the Union by unfair means; he would not countenance the "shuffling" by which an "unnatural emigration" was forced into Kansas; he would not force upon an unwilling people a constitution which they were opposed to. Yes, sir, my colleague had such an abhorrence for the "shuffling" which had been witnessed in Kansas; he was so much opposed to that sort of shuffling by which an unnatural emigration had been forced into that Territory; he was so honest, so fair, and so just, he felt constrained to vote against a constitution which made Kansas a slave State, and which had come to us sanctioned by all the forms and requirements of law; and, at the same time, to use every effort in his power to enable those "shufflers" and Free-Soilers, who had been brought into Kansas by an "unnatural emigration," to frame a new constitution, by which all the South had gained, in the long struggle in Kansas, would have been lost.

And why did he do that? Because the gentleman was too fair, too just, and too honest to force upon a reluctant people a constitution which was not their will and their choice. Because that constitution had not been submitted to the people of Kansas for their ratification or rejection. That was the chief ground of objection which justified my colleague (in his own estimation) in putting himself in opposition to the whole body of southern Democrats in the Senate and in the House, supported by a majority of northern Democratic members and Senators, and by one half the members of his own party from the South; because the people of Kansas had not had an opportunity of voting at the polls for the ratification or rejection of that constitution. When, let me ask my colleague, did this new light dawn upon him? When did he find out that justice and honesty and fair dealing to the people of Kansas required that the Lecompton constitution should be submitted to them for ratification or rejection? Sir, I say that he had not made that notable discovery when he received the votes of the people of North Carolina which secured to him the seat which he occupies upon this floor.

During his canvass he proclaimed everywhere to the people of the fifth congressional district of North Carolina, that President Buchanan was unworthy the confidence of the southern people, because (as he said) he had instructed Governor Walker to see that the constitution of Kansas was submitted to a vote of the people of that Territory. He declared that, if the Lecompton constitution was submitted to the people of Kansas for ratification or rejection, the last hope of the southern people for the admission of a slave State north of 36° 30' would be gone forever. I say, when did my colleague make this extraordinary discovery?

As late as the day when Judge DOUGLAS made his speech, in December last, my colleague had not received this new light! So far from it, he

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did not hesitate to say that he was in favor of the admission of Kansas under the Lecompton constitution, without its being submitted to the people. It was not until a still later period that he made the discovery, and his conversion appears to me almost as strange, as extraordinary as that of St. Paul.

When did that light beam upon him? I have said it was not in December last; but, sir, when the struggle came on, when the two parties were arrayed against each other here—the South for Lecompton with slavery, on the one hand, and my colleague, with his five southern coadjutors, with the whole Black Republican party, on the other—then it was that this new light dawned upon him. Then it was that my colleague turned from us, in our hour of need, and went over to the enemy, and cast his vote against us. But, sir, after that vote had been cast, and the enemies of the South were rejoicing over the victory they had achieved, an effort was made to raise a conference committee, to see if some plan could be agreed upon by which Kansas might be brought into the Union under the Lecompton constitution, and peace thereby restored to the country. My colleague had admitted the urgent necessity of settling the question and relieving the country of the fearful excitement and the dangerous agitation which had so long prevailed. How did he vote then upon the motion to raise that committee? Did he come forward in a spirit of conciliation and compromise, and say to those with whom he had differed, "I have not been able to agree with you as to the Senate bill; but I see the necessity of getting rid of this vexed question, and I will vote for a conference committee, with the hope that some plan may be agreed upon to which I may be able to give my support?" No, sir; no such thing! When the two parties in this House were arrayed against each other, nearly the entire southern delegation on the one side, and the whole body of Black Republicans upon the other, while the question was in imminent doubt, my colleague came forward and said, by his vote, "I will permit no further effort to be made to settle this question; here the matter shall stop." And, sir, had it not been for the casting vote of the Speaker of this House, my colleague would have been successful; the Kansas question would still be open; still a source of trouble and danger. But, sir, we prevailed over my colleague and his coadjutors; the conference committee was raised; and a bill reported to this House which received the support of my colleague; and therefore stands a record evidence against him on account of his vote against the conference committee which framed it!

But my colleague says that I applied the phrase "unparalleled outrage" to the position which he occupied upon the Kansas question. What I said was that the gentleman's position was injurious to the rights of his own section; and I proved it by quoting against him authority which he could not question—the Raleigh Register—which had denounced the opposition to the admission of Kansas under the Lecompton constitution as "an unparalleled outrage." Does my colleague deny that the phrase was so applied by that journal? I will here quote the article so that others may see whether I was warranted in the assertion:

"The President establishes by undoubted proof that the constitution of Lecompton was made according to the Constitution and the laws, and this being the case, what earthly pretext will Congress have for even hesitating about accepting it, and admitting Kansas as a State? What right has that body to look behind a full compliance with law, and say to the people of Kansas, you ought to have done this or that? The idea is patently and egregiously absurd, and known to be so by the unscrupulous men who urge it. What if a majority of the voters of Kansas did not take part in the formation of the constitution? Whose fault was that but their own? They had unlimited opportunities to vote, and if for factious and rebellious purposes they chose not to exercise their right of suffrage, are they to be allowed to take advantage of their own laches, of their own wrong?"

"Never was there a clearer case submitted to the judgment of intelligent men than this of Kansas; and if her constitution, as submitted, shall be rejected, it will be an unparalleled outrage, not on the South alone, but on the constitution, the laws, and common sense. It will establish a principle which may be carried out to the utter destruction of all popular government."

But the gentleman from North Carolina says that the conference committee bill is substantially the same as the Crittenden bill, and that I came upon his platform when I voted for the former. I shall not now step to discuss this question; the

facts have gone to the people of the country, and they have all the information necessary to enable them to come to a correct conclusion; and I doubt not that they will render a just verdict. When the gentleman tells me that the conference bill is as great an outrage as the Crittenden bill, I will say to him that I am supported by almost the entire body of Representatives from the South, both in the Senate and in the House; I am supported by a majority of the conservative and patriotic Democrats of the North in this House and in the Senate. If I wanted other evidence to prove to my mind that, in voting for that conference bill, I was committing no outrage upon my own State and upon my own section, it would be enough, and more than enough, for me to know that I voted in direct opposition to every Black Republican in this Hall and in the other branch of Congress.

If the conference bill was substantially the same as that for which my colleague contended, why did not Governor Crittenden and Governor Bell have the sagacity to learn the same fact? Is the mental vision of my colleague so much more acute than that of the two gentlemen from Kentucky and the three gentlemen from Maryland, in this House, that they, too, could not see it? Yet, of all these gentlemen of his own party, who set out against us upon the ground that the bill which we voted for did not submit the Lecompton constitution to the people of Kansas, only one, and that my colleague, could so far look into the merits of the question as to see that the conference bill was precisely the thing he had been contending for.

I have not time to notice all the points my colleague made in his speech. I regret that I have not. I must pass over other points to notice the charge that he makes, that I persisted in representing that he received the congratulations of the senior member from Ohio, [Mr. GIDDINGS,] and his Black Republican allies on that side of the House. At the conclusion of my speech of the 20th day of April, in indicating the fact that the speech of the gentleman received the approbation and applause of the Black Republicans in this Hall, I said that the senior member from Ohio approached my colleague, and congratulated him. I saw him leaning towards my colleague, and, as I thought, shaking both of his hands. He was congratulated by a large body of Black Republicans of this House. The gentleman is surprised that I should persist in making this charge. He need not be surprised at all, for I intend to prove it. Why, sir, that strange and extraordinary spectacle which I witnessed on that occasion, and which was witnessed by a large portion of the members upon this side of the Hall, so wrought upon the patriotic indignation of the gentleman from Alabama, [Mr. Houstoun,] that he cried out to the senior member from Ohio to kiss my colleague.

More than that, my friend from South Carolina [Mr. MILES] having obtained the floor at the conclusion of my colleague's speech, the gentleman from Alabama [Mr. Houstoun] addressed the Chair, and requested the gentleman from South Carolina [Mr. MILES] to suspend his remarks until the Black Republicans had finished congratulating the gentleman from North Carolina, [Mr. Gilmer.] That will be found by any gentleman who is curious enough to make the investigation in the official report of the proceedings of that day.

Mr. BINGHAM. Will the gentleman allow me to say a word?

Mr. SHAW, of North Carolina. No, sir. My colleague declares that he received no congratulations from the senior member from Ohio such as I have described, nor any congratulations of any kind. Here at least he is at issue with the former member from the third district of Ohio, (Mr. Campbell,) who distinctly admitted that he congratulated my colleague and took three or four hundred of his speech, and was sorry he did not take more.

I suppose that every intelligent gentleman understands, notwithstanding the strenuous efforts that have been made to restrict and limit this question to the single fact as to whether the senior member from Ohio did shake hands with, and offer words of congratulation to, my colleague, that the point, and the essential point, made by me was, that my colleague's speech received the

approval of the Black Republicans in this House—that was the gravamen of the charge. Before I conclude, I shall take occasion to call upon gentlemen on this side of the Hall, whose attention was called to the "congratulating scene" of which I spoke, to state their recollection of the affair, and I shall be content to leave it to them to say whether my colleague did, or did not, receive the "congratulations of the senior member from Ohio, and his Black Republican allies."

As to whether they manifested their approval of my colleague's speech, I have here a list of subscribers to it; and if the committee will so far indulge me, I beg leave to read the list, in order that the country may know whether the statement which I made as to the approval of that speech by the Black Republican party is true. Here is the list:

John A. Gilmer.....	5,000	J. S. Morrill.....	200
H. Winter Davis.....	2,000	S. S. Marshall.....	200
W. L. Underwood.....	500	A. B. Olin.....	200
H. Marshall.....	500	S. R. Curtis.....	200
F. P. Blair.....	500	James Wilson.....	100
J. Morrison Harris.....	500	Richard Mott.....	100
Lewis D. Campbell.....	400	J. W. Sherman.....	100
Benjamin Stanton.....	300	S. C. Foster.....	100
J. B. Kieaud.....	200	David Kilgore.....	200
F. E. Spinner.....	200	C. Billingshurst.....	100
J. B. Haskin.....	500	J. W. Morris.....	300
John Covode.....	200	A. E. Roberts.....	200
W. A. Howard.....	200	E. P. Walton.....	400
Robert Smith.....	200	E. Joy Morris.....	300
E. B. Pottle.....	200	H. E. Royce.....	100
W. Montgomery.....	300	G. A. Grow.....	200
C. J. Gilman.....	200	S. M. Burroughs.....	200
F. H. Morse.....	200	C. B. Hoard.....	200
Eli Thayer.....	200	J. M. Parker.....	100
S. G. Andrews.....	200	John P. Hale.....	200
Ezra Clark, Jr.....	1,000	A. Burlingame.....	500
Charles Case.....	400		

And to these may be added the name of the immaculate member from New York, [Mr. MATTHEWSON,] who, out of his hard earnings, subscribed for five hundred copies.

Mr. MORRIS, of Pennsylvania. Will the gentleman also put in his speech the list of subscribers to Senator HAMMOND's speech?

Mr. SHAW, of North Carolina. Every one understands why the gentleman and his allies circulated Senator HAMMOND's speech. The gentleman need not bring that up here, for I can tell him that the people of North Carolina are not quite so green as my colleague seems to think many of them are. In his first speech he said he was told by a friend that many of the people were like a nest of young birds—"tap on the tree and they will open their mouths and swallow the worm." Let me tell the gentleman from Pennsylvania that the birds of North Carolina are not simple enough to open their mouths for any such worm as that which he offers them.

Mr. COMINS. You have not read my name there. Put it down for one thousand.

Mr. SHAW, of North Carolina. What is the gentleman's name?

Several MEMBERS. COMINS, of Massachusetts. Mr. SHAW, of North Carolina. Mr. COMINS takes one thousand copies. I hope the reporter will put that down.

Mr. CLARK B. COCHRANE. Has the gentleman read all the names of the subscribers?

Mr. SHAW, of North Carolina. Yes. Does the gentleman want to put his name down?

Mr. CLARK B. COCHRANE. No, sir.

Mr. SHAW, of North Carolina. If the edition of my colleague's first speech be exhausted, the gentleman may be able to obtain some of his last one, and I doubt not it will answer as useful a purpose as the first.

Mr. MORGAN. I would say to the gentleman from North Carolina that we on this side of the House subscribed for more copies of Mr. GARRELL's speech.

Mr. SHAW, of North Carolina. I have failed for want of time to notice all the points which my colleague made in his speech. I do not, however, deem it at all necessary or important. I would, if I had time, state here what is the political character of each of the gentlemen who have subscribed for my colleague's speech, in order that every citizen of North Carolina, whether he be a reading man or not, may know whether the statement that I made as to my colleague's speech receiving the commendation of the Black Republican party of the country was true or not.

Having said thus much, Mr. Chairman, by

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way of putting an end now, henceforth, and forever to the question, I call upon gentlemen here who witnessed the same scene that I did, to state what they saw, and what their recollection of it is.

Mr. LEITER. Mr. Chairman—

Mr. SHAW, of North Carolina. My time is not out, and I do not give way to the gentleman from Ohio. But I do not want an *ex parte* case made up here. I am perfectly willing to hear him or any other gentleman make a statement in regard to the matter, after the gentlemen to whom I have referred shall have made their statements.

Mr. LEITER. I am obliged to the gentleman; but I never take any other gentleman's controversies off his hands. I have as much of that kind of matter as I can attend to. If the gentleman from North Carolina [Mr. GILMER] wants to reply to his colleague, I will yield the floor to him, provided I can have it afterwards.

Mr. SHAW, of North Carolina. I did not yield to the gentleman from Ohio; and I now call upon gentlemen here to state whether I have described the scene following the delivery of my colleague's first speech truly or not?

Mr. LEITER. I beg the gentleman's pardon. I thought he was through.

Mr. HOUSTON. I desire to say that as far as I witnessed the exhibition, the gentleman from North Carolina [Mr. SHAW] has described it substantially, as I believe it took place. I was in my seat at the time the speech of the gentleman [Mr. GILMER] was delivered, especially when his remarks came to a close. Several of the Black Republicans did congratulate the gentleman, [Mr. GILMER,] and I distinctly remember seeing Mr. GIDDINGS approach the member from North Carolina, [Mr. GILMER,] after he had taken his seat. I will not say that he took hold of his hand; but my impression at the time was that he did so; and if I were to speak alone from what I saw, I should have so stated unhesitatingly at the time, as is evident from my exclamation. It is due to myself to say that the remark made by me was not intended to do more than express my own feelings of the scene that was being enacted between the gentleman from North Carolina, [Mr. GILMER,] and the Black Republicans. I did not expect to see it in the newspapers.

Mr. SHAW, of North Carolina. I beg leave to call upon the gentleman from Kentucky, [Mr. STEVENSON.]

Mr. HORTON. Is this in pursuance of any rule of the House?

The CHAIRMAN. The gentleman's time is not out.

Mr. HOUSTON. I desire now that other gentlemen, whether they agree or differ with me, should state their recollection of that scene. The gentleman from North Carolina is entitled to the floor, and can yield it for a statement.

Several MEMBERS on the Republican side. Go ahead!

Mr. SHAW, of North Carolina. I desire to call on several other gentlemen for their statements.

Mr. LEITER. Is it understood that I have got the floor? If not, I make the point that the time of the gentleman from North Carolina has expired.

The CHAIRMAN. The gentleman from North Carolina has the floor.

Mr. HOUSTON. The Chair, and not the gentleman from Ohio, keeps the time.

Mr. SHAW, of North Carolina. I yield the floor, now, to the gentleman from Kentucky. [Here the hammer fell.]

NOTE.—Having been prevented, by the expiration of my hour, and the objections which were made, from calling out any other statements, I append the following:

HOUSE OF REPRESENTATIVES, June 3, 1858.

At the request of Hon. H. M. SHAW, I state that I was in the House of Representatives, on the 30th day of March, when his colleague [Hon. Mr. GILMER] delivered a speech upon the questions connected with the admission of Kansas as a State. At the conclusion of the speech, a number of "Republicans," from different parts of the Hall, crowded around the seat of the honorable member from North Carolina, and congratulated him. Hon. Mr. GIDDINGS, of Ohio, was in the Hall, at the conclusion of the speech. He approached, with others, the seat of Hon. Mr. GILMER, and I

supposed, at the time, he congratulated him; and I should still have entertained that opinion, but for the denials which have since been made. I thought then, and I think now, from the manifestations given by the member from Ohio, that he was much gratified at the position occupied by the gentleman from North Carolina upon that occasion.

I have stated what I saw upon that occasion, and the impressions made upon me by the parties referred to.

H. C. BURNETT.

I concur in the above.

GEORGE S. HAWKINS.

J. L. M. CURRY.

J. W. STEVENSON.

WM. F. RUSSELL.

ALLISON WHITE.

JAMES HUGHES.

C. L. VALLANDIGHAM.

PERSONAL EXPLANATION.

SPEECH OF HON. JOHN A. GILMER,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GILMER said:

Mr. CHAIRMAN: There seems to be some indication of a disposition to deal with me quite fiercely and harshly. Instead of arguing the political questions under consideration, thrusts and attacks are made *ad hominem* to do me harm. Points out of the ordinary scope are made, and my colleague seems to insist upon them as though something very important was to turn upon them. Before I proceed, however, I will call upon the gentleman from New York, [Mr. GOODWIN,] who was between Mr. GIDDINGS and myself, and I would be glad if he would state, in the hearing of the House, what took place between us.

Mr. ATKINS. I object, as objection was made on this side of the House just now under similar circumstances.

Several MEMBERS. It was withdrawn.

• Mr. ATKINS. Then I withdraw my objection.

Mr. GOODWIN. Mr. Chairman—

Mr. GILMER. My friends say they think it wholly unnecessary to introduce any testimony upon this subject. [Cries of "Let him go on."] Well, I am perfectly willing that he shall make his statement.

Mr. GOODWIN. I will say that I was in my own seat at the time; [Mr. Goodwin's seat is next but one to the seat occupied by Mr. GILMER, and between it and the aisle;] that Mr. GIDDINGS stood in the aisle by the side of my desk; and that there is one more desk between Mr. GILMER's and my own; Mr. GIDDINGS stood here by the side of my desk and shook his hands at Mr. GILMER, and said, "I do not thank you for connecting my name with that of Mr. Buchanan." That was all he said; and then he passed along. He did not take Mr. GILMER by the hands. He was not within reach of his hands. My colleague, [Mr. ANDREWS,] who sits by me, was here at the time.

Mr. ANDREWS. My recollection of what occurred corresponds with what my colleague has just stated.

Mr. BINGHAM. I take the liberty of saying that I believe the gentleman from North Carolina [Mr. SHAW] was present when my colleague, [Mr. GIDDINGS,] in his hearing, and in the hearing of the House, said that he never congratulated Mr. GILMER on that occasion, or on any other, about his speech; and I submit to the House and to the country if, after hearing that statement of my colleague, it is not, to say the least of it, a departure from those rules which ordinarily govern gentlemen, for the gentleman from North Carolina, in the absence of my colleague, to raise a question of veracity with him, especially on a subject which he knows nothing about?

Mr. GILMER. I think I recollect seeing the gentleman from Ohio [Mr. Cox] somewhere near me at the time. If he is in the House I should be glad to hear his recollection of what occurred.

Mr. UNDERWOOD. I trust that if the committee has no more important business than this, we shall rise.

Mr. GILMER. Well, I will let that pass. Mr. Chairman, I am not going to inflict a speech upon the committee—very far from it. I will

simply state that when I made my speech upon this subject of Kansas and Lecompton, I aimed, as far as I could, (and I think I succeeded,) at making a speech in which there were no offensive personal allusions—a speech that, I conceive, was acceptable to most southern gentlemen, and to the conservative gentlemen from the North. My colleague, [Mr. SHAW,] twenty days thereafter, in my absence, made a reply to it; and I submit to his own good sense, and I submit to the sense of the committee, and to all who may have read his speech, whether, instead of answering the views which I had respectfully submitted to the consideration of the House and the country, without offense to any one, he did not in his speech reply to the *ad hominem*, as if my having done this or that, having helped a poor Irishman, or having voted this way, or that way, in the Legislature of North Carolina, had anything to do with the great questions that were then before us? And if my colleague, having thus attempted by a speech to affect me politically, in the estimation of my constituents, has found, from my reply, that he has gained nothing by it, but on the contrary, that he is about to lose by it, I would simply say, here, with all good humor, and with all respect, that I do not think it becomes him to get into this fever, this excitement, this fury, this evident state of dissatisfaction; for I can assure my colleague that I am down with no such complaint.

I desire, now, to say a word or two in reply to my colleague, in regard to my speech in reply to him having been delivered on Monday evening. My colleague may be assured that as early as a week ago last Tuesday night, after it was determined, as I understood, that we were to hold evening sessions for debate, I was then ready to proceed, but could not, by the House refusing to go into committee, for which refusal he voted. I waited till Saturday evening, when I obtained the floor; but as my colleague was not then present, I postponed my remarks still further, until Monday evening, for the express purpose of giving him an opportunity to be here. He says he did not receive the notice. I proceeded. With regard to the printing of my speech, my colleague will find, by reference to the Globe, that it occupied its regular place in the proceedings, and appeared at the earliest possible moment. But such was my anxiety to publish it that I had it printed elsewhere, at my own expense; and if it did not fall into the hands of my colleague, it was in the hands of many gentlemen here before it was published in its regular order in the official proceedings in the Globe. But all this is catching at small things; and I express my belief, with all becoming respect, that they had better be left out in discussions of this kind. I expect to gain nothing by such. I think my colleague will find that the people of North Carolina, before whom we have both to appear, will take very little notice of these small matters.

My colleague, it seems, would get me into some controversy with the venerable gentleman from Mississippi, [Mr. QUITMAN.] In that I trust he will be disappointed; for I say here, as I have often said in relation to the gentleman from Mississippi, that I had esteemed and venerated him as much as any man whose acquaintance it has been my fortune to make since the commencement of this Congress. He may get him momentarily into some excitement, which, on reflection, I am sure will soon pass away. I expressed my views as to how those who desired to have the Green amendment stricken out of the Senate bill could have proceeded so easily to do it; and in this, I indulged in the usual freedom of political criticism. But upon that particular subject I think I have been heard enough; and I think I have been heard in such a manner that my people, at least, and all North Carolina, will be well satisfied with the history and explanation which I have given of that subject. Was the amendment of the venerable gentleman from Mississippi to strike out the Green amendment? Let us see.

First, we had the Senate bill. The first amendment was to strike out the Senate bill and insert in lieu thereof the Crittenden-Montgomery amendment. What was the amendment of the gentleman from Mississippi? It was to substitute his amendment for both the Senate bill and the Crittenden bill—to throw the Crittenden bill entirely

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aside. Had it been written out no mention of the Green amendment would appear in it. It was a substitute both for the Senate bill and for the Crittenden-Montgomery bill. In his amendment, I repeat, nothing would be said about the Green amendment, suppose it written out. What was the vote? Those who preferred the adjustment of the difficulty by means of the Crittenden-Montgomery amendment, and were opposed to the Green amendment, to support the Quitman amendment would have had to vote against their own favorite bill, in order to have got at the Green amendment. In my reply I asked why the motion was not made simply to strike out the Green amendment from the Senate bill? To this no answer is given. My colleague does not doubt, no man doubts, if the amendment had been first made to strike out the Green amendment from the Senate bill, that motion would have been successful. Then what would have been the next vote? It would have been a vote deciding between the Crittenden-Montgomery bill on the one side, and the Senate bill, thus stripped of the Green amendment, upon the other side. When the gentleman from Kentucky [Mr. MARSHALL] brought that fact to their attention, and asked that the previous question should be withdrawn, that this motion might first be made, so as to place all in their true and proper position, why did not my colleague and those of our southern friends who wanted the Green amendment stricken out yield to him, that the question might be submitted in that shape? Nothing could be gained effectually in putting the motion in the shape in which it was put, and everything could be gained by putting it in the simple, plain shape of striking out the Green amendment; and then the vote would have been between the two propositions as I have stated.

But I desire to say no more upon that subject. I understood the greater portion of the speech of my colleague, of the 20th of April, to be a defense of the doctrine contained in the executive Lecompton message. I directed my remarks to the doctrine contained in the message. In order that there should be no difficulty upon that question, I quoted the very identical doctrine in that message with which I found fault and dissented from, and upon which the Green amendment rested for explanation—the executive message giving meaning, force, and effect, to this Green amendment. I have, as to this, not heard my colleague distinctly and really; I do not understand to-day whether he approves of that doctrine or not; though, if I have heard and understood him correctly, he says he does not approve of that portion of the message. Then, I submit with great deference, that my colleague ought to have let my argument on that subject pass with his approval, and himself argued somewhat against that doctrine of the President; and not have devoted himself so entirely to other matters in the speech which I made, and matters foreign, and to which no allusion had been made by me.

One word now as to the vote which he said I gave in the Senate of North Carolina. I desire that what he quoted and stated as to the provisions of the constitution of North Carolina shall appear in his speech just as he spoke it here to-day; because, when it shall be compared with the constitution of North Carolina, there will be found, I conceive, a very material difference between his quotation and the constitution itself. We had a convention to amend the constitution of North Carolina, in 1835. It was called by an enabling act, the people being first consulted. They declared in favor of a convention, and delegates were elected. Amendments were made by that convention, and the people ratified their action.

In that convention the committee reported, in substance, that no convention should be called, except in the manner stated by my colleague. I speak from memory. But according to the register of the debates of the convention, complaints were made of the phraseology of the draft of the constitutional amendment first proposed, as to calling a convention in the future. Whereupon a very important amendment, materially changing the language as to the call of a convention, was made—the first draft being, in substance, “that no convention should be called, except by the concurring vote of two thirds of both Houses.” The amendment made, this section read in sub-

stance, “no convention shall be called by the Legislature, except by the concurring vote of two thirds of both Houses,” &c. This amendment, thus made—explained more fully by the debates—sustains, as I conceive, all the views I have ever maintained for the power of the people of North Carolina over their constitution.

But how does any difference of opinion on this sustain my colleague? Did I ever talk of sustaining the doctrine that, in a new State, or in an old State, a convention, called in one way or the other, could fairly give the Legislature the power to make a discrimination between property? I never did at any time. I never maintained the doctrine that a convention can justly give the Legislature power to give security to one species of property in preference to another—never. All this, however, I more fully explained before.

A word now about the eighty millions of public lands. The fault which I found with my colleague's speech was, that he stated that I voted against the necessary provisions to protect the Government in her right in the public lands within the confines of Kansas, without noticing the fact that the same safeguards were contained in the Crittenden-Montgomery bill that were in the Senate bill.

I understand my colleague now to say that he was misunderstood; that what he meant was, that inasmuch as the people of Kansas might vote down Lecompton, and proceed to form a new constitution, and in the formation of this new constitution they might claim a right to these lands, that would be effectual against the title of the United States.

Now, let me show how erroneous this position is. All Congress can do is to put a proper safeguard into the bill on which the State is to be admitted. Suppose, for instance, that Minnesota, or any other State having public lands within it, comes into the Union with proper provisions in the act of admission as to the rights of the United States in the public domain, and afterwards the people of that State should change their constitution and put in a clause declaring that all the public lands within its borders should be the property of the State: how would this affect the Government title? The position of my colleague is, if I understand him, that a subsequent alteration of the State constitution could take away the title of the United States to the public lands in that State, when express provision against it is in the admitting act—if the admission afterwards should be by proclamation. But, sir, I presented the views of the gentleman from Mississippi, [Senator Davis,] and quoted from his letter. My colleague must admit that I quoted properly. It declares, in substance, that unless you provide in the act of admission proper safeguards as to the title of the United States to the public lands in a State, the General Government loses its control over those public lands. But my colleague flies instantly to something else to get out of that difficulty; and says the remedy is contained in the enabling act. I read the views and position of the Senator from Mississippi, and showed that they must be provided for.

Mr. SHAW, of North Carolina. Mr. Chairman—

Mr. GILMER. My colleague would not extend this courtesy to me, and I cannot yield.

Mr. SHAW, of North Carolina. I only wish to interrupt my colleague to correct him in his statement. The Senator from Mississippi did not say that. He did not say the condition precedent must be contained in the act of admission. He is so reported in my colleague's speech, but he did not say that—

Mr. GILMER. I cannot yield. My purpose was to try my colleague by his own assumed rule, and by the opinion of Senator Davis. I understand my colleague now to say, that what he meant by the remark in his opening speech, that I had not been faithful against alien suffrage, consisted in this: that the inhabitants or citizens of Kansas might, under the Crittenden-Montgomery bill, for which I voted, in case they voted down the Lecompton constitution, make a new one, in which they might tolerate alien suffrage. Now let me examine that position for a moment. What more can Congress do to provide safeguards against the exercise of the right of alien suffrage

than to guard against it in the act of admission? If the State afterwards sees proper to call a convention and amend its constitution, the difficulty which my colleague seems to labor under would arise in every case.

I mention this to my colleague to show how anxious he is to point out defects, and indulge in fault-finding.

He says that, by quoting the letter of the honorable Senator from Mississippi, [Mr. Davis,] I clinch the argument on his position, and in his favor, on his vote to admit Minnesota without a provision protecting the United States in her rights to the public domain within the confines of that new State. Very different, in truth, if there be anything in his own position assumed against me.

I am free to admit that my great objection to the admission of Minnesota was the alien universal suffrage which her constitution tolerates, and which is not denied.

My colleague is down upon me about my former views as to the admission of Kansas with the Lecompton constitution; talks enigmatically, and charges more than I recollect. I do not recollect about the canvass. I do not deny, however, that previous to my coming to Congress, I did entertain and express different views in relation to Kansas and Lecompton to those I formed and acted upon after investigating and becoming familiar with the whole facts. The time, I presume, is not material. I am free to admit, that had I not become well satisfied that serious difficulties would likely, inevitably, and without gain or benefit to my section, arise to the peace and quiet of the Union, I would have been as ready and as anxious as any other to admit Kansas with the Lecompton constitution, unconditionally.

But I came here to confer, investigate, and to legislate for the best interests of my country. I came here to give that vote which I thought would be best for the North, best for the South, best for the East, and best for the West; and when I had made a full investigation of the subject so far as I could, I found things very different and came honestly to the conclusion, without any reference to any section of this country, that a bill containing the provisions such as the bill I have advocated and sustained, was best calculated to quiet the country finally and forever. I gave it my heart, I gave it my hand, I gave it my cordial and honest support.

Mr. SHAW, of North Carolina. Will my colleague permit me to ask him a question?

Mr. GILMER. My colleague will recollect how he answered me when I asked the same privilege. I must reply to him in the same way.

Mr. SHAW, of North Carolina. I would be glad to know whether my colleague denies that the submission of the Lecompton constitution to the people was a question in the last canvass? I understood him to say that he took no position in regard to that question. If the gentleman denies what I have said, I am prepared to prove it. I say this now, because it is not my purpose to reply to him—

Mr. GILMER. My colleague will interrupt me whether I will or not.

I admit that I was, with others at the South, who believed that there was no necessity for a submission of the Lecompton constitution to the people, for that, I then believed that it was to be submitted for the sole and improper purpose unfairly to get rid of slavery. Had such been the true state of things, and that Lecompton admitted slavery, the question, no man would have more readily stood up for the admission of Kansas under the Lecompton constitution.

My colleague says that I had indicated my anxiety to get rid of this question. Never did he state a greater truth. I was anxious, and have been anxious since the difficulty arose, that the question might be got rid of without harm to the peace and interests of the country, or the sacrifice of any principle. I presume that my colleague desired the same thing. I presume that all gentlemen who voted honestly on this question here desired and aimed at the same thing. And I repeat here, that the course I have pursued on this subject, whether southern men were with me or against me, is an honest one. Inasmuch as our southern friends have come, substantially, in the bill which was passed, upon my identical plat-

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form, I trust that experience, which is the result of time, may prove that I was right.

When my colleague speaks of my vote on the Crittenden bill being different from the votes of the great majority of my southern friends, and with a majority of the North, why did he not mention that upon the conference bill two as honest southern men as ever graced this floor recorded their names with the North? Does my colleague say that the gentleman from South Carolina [Mr. BONHAM] and the gentleman from Mississippi [Mr. QUITMAN] have, because of that vote, been false to their States, and become northern in their feelings and principles? How would they feel, and how ought they to feel, if I had risen up in my place, and, in the presence of the assembled Representatives of the nation, undertook to brand these gentlemen with having pursued a course by which they forfeited the confidence of their country—had perpetrated "an unparalleled outrage"—because they felt bound, under a sense of duty, to record their votes with what my colleague calls the Black Republican party? I merely present this attempt to make me out an Abolitionist as one of those things to be placed in the same category as reading the names of those who subscribed for my speech.

In my reply to my colleague's speech, I said, in substance, that I was surprised that he had not pointed out some portion of my speech that an ultra northern man could put his name to, or an ultra man anywhere, which he has been wholly unable to do. I desire to stand or fall by what is true—the facts, nothing more. My speech is before the country, and I ask to be judged by my speech. I am willing to let my first speech, and the remarks which I have subsequently made, go to North Carolina, or anywhere else, and be judged of and decided on by an honest constituency. I did complain, in answer to my colleague's speech, that he, in speaking of my remarks against the Senate bill, interpolated, or added, "in other words, to her admission as a slave State." I remarked, in my speech, that no man could have been more gratified than I, to have had Kansas in with the Lecompton constitution, all things being right and fair; and yet my colleague added, as I thought unkindly, said words, apparently to sting and mortify. I desired to ask my colleague the question what he did mean by the use of these words as descriptive of my objections to the Senate bill, and he very courteously declined to be interrupted, but promised that before he concluded, he would explain. He has not done so, and I suppose he forgot it.

On another subject I gave my colleague a fair chance to be heard. He had represented me as having voted for "an unparalleled outrage." I pointed out, in reply, that the conference bill for which he himself, and our whole delegation, voted, contained substantially all the essential provisions that were in the Crittenden-Montgomery bill, with which I and my friends were all perfectly satisfied, and which was declared a great triumph, and celebrated with music, speeches, and the firing of cannon. I had given him an opportunity to show that the very thing which he called "an unparalleled outrage" was, or was not, the thing for which he voted in the end, and the thing which he has gloried over as being a great triumph, and a measure of justice and peace. Why did my colleague, in his reply, not meet me in something substantial, and show that this is not true? Why did he not show that there was a material difference between the provisions of the Crittenden-Montgomery bill and those of the conference bill? Why does he not explain what the conference bill is? His, as well as my constituents, are interested in this.

My colleague brings to my attention the fact that I voted against the committee of conference. I did so, and, I think, for the best of reasons; and I should have continued to vote as I did, had I seen that, by doing so, I could have forced the two Houses of Congress to have taken the Crittenden-Montgomery bill. But indications were otherwise. I desired not to have an adjournment of Congress without some such settlement. The bill reported by the conference committee contained substantially, but indirectly, all I insisted on. The Green amendment was whirled to the winds, and the question was left to be decided substantially

where, as I said before, it was perhaps better it should be decided, especially as the South could not be the gainer, let the decision be either way. Where is the necessity now for all this difficulty? Why come in, after this thing is all over, and indulge in this fury and this spleen, when my colleague, at last, comes down in substance to that which I had been contending for from the beginning? I repeat, the same in substance; but without many of the wise, plain, and impartial provisions of the Crittenden bill, so well calculated to settle all Kansas difficulties at once and forever, and give permanent peace to the country.

Now, Mr. Chairman, I have done. I am sorry for having troubled the committee so long.

Mr. SCALES. Will my colleague allow me to ask him a question?

Mr. GILMER. I dislike to deny my colleague, but I was not allowed by my other colleague to ask him any question.

Mr. SCALES. I merely want to ask my colleague a question which has nothing to do with the discussion.

Mr. GILMER. No, sir. I must respectfully decline to have anything interpolated in my speech, as my colleague refused me the privilege of having something interpolated in his speech.

Mr. SCALES. That does not justify my colleague for want of courtesy to me.

Mr. GILMER. My friend can have the floor when I am done, and can make a speech.

Mr. Chairman, I have presented my views. I hope I have done so without offense. It is my desire to discuss all such questions properly, and in proper temper and spirit; and I am not going to be drawn or betrayed into any excitement. To be sure, it is very annoying to me to find myself pursued, at my heels, and at every step, as a wild and predatory animal, and such efforts made that I may go home a damaged man.

I do not conceal the fact that it was annoying to me to see it in the papers, the morning after I made my speech, that my friend from Alabama cried out, "Kiss him, Giddings!"—a remark which I did not hear, and which my friend from Alabama states was made in a tone which he did not expect would reach the reporters' ears. I repeat that I felt mortified—I felt wounded. I felt that attempts were being made to hunt me down. I felt that I had been selected because I stood, as it were, alone—the Representative of a large conservative portion of the South, where I was born, with whom I am in all things identified in feeling and interest, and whom properly to serve is my highest ambition; and I admit it was mortifying to me to know that even the lists carried around by the little boys, to take subscriptions for my speech, were copied before these lists were finished, or the ink dry; and after publication here, immediately sent to North Carolina, and to the South, to show that gentlemen, whose political opinions are unpopular in the South, were sufficiently satisfied with my speech to subscribe for it. When that sort of game is to be practiced, I can only rely on the discriminating judgment of an honest people. I will appeal and leave it to them; and although those whose pleasure or taste may justify and induce them to indulge in all these little side-bar remarks, and ambush attempts to prejudice the force and effect of what I had argued, I feel that, before the just and honest tribunal of a generous and impartial people, these assaults will fall harmless at my feet, and that there is yet hope that I may survive.

I respectfully ask my colleague to meet fairly my views and arguments, and in the usual manner and spirit. Let us debate face to face, and boot to boot, and I will never complain of the advantage he may obtain on the questions I have discussed. I know not who to blame; but I submit, in conclusion, that it shows a want of fairness, if not ability, to meet the convincing tendency of the views which I have presented on the subjects discussed, when resort is had to this miserable underhanded method of attempting unjustly to create against me odium and prejudice.

Mr. STEVENS, of Washington, obtained the floor.

Mr. SHAW, of North Carolina. With the permission of the gentleman from Washington, I desire to say a single word in reference to the pub-

lication of the list of subscribers to my colleague's speech.

Mr. GILMER. My colleague has no right to make another speech; and I object, unless I am to have the privilege of replying.

Mr. SHAW, of North Carolina. Does my colleague object?

Mr. GILMER. I do, unless you will agree that I shall have an opportunity of replying.

Mr. SHAW, of North Carolina. I was not going to reply to my colleague. I was going to make a single remark in regard to the publication of the list of subscribers to his speech.

ARREST OF WALKER—CENTRAL AMERICA.

SPEECH OF HON. A. R. WRIGHT,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. WRIGHT said:

Mr. CHAIRMAN: Some time since, when the Committee on Foreign Affairs, to whom that part of the President's message relating to the capture of Walker had been referred, made their report to the House, I offered the following resolutions as a substitute:

"Resolved, That the capture of William Walker by Commodore Paulding was without authority of law.

"Resolved, That said capture was within the letter and spirit of the instructions of the Navy Department, and especially that portion of the instructions which ordered one of its officers 'to repair to the Island of Chiriqui, on the coast of Nicaragua, where it had reasons to believe said expedition would rendezvous.' And another of said officers 'to proceed to Cape Gracias, Honduras, skirting along the coast, looking in at the mouth of Blewfield inlet; thence to San Juan del Norte, Nicaragua.'

"Resolved, That the right of the citizen of the United States to expatriate himself and change his allegiance; 'to emigrate with arms in his hands,' for the purpose of settling new countries and founding new States, is an inherent and sacred right, one that ought to be inviolate, and one of which he cannot be constitutionally deprived."

I sought the floor, on various occasions, to vindicate the resolutions, but was unable to obtain it. I now proceed to address the committee on them, and subjects intimately connected therewith.

The paper, usually denominated the Government paper, remarked in substance, a few days ago, when taking certain unruly members to task on the deficiency bill, that it was "infamous" for a man to change his party relations. That depends upon circumstances. If from corrupt motives, he is corrupt. If he follows his party from the same motives, he is none the less corrupt. The man that follows party because it is a party, is a factionist. The man who follows principle and supports a party because it follows principle, is in the path of duty. When leaders undertake to overthrow principle, honest men should overthrow them. As a man, I never supported our Chief Magistrate. I supported the principles of the Cincinnati platform, and the President as their exponent. When, in my opinion, he departs from any of its principles, I shall depart from him that far, no further. If he seeks to overthrow it, I shall seek to overthrow him. If that be infamy, I shall be "infamous." This spirit of independence in the Representative is the safety of the Republic. When it ceases, venality begins.

In the capture of William Walker and the making of the Yrissari treaty, the President honestly, I am willing to admit, but none the less erroneously, struck the vitality of the foreign policy of the Democratic platform. He committed a blunder—worse than a blunder; he put to hazard again the dominion of Central America in a foreign Power. We may recover from it without serious loss; it may cost us millions of treasure and oceans of blood. It was the political blunder of the nineteenth century. In any view, it must retard civilization; give continuance to priestly domination, and prevent the progress of knowledge and true morality. The "stability of future times," spoken of as glorious, "shall be wisdom and knowledge." These have been certainly hindered. Nothing has been secured of value to the country.

The great controller of Nicaraguan affairs, has not been generally known in this country. The

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ruling power has been *behind* the throne. A "cloth of gold" has hidden its deformities. The Earl of Warwick was called "the king maker." He overthrew and established dynasties. "The Transit Company," technically, "the American Atlantic and Pacific Ship Canal Company"—sometimes known as "Stebbins & Co.," sometimes as "Vanderbilt, White & Co.," and perhaps other names, located in New York—has ruled its destinies for some years. It has overthrown two Governments and established two, and now has its leviathan folds around it, supported, protected, and defended, both by this Government and the British. President Martinez and Yrissari are its mere puppets, to represent government.

This company furnished a large portion of the means by which Walker was introduced into the country, and, in combination with Castillo, or rather, the liberal party, which he had represented, (he having died before Walker's arrival,) overthrew the Chamorro, or aristocratic party. When the company failed to control Walker's government, it went to work to overthrow that, as it had done Chamorro's. In conjunction with British emissaries, it succeeded in arraying five Central American Governments against Walker, and aided them by its counsel and means in the war which followed. By some means unknown, it succeeded in getting the countenance and aid of this Government, by whose naval officer (Commander Davis) Walker was first captured and brought back to this country. Upon Walker's return to Nicaragua it was busy at Washington; its members were dined at the White House. Scandal says some of the heads of Departments bought stock, or had previously bought it. The Government agreed, through Yrissari, to protect it in all its franchises. Its president wrote to the Secretary of State to have "the filibuster Walker" taken away—said it was necessary for the good of the people of this country—that he had steamships ready to put upon the route for purposes of transportation, but was afraid of Walker, &c. Walker was *accidentally* captured, and the Martinez and Yrissari Government installed, and the said company, the British, and the northern half of this Republic, let in.

I have no time to enter into the details of this iniquitous transaction. I must, however, refer to some facts more minutely. By the Yrissari treaty, three main points are treated for: First. *Two free ports* to all nations, kindred and tongues, and especially our cousins, the British, at either end of the transit. Second. *The protection* of the company in its rights; this is the *grand* point. Third. *Free transit* across the isthmus to all Governments.

Now observe, first, Walker "and his young men, mostly from southern States," (as one of the capturing admirals calls them in his dispatch,) are taken out of the country. Now who are put in by the treaty? The British, and all other nations, except the *southern half* of this. For one of the stipulations is, *protection* to the company. What are its rights? Not only *exclusive* transit, (what a monopoly!) but *exclusive* colonization. Examine its contract with Nicaragua and Yrissari. My limit of an hour prevents its publication. I will give an extract of Yrissari's letter to Mr. Cass, under date of 30th December last:

"The undersigned deems it to be his duty to inform his Excellency the Secretary of State that the Constituent Assembly of Nicaragua has approved and confirmed the contract made by the undersigned with the American Atlantic and Pacific Ship Canal Company, the only one vested with the privilege of carrying across the isthmus, as the only one also which, for the present, and so long as the Government will not have otherwise disposed, has the right to carry emigrants to that country under such conditions as have been imposed on this company. All other emigrants or colonizers whatsoever that may be conveyed to that country will be refused admission, and compelled to depart from the territory of the Republic." "Considering it highly important that the tenor of this note, especially that portion touching emigration to Nicaragua should be made public, the undersigned would entertain the hope that the Secretary of State will find no objection to have its contents published."

And this, a Democratic Administration, supported by nearly the entire South, publishes! "Young men, mostly from the southern States," "will take *due* notice and govern themselves accordingly." Any desiring to emigrate to Nicaragua will please go by New York and get "their papers" of this land monopoly, this stock-jobbing

and governmental company. Taking Walker away *accidentally*, this is the treaty made "of purpose."

Can it be possible that the President was amusing the South with the "Kansas abstraction," while *practically* he was using the power of the Government to take "slave labor" out of Central America and put free labor in? Was he not only giving territory to "free labor" in Kansas, and *principle* to the "slave power," but was he doing the same thing in the tropics? His antecedents would not lead us to such a conclusion. Facts seem to point that way. Surely I do not rightly apprehend them, or they are susceptible of explanation.

Hear what a leading British paper says. After rejoicing at the probable overthrow of slavery in some of the border States, he proceeds, (I quote the London News:)

"More significant still is the proposed settlement of Central American lands with white laborers. This is one of the consequences of the failure of Walker, and of the alarm which he caused to Nicaragua. The Minister from Nicaragua lends eager countenance to the scheme, in hopes of obtaining a respectable population, introducing capital, industry, and commerce, and of keeping at arm's length, by the same method, the tipsy, quarrelsome, marauding pioneers of slavery. Several thousands and white working men have taken passage for the new settlements. Time will show what their success is likely to be, and whether they can really carry on that competition with the South in regard to southern products, which must be their inducement to leave their country while such vast areas remain unappropriated there. Another motive may, however, be, that in Central America, they are more secure from the curse of slave institutions than they now feel themselves to be in any part of the Union. The real nature of the migration seems to be proved by the excessive wrath of the Virginia newspapers on the promulgation of the enterprise."

No wonder that "my Lord Napier and Sir Gore Ouseley" did agree to the Yrissari treaty. Is this the American supremacy in the Gulf and Central America, of the Democratic platform? Shall the American Navy be made, by a Democratic Administration, to act the part of scavengers for the British, in the Caribbean sea and along its coasts? Will American statesmen submit to this? Shall we thank the Administration that Walker, with his men, "mostly from the southern States," has been taken away, because, if we had not done it, the British would? Shall we vote Paulding a sword because on an American coast, under British guns, and the approving smiles of British officers, he captured his countrymen? And having captured his countrymen, he converted his ship into a theater, and made his men play low comedy for the entertainment and amusement of British soldiers! Oh, my country, how hast thou fallen! Our sires voted thanks and swords to their gallant tars; but in those days, the fresher days of the Republic, "knights were spurs who won them." Congress voted McDonough a sword; but McDonough drove British navies out of American seas. At Plattsburg, with fourteen ships, he fought seventeen; with seventy-six guns, he fought eighty-six; with eight hundred and fifty American seamen, he fought one thousand British. On Champlain's quiet waters, he argued the rights of his countrymen with the British, from the port-holes of his ships, with eloquent broadsides. In honoring him, I have thought my country did honor herself. Paulding captured his countrymen without firing a gun, with a British navy at his back. Shall we vote him a sword? What say you, representatives of my country's honor?

A Congress of our fathers voted Paul Jones thanks and a sword. The commander of the Bon Homme Richard, in sight of a British coast, in British waters, boarded a British ship, his superior in men and guns. When his flag was shot away, the opposing commander, supposing he had hauled down his colors, asked if the captain of the ship had surrendered; his reply was, "He has not yet begun to fight, sir!" Lashing his cannon-riddled, sinking ship to that of his enemy, and calling upon his men to follow him, he sprang to the enemy's vessel, and walked her slippery decks her victor and commander. Verily, I have felt right loyal to my country when I have read how she honored the dauntless hero. But Commodore Paulding—what has he done? Has faction and fanaticism effaced the last vestige of justice from the mind of my countrymen? As a subaltern, he but executed the order of his superior. He did that in a most ungallant and ungracious style. Clothed with a power that was wholly irresistible

by those with whom he had to contend, he insulted and brow-beat his victim. In an official note to surrender, Paulding told Walker he *lied*, and threatened to hang him. With four hundred men, well armed, and with cannon, with a part of the British fleet floating in the harbor, and ready to help, he landed, and, without firing a gun, captured "one hundred and fifty young men, mostly from the southern States," badly clothed, badly armed, and not disposed to fight their countrymen. In that band there were some that, under the stars and stripes, had heard the thunders of Chapultepec, Cherubusco, and Molino del Rey.

Paulding faced no danger, run no risk, accomplished nothing likely to add to his country's renown or give luster to the page of her history. These captured "young men from the southern States" he sends in "a vessel without a stove," in the dead of winter, back to their country. Shall we vote the sword? That's the question. There was an enemy captured on that occasion, that has not generally been noticed, but was returned by the commodore under his "list of killed and wounded." Upon that enemy, we are told, by "some lookers on in the service," there was an assault of a serious character. It formed a sort of rear guard of "the captured," and was found in the shape of two barrels of "corn whiskey." Under the commodore's "list of killed and wounded," if you will observe closely, you will notice "a sack of salt, a bag of beans, and two barrels of corn whiskey." Upon this latter "force" of the enemy there was made a most determined and desperate charge. For violence of onset, and desperation of purpose, nothing has equaled it since the charge of Ney, at the head of the Old Guard, on the field of Waterloo. It is unnecessary to state, the victory was complete, the enemy was routed, dispersed, and annihilated. It is possible the distinguished Senator from Wisconsin, in the other end of the Capitol, may have been caught with this part of "the encounter" in moving his resolution. Upon inquiry, I ascertained we both belonged to that respectable order known as "hard-shell Baptists." One of the peculiarities of that excellent people is said to be a "disposition to demolish" this dreadful enemy, whenever and wherever discovered. As such encounters are always accompanied "with imminent risks," I have thought it possible it was to this part of "the fatal affray" the sword was intended to go. Sir, if this is the idea, "I give in."

My distinguished colleague [Mr. STEPHENS] said, in his speech on Walker's capture, that it "was illegal and an outrage." Right truly and eloquently did he say it. There is no parallel to it in the history of this Government. Jackson did not thus treat those "filibusters" who conquered and civilized Texas. No Government ever committed a more unlawful and more unjustifiable act.

Yrissari has applied to Walker the epithets of "robber, murderer, pirate," and such like. Sorry am I that the President, in his effort to justify his action, has applied the same terms. Of the pompous mongrel, nothing better was to be expected. It is below the dignity of the President's office. He wronged the citizen, that was enough.

Gentlemen, endeavoring to justify the President, have pursued the same course; they have gone further, and declared Walker a failure as a ruler and a general. Let us inquire a little into the facts, and see how stand the "issues" the Government and its friends have made upon this "youth from a southern State."

Nicaragua has had no stable Government for many years. Revolution and anarchy have reigned over that Eden of the western world for a long time. Walker's government, in duration and efficiency, has not been equaled for nearly a quarter of a century. In 1855, there were two contending factions for the presidency. The aristocracy leaning to European influences, headed by Chamorro; and the liberal or democratic party, headed by Castillo. They were engaged in war for supremacy when, through the agency of this New York company, which sought to rule the country through the liberal party, a contract was entered into between Castillo and Walker, then of California, to the effect that Walker should maintain Castillo and his party in power, (himself becoming

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a citizen of the Republic;) and furnishing, therefore, a certain number of emigrants, armed. The consideration to Walker was to make him general of the army, and grant him fifty-eight thousand acres of land. Under this contract he sailed from San Francisco in 1855, in a vessel furnished by the New York company. Cannon of the American Government, under the national flag, saluted him as he passed out of the bay. He landed at Rivas, and fought a desperate battle with fifty-five Americans and ten natives against six hundred Nicaraguans, killing and wounding about three hundred of the enemy. Chamorro and Castillo had both died before his arrival. How he fought for nearly two years, and maintained himself, is known to the country. Under his leadership Rivas was elected President of the Republic; afterwards Walker himself.

The United States Minister recognized, officially, the Government of Rivas under Walker's auspices. It again twice recognized Walker's. It received his minister, Padre Vijil, at Washington. In June, 1856, Walker reordained the decree establishing slavery, believing his republic adapted to that kind of labor, and as likely to be best developed agriculturally by it. About the same time, the New York company, undertaking to govern Walker, was given to understand that he was President of the Republic, and not Mr. Vanderbilt. Five Central American States made war upon him. The British emissaries, in conjunction with Vanderbilt, did all they could to overthrow him. He was at last besieged at Rivas, for several months, where he fought with terrible resolution, himself and his men feeding on mules and dogs. Massena never displayed more fortitude, or fought with more desperate courage. The enemy never made an assault that they were not driven back with immense slaughter. His extremity was very great, but he never surrendered; and the opinion of the best informed is, that had not Commander Davis captured him and "brought him off," the enemy would have been compelled, from want and sickness, and its immense losses, to have evacuated the country. He was brought off in May, 1857.

By his indomitable energy, by the 14th of November following he raised men and money to recover his lost rights and put back to Nicaragua. On the 17th of the same month, three days after his departure, Yrissari, who had never, up to this time, been recognized by the Administration, was introduced to the President by Secretary Cass. The "man of straw" became "the minister plenipotentiary." The obnoxious Yrissari treaty was concluded. On the 8th of December, Paulding captured Walker, brought him back, and surrendered him to Secretary Cass, I believe, through the famous Captain Rynders. The aged Secretary, surveying him in great doubt as to the precise order to give, finally delivered to him Captain Winfrey's command to his militia company, to "disperse, and go where he damned pleased."

Such are the outlines of the facts. Who, then, was robbed? Walker by the Government of the United States and the New York stock-jobbing monopolists? or Nicaragua by Walker? What were Walker's rights? Was his contract with Castillo a fair one? Did he fight faithfully for his adopted country? Where are the fifty-eight thousand acres of land he bargained for? Where the army he was to command? Was he not a lawful President? Our Government recognized the Minister of—whom? A pirate, a thief, and a robber? Did her vessels of war salute a man in the violation of the laws of his country—one going on an unlawful expedition? While he served the New York Constrictor, and permitted the abolition of slavery to stand, he was a hero, "the gray-eyed man of destiny." A change came over the spirit of his future, when it crossed the "spirit of freedom." From the unanimity with which the camp followers of the "statesman from the Western Reserve of Ohio," [Mr. GIDDEXES,] rallied to the support of the Administration in Walker's capture, "I guessed" there must be a "nigger" in it. I did not then know it. Sure enough, that venerable statesman's ear had heard the master's lash and the negro's wail over the roar of the distant sea.

Walker is this day, by all law, human and Divine, as much the President of Nicaragua, as Mr.

Buchanan is of this Republic. The Government that ought to have stood by him, and made other nations stand off, is the one to oppress and ruin him. The Transit Company shout hosannas; the British praise the conservative writer of the "Ostend Manifesto;" and the Black Republicans see, in this "one virtuous act," hopes of a returning prodigal. Can it be that the "veins opened to let out Democratic blood," and thought to be healed, are bleeding again? Walker's motives were ambitious, but virtuous. That he sought to found a stable government over a beautiful country, but a debased and wretched people, is certainly true. That he sought to do it by legal means and legitimate warfare, is also certainly true. Rule badly as he might, it must have been better than anarchy, or the reign of terror and death—of a foreign-moneyed monopoly. Look how it grinds and scourges and kills in "the Indies."

A word as to his abilities. Gentlemen say he is a failure as a general. It is easy to rob one of laurels that have been hardly won. Where did he ever lose a battle? It is said he "was driven out of Sonora." By whom? By sickness and hunger. He entered Nicaragua with forty-six men. His first battle that his enemies say he lost, he fought against odds—ten to one. With fifty-five Americans and ten natives, as before stated, he fought and drove out of a town six hundred, killing and wounding half. At Massaya, he fought two hundred and sixty men against two thousand, and beat the enemy. At Granada he fought two hundred and seventy against two thousand eight hundred, and killed and wounded fifteen hundred.

He fought twelve battles, generally with about the same odds against him, and was victorious in all of them. In the straitsness of the siege of Rivas, he fought with the fierceness and courage of a lion at bay. He endured, with his soldiers, the fiercest hunger.

When the enemy made its assault, he fought at the head of his stern comrades in arms with the skill of a general and the courage of "the bravest of the brave." He was in Nicaragua about two years; his whole collective force, during all the time, was about two thousand five hundred men. With these he fought five Central American nations, (aided by British counsels and the Transit Company,) conjointly furnishing about nineteen thousand troops. He killed and wounded in battle about six thousand of the enemy; he lost only about eight hundred and fifty of his own men. And yet because he could not stand, in addition to the foregoing, the navies of Great Britain and the United States, we are told "this young man from a southern State" is a failure. He is no failure. Point to his equal in ancient or modern times. Show me the man, with the same means, who has accomplished equal results. His countrymen may attempt to blast his fame with the epithets of "fillibuster, marauder, and pirate." It will live. His deeds have breathed into his name life. It will be more enduring than that of his traducers; it will outlive the marble; it is upon the page of his country's history. Poets shall put it in song; orators engrave it in burning paragraphs. I did not intend to eulogize him, but simply to pay a passing tribute to the genius of American production, to do justice to a citizen of the Republic. So much for Walker's capture, its causes, its consequences, his rights and his capacities.

A word upon what has been termed "the neutrality act." This is the act under which the President seeks his justification for his seizure. It cannot be justified under it. In the first place, there is no such act as "the neutrality act" known to the statute-book. There is "An act for the punishment of certain crimes against the United States"—not against other nations. The crimes pointed out in this act are matters between the United States and its citizens, just as any other crimes are. Foreign nations have nothing to do with it. When foreign nations bring offenders to the notice of this Government, it should be for some breach of "the law of nations," or some treaty stipulation. Foreign nations have nothing to do with crimes of citizens of the United States against their own Government. This is our business, not theirs. They have just as much right to assume an oversight of the execution of our criminal laws for offenses against our Government on one sub-

ject as another. When we trespass the law of nations or treaties, by which they suffer, then, and not till then, they have a right to speak. Were I President, and Yrissari, or "my lord, or the count," were to call my notice to the execution of our criminal laws, I should call theirs to their own business, specially and particularly.

But never did the head of a nation make a greater mistake than did the President in his message, when he said this act conferred upon him the power to use the Army and Navy "to prevent the carrying on of military expeditions," &c. There is no such general grant. By no means. There is nothing like it. The eighth section of that act does authorize him "to take possession of and detain a ship; to prevent the carrying on," &c. Is there no difference? Mark: he says there is grant of power "to use the land and naval forces or the militia to prevent," &c. The act says "to take possession of and detain a vessel, in which a military expedition is set on foot," &c., and "its prize," (if it has taken any.)

Any man of fair mind, who will read the section, will see it could only have contemplated vessels in our ports. The ninth section authorizes the President to use the same force to compel a ship to depart our ports which ought not to be here. The language of the eighth section, under which alone he pretends to justify the use of the Army and Navy and militia, does not authorize him to seize nor to capture, but to take possession of and detain, and to do this, as my colleague has well said, "to prevent the carrying on," &c. And not only to use the Navy, but the Army, and not only the Army, but the militia, "to take possession of and detain." Will the President take the militia about to foreign ports to take possession of and detain vessels, &c., to prevent the carrying on of warlike expeditions? Outside of the marine league the neutrality act no more authorizes the President to use the Navy or Army or militia to make a seizure such as Paulding's capture of Walker, than it does to make war. One is as much a usurpation as the other.

Let us for a moment analyze this far-famed act, "to punish crimes against the United States," about which so much is said, and in which all earth's nations are so much interested, and which the British in particular, and other nations in general, recommend us to execute for our benefit. It has thirteen sections. The first six define and punish certain crimes—nothing more. If a citizen violates them, anybody may sue out a warrant, and the marshal will arrest. If resisted, he will raise "the posse." No army or navy is to be used here. Nobody pretends there is any grant of any such power in either of them. The seventh declares, the district courts shall take cognizance of the captures within the marine league of our coasts. We pass the eighth for the present. The ninth gives the President power to use the Army or Navy or militia, "to compel any foreign vessel to depart, which, by the laws of nations and treaties, ought not to be here." The tenth compels owners of armed ships to give bond that they shall not be used to make war, &c. The eleventh authorizes collectors to detain any suspicious vessel, till the further order of the President, or its owner gives bond it shall not be used for war. The twelfth repeals other acts. The thirteenth enacts that this act shall not prevent prosecutions for piracy or treason. Thus we have it all. On the eighth section, and that alone, is there pretense of power to use the Army and Navy and militia. I have given a faithful exposition of that.

It is one thing for the citizens of this country to fit out military expeditions against other countries. And it is another thing for the citizens of this country to migrate to other countries permanently, and fight when they get there, to rule it. They must take their chances. If they are overpowered, they die. This Government cannot interfere in the mode or measure of their punishment. When the brave Crittenden, with his compatriots, were taken prisoners in Cuba, our consul would not even go to see them in their dungeons before their execution. They died with the constancy and courage of the American character. Shall we, then, when they are successful, as Walker was, make war upon them ourselves; and that, too, to put "money jobbers" in their places? I hope not. Surely this outrage upon

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Walker and his men, will yet be redressed by our Government, and full justice done them.

The distinction between citizens of this country fitting out military expeditions against other countries, and emigrants, is to be found in the *animus manendi* and the *animus revertendi*—the mind of remaining in that other country, or the mind of returning to this. Where there is the mind of returning, it is an offense against the so-called neutrality act. Where the mind is to emigrate, to remain and take his chances, it is lawful; it is a right, an estimable right, one of which he cannot be constitutionally deprived. If our citizens have not this right, we are worse off than the Irish under British rule. Whenever I am satisfied that I am wrong in this, and that we belong to the Executive; that he can send after us, and run us down, and catch us, and bring us back, I shall do my best to revolutionize my Government; I shall despise its principles, and defy its power. From the capture of Walker, such would seem to be the President's view. I hope by this time he has taken the second sober thought.

That Paulding acted *within* his instructions is too manifest to admit of doubt. To prevent the expedition, why order a vessel "to the Island of Chiriqui, where it was thought they would rendezvous?" Was it, if her commander found filibusters on it, to look at them and sail off? Was it to lie around and prevent their getting off, and starve them to death? Why order a ship "to skirt along the coasts of Honduras?" Suppose her commander saw the filibusters setting on the coasts, was he to sail off and leave them there? Why order him "to look in at Blewfield Inlet?" Was it to grin at them, if found; expecting that, like Captain Scott's coon, they would give in?

Was there duplicity in the President in this matter? When the South complained, he said Paulding "committed a grave error." When the North and the British rejoiced, why, then, the organs said "the President, in Walker's capture, had inaugurated a policy." This was wrong. The President has read the old Scriptures to some profit. The Jews had a ceremony of bringing up a goat once a year; and the High Priest, putting the sins of the people and himself upon him by laying his hands upon his head, sent him away to the mountains. He was called the scape-goat. The President saw the force of the ceremony. He always has one at hand. When pressed to the wall by the illegality of the seizure, he puts his hand on Paulding; he "committed a grave error." Now, let us have it one way or the other. If Paulding did it, let "the policy inaugurated" be Paulding's; quit flattering the President. One of the evils of all Governments is the "dogs that eat the crumbs which fall from their master's table." It requires a strong mind to appreciate their meanness and despise them. All men love the "flattering unction." A wise man, however, while he listens, will not be seduced. Sometimes he will learn his own folly by the very excess of the adulation. It is thought by some good judges that the President's table is well attended.

I have no time to enter into detail upon my third and last resolution. It will not be denied. That it has been violated, no right-minded man can doubt. The slave of a faction, who despises truth if it conflicts with gain, can give some excuse as a plausible pretext, for any injustice, yea, for crime; the love of liberty for assassination.

Our foreign policy is marked out in the Cincinnati platform. Let us have courage to stand up to that. If we have not, let us strike it out.

The Monroe doctrine, which is to be "adhered to with unbending rigidity," does not require any acquisition of territory. It does not require any interference with the commerce of foreign countries on this continent. It does not prevent individual emigration to any portion of it. It does not require any protectorate of this Government over any of its Governments or territories. It does say, however, that *European Governments* shall not plant their old, decayed systems of kingcraft and priestcraft upon it. Upon our northern border, Great Britain has planted her "lords temporal and her lords spiritual."

It is said the policy of giving Canada a prince of "royal blood" is now being agitated. We do not, by the Monroe doctrine, propose to interfere

with that; but we do, if she or any other Power undertakes to do so on our southern border. Our true policy is to use the power of this Government to keep these countries free from foreign rule, and to let them fill up with just such immigrants as may seek homes there. Under this policy, our element of population will naturally soon predominate. Its contiguity, and the energy and enterprise of our people, will, if let alone, settle it in our favor. The Irish and Dutch, and general foreign immigration, when not carried on by the Governments for purposes of colonization, sympathize with our people and institutions, rather than their own. Well regulated Governments in these southern Republics, with American sympathies, are as much, or more, to be desired by us than any extensive annexations. I do not include Cuba in these remarks. She fills the mouth of the Gulf, upon which a number of the States of the Union border. She also commands the mouth of the Mississippi river, which is the great artery from the heart of the Republic. Cuba ought to be subject to our jurisdiction. It is natural and just that it should be. The guarantee of it by France and England to Spain was an appeal to our fears. Central America is wholly disconnected. It occupies no such relation. It may or may not become necessary to own a part of her territory. That is not the question. Shall we permit European countries to colonize it, to govern it, as England does the East Indies, thereby bringing her power to bear to control the will of the people and the destiny of the country? Shall she send a prince of the blood to rule her colony? The Democracy of this country say not, in their platform. If it is too weak in the knees to stand up to it, let us take it out. Let us not make ourselves ridiculous by vaporizing.

The British, in the face of our declared policy, proceed to take possession of the best harbor on the coasts of Honduras, and form her colony at the Balize. She then proposes to negotiate, that we should take none, if she will take no more. We never proposed to take any, at any time. We said, those countries should be free from foreign domination. That insolent Power, that never took up her foot where she had put it down, unless she was made to do it, unfurled the flag of her domination in the tropics; and for arguments as to its rectitude, showed her "war dogs" in their kennels, in her three-deckers. While she knows full well the spirit of our people, she understands equally well the courage of our rulers. She knows they will not fight unless the danger is greater in the rear than in the front. She catches our vessels in the Gulf, hauls them to, examines and lets off the craft when the humor suits her. If we say anything, "My lord" is ready "to negotiate." Any day, no man in the Republic would be astonished to learn that she had treated for Yucatan, for Vera Cruz, or half of the Mexican Republic. For myself, I hope she may. I do not doubt we shall have her to fight, or let her govern the Caribbean sea and Central America.

I am not fond of fighting, individually or nationally. When I am satisfied it must be done, however, I think the best way is to have it over. A fight is sometimes prevented by rendering palpable you are ready. It may be so with the British. While they are a brave, they are also a considerate people. A serious conflict now with the United States would develop the greatest naval and military Power in the world. I know England's advantages at the beginning of the strife—her trained soldiers, her thousand battle-ships, her immense steam power. I know how, temporarily, we should suffer; but how would my country rise with the strife! As Young America smarted under his blows, how would he learn wisdom from adversity! What a Power our country is, if the emergency should arise to rouse her energies! England is old. Her rulers, wise and valorous, are wanting in vigor and skill. Her capacity to pay is stretched to its utmost tension. The slightest shock to her credit, and it would vanish forever. Her supplies are drawn from this country. Her commerce lives upon it and by it. She would be troubled for fighting men as well as means.

How different the condition of this country! Growing in vigorous youth, free from debt, full of men for soldiers and seamen, and able to procure recruits, exhaustless recruits, from almost

every land, capable of building in a few years a navy as large as that of Great Britain, for a sum equal to two years' interest upon the public debt of that country, who could doubt the result? In full view of all the resources of the two countries, comprehending, as far as I may be able, all the consequences of a collision, I do not believe that England can survive the struggle. But that is immaterial. Let us take down our colors or fight. The consequences of war are terrible; I know; but if England will undertake, in defiance of our policy, to colonize Central America, and police American seas, let it come. Let us maintain our policy or sink the last ship in the American Navy, and exhaust our forests in building new ones.

ARREST OF WILLIAM WALKER.

SPEECH OF HON. G. S. HAWKINS,

OF FLORIDA,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

MR. HAWKINS said:

MR. CHAIRMAN: I am aware that anything savoring of animadversion upon the conduct of Commodore Paulding, in his recent capture of William Walker, is not calculated to find much sympathy or favor with many members of this House; but, animated by a sincere desire for the attainment of truth and justice, I shall not permit my opinions or conduct to be swayed either by popular clamor or public applause; and the violent tirades against Walker, or fulsome adulation of Paulding, are, to me, matters of supreme indifference, exercising no influence or control over or upon me.

The event that has given occasion for this discussion is numbered among the things that were; but it has brought with it an involution of principles of the highest importance—principles embracing questions of national and international law—and, as such, is entitled to the most serious consideration.

At the outset, Mr. Chairman, I will simply remark, I am no filibuster, nor have I much sympathy with any expeditions gotten up in this country in derogation of its laws, its policy, and its duty towards other countries. They contravene our own municipal regulations, and are utterly subversive of the law of nations—a law based upon principles of that eternal justice implanted by the Creator in all moral and social creatures, upon the golden rule and the implied assent of mankind. The present laws for their suppression—the neutrality acts of 1818—are certainly sufficiently stringent and severe; but as long as they remain upon the statute-book, let obedience be yielded to them; but a state of things may arise when either they should be repealed, or power and discretion given to the Executive to suspend their operation.

As to William Walker, I confess I have but small faith in the star of "the gray-eyed man of destiny," for it shines dimmed and pale, receiving or borrowing no luster from his civic or military talents. That he possesses uncommon personal courage, force of will, and firmness under difficulties, there is no doubt; but these attributes of character appear unaccompanied by the requisite knowledge of the art of war, the gift of gaining the affections of his troops, and the enforcement of a salutary discipline, save by acts of extreme and probably unnecessary severity. He permitted himself to be overreached by a *coup de main* of the Costa Ricans, thereby losing the command of the San Juan and the lake; and being deprived of these points, he was unable to receive succors through these channels, or make a successful retreat. He allowed himself to be involved in a controversy with the Transit Company, which became one of the leading causes of his failure; and instead of using his power in the name and through the agency of others, who were not likely to enkindle the local jealousy of the people of the isthmus, he committed a serious error in assuming the reins of government.

Whilst making these strictures, however, I am free to admit that his greatest errors were his misfortunes; for he went not forth like Napoleon,

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Arrest of William Walker—Mr. Hawkins.

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accompanied by the goddess of Fortune as well as the god of War; and if he had been successful, he would have ranked with Bolivar and other deliverers of their country from oppression; but as it was, he had to learn, in the language of a British statesman, that—

"A successful resistance is a *revolution*, not a *rebellion*. Rebellion, indeed, appears on the back of a flying enemy; but *revolution* flames on the breast-plate of the victorious warrior."

In his "first most extraordinary expedition, I felt a deep interest not only in the *man*, who, after being invited to Nicaragua by one of the two parties contending for the mastery—those of Chamorro and Castillon—accepted the call, and, accompanied by only fifty-six followers, fought battles successfully, and within a year after his advent was elected, almost unanimously, President of the country; but I felt an equal interest in the success of a *cause* by which the masses of that region might be relieved from oppression of all kinds in time of peace, and the horrors incident to interminable and bloody wars. I felt, sir, that there was a prospect of American progress in one of the finest regions of the earth; that the people of those regions, on becoming acquainted with our laws and institutions, might gradually become imbued with their spirit and follow our example. I felt that an ally might be gained, through whose agency, based on good will and reciprocal interests, a route for all time might be gained across the isthmus to our possessions on the Pacific that could neither be disturbed by the bad faith of the Governments in Central America, nor by the intrigues of foreign Powers. I felt, sir, the force of that sentiment alluded to by Mr. Webster, in his correspondence with the Chevalier Hulsemann, at the breaking out of the revolution in Hungary, when he remarks that

"The American Government and people take a lively interest in the events of this remarkable age, in whatever part of the world they may be exhibited; and they cannot suppress the thoughts or hopes which arise in men's minds in other countries from contemplating the successful example of free Governments."

I felt, sir, the sentiment of a high functionary of this Government, whose heart always beats responsive to whatever is noble, brave, or patriotic, when he declares—

"I am free to confess that the heroic effort of our countrymen in Nicaragua excites my admiration, while it engages all my solicitude. I am not to be deterred from the expression of these feelings by sneers, reproaches, or hard words. He who does not sympathize with such an enterprise has but little in common with me."

I felt, sir, the sympathy as expressed for the cause in Nicaragua, in one of the resolutions ingrafted upon the Cincinnati platform, in 1856. And, sir, Commodore Paulding himself, in 1856, partaking of a feeling which at that time pervaded this Republic, wished success to the enterprise of William Walker!

A distinguished gentleman of this House, and a member of the Committee on Naval Affairs, has shown me a letter sustaining this statement, and I will thank my friend from North Carolina to send the letter to the Clerk's desk, to be read "for information."

Walker played the game boldly, and he lost; he risked everything upon hazard of the die, and it was adverse; and his expedition will be read and remembered as an episode in the history of nations, displaying how much can be achieved by means, however inadequate to the end, when guided by American enterprise and American valor.

As to Commodore Paulding, I will endeavor to prove what the President has asserted, that he has been guilty of "a grave error." Yes, sir, an error of so grave a character that, unless some mark of reprobation is placed upon his conduct, the result, at some future period, may be productive of the most disastrous consequences to this nation.

If officers of the Navy are to understand that acts similar to Commodore Paulding's are to pass unnoticed, there may be a rehearsal of the drama, when this Government may be obliged either to disavow the act, and render acknowledgments humiliating to its pride as a nation; or else, in adopting it, be precipitated into war. A medal to Paulding now, or a presentation of thanks, cannot fail to induce—ay, sir, *invite*—imitation of a most illegal and unwarrantable invasion of *some* country that may possess the will and the power to

avenge an insult to its sovereignty. If Paulding has acted in accordance with the orders of his superiors, or if his act has been *adopted* by them, the culpability rests not with *him*, but *them*. But I regard his conduct repudiated by the Administration, as shown by the release of Walker in this city, and the censure cast upon him (Paulding) by the highest functionary of this Government.

It may be proper for the Executive of this nation to palliate or extenuate the conduct of a naval officer high in rank. It is his privilege; it is an attribute pertaining to his high appointment; and it is for *him* to exercise the pleasing prerogative of seasoning justice with mercy; but when a question of law, international or otherwise, arising from a certain state of facts, is submitted to an American Congress for its solution, we ought to decide upon the question itself, and leave the palliating circumstances, if any, to another branch of this Government.

This is not a case of mere individual misconduct, where good motives or intentions can be pleaded by way of exculpation; it is an *official* act, and, as such, should receive a more rigid and severe scrutiny. It is, sir, a question of international law; it is a *political* question; and Commodore Paulding has been guilty of a *political error*, said by Talleyrand to be worse than a crime. The latter may affect one or more individuals; the former the peace of nations and the repose of mankind.

I am a friend of the Navy, sir, for I consider it the right arm of our defense. With us, as in England, it can never become the subject of the same jealousy as is felt for a standing army. It has thrown the most brilliant luster over our military annals, and has gained for us the respect and admiration of the world. But, sir, I wish a navy composed of officers who bow to the law and its behests, and who act in accordance with the apotheism of Marshal Saxe, that there were three duties of a soldier; the first was obedience, the second was obedience, and the third was obedience.

It is said, because Nicaragua has not complained but approved of Paulding's course, therefore no wrong has been done. The question is not between that country and us, but between *this Government* and *Commodore Paulding*; and the *true inquiry* is: was Paulding justified in the arrest of Walker upon the soil of Nicaragua, either by virtue of his instructions or the law of nations? I answer in the negative. He transcended his instructions. The seizure of Walker was an act of war; and he assumed and usurped the high prerogative of the war-making power in its consummation; and yet, sir, I find it gravely asserted that Paulding had not only the right to arrest Walker within the maritime jurisdiction of Nicaragua, but upon *her very soil itself*. The only possible pretext for his arrest was a charge of an infraction of the laws of 1818. Admitting, sir, *a priori*, the charge to be true, let me ask, have those laws or statutes any operation, any force, any vitality within the jurisdiction of Nicaragua, or that of any other foreign Power? If so, sir, there is an end at once to the sovereignty of nations, for there would be an *imperium in imperio*. Chief Justice Marshall says:

"The jurisdiction of a nation within its own territory is necessarily *exclusive* and *absolute*. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving any validity from any external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power which could impose that restriction."

Now, sir, how far does this jurisdiction of Nicaragua extend? Mr. Wheaton, in his work on international law, writes thus:

"The maritime territory of every State extends to the ports, harbors, bays, mouths of rivers, and adjacent parts of the sea inclosed by headlands, belonging to the same State. The general usage of nations superadds to this extent of territorial jurisdiction a distance of a marine league, or so far as a cannon shot will reach from the shore, along all the coasts of the State. Within these limits the rights of property and territorial jurisdiction are *absolute*, and *exclude those of any other nation*."

I feel reluctant, sir, to make these quotations to prove what I had always deemed *truisms*, but I have been coerced to do so by the novel views which have been expressed upon this question.

We had, sir, no right even to demand Walker

from Nicaragua, there being no extradition treaty between that Power and us; and if we had no right to demand, how much *less* had we to capture him by force of arms upon the very soil of Nicaragua? Whilst it is admitted that the jurisdiction of this Government extends to our private vessels wherever found upon the *high seas*, yet it can never be exercised over them, save by *compact* or *comity*, when lying within the ports or harbors of any foreign nation. When it is asserted that we can exercise jurisdiction over our citizens *everywhere*, it only means that that jurisdiction can be exercised when persons guilty of an infraction of our laws return within our territorial jurisdiction. The power of punishment is vested in the sovereignty, and must be exercised within the limits of *that sovereignty*. The moment the *Fashion* came within the marine league of the shores of Nicaragua, our jurisdiction over her ceased, and that of Nicaragua begun.

As to a *supervisory power* of the commanders of our national vessels over our private vessels abroad, I will not argue. They are bound to protect and defend, but certainly not to officiate as police officers. Walker had a perfect right to expatriate himself. His followers had an equal right. They had a right to change their domicile and throw off all allegiance to this country; if *not*, the rescue of Martin Koszta was a rank usurpation, and hundreds of thousands of people in this country are still subjects of Great Britain and other nations of Europe. If Walker and his men left this country with the intention of casting their lot in Nicaragua and remaining there, the moment they landed upon its shores that expatriation and change of domicile begun, and they were beyond the pale of the power and authority of this Government, and released from all ties of allegiance that had previously existed.

The attack of Commodore Porter on Foxardo has been quoted as justifying Commodore Paulding. What are the facts in that case? Certain goods, stolen at St. Thomas, were conveyed to Porto Rico, where the authorities shielded and protected the felons. Commodore Porter sent his officer to demand the goods; the officer was seized, insulted, and imprisoned. Determined, as he said, "to demand indemnity for the past and security for the future," he landed at Foxardo, spiked the cannon of a battery ready to fire upon him, and exacted apologies from the alcalde for the insult to his flag and his country. And yet, for this he was ordered home by James Monroe, court-martialed, suspended for six months, and John Quincy Adams approved the sentence! He was not punished for thus asserting the honor of his country; but for the invasion of the soil and sovereignty of Spain.

Nor are the cases cited, as to the course pursued by our officers at Tripoli, Tunis, and Algiers, at all applicable. There had been aggressions of various kinds upon our citizens in those countries. Our officers were far beyond the reach of instructions, and they had every reason to anticipate the wishes of our Government, and they acted in accordance with those wishes, amounting, substantially, to a tacit command. To obtain redress was their duty, and the law of self-defense justified their conduct.

So with General Jackson, when he took possession of St. Mark's and Pensacola. The commandant of St. Mark's and the Governor of West Florida had been exciting the Indians to acts of hostility against our citizens. Taking the responsibility, and actuated by the highest motives of patriotism, he acted upon this principle of self-defense. This principle overrides all other considerations, for "international law considers the right of self-preservation as prior and paramount to that of territorial inviolability."

And then, too, what possible analogy between the course pursued by Paulding and Ingraham? It is true, Ingraham may have invaded the sovereignty of Turkey; but he heard the cry, "I am an American citizen!" and he rushed to the rescue. Turkey was *imbecile, weak, and incapable* of performing her duty to other nations, by protecting their citizens within her limits; and when this state of facts exists, this law of self-defense comes into play; and Ingraham richly earned the thanks of his country for rescuing an American citizen from the fangs of Austria.

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Fifteen Million Loan Bill—Mr. Andrews.

HO. OF REPS.

Paulding, not appreciating the difference between the *extent* of a power and the *abuse* of a power, perpetrated this grievous wrong under the flag of our country.

If the colors of that noble pennon are allegorical, as I have read—the white as an emblem of the purity of our intentions, the red as an emblem of terror upon the battle-field, and the blue as an emblem of the faith of our engagements—he might have gleaned something from these as a rule of action, even something of the spirit of the law of nations, and not perverted the flag under which he sailed, by a cool, premeditated attack upon the people from his fatherland—misguided though they may have been, or led astray by some illusory notions of giving freedom to a region among the fairest of the globe.

The main justification of Paulding rests upon the principle that *evil may be done, provided a good follows as a result*; a principle, sir, than which nothing can be more pernicious; a principle charged to be a leading one with the followers of Ignatius Loyola, and one, sir, that at all times has been denounced as one of the most dangerous chimeras that has ever entered into the brain of man. "To procure an eminent good by means that are unlawful (says Sir William Scott) is as little consonant to private morality as to public justice." This is the language of a great and good man, and used while deciding against the legality of boarding vessels engaged in the African slave trade, anxious as he was, anxious as all England was, at the time, for the suppression of what was called a most abominable traffic in human flesh. "*Tempora mutantur*," Mr. Chairman; and an observer of human events might ask, if the philanthropy of Exeter Hall and the policy of *la belle France* were not yielding somewhat to the laws governing *capital and labor*? if they were not yielding somewhat to the questions of their *demand and supply*?

The rights and duties of nations are reciprocal. No nation has the *right*, though it may have the *power*, to force even benefits upon another nation; and Vattel says:

"But, though a nation be obliged to promote, as far as lies within its power, the perfection of others, it is not entitled *forcibly* to obtrude those offices on them. Such an attempt would be a violation of their natural liberty. In order to *compel* any one to receive a kindness, we must have an authority over him; but nations are absolutely free and independent."

All nations are supposed, in their intercourse with each other, to be *equal*; for, where there is *sovereignty*, there is the necessary concomitant, *equality*; and, in the terse language of Chief Justice Marshall, "Russia and Geneva have equal rights."

And here, sir, let me ask you, what would have been the feeling and sentiment in this country if Nicaragua, on ascertaining that Walker's expedition was about to sail, had sent an armed vessel, and captured him within one of our southern harbors, or within the marine league of our shores? It would have been, sir, a *casus belli*; and there would have been a feeling of indignation pervading the bosom of every man who loved the honor, the dignity, and the independence, of his country; and yet, sir, by this law of reciprocity, by this law of correlative rights and obligations, Nicaragua had as much right to *do that* as Paulding had to seize Walker on the sands of the Punta Arenas.

The soil of Nicaragua should have been held sacred by Paulding; it should have been holy ground; and he had no right to desecrate it by an act of outrage and usurpation, even for the purpose of capturing felons, from the chief of whom, by a ridiculous anomaly, he accepted his parole of honor.

When I first heard of this transaction, it occurred to me the Government of Nicaragua might love the treason, but hate the traitor, and however much she might complacently rejoice over the riddance from Walker, yet I asked myself, may not its national pride have been more humiliated, a deeper stab given to its nationality, than for all that Walker could have accomplished with his one hundred and fifty followers, and especially when among the pleas set up to justify the act, was that of the weakness of Nicaragua, and her inability to defend herself against a handful of adventurers? And must she not have felt

herself degraded in the eyes of nations at this open avowal of her imbecility? If any of the spirit of the days of Charles the Fifth, or the second Philip has been transmitted to her rulers, she must have felt this, and she may have exclaimed, in the somewhat trite quotation from the Latin poet,

"Non tali auxilio, nec defensoribus istis, tempus eget."

Martinez has declared that Paulding's act was "above the law," and without question. The Yrissari treaty has been delayed, and has dragged its slow length along, owing to the jealousy entertained by Nicaragua as to a military protectorate over the transit route conceded by that treaty, for it must have felt sensibly that the same military power which had been so recently exerted for her defense, might be wrested to her destruction. And now we learn that the treaty will not be ratified at all.

And here let me remark, though not exactly germane to my subject, that *all* the Central American States entertain a jealousy of this country—a jealousy fostered by the acute agents of France and England in those countries.

I regret to hear so much stress laid upon the probable action of those Powers, in case our policy should perchance conflict with their own. That policy meets us at every step. We met it in Texas—it has been at work in St. Domingo and the Sandwich Islands, Cuba, and the Central American States.

I say, sir, let us have an *American policy*—let us display proper firmness with *all* Powers, and not permit our magnanimity to pass over with impunity the insults or outrages committed by the smaller ones on account of their weakness, for we "can as little compound with *impotence* as *perfidy*." The bones of our citizens are whitening in the sun at Virgin bay and along the transit route to the Pacific, and the murder of four of our citizens, within our own borders, near the line of Sonora, is yet to be atoned for.

The President, in his message of last December, tells us that no progress whatever has been made towards the settlement of the claims of our citizens against the Spanish Government, and that "the outrage committed on our flag by the Spanish war frigate *Ferrolana*, on the high seas, off the coast of Cuba, in March, 1855, by firing into the mail steamer *El Dorado*, and detaining and searching her, remains unacknowledged and unredressed." And now tidings every day reach us of the most aggravated insults to our flag by British cruisers, in our own waters. England has never relinquished the principle of visitation and search, but will no doubt seek to palliate the conduct of her officers by drawing an absurd distinction between them. There is no difference in principle; the first is the *incipient step*, the latter the *consummation* of the act. Either or both are to be exercised only as *belligerent rights*, and are founded upon and have their origin in *force*. In time of peace we can never permit them to be exercised, and I, for one, say, full indemnity for past outrages, and a relinquishment as well of the right of *visit*, as asserted by the cautious and facile Aberdeen, as that of *search*, as well as *visit*, contended for by the haughty Palmerston. If not yielded, then I say, war; and in the interim let us give the Executive the means and the power to enable him to sustain the honor of the country.

I rejoice that measures are being taken for the annihilation of the Clayton-Bulwer treaty; it is the first step, and it is a good one; and I trust that at least the Democratic portion of this Congress will not forget a resolution as to our foreign policy passed at the Cincinnati convention of 1856. I will read it:

"Resolved, That our geographical and political position with reference to the other States of this continent, no less than the interest of our commerce and the development of our growing power, requires that we should hold as sacred the principles involved in the Monroe doctrine; their bearing and import admit of no misconstruction; they should be applied with unbending rigidity."

The arrogant assumption of a British Ministry, claiming the right of intervention as to the "distribution of power" in the American seas, thrown so flauntingly in our faces, stands unrevoked; and the time may not be far distant, and I care not how soon, when an issue shall be made up and tried

between the principle alluded to and those embraced in the Monroe doctrine.

By the setting up of a king, or the creation of a dictatorship in Mexico under the auspices of Spain, and possibly her *allies*, these principles would cease to be mere abstractions, but would be replete with practical results; ay, sir, great, glorious results, by which a flag, bearing the lions and castles of Castile—proud insignia of royalty and monarchy—would be forever banished from her possessions in this hemisphere.

If the startling report be true that Spain is taking measures to Africanize Cuba, or if at any future period such should be the case, I feel confident that the Executive of this country, sustained by its people, would remember the proud language of the Ostend manifesto; and then, sir, *Cuba must be ours*, no matter at what cost, no matter at what sacrifice of blood and treasure. And the Queen of the Antilles, gracefully displacing her diadem, and with her brows entwined with a floral wreath of her own gorgeous clime, would take her position among her sisters of this Confederacy.

So far as the Americanization of the isthmus under the auspices of a northern emigration society is to be attempted, whilst I doubt its feasibility, I am, as a southern gentleman, indifferent as to its results. As I understand the scheme, it will prove a grand monopoly of the North at the expense of the South; for no southern emigrants will receive the requisite passports at New York to enable them to settle in Nicaragua. If the objects contemplated by this association are to develop the resources of that country, diffuse knowledge and the light of a refined civilization among its people, with incidental benefits to the persons composing it, well and good; but if otherwise; if naught but the merest speculation, coupled with some undefined but yet certain ultimate intent of obtaining possession and subverting the Government, whenever their numbers and strength will authorize it, then all I can say is, their morality would be such as was inculcated by Dame Lobkins to Paul Clifford: "If you want what is not your own, try and do without it; if you cannot do without it, take it by *insinuation*, not bluster. They as *swindles* does more and risks less than they as *robs*."

As to the territorial expansion of this country, it is inevitably and must be southward; faster, perhaps, than we wish. You might as well endeavor to prevent the expansion of steam or powder in a state of ignition; but I wish the process fair, and the acquisition gradual. If the people of those countries between the Rio del Norte and the Sierra Madre, irritated to frenzy by constant wars and revolutions, and the perpetual victims of the tyranny of a central power, should achieve their independence and form *de facto* Governments; then, if they should invoke admission into our Union, I say let them come in. Justice and humanity, and the regeneration of a portion of our race would demand this; and let them partake of the benefits of our laws and institutions, our freedom and independence. But if perchance a portion of this Union, guided by a narrow policy and false philanthropy, should oppose such an accession, from hostility to southern interests, a war of opinion may be engendered, and utterance given to it in tones loud and clear as a bugle call; and then, Mr. Chairman, hush who can its irksome echoes!

FIFTEEN MILLION LOAN BILL.

SPEECH OF HON. S. G. ANDREWS,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. ANDREWS said:

Mr. CHAIRMAN: In the memorable presidential campaign of 1856, the supporters of Mr. Buchanan, and that distinguished gentleman himself, made professions of their political creed from thousands of rostrums and presses in all parts of the Union. The two leading articles in that creed were these: *first*, that Kansas should be brought into the Union under such a constitution as its

bona fide citizens might, by their unbiased choice, adopt; and, second, that the Federal Government should be administered economically, and without imposing unnecessary burdens upon the people.

In regard to the manner in which the Administration has illustrated the first article of its creed, I have only to say that it employed the first five months of the present session of Congress in using all its power and patronage to force upon Kansas a constitution which the vast majority of its citizens detest and abhor. On this subject I am content to leave the Administration to reap the fruits of its own doings at the ballot-boxes in Kansas, so soon as they are opened to receive the indignant votes of that people, in August next, and to the more terrible retribution which is in store for it, at the autumnal elections in all the free States of the Republic.

My present business is with the mode in which the Administration has fulfilled its promises, made in the heat of the canvass of 1856, in respect to retrenchment and economy. In doing so, I shall speak plainly, dealing much more with the nine digits than with figures of speech.

When Mr. Buchanan took the oath of office, on the 4th of March, 1857, there was in the Treasury the sum of \$17,710,000, or, in round numbers, \$18,000,000. There have been collected from all sources, and placed in the Treasury during the first three quarters of the fiscal year which is soon to expire, \$35,000,000. The estimated amount to be received during the last quarter is \$8,000,000. At an early day in the present session, the Administration asked for and received the authority to issue Treasury notes to the amount of \$20,000,000, and it is now asking for authority to borrow \$15,000,000 more. This is proof that, at the close of the fiscal year, the Treasury will be empty. The current fiscal year expires on the 30th of June. At that time Mr. Buchanan will have been in power one year and four months. From the foregoing statements it will be seen that, during these sixteen months, this "economical" Administration will have spent the \$18,000,000 which it found in the Treasury when it took office, and the \$43,000,000 which have since been received into the Treasury, and pretty much all the \$20,000,000 of Treasury notes which it has had authority to issue; making a grand total of \$81,000,000 which this "economical," "hard money," "pay-as-you-go" Administration has used up in the first sixteen months of its existence! And now, like Oliver Twist, it clamors for "more!" The famous "South Sea bubble" of the olden time was no match for this Administration in regard to pletoric promises and lean performances.

Thus stands the account:

In the Treasury.....	\$17,710,000
Revenue for three quarters.....	35,000,000
Present quarter.....	8,000,000
Treasury notes issued.....	20,000,000
Loan asked.....	15,000,000

\$95,710,000

It came into power by virtue of pledges of economy, retrenchment, and opposition to all schemes of public debt. Once clothed with the robes of office, and with the key of the Treasury in its hand, it has, like a reckless spendthrift, disposed of all the money it can get hold of, and all that it can beg or borrow, until it has become a serious question, which every member of this House should ask himself, "where is all this to end?"

It is startling to look at the increase in the expenditures of the Government, and the contrast between "economical Democracy" and the party charged with profusion and wasteful disbursement:

Monroe's Administration (four years).....	\$16,432,382 75
Adams's ".....	51,671,933 99
Jackson's " (second term).....	104,051,735 81
Van Buren's ".....	110,673,427 81
Harrison's ".....	78,163,312 81
Polk's ".....	165,481,013 33
Taylor's " first year, \$39,727,261 92;	
(Fillmore) second year, \$39,623,755.....	158,161,528 71
Pierce's Administration.....	232,620,622 35

Buchanan's Administration, first year, spent \$81,000,000; and at that rate will run up to over three hundred and twenty million dollars. "Where is this to end?"

The loan of \$15,000,000, which the Administration is now asking, will undoubtedly be granted.

Now, is there any man, either in or out of Congress, who does not believe that at an early day of the next session the cry of the party in power will be, "Give us more money! we want more money! the Treasury is empty, and we must have more money?"

The economical people of this country—those who keep an eye to the debit and credit sides of their ledgers, or those who earn their daily bread by honest toil—these are not a niggardly people in money matters. They are honest, and they are loyal and generous. If it be necessary to raise and spend money for any wise or useful purpose, they are ready to vote it to the extent of the demand; but they always want to know, and sooner or later they always will know, for what purpose it is used. When the great body of the intelligent and honest masses of the American people—that vast majority of our constituents who neither seek nor desire nor would hold office—when they learn that this Administration has exhausted all the money in the Treasury, and has borrowed \$35,000,000 during the first session of Congress to which it had access, they will ask, in emphatic tones, "What have you done, and what do you propose to do, with this money?"

If this question is honestly answered, they will learn that not one dollar of this vast sum has been or is to be expended in improving our harbors on the lakes and on the sea-board, or to clear out our navigable rivers; that though the commerce on our inland lakes and rivers amounts annually to hundreds of millions of dollars—an amount greater than the whole export trade of the United States; and though the human beings, passengers and sailors, whose lives are put to hazard on these waters, are counted by hundreds of thousands, yet not one dime can be wrung from this Administration to render the harbors of these lakes and the channels of these rivers more commodious and safe for this mercantile marine and its costly and precious freightage of goods, wares, and merchandise, and its still more precious lives of men, women, and children. We need no forts or castles, sir, to protect our harbors; the negligence and inattention of Congress have furnished their security against enemies and friends alike, in their dilapidation and ruin.

I instance one of our lake harbors—rather an extreme case, but a tolerably fair sample of many others. For this one, the War Department has recommended and urged upon this House an immediate appropriation of \$41,000, to secure it from total ruin. The report says:

"The east pier, two thousand and thirty-four feet long, was reported by Colonel Turnbull, as long ago as September, 1853, to be in a much degraded condition, and an appropriation of \$21,530 was recommended by him for its repair, but it was never granted. It must now be entirely rebuilt from two feet below the water level to five feet above. There are also portions that are dilapidated to a great depth below the water surface, and, as Colonel Turnbull justly states in his last two annual reports, 'in moderate gales of wind it is entirely submerged, which renders the approach of vessels to the entrance of the river very dangerous.'

"For this object, including the tearing away and removal of the decayed portion, I herewith present an estimate marked P, amounting to \$41,084 34.

"I would recommend, in order to prevent the ruin of the harbor, that this appropriation be immediately granted in one appropriation."

The city of Rochester, of which this harbor of Genesee is the port—a city of fifty thousand inhabitants, surrounded by one of the most fertile and productive regions of country the sun shines upon—according to reports of the Treasury Department, has paid into the Treasury for the past year the net income of \$142,579 50—an amount exceeded by only nine ports on the whole Atlantic coast, and only by Chicago and Milwaukee on the lakes; of this sum less than one third is required and reported indispensable for necessary repairs of this best harbor, and the only one of value to commerce for safety on eighty miles of lake coast. On the submerged pier referred to, lying like sunken rocks at the mouth of the harbor, some five or six vessels have been stranded during the past year—one vessel, cargo and crew lost; and this barrier, which the Government has placed there, it will neither repair nor remove.

Not one dollar can be obtained, either in the form of ready money or credit, for the construction of a Pacific railway, that iron band, stronger than any provision of the Constitution, which is to bind together, in indissoluble fellowship, the

States on the oriental and the occidental sides of the Rocky Mountains and the Sierra Nevada. Though all branches of the business and all descriptions of the labor of the country—agricultural, mechanical, manufacturing, and commercial—are depressed, sorely depressed, yet this Administration seems only busy in finding out how and where it can get money to spend, while it seems to have no sympathy with, nor plans to relieve, these prostrate and struggling branches of industry. Indeed, it appears to me that the bold, palpable fact, that the party in power proposes to do nothing for them, will startle the country quite as much as its reckless expenditure of all the moneys in the Treasury, together with all it can borrow. In so doing, it not only shows its utter want of regard for the business and laboring classes of the country, but it strikingly illustrates its wide departure from the old landmarks of "Democracy." If any one partisan idea has been ridden harder than another in late years, by the self-styled Democracy, it is their "anti-debt" hobby. With them, to run in debt at all was not to be tolerated, except under the pressure of inexorable necessity, a *dernier resort* when all other expedients had failed. And to contract a debt without at the same time providing, either presently or in the future, a specific mode and reliable means for the payment of the debt, was not only bad political economy, but was the very rankest type and the very surest test of "old Federalism."

And now, what do we see? We find this "anti-debt" party, this "pay-as-you-go" party, asking for an extraordinary issue of \$20,000,000 of Treasury notes, and an extraordinary loan of \$15,000,000, without providing any means for the redemption of the former, or the payment of the latter, except the ordinary income of the Treasury, which we all know is not adequate to meet the current expenditures of the Government as at present managed. I find in this state of things, a confession, not only that the party now in power has ceased to be "Democratic," according to the long-approved standards of orthodoxy, but has become so thoroughly convinced of its incapacity to administer the Government on any sound principles, that it has made up its mind to struggle through its four years in the best way it can, borrowing here, and "shinning" there, and throwing out its notes yonder, and to leave to its present opponents the task of providing the means, during the next four years, for the ultimate payment of the debts which it had recklessly contracted.

This brings me naturally to the consideration of the question, how are these debts to be paid? How is the country to be relieved from its embarrassment? How are its great business interests—agriculture, manufactures, mechanic arts, commerce, in a word, all the industrial pursuits which diversify American labor, and which are now so depressed—how are these to be relieved?

In my judgment, these objects can never be accomplished except by such a revision of the present tariff as will bring into the Treasury a larger amount of money; while at the same time protection is extended to all the various branches of industry. For the last few years we have been importing from foreign countries goods, wares, and merchandise, to the amount of from three hundred to three hundred and seventy million dollars annually. In the last fiscal year, the value of our imports was \$360,890,141. Of this amount of manufactures, (for they were chiefly manufactured articles,) I doubt not that if the tariff of 1842 had continued in force to this time, with such modifications as experience had shown to be wise, a very considerable share would have been produced in this country.

I am not going into an argument at this time to prove the utility of a tariff policy which shall harmoniously blend the two features of revenue and protection. I think bitter experience is teaching the people that a return to such a policy, or, if it be contended that we have never had a tariff which properly blended these two features, then, that the early adoption of such a policy is absolutely essential to restore and place on a permanent basis the prosperity of all classes in this country.

Of the \$360,000,000 of manufactured goods which we imported last year, it is a libel on American skill and capital to say, that under the fostering care of a wisely-adjusted tariff, we cannot

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manufacture at least \$250,000,000. Look at some of the leading items. I shall use only round numbers:

Of woolen goods we imported last year	\$29,000,000
Cotton	28,700,000
Silk	30,850,000
Iron and steel	26,300,000
Carpets	2,000,000
Linen	12,000,000
Embroideries	4,500,000
Laces	1,500,000

Of these eight different classes of articles, amounting to nearly one hundred and forty million dollars in the last fiscal year, we could, with proper encouragement, manufacture nearly or quite the whole. We have the requisite capital; we have the necessary raw materials, or can produce them on due notice; we have the essential machinery, or the genius to invent it, or the capacity to copy it from foreign models. We have the needed manufacturing skill, in the heads and hands of our people, native-born or imported; indeed, our country teems with foreign mechanics and artisans, anxiously waiting to be employed in their accustomed trades. We have water-power in greater abundance than any nation on earth, and we can create steam-power to an incalculable extent. All we want, then, to manufacture these one hundred and forty millions annually here at home, is to convince the people that their manufacturing establishments had better be set up and carried on in Massachusetts, New York, Wisconsin, Virginia, Tennessee, and Missouri, and their sister States, than in England, Scotland, France, Belgium, Germany, and Russia, and other European countries.

Numerous other articles of manufactured goods fall under the same category with those already named. We import annually of copper manufactures about three millions; of tin manufactures, about six millions; of lead and zinc manufactures, more than three millions; of gold and silver manufactures, including watches, about six millions; of glass and earthen manufactures, nearly six millions; of paper manufactures, about one million; of leather and leather manufactures, nearly five millions. Thus it seems that, of these ten kinds of fabrics, we annually import from abroad some thirty million dollars. Does any one doubt that, with proper encouragement to our own capital and skill, we could manufacture on our own soil nearly the whole range of articles embraced in this list?

Turning, for a moment, to inquire in respect to some other articles which we largely import, I find that—

Of molasses, we import annually	\$8,000,000
Of sugars	43,000,000
Of wines	4,400,000
Of spirits	5,000,000
Of tobacco and cigars	5,600,000

Here we have a sum total of \$66,000,000 in these five articles—articles good, bad and indifferent in their quality, which we annually import from abroad. Perhaps it would be impossible, or, if possible, unwise to attempt to produce the whole of this amount at home. I will not dwell upon these items, as they lie rather "out of my line." They must be looked after by those having them specially under their eye.

I might enumerate other classes of goods; but there is not time now, nor am I endeavoring to make a tariff speech, but only trying in a summary way to show, that of the \$350,000,000 more or less, which we have been annually importing from abroad for several years past, at least \$250,000,000 can and ought to be manufactured at home. Nor have I time to show by elaborate argument, that a tariff policy which would enable us to do this, would not, as has been sometimes supposed by superficial thinkers, be beneficial only to the manufacturer, and be fostering one kind of business at the expense of other kinds.

A system that would impel American capital, skill, and labor, to manufacture these \$250,000,000 annually, on our own soil, and, in due time to manufacture another \$250,000,000 annually to be exported to other countries, would directly benefit not only the manufacturers, the mechanics, and the artisans, and the laborers of all sorts who produced these various fabrics, but would equally benefit all other classes of business men in the country: as, for example, the sheep-grower, the planter, and the miner, who furnished the wool and the cotton, the iron and the coal, consumed in these

manufacturing establishments; and the farmer who provided the meat and the breadstuffs, and the gardener who raised the vegetables and the fruits on which the mechanics and artisans daily fed, and the merchant with whom they did their trading, and the banker who furnished the monetary facilities to the capitalists who had embarked their means in manufacturing, and the ship-owner and the mariner who were employed in transporting the fabrics to distant nations of the earth.

In a word, if it be beneficial to a people, and tends to promote their independence, that they raise their own daily food out of their own soil, it must be equally beneficial to them, and tend also to promote their independence, that they produce at home the woolen and cotton fabrics with which they cover their backs, the hats they wear on their heads, the shoes they put on their feet, the carpets that adorn their floors, the watches that tell them when to lie down and when to rise up, the linen on which they rest at night, the blankets that cover them while they slumber, the knives and the forks with which they eat their daily food, the goblets in which they drink the health of their friends, the leaden bullets and the steel blades with which they take the lives of their enemies, the iron rails on which their locomotives dash through their valleys and over their plains, the anchors and the cables that hold their ships, while riding out the storms of the arctic and the hurricanes of the tropics, and, in a word, the gorgeous silks with which they adorn the wives whom they love so well, and the very bunting of the star-spangled banner, that they will defend with their latest breath! A wise people, a free people, will never rely upon the capital and skill of alien nations for the necessities and luxuries of life, the essentials of existence and comfort, and the very emblems of their power and their independence.

Now, sir, only about two million dollars are required for the purpose of preserving and securing the harbors of the country, and rendering them accessible to our commerce. This is a sum no greater than has been voted to this District of Columbia for unimportant objects—less by \$1,000,000 than was voted to-day for three useless regiments of volunteers. I will cheerfully vote for such a loan as shall secure this object; but I cannot give my support for any loan bill, (except it be for the defense of the country,) unless provision be made for this imperatively necessary purpose of preserving and repairing our dilapidated harbors.

INTERNAL IMPROVEMENTS.

DEBATE IN THE SENATE.

THURSDAY, May 27, 1858.

On motion of Mr. SEWARD, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 343) making appropriations for repairing the piers at the harbor of Sheboygan, Wisconsin, which proposes to appropriate \$5,000 for that purpose.

The VICE PRESIDENT. The Senator from Ohio [Mr. PUGH] yesterday offered an amendment to this bill, adding to it all the other harbor bills. Shall the amendment be read?

Mr. HUNTER. I want it read.

Mr. PUGH. It is not necessary to read it. I will state that I have not put on, as the Chair remarks, all these appropriations; but I have put on all those which the Committee on Commerce reported for the repair and preservation of works already commenced, together with the appropriations for contingencies, and for preserving the steam dredges that have already been constructed.

Mr. CLAY. I ask that the amendment be read.

The Secretary read it, as follows:

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$10,000, for repairing the works at the harbor of St. Joseph, Michigan, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$9,588, for repairing the works at the harbor of Monroe, Michigan, to be expended under the direction of the Secretary of War.

And be it further enacted, That the sum of \$23,421 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for deepening and widening the channel through the St. Clair flats, Michigan, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$26,143 15, for securing and repairing the works at the harbor of Cleveland, Ohio, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, \$30,000, for repairs upon the works at Huron harbor, Ohio, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$16,940 96, for repairs upon the works at Black River harbor, Ohio, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$8,679 55, for repairs upon the works at Grand River harbor, Ohio, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$6,620, for repairing the works at the harbor of Ashtabula, Ohio, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$3,020, for repairing the works at the harbor of Conneaut, Ohio, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$8,638, for the immediate repair of the piers at Erie harbor, Pennsylvania, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$5,399 96, for the immediate repair of Dunkirk harbor works, New York, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$27,679 35, for repairing the public works at Buffalo harbor, New York, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$9,736 65, for repairing the piers of Oak Orchard harbor, New York, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$41,084 34, for repairing the public works at Genesee harbor, New York, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$40,806, for repairing the piers at Solus Bay harbor, Wayne county, New York, and for dredging between the channel piers, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$46,391 14, for immediate repairs required for the preservation of Oswego harbor, New York, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$2,186 40, for repairs of the piers at Burlington, Vermont, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$10,000, for completing the improvements in the raft region of Red river, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$10,000, for the preservation of steam dredges and appurtenances, to be expended under the direction of the Secretary of War.

And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$20,000 for unforeseen contingencies of lake harbors, to be expended under the direction of the Secretary of War.

Mr. HUNTER. I submit the following additional section as an amendment to the amendment:

And be it further enacted, That for the purposes of this act and to execute all improvements of harbors or rivers for which appropriations may be made by law during the present session of Congress, the President shall be authorized to borrow so much money as may be made necessary by these appropriations, on the credit of the United States, at an interest not exceeding six per cent., for a term of not more than ten years, the said money to be borrowed under the same limitations and restrictions and in the same manner as prescribed by the act entitled "An act to authorize a loan not to exceed the sum of sixteen millions of dollars," approved March 3, 1848.

Mr. President, I understand we are about to vote for a large appropriation, amounting, as the chairman of the Committee on Commerce informs me, to nearly six hundred thousand dollars, for objects for which we have no estimates from the Departments. We are about to make this addition to the estimates of the next fiscal year, which has not been asked for by the Executive, and it seems to me that those who are thus voting are bound at least to supply the means by

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way of giving him authority to make such a loan as may be necessary for that purpose.

I know that yesterday and the day before, when the loan bill was up, many Senators opposed that bill upon certain grounds which would apply to this proposition when it is presented to the Senate; but they were so obviously untenable that I think I shall be able to show that there is no obstacle in the objections which were then presented that should prevent them from now providing the means for this appropriation, which they are about to add to the annual estimates of the Departments.

I know, sir, that they objected to that loan bill, which was indispensable to carry on this Government, which was indispensable for the support of your Army and your Navy, upon the ground that we would not agree to introduce amendments upon it which were designed to alter the existing mode of calculating the *ad valorem* duties, which amendments, as was shown upon that occasion, would have added largely to the revenues to be derived from this mode of taxation. I know, too, that they objected to a loan in addition to this, because they said that, in this time of deficiency, we were bound so to add to the tariff as to provide the Government with the means and with the revenues to meet the expenditures. I think it will be easy to show that the objection which they raised to the fact that we provided for a loan, and would not agree to provide any means of altering the old mode of calculating the *ad valorem* system, is not founded on reason, because it is the system on which we have been acting ever since 1793. From that day to this, as I am informed at the Treasury Department, it has been the unbroken usage so to construe the law, in relation to costs and charges, as to impose the duty on the costs and charges at the port from which the article is shipped—the port from which it is imported. I know that the Senator from Rhode Island [Mr. Simmons] said this was a false construction of the law, and that he had set up, in a report which he presented to this body, his opinion that all the Departments and all these authorities have been wrong in regard to this matter, I might almost say *ab urbe condita*. But, sir, against that opinion of his, that this is a false construction of the law, I set up the unbroken usage of the Department, the unbroken construction of all the Secretaries of the Treasury, and all the collectors, from that day to this. I set up the legislative exposition in 1823, when, in amending the oath which the consignee was to take, Congress required that he should swear that the invoice contained these costs and charges, which of course must have been the foreign costs and charges, for the invoice was made out at the port from which the importations were shipped. I stand on the exposition which has been given by the Federal courts, the courts of the land, on a case made in relation to this very matter. Judge Nelson decided, in the case of Grinnell vs. Lawrence, (Blatchford's Circuit Court Reports, vol. 1, page 349,) that—

"In each case costs and charges are to be added, as prescribed in the enacting clause; and the costs and charges in this case are those which have been incurred at the port of shipment."

Now sir, I say upon all this, it has been the construction of the law made by all Secretaries of the Treasury and concurred in by the country and sustained by the highest tribunals in the land, that the mode in which we are now estimating the duty is the mode which the law requires and the history of the Department shows that it has been the unbroken usage, from 1795 to this time, so to assess and to lay the duties; and because we will not depart from that usage, now more than sixty years old, gentlemen say they will not vote for a loan to satisfy the wants of the Government. Why was not that objection made heretofore? It might as well have been made to any loan that ever was made. Surely it can with as much propriety be made to the appropriation bills as to the loan bill, because if you will not vote the means of satisfying the appropriations surely you ought not to vote for the appropriations themselves. And yet, gentlemen raise an outcry and a clamor about the frauds of this system which has been sanctified by an experience so long, and rather seek to cast reproach upon us because we do not, in the face of the Consti-

tution, which forbids us to originate revenue bills, attempt to depart from that time-honored system which has been justified by experience itself.

Now, sir, if these frauds exist, why do not the gentlemen show them? We are not to rest upon loose assertion; we are not to rest upon the clamors of persons who are often interested in getting them up. If these frauds existed to the extent that is alleged, they ought to be shown in the reports of our courts; they ought to be shown in the records of the Treasury Department; they ought to be facts that are patent. Some of the investigating committees, which have been originated for that purpose, ought to have shown them. Such committees have been originated, and they have resulted in nothing. On the contrary, you find that the late Secretary of the Treasury, Mr. Guthrie—I quote from memory—in his letter on home valuation, says that the present mode of laying the duties has not resulted, as far as he knows, in many cases of fraud. We know, too, that the highest inducements are held out to the public officers to detect frauds, if they exist, because they are given a part of the fines, the penalties, and the forfeitures; and if, with such stimulants and such inducements as these, none have been detected and exposed, with what face can gentlemen rise here, and assert and expect us to believe, and act upon the belief, that these frauds exist to the extent alleged? Why, sir, they attempt to eke out the absence of positive testimony by circumstantial evidence; and what sort of circumstantial evidence? The Senator from Rhode Island, in order to show it, says that we have been cheated during the whole period of the existence of the tariff of 1846 by undervaluation, because the importations did not yield what they ought to have done in the way of duty; and how does he propose to estimate what they ought to have yielded?

Mr. SIMMONS. I did not say that. I do not know but that it will hurt the gentleman's argument to have me correct him.

Mr. HUNTER. I understood the Senator from Rhode Island to say, that because they did not yield what the importations that were brought in ought to have yielded, in his opinion, the Government must have been cheated by undervaluation.

Mr. SIMMONS. No, sir; I did not say any such thing. Those facts were not stated by me to show the frauds. I stated that there might be circumstances to induce more importations in one year than the average; that they would vary from year to year. I did not rely on that as an evidence of fraud; but I alluded to the report of Mr. Guthrie, who said a great many fabrics had their names changed so as to get them in under lower schedules.

Mr. HUNTER. I understood the Senator from Rhode Island to assume that the true mode of estimating the revenue to be derived on imports was by averaging the duties; that is, by adding up the different schedules and dividing them by the number of duties. Am I wrong in that?

Mr. SIMMONS. That is the way to find the average rate of duty.

Mr. HUNTER. It is by that average rate of duty we are to estimate, in his opinion, what we are to receive from the tariff; because he said under the present tariff, estimating in that way, it would be but sixteen per cent., and it would require \$400,000,000 of imports to give \$64,000,000 of revenue. Am I right in that?

Mr. SIMMONS. I say so.

Mr. HUNTER. Then it comes to what I said, that the Senator from Rhode Island in his argument estimates the revenue that ought to be derived from the customs to be that average rate which we get by adding together all the duties in the schedules, and dividing them by the number of schedules. He takes, for instance, the tariff of 1846 with duties of one hundred, forty, thirty, twenty per cent., and so on; adds them up and divides the sum by the number of schedules, and he maintains that the imports ought to yield duty in that ratio.

Mr. SIMMONS. I did not say that. I stated that the rates of duty were not a matter dependent on the class of imports, but were fixed in the law and did not change. That was not a matter of conjecture at all. What they would yield was another matter, dependent on the different quantities of imports under the different schedules.

Mr. HUNTER. Then I pass over that, if I misunderstood the Senator, and I am glad I have, for it really seems to me to be a most extraordinary calculation in one who generally cyphers so well, to suppose that we were to estimate the probable revenue to be derived by putting an average thus ascertained upon the dutiable imports. If he abandons that ground, I have nothing more to say on it.

Mr. SIMMONS. I do not know how I can abandon a ground I never took.

Mr. HUNTER. I am glad I misunderstood the gentleman.

Mr. SIMMONS. It seems to be very difficult for the gentleman to understand me. When I say I did not take the ground he says, he then turns round and declares that I have abandoned it.

Mr. HUNTER. I take the Senator's word; I do not insist that he took the ground if he says he did not.

Mr. SIMMONS. Well, that is not abandoning it, is it?

Mr. HUNTER. There was another branch of the Senator's circumstantial evidence which was adduced in order to show that we must have been cheated in the way of undervaluation on the importations. My friend from Georgia [Mr. Toombs] also fell into an error on that subject. He seemed to suppose that because, for a certain period of three years, the imports, as valued in the port of shipment—that is, abroad—were greater than the exports as valued in the port of shipment—that is, here—we were cheated out of the difference, not only between this value of the exports and imports, but out of all the profit added to the exports when they went abroad. I told him upon that occasion what he will allow me to repeat, that the true equation was between the market value of the exports where they were sent and the market value of the imports where they were brought; and that, in order to show that we were cheated, he would have to prove that the imports were of less value rated at the market price where they were bought, than the exports rated at the market price where they were sold; and when we come to institute that equation, we shall find that there may very well be a state of the tariff in which the imports reckoned at the place of shipment would be of less value than the exports which are always reckoned at the place of shipment. Take the case that he desires to export his cotton in order to get iron for one of his railroads. His cotton goes to Liverpool free of duty; the duty does not enter into the market price there. It returns in the shape of iron which, under the tariff of 1846, bore a duty of thirty per cent., which did enter into the price there. In order to obtain equal values at the market price, you had to import a less value of imports at the place of shipment than the value of the exports at the port from which they went. In other words, his statistics are only an illustration of the old "forty bale" theory, which was sustained by a distinguished gentleman from South Carolina, Mr. McDuffie, and by Professor Senior, of Oxford, a theory to which I do not subscribe in the whole, but which is undoubtedly correct, in part; for there are conditions of trade in which the exporter does pay a portion of the duty.

But, sir, even as I said on that occasion, if the Senator from Georgia had succeeded in showing, when you came to institute the true equation, that the imports reckoned at the market value where they were bought, were less than the exports at the market value where they were sent, it would not do to say that the whole of that difference was attributable to undervaluation, because it would be far more reasonable to attribute them to smuggling, to which there were so many more inducements, for which there were so many more opportunities, than to the undervaluation. Against that, we have checks of all sorts and descriptions. We have a check in the skill of experienced men who look to see whether the invoice states the true price of the article, who have the power to put it up if they find it too low. We have, too, the stimulus which is given to the custom-house officers by allowing them a portion of the fines, penalties, and forfeitures, in cases of frauds; and with all these safeguards in a system which has been maturing since 1795, it is reasonable to suppose that frauds, unless the Government should

have been most unfortunate in its selection of appraisers, could hardly be so numerous as gentlemen here charge and suppose. On the other hand, the facilities for smuggling, especially since the reciprocity treaty, are very great; and I have no doubt that if the truth could be known, there is a great deal of smuggling into this country.

I say, then, that the objection which those gentlemen raise to voting for a loan bill because we would not agree to adopt the proposition of the Senator from Rhode Island, in regard to a change of the mode of executing our *ad valorem* system, is not a valid objection, because they have failed to prove the frauds alleged, either by direct evidence or circumstantial proof; and against them they will find the authority of those who have been administering the Department.

But, sir, I go further; I say that all those who voted for that amendment are forever estopped from saying anything in regard to the frauds of the present *ad valorem* system. Why, sir, what does that amendment propose? The duties are to be assessed on the market price or value, "to include the foreign cost, all charges, duties, and profits, or so much thereof as may enter into and become a part of such wholesale market price or value," so that under this, the appraisers would have not only all the opportunities for mistake, there would exist not only all the temptations for fraud that now exist when they have only to ascertain the foreign value, but they would have in addition, the temptations which would arise out of the opportunities for deceit, and for mistake to be given by ascertaining the charges, the duties, the freights, and the profits. Nor is this all, sir. An appraiser at New Orleans and at San Francisco was to appraise a yard of cloth by undertaking to ascertain what it would be worth at New York. It would take a skillful appraiser at New York to fix the true market value on it, if he had it in his possession, and could see it and feel it. How would it be possible for appraisers at the distant ports, and especially at the small ports, to execute any such law?

I say, then, that those who vote for this, stand committed to all the frauds of the present system, and to more besides; and that they have, therefore, no right to object to voting for a loan bill, for the simple fact that we did not impose upon it such a scheme as this; that we did not propose to add upon it such a scheme as this.

In addition to that, sir, we were justified in refusing it on the point which I raised, and which was treated as a mere technical objection, that the amendment offered by the Senator from Rhode Island did raise the taxes upon the country most materially; that it did originate a revenue measure here. Why, sir, upon the twenty-four per cent. schedule it made the tax higher, far higher than it was under the tariff of 1846; and the thirty per cent. schedule it raised to over forty per cent.; and yet when I referred to the provision of the Constitution which we have all sworn to support, it was said I was raising a technical objection; and I understood my friend from Tennessee [Mr. BELL] rather to administer rebuke to me as being somewhat beneath the gravity and importance of the occasion in raising such an objection. Sir, it has been said by an eminent man that the day would come when any one would be called to order who quoted the Constitution of the United States in the Congress of the United States; but I never expected to see the day when a constitutional objection raised upon the plain reading of the Constitution itself would be treated as a mere technical and trifling objection.

But I pass over that, I put it out of the way, for we took the vote, not on the point of order, but on the merits of the amendment. I come, however, to the other point, which gentlemen raised, that they would not vote loans unless we did something to increase the revenue; that it was manifest the revenue was below what was now estimated to be expended—that is, seventy-four or eighty million dollars a year, which they maintained and asserted was an extravagant estimate. Now, sir, I ask if it would have been possible, on our imports, to have laid any tariff, any system of duties, which could have been executed, that would have raised money enough to have met an estimate of seventy-four or seventy-six million dollars this year? Could we have

done it? I go further; if we could have done it, would it be proper to lay a tariff, which, in a period of such severe pressure and crisis as that we have just passed through, would have given us enough not only for the ordinary, but the extraordinary expenditures of the country? or, if it would have given us enough at such a period as that, in average times and in usual years, it would have filled our Treasury with a surplus; and we all know to what extravagance and profligacy a surplus revenue would lead.

I say it is not desirable that there should be such a system of revenue raised as would give enough, in time of pressure, to meet even the ordinary wants of the Government; and, if this be true, then the only question left for statesmen to consider is, whether the existing sources of revenue would be sufficient for the just demands of the Government economically administered; and, if they would be sufficient, then leave your revenue where it stands, and provide by way of loan for the temporary deficiency, under the just expectation that when that period passes away, and commerce fills its usual channels, we shall have, out of the existing sources, enough for the just wants of the Government. I say that that is the true plan for the statesman to pursue, and that is the plan which the Secretary of the Treasury recommends. So far from disapproving of that, I honor and commend him for it. What sort of system would that be, which would alter the tariff so as to raise revenue enough in such a period as this, if it could be done, for such an expenditure as seventy-four or eighty million dollars a year?

But gentlemen cannot pursue both lines of attack. If they say seventy-four or eighty million dollars are extravagant estimates of expenditure, surely they ought not to be willing to raise revenue enough to meet them; but if they are willing to raise revenue enough to meet such an expenditure, they ought not to say that seventy-four or eighty million dollars are extravagant, for as certain as you raise the revenue, we know from experience, it will be expended.

The sole question, then, for us to consider, was: is there likely to be enough, out of the existing sources of revenue, to meet the economical wants of the Government? I say, yes; enough to meet those wants if they do not exceed \$60,000,000, or even \$64,000,000 a year; and in order to prove it as nearly as could be done, (for any calculation of this sort is an approximation,) I took the dutiable imports for the year closing in July, 1857, the last fiscal year; I ascertained, by a calculation made at the Treasury Department, what rate of duty the tariff of 1857 had actually given on the dutiable imports; I imposed that rate of duty on the dutiable imports of 1857, and found that would give us something like fifty-one million dollars. I referred, then, to the experience of the tariff of 1846, and found that the imports and exports, and revenue, under that, increased something like ten per cent. per annum; and said that if we had a right to anticipate the same increase after the revival of trade, the present tariff would soon give us sixty million dollars or more. Would not that be enough, with the public lands, to meet all the just wants of the Government? If so, would it not be worse than useless, would it not be a wrong and an extravagance to avail ourselves of the present condition of things in order to force up the revenue to a higher standard, which, in periods of prosperity, would fill the Treasury to overflowing? Upon that, I am willing to go before the country. Upon that issue, I am willing to meet those gentlemen who insist that we are bound, rather than ask for a loan to meet this temporary deficiency, to impose a permanent addition on the taxation of the country.

But there was another argument which they addressed to us, which would have been an argument addressed to our feeling if it had been true; but, in my opinion, it was as unfounded as the others; and that was the appeal *ad misericordiam*. That was the appeal to do something for the labor of the country on the idea that we ought to raise the tariff in order to protect the operatives who were suffering. I say, in answer to that, that I do not think it fair to tax all other laborers in order to promote and to support another class. I do not think it fair to impose a system of taxation which, like the protective system, makes the con-

sumer, for every dollar he pays to the Government, pay one, two, three, or four other dollars to private individuals, in the shape of an enhanced price, on the domestic manufacture which he is thus forced to consume. I say it is not fair to the sailor, it is not fair to the man of commerce, it is not fair to the agricultural laborer, thus to tax them for the benefit of any other pursuit. I go further. I say that if bounties were thus given, it would be found that they did not profit the laborer. Why, sir, the manufacturing laborer, no matter what your tariff is, will get no more than any other skilled laborer in the country. If there be any extra profits produced by it, they go to the capitalists, the owners of the factories, the men who are rich enough already.

But, sir, I will for a moment assume the truth of the argument, though I do not assent to it, that as regards protection we ought to disregard all other interests, and look only to the manufacturer: I deny, if we look only to his interest, that we ought to resort to a protective system again; and as proof of it, I plant myself on the experience of the tariff of 1846. Show me any other period of ten years in the history of this country in which not only all its great interests thrived and prospered so rapidly, but in which the manufacturing interest was developed with such rapidity as it was then. I proved to you the other day, from those statistics, which can neither err nor lie, that the manufacturing exports increased nearly threefold in those ten years, more than they had done at any other period of our financial history; and that is the true test of the prosperity of the manufacturing interest. I showed you the statistics of the manufactures of cotton and of wool in Massachusetts, the great manufacturing State of the Union, and showed you with what unexampled rapidity they had prospered and thrived during that period. And I say that if such are the results of that reduction of duty; if we find so much greater comparative prosperity when we come to compare that period with those of high duties, I am justified in saying that it is neither a charity nor a benefit to the manufacturing laborer to impose upon him again the protective system. I plant myself for that upon those figures; let gentlemen explain away or meet them, if they can. Until they do so, I feel that I am laboring not only for the good of all the other great interests which prospered in sympathy and amity and friendship along with the manufacturing interest during these ten years; and I say that when I adopt a system of low duties, provided it furnishes revenue enough to the country, I am benefiting not only the agriculturist, but the sailor and the man of commerce, but I am benefiting also the manufacturer himself, and that is proved by the history not only of this, but of other countries; and accordingly these great truths which lie at the bottom of all great commercial prosperity are making their way throughout the civilized world. Upon them, sir, I am ready to meet gentlemen at any time or anywhere. If that be the issue which they make, regarding it, as I do, as one of progress, I am willing to stand or fall upon it.

Mr. TOOMBS. My honorable friend from Virginia has called my attention to what he supposes to be a mistake in the argument which I made on the day before yesterday; but I think he has committed one of the most singular and extraordinary mistakes for a gentleman of his financial knowledge I have ever heard in the Senate. I will take the illustration he has given me. I held that if the imports of the country were less than its exports, necessarily allowing for the elements I took into the account, we were doing a losing trade, or the goods were undervalued; that one result or the other absolutely followed. I then showed from the state of the exchanges during the last three years, that our trade was not a losing one, that we had sold the commodities exported for more than we gave for them because there was no balance against us. He gave the illustration of my exporting cotton for the purpose of importing iron. I will take that, and I think I can satisfy my friend in an instant that he is utterly wrong. If a merchant in New Orleans buys a thousand bales of cotton for \$50,000, and sends them to Liverpool, if he sells them for \$40,000, of course, he has lost \$10,000, besides

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the earnings of freight and insurance. If he brings that \$40,000—and many of our imports are in coin as well as in goods—to New York, of course he has sent \$50,000 out and brings but \$40,000 back, and he has lost \$10,000. That must be perfectly clear. The Senator, however, seems to think not, but says he must bring back something to pay the duty. Well, now, instead of bringing back the \$40,000 for which he sold the cotton in Liverpool, suppose he lays out the money in British goods at Manchester. If he has only got \$40,000 there to buy goods with, and he carried out \$50,000, he has lost \$10,000, and all the earnings of freight and insurance. There can be no mistake about that. Inasmuch as you take the valuation at Liverpool, I take that test. He sells the cotton for money and puts the money into goods. If he brings back but \$40,000 of goods, he does a losing trade. I have shown you it is not a losing trade, but the custom-house exhibiting only \$40,000 of import for that export of \$50,000, it necessarily follows either that there was undervaluation, or that the trade must have been a losing one. If the merchant laid out the \$50,000 in Liverpool in goods he would be even, though he lost insurance and freight and profit; but if he sold his cotton for \$60,000, then whether he put it in blankets or hats or cottons, or anything else, the invoices must show \$60,000 worth of goods exported from Liverpool to New York.

I say, then, it is an unerring test, that unless the imports do equal the exports, you have either done a losing trade, the commerce of the country has lost, or the goods are undervalued, and there is no escape from it. There were two elements which I stated that might have an effect on the calculation, and I called on the Senator from Virginia to name any others, if he could; but, after forty-eight hours, he has not been able to give another. I said it was subject to these modifications: first, the amount of goods that went abroad to pay for interest on loans; and another element to set off against that was the amount of money borrowed in the three years to carry on our improvements. If as many new bonds were issued as paid the interest on previous loans, that would not appear in the statement of the account, but it would be squared. There is no other element to disturb the calculation, except smuggling, and that I allowed for. I showed that there were \$70,000,000 against us, and I allowed \$20,000,000 for loss by smuggling. It was a large estimate; I think an excessive one. Then I showed that the undervaluation must amount to at least fifty million dollars a year. Then, if you put the earnings of freight, and insurance, and the profits of business on an exportation of \$300,000,000, at twenty per cent., you would have \$60,000,000, or an annual excess of exports over imports of \$10,000,000 more, making \$70,000,000; and if the profits, insurance, and freights were more than twenty per cent. the amount would go up to eighty or perhaps one hundred millions. The more profitable the trade, the greater the amount of undervaluation there must necessarily be. If cotton sold for one hundred per cent. advance; if the \$50,000,000 exportation sold for \$100,000,000, and the custom-house only showed \$40,000,000 of imports in return, there was an undervaluation of \$60,000,000; and no figures, no logic of my friend from Virginia, can get around it. He has committed the singular blunder of supposing that you may do a good business, and yet bring in fewer goods in value, buy less goods—and it will be the same, whether you take goods or money, and I will take the case of money. Suppose we export \$100,000 in gold, and that we buy with it \$90,000 in goods, what becomes of the other \$10,000? Much of our export consists in gold—forty or fifty millions. Suppose it had all been gold, and we sent to Liverpool from New York \$60,000,000, and brought in \$40,000,000 of goods: then it would be absolutely certain that we had lost precisely \$20,000,000, unless there was a duty on gold in Liverpool, for the gold did not lose anything in going across the Atlantic ocean. Suppose our whole exportation of \$300,000,000 had been in gold, we should have received in return \$300,000,000 in goods valued in Liverpool; and if it brought in imports to a less amount than three hundred million dollars, it is clear there was a loss in the

trade, and the Senator cannot account for it in any other way on the best settled principles of political economy. An old idea once obtained that a nation which imported more than she exported was getting in debt, and I believe some people who write on these subjects in newspapers now have that singular idea. I say, on the other hand, it is an unailing test of prosperity. If you bring in no more than the avails of what you send out, if it is \$100,000,000, it shows \$100,000,000 of prosperous trade, but if you go in debt beyond the price of your commodities at the place you sell them, that is another matter. But I say that the basis which I went upon to show undervaluation is correct. The element the Senator has put in to-day does not exist, and he can find no other than the one of smuggling, for which I have made a liberal allowance.

On the other questions which have been raised, I agree with the principles laid down by my honorable friend from Virginia. I was opposed to the loan bill because it was opposed to my principles; and I think it ought to have been opposed to his. At the last session of Congress, when the tariff of 1857 was made, we estimated that, upon the then importations, it would produce but \$48,000,000. We calculated to reduce taxes \$15,000,000. I voted for it because it did reduce taxes to that extent. I intended, of course, as a corollary to the raising of only \$48,000,000, that I would not spend more than forty-eight million dollars, with what should be raised from lands and miscellaneous sources, amounting in all to some fifty-five million dollars. I am not willing to go beyond this, except that I am ready to supply any diminution of the revenue occasioned by extraordinary causes. Such a diminution exists to the extent of \$7,000,000. Owing to the commercial revulsion we have this year a revenue of \$41,000,000, instead of \$48,000,000, which we estimated when we passed that bill. I say that \$7,000,000 is a legitimate subject for a loan. I would also borrow for extraordinary expenditures like the Utah war. We have appropriated \$9,000,000 for the Utah war, and borrowed the money. There is \$7,000,000 deficiency in the revenue, and \$9,000,000 for the Utah war to be provided, making \$16,000,000; and the Government has already had authority to borrow \$20,000,000 by Treasury notes—\$4,000,000 more than ought to be wanted.

MR. HUNTER. My friend is not to confine the expenses of the Utah war to the deficiency bill; because, after we have got the whole Army concentrated into Utah valley we have to supply them; and the expenses of transporting and subsisting them will be much greater than it would be if they were differently posted. That causes a great portion of the expenses.

MR. TOOMBS. My principle is that I will provide for extraordinary expenses, though I do not approve the policy, and for extraordinary diminution of the revenue; but it has not been shown, there is no exhibition of the honorable Senator at the head of the Committee on Finance of this body, that the extraordinary expenses and deficiencies amount to \$35,000,000; and that is the only true basis of calculation for a loan. If he had shown that the object of the \$20,000,000 loan in the early part of the session, and the \$15,000,000 now, was to make up a deficiency of the estimated revenue, and to provide for extraordinary expenses, and had shown that \$35,000,000 would be needed for these purposes, then the loan bills would be legitimate and proper; but, in my judgment, the chairman of the Committee on Finance has not shown that there is any extraordinary expenditures calling for this loan. I have no idea that the extraordinary expenditures of the Army, now that we have peace in Utah, will go to \$15,000,000; or, if they should, I trust there will be wisdom enough in the executive department of this Government to stop it, and turn the Army back. Colonel Steptoe was there with a portion of the Army two or three years ago, on the old estimates. He was offered, by President Pierce, the Governorship of that Territory, and he very wisely declined it. We have had armies there before. It may be expedient to keep some addition to their number, but it will not do to say that because there are increased expenditures we must allow any amount of loan. What are

the increased expenditures? I have a right to know them when I am called upon for a loan.

But, sir, I totally dissent from gentlemen on this side of the House. I do not intend to borrow this money, and I mean to reduce the public expenditures. I do not intend to falsify the policy which I adopted with my honorable friend from Virginia fifteen months ago. I believe that the present tariff levies taxes enough, and I do not intend to vote for any more, or to pay any more. I am pursuing my own policy, and I do not intend to be diverted from it by anybody. It is sound policy. I do not intend to spend more than this tariff yields in ordinary circumstances, but I would provide for extraordinary deficiencies or extraordinary disbursements. I will not deviate from that principle until I am satisfied it is wrong; and if it is wrong, the Senator from Virginia ought not to have brought in a loan bill, but a measure for increasing the revenue. If we are not to bring down our expenditures to what the tariff will yield under ordinary circumstances, we ought to raise taxation, because it is unwise and unstatesmanlike to carry your expenditures to \$80,000,000 and leave your revenue at \$50,000,000, for that policy will compel you to borrow the sum of \$30,000,000 a year. I will not do so great violence to all correct and sound principles of governing a great country as to do any such thing. If your ordinary expenditures have gone beyond your estimates for ordinary revenue, you ought to raise your taxes. As I do not intend to do it, as I do not intend that the revenue shall go beyond it, I make my opposition on your appropriation bills, and will leave those gentlemen who vote to carry the ordinary expenses up to eighty or ninety million dollars to raise the money to pay them. I will not do it. I think gentlemen on the other side of the House who go for enlarging the expenditures of the Government are bound to provide for them by taxation or by loans; but that is not their policy.

The amendment of my honorable friend from Virginia is a wise one to this bill—not the wisest, because an increase of taxation in some form would be the wisest, but it is the next wisest. Inasmuch as your estimates upon which you predicated the \$15,000,000 loan do not include this amount of \$600,000, of course it is but the dictate of common sense and common honesty to raise the money which you appropriate. The revenue will not do it, according to anybody's calculation. The existing loans will not do it. The Administration only estimate what they mean to spend, according to existing laws, and this is not in their estimate. Then, when you appropriate these \$600,000, or any other amount, for these objects, statesmanship, patriotism, and duty demand that he who votes to expend the money, ought, in some way, to provide it. The Secretary of the Treasury cannot pay the money merely because you appropriate it; and I cast no censure on him. He finds the appropriations of the past year seventy or eighty million dollars, and the revenue only \$41,000,000; and yet gentlemen turn round and reproach him when he has asked loans to pay your appropriations. You tell him to pay, out of \$50,000,000, the amount of \$80,000,000. You appropriate \$80,000,000, and then turn round and say, what a Secretary of the Treasury we have got; he comes to us for two loans in one Congress! Yes, sir; and he will come for another one next week, if you pass some of the bills on the table, that I reckon will get the vote of nearly every gentleman here who is opposed to these loans. They do not carry their opposition to appropriations. I can name a pension bill that has been started in the other House—perhaps it is here by this time—amounting to \$11,000,000; I can name the French spoliation bill, involving \$5,000,000; I could name three or four other bills, which, if you pass before the adjournment, it will be the duty of the Secretary of the Treasury, as a statesman and a patriot, to come to you next week for a loan of \$20,000,000 more.

Sir, the difficulty lies here in the legislative department. It is folly, it is unmanly, it is unstatesmanlike to say you will carry the expenditure to eighty or ninety or one hundred millions, while you levy no more than fifty million dollars by taxation, and then vote against loan bills. Gentlemen can never bring down expenditures in that

way. They can never get the confidence of the country in that way, for they will not deserve it. My opposition to the loan bill was on the principles I have stated. I do not get their cooperation in bringing the expenditures within the revenue. Until I do that, of course I can expect nothing from their irregular or spasmodic efforts at retrenchment and reform; it will never come from that source.

The VICE PRESIDENT. The question is on the amendment of the Senator from Virginia to the amendment of the Senator from Ohio.

Mr. SEWARD. I hope the friends of these measures will vote down the amendment.

Mr. CLAY called for the yeas and nays; and they were ordered.

Mr. BELL. I cannot agree that this question shall be taken until I have an opportunity of saying a few words in reply to the statements made by my honorable friend from Virginia this morning, with reference, in part, to some remarks that I made yesterday. The honorable Senator urged a singular ground of defense against the charges which came from this side of the Chamber, in regard to the policy pursued by him in borrowing money without making any provision to pay it, or proposing any alteration in our revenue laws or commercial restrictions, to meet the continual wants of the Treasury, likely to run through several years. We have stated the grounds on which we suppose that frauds exist to the extent we have stated. According to the views of the Senator from Georgia, these frauds go to such an extent that the Government has been deprived of the duties upon foreign imports to the amount of \$100,000,000 per annum. Take, however, a moderate estimate; assume that on \$50,000,000 per annum the Government has, by fraudulent devices, been deprived of the revenues to which it would be entitled under the act of 1846. The honorable Senator from Georgia, with whom the honorable Senator from Rhode Island agrees, believes that the amount is not less than \$50,000,000 which is imported into the United States and should pay duty, but does not. The honorable Senator from Virginia thought the charge was made without any foundation. Why, sir, the figures presented by the honorable Senator from Georgia, and the honorable Senator from Rhode Island, show, unanswerably, that at least \$50,000 of foreign merchandise have been imported into this country that do not pay the duties they ought to pay under the law. On that point, then, I need make no remark in defense and explanation of the statements I made yesterday, as to the course of the honorable Senator from Virginia upon this subject.

Sir, the Senator from Virginia has referred to investigating committees on this subject. A few years ago we had an investigating committee, of which I was a member, without any desire of my own to be put there. The committee was elected by ballot in the Senate, and at the suggestion of some gentleman, I do not know who, I was placed on the committee. The honorable Senator says there is no proof that undervaluations have taken place to any extent.

Mr. HUNTER. I did not say to any extent; I said to any large extent.

Mr. BELL. But from the general terms used by my honorable friend, it would be inferred that he said there was no proof that any fraud was committed on the revenue from that source.

Mr. HUNTER. I could not have said that, because there are cases in the reports of decisions, showing frauds.

Mr. BELL. Undoubtedly, I presume, the honorable Senator did not mean to say that; but that they amounted to no such magnitude as should attract the attention of Congress or the country, or should lay him liable to the charge of seeking to evade any corrective of these frauds. That was an injustice which I understood my honorable friend to charge on me, with others, and he alluded to me specially, or I should not now say a word. I adduced no proofs yesterday in regard to the probable magnitude of these frauds. The honorable Senator from Virginia does not mean, of course, that we shall have anything like proof judicially taken, such as would be required in a court of justice, to manifest that these frauds have taken place to the extent we allege; but I will tell my honorable friend what I referred to—the opin-

ions of every Secretary of the Treasury ever since the act of 1846 was passed, except, perhaps, the present Secretary, alleging that the lawful revenue of the country, moneys that properly belonged to the Treasury under the law of 1846, had been withheld by various devices and contrivances, to what amount they did not know, but it was manifest to a considerable amount. I founded my opinions further on what I understood was the belief of the late Secretary of the Treasury, Mr. Guthrie, who stated, that on all the textile fabrics imported into the United States, frauds in some mode or other were committed to such an extent that not more than one half the revenue which ought to have gone into the Treasury on the importations of those articles ever reached the Treasury. When, as a member of the investigating committee to which I have alluded, I was charged with the commission of inquiring into the practice at New Orleans, I will say that I found numerous proofs, and I brought away several of them. I took testimony, the statements of gentlemen of undoubted character, who had been engaged in the foreign trade of the country, importing goods especially from Germany and France and the Island of Cuba, which satisfied my mind that there was a uniformity almost, if I might use the term, in the plans and systems adopted by foreign manufacturers, foreign merchants, and foreign factors, on all the States of the continent—not so much so in England, I admit—to impose upon our custom-house officers by undervaluations. The practice was, as I understood then, with scarcely any variation, that upon the purchase of many fabrics on the continent, especially those in regard to which our officers could be most easily deceived, it was usual, as a matter of routine, to furnish one invoice for the purchaser's own use, and another invoice for the custom-house. Only a few days ago I heard from an authority that I rely upon, this remarkable fact stated, a gentleman who was in Europe, wished to purchase some fine cloths in Belgium, and he bought them and shipped them for this country, and he was furnished with the papers which he supposed were the correct invoices; but when he got home he found a double invoice, and he was expected by the seller to use one, in order to advise him of what his goods really cost him in Belgium, and the other was to be used at the custom-house. He wrote back a letter of rather an insulting description, taxing the merchant with a want of proper moral honesty and sense of fairness in dealing, signifying that he was not a man to take advantage of such deception on the part of a vendor to avail himself of any profit he might make in this country at the custom-house. The manufacturers, or merchant, retorted upon him that he was as honest a man as the writer of the letter, and as much of a Christian, and what he had done was in conformity with the general habit on the continent; and that in the same ship on which this gentleman's goods were shipped there were forty-five invoices of a similar character, in the hands of forty-five different importers.

Mr. HUNTER. The Senator referred to the late Secretary of the Treasury, Mr. Guthrie. Will he allow me to read a passage from his letter on home valuation?

Mr. BELL. Yes, sir.

Mr. HUNTER. Mr. Guthrie says:

"To ascertain this value, and these costs and charges, the importer is required to produce the original invoice of the merchandise, supported by his oath. The appraisers, who ascertain the dutiable value on the entry, by printed prices-current, commercial circulars, manufacturers' list of prices, and sometimes by consular communications from the country of shipment, or inspection of the invoices of other importers at their own and other ports—from some or all of these, they are enabled to ascertain the fact, with a reasonable certainty, (the only fact they are obliged to ascertain,) at what prices the merchandise in question was generally selling for in the foreign market at the date of exportation. If the article comes from a country from which importations are rare, and in regard to the market values of which the appraisers have no information other than the invoice, they are justified in taking the invoice value, supported by the declaration and oath of the importer, as reliable evidence of the general market value of the article in the country of exportation, upon the presumption that, in the absence of proof to the contrary, the purchaser pays the price which the article is generally selling for in the foreign market. Such cases are, however, extremely rare; and when they do occur, information as to the current foreign prices of similar merchandise is usually obtained from other ports where such importations are more frequent, as a guide to the appraisers."

Mr. BELL. He is only giving the regulations to prevent these frauds.

Mr. HUNTER. He says, though, that with these means the appraisers can ascertain with a reasonable degree of certainty; and if they can, there is not the opportunity for fraud.

Mr. BELL. Are there no contrivances for shifting goods from one schedule to another? Does the late Secretary of the Treasury say there were no frauds on the revenue in that way?

Mr. HUNTER. That source of fraud as regards mistakes in schedules is obviously so small that it would not enter into the calculation. I was replying to the charge of undervaluation, and I asserted that I had the authority of Mr. Guthrie for saying that the foreign valuation of the goods could be ascertained with reasonable certainty. That is what I was endeavoring to meet. In regard to the other matter, the appraisers, it seems to me, will always determine it, except where there is a real difficulty as to what schedule an article does belong to, and that is a question generally determined by the courts.

Mr. BELL. I was stating the grounds on which I had drawn the conclusion that there was such an immense loss in the revenue by fraudulent devices of one kind or another, and by undervaluation. I found these evidences presented to me. Another thing I will call the attention of the honorable Senator from Virginia to. I know that the honest importing merchants had been driven out of the trade in New Orleans, on account of these devices. I know this further fact—and the gentleman concerned gave me a letter to that effect—that a gentleman quit dealing in foreign merchandise and had gone to planting on the Mississippi, and that was the ground he alleged for it. I do not say that all the American importing merchants, who continued in business in New Orleans, had a character for dishonesty; but the pregnant fact was that this gentleman said no man who would not connive at the fraudulent devices and practices to defraud the Government of the revenue, justly taxed by our existing tariff laws, could continue in the trade, and he did not intend to have his feelings or principles of self-respect violated by continuing in the business in which he had been engaged. I have in my possession the evidences collected five or six years ago for the purpose of being used on this question when it should come up, evidences which would satisfy any gentleman that all we have heard of this continued practice of double invoices is correct. I would ask the honorable Senator from Virginia, really, why is that practice continued, if there is nothing effected by it? I understood the honorable Senator from Georgia, the other day, to say that he had witnessed an instance of it a year or two ago. I do not remember whether he said that he found, on inquiry, that it was a general practice on the continent, or not, but that is the way I understood him. If no fruit is derived from the adoption of these devices by the vendors on the continent of Europe, why are they continued? Then I would ask my honorable friend, when so large a part of the foreign manufactures imported into this country are imported by the manufacturers themselves, and placed in the hands of their factors or agents here, who are generally foreigners, how is it possible to ascertain the prices of such goods at the place of manufacture, or to disprove their invoices? Their practice, I understand, is to put in interest on the capital they have employed in those manufactures, then the price of the raw material, then the wages paid to their operatives. That is the cost to them.

Mr. HUNTER. The appraiser puts on them the price at the port where they are shipped. If they are brought from Liverpool, the appraiser puts on the Liverpool price. If the invoice is under that price, he raises it to that; and if, in doing so, he raises it over ten per cent., the importer forfeits twenty per cent.

Mr. BELL. Then frauds may be committed on account of the different qualities and character of the merchandise imported. They change the fabrics in appearance and change the quality and value so as to deceive the appraisers; and in England the Free Trade Society have very strongly rebuked their manufacturers for this. They do not say that is a device to defraud the custom-

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houses abroad; but they speak of it as a device which, if persisted in, would injure the character of their manufactures in every part of the world where they have customers, and that it ought to be looked to and guarded against. They furnish a texture similar in looks and appearance and quality, apparently, but different from the texture sold the preceding year. All these devices exist to a large extent. It may be that some of the frauds could be practiced on our custom-houses if we had a home valuation; but I think not to anything like the same extent.

The honorable Senator admitted that by smuggling there might be fraud, to a considerable amount, practiced upon the revenue of the Government; that there might be a large importation of foreign merchandise which was not entered on our custom-house books, of the value of which we knew nothing; and that is another point which I do not know that I made yesterday. By the present system of foreign undervaluations and fraudulent devices of one kind or another, I ask the honorable Senator if there is any means of knowing what amount of foreign merchandise is imported into this country, and consumed here? You do not know it. The honorable Senator from Georgia thinks, under favorable circumstances to the commission of fraud, it might amount to a hundred millions; the Senator from Rhode Island thinks it does, probably, amount to fifty millions a year, or upwards; that is the minimum. By the present system you do not know what amount of merchandise is brought in. The honorable Senator from Virginia relies on the figures as they appear upon our Treasury reports. We show that there is a diminished quantity stated in our books by that much annually—fifty or one hundred millions. Is not a system which leaves such a question uncertain, as to the amount of fifty or one hundred millions imported and consumed here, and all of which is to be paid for either in gold or silver, or by the products of the country, or in bankruptcy—is not a system essentially vicious that admits of such deception, practiced not only upon the people of the country generally, but upon all fair and honorable traders, and practiced upon the Government itself? It is apparent that the Treasury reports do not give us the amount of merchandise imported and consumed in this country which has to be paid for; but I see no reference to the uncertainty and want of any true intrinsic value in these reports at all. For example: if the undervaluations amount to \$50,000,000 a year, in the last ten years we have imported \$500,000,000 worth of foreign merchandise consumed and paid for, except that part which lies over unpaid, of which we have no account in our Treasury reports.

Mr. HUNTER. The Senator from Tennessee, like the Senator from Georgia, relies on three years which have been picked; but to ascertain whether the value of the exports does exceed, for the whole term, the value of the imports, he ought to have taken the whole period from 1846 up, and he would have found that, in some years, the imports exceeded the exports. In 1846, the imports were \$121,000,000, and the exports \$113,000,000; in 1847, the exports were \$153,000,000, and the imports \$146,000,000; in 1848, they were equal; in 1849, the imports were \$146,000,000, and the exports \$145,000,000; in 1850, the exports were \$178,000,000, and the imports \$151,000,000; in 1851, the exports were \$218,000,000, and the imports \$216,000,000; in 1852, the imports exceed; and in 1853, again, the imports exceed largely. If he had taken the whole period, he would find that difference would not appear.

Mr. BELL. I have not made that calculation in reference to the increased amount of importations from 1847 up to this time. The honorable Senator stated it at ten per cent., and I said on the average it amounted to fifteen per cent.; but I have not made the calculation to see the correctness of the figures upon which the Senator from Georgia has proceeded, and also the Senator from Rhode Island, in coming to the conclusion that the frauds amounted to \$50,000,000 a year, at least, and in some years to \$100,000,000.

Mr. TOOMBS. The way I got at it was this: the last three years showed that the exports were \$28,000,000 less than the imports, and then the profits on the commodities exported and the earn-

ings of freight I take to be at least \$60,000,000 a year, say twenty per cent.

Mr. HUNTER. But the Senator has not given us the estimate of the market value of the two in each place. He has supposed that, through the custom-house, all the returns that are made from the foreign trade of the country are made, whilst we know that not only is there a great deal of smuggling, but we know they do not afford any reliable information in regard to the flow of specie. There is a large amount of specie brought in by immigrants that does not appear on the custom-house books at all.

Mr. TOOMBS. I can tell my friend from Virginia that does not make the least difference; it is not counted in the exports, and therefore it ought not to be in the imports. Whatever foreign gold appears in the imports is so much in favor of my calculation and against his.

Mr. HUNTER. The exports all appear, and the imports do not all appear. How can the Senator tell, then, whether they are equal?

Mr. TOOMBS. If the immigrant brings in his gold, it disturbs the calculation of the Senator from Virginia, not mine.

Mr. HUNTER. Not at all. I referred to that as an instance to show that the flow of gold does not appear. This is one instance; there are others; the specie is not always returned; that is a notorious fact.

Mr. TOOMBS. That does not make any difference; it does not go into the exports.

Mr. BELL. The foreign gold imported by immigrants would not be a large difference; it would not even be a set-off against smuggling; but I leave that question to the honorable Senators from Georgia and Rhode Island. I founded my statements not only on that calculation of figures, to which I paid not so much attention as those gentlemen, but on examinations which I made myself, showing that it was impossible, when you exact the duties on the value at the port of exportation abroad, to obtain the full value, on account of the scores of devices resorted to by ingenious men, who have no conscientiousness, to defraud the revenue. I believe the frauds in this way would amount to at least twelve and a half per cent. on the whole average importations as they appear upon the books; and I have not the slightest doubt that the honorable Senator from Georgia is perfectly right in his estimate as to their extent. They certainly must come up to \$50,000,000. There is not a gentleman who goes abroad who has not occasion to ascertain these facts. If he buys a few articles to bring home to his family, amounting to only a few hundred dollars, or five hundred or a thousand francs, he is presented with two invoices, one for himself, which is the bill by which he pays, and the other the bill by which, when he is overhauled at home, he is to pay duties at the custom-house. I have not traveled on the continent myself; but I have known gentlemen personally, of character and credit, who informed me that such is the practice at this day in every place where they buy jewelry and the finer fabrics of manufacture on the continent.

Now, in regard to the exportations also, the Senator from Virginia takes no note of the probable five hundred millions of debt that are owing, besides the thirty millions of specie we have been exporting on the average for the last ten years, over and above what is imported, which must go to the payment of the interest on that debt. I know that many gentlemen here will say that this is an uncertain calculation; that the amounts of American securities, State bonds, railroad bonds, and municipal corporation bonds, held abroad, are very uncertain, and vary. I know that; but we must only look to what those best informed on the subject believe and suppose to be the amount held abroad. I think less than four hundred millions cannot be safely taken as the estimate.

Mr. HUNTER. The late Secretary of the Treasury, Mr. Guthrie, estimated it at \$200,000.

Mr. BELL. I do not know what his last estimate upon the subject was; but I find that the London Times estimates it at \$500,000,000.

Mr. HUNTER. If it be \$500,000,000, and we have to send the interest out on that sum, it would account for the difference of which the Senator from Georgia speaks.

Mr. BELL. No; the thirty millions would not

account for it. What is the amount of debt due in the neighborhood of Glasgow alone, to the manufacturing establishments? I notice, by the general statements in the newspapers, that the banks there lost over a hundred millions by accommodating traders and speculators particularly connected with the American trade and the export of iron—all that has been sunk and lost. We do not know how much is the debt owing by American merchants abroad. I know it is so considerable that English financiers and merchants think it is of great importance that we should have things in a sounder condition than we have in the United States, for they want to get their money. I wish my friend from Virginia to answer me this question: has there been any such increase of prosperity in this country since the year 1847 as would justify an average increase of the ability of consumption in the United States—I mean by the increased productions, and the increased industry of the country—so as to amount to \$15,000,000 of an increase every year? It is not, as he said, taking the average of the last nine or ten years, ten per cent. increase, but on the average, it amounts to about fifteen per cent.; and some years it was twenty per cent. Will my friend from Virginia answer me how that can be possible?

In reference to what I thought was the amount of frauds annually committed on the revenues of the country, I stated frankly and fairly the grounds on which I supposed I made a fair calculation. I relied upon the information of others, and upon the reports of the Secretary of the Treasury, to show that at all events the fraudulent devices were considerable, and were much complained of. Now, I think no showing the Senator from Virginia can make is at all necessary to the views taken by the Senator from Georgia and the Senator from Rhode Island. He cannot but acknowledge, I think, that the custom-house returns do not show the amount of importations annually brought into our ports. Whether they are fifty millions or one hundred millions short, is uncertain; but that there is a large amount short is very evident.

The honorable Senator charges me with undertaking to rebuke him. If I did so, it was not because of any feeling or desire on my part to say anything offensive to him. I stated that I could perceive there was some plausible ground for taking the exception as to the constitutionality of the proposition of the Senator from Rhode Island, because he assumed, as did the honorable mover of the amendment, that it would increase the revenues of the country; but then there was another question behind that: whether it was not in conformity to the true construction of the law of 1846? The honorable Senator from Virginia now asserts that the practice and the interpretation have been uniform from 1795 down to this time. I admit that weighs considerably; but if it is an erroneous construction, if it may be considered open, as we have no Department that can decide such things—

Mr. HUNTER. I read the decision of Judge Nelson; that was explicit on the point. What does the Senator say to that?

Mr. BELL. Is that conclusive?

Mr. HUNTER. I think so.

Mr. BELL. Is that irreversible? Does it settle the law? If it was a construction of the Constitution it would not settle it in the opinion of the honorable Senator.

Mr. HUNTER. It settles the law. I do not think they can settle the Constitution by decision, but they can settle the law.

Mr. BELL. If this has been the uniform practice since 1795 to the present time, and it is found to be an erroneous one, and the manufacturers and traders of foreign countries have been enabled to evade the payment of duties to the amount of at least twelve and a half per cent. under it, is it not evident that we ought to give a fair interpretation to the law, so as to prevent this, if it will admit it on any plausible ground? Now the authority of a judge is interposed. Of course, I admit that all adjudications on this question must stand; but that is not the point I was on. The Senator says I undertook to rebuke him, and declared that his objection was a technical one. I urged that it might be considered so, under all the circumstances; though I did not go into details to show on what ground it might be so con-

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sidered. I further said to my honorable friend from Virginia, that if it was the disposition of the ruling powers of the country, at this time, to correct the frauds by undervaluations, and really to supply the wants of the Treasury according to the fair interpretation of the existing law, and it was unconstitutional to bring forward such a measure here, why was it not done in the House of Representatives? I consider that the strongest statement, looking at it in a party point of view, stronger than any other part of the statement I made.

I had not time to arrange my thoughts, or even to take any notes with such order and precision that I could present them clearly and satisfactorily to the Senate; but still I went into some argument to show that it was impossible in the nature of things that the productive capacity of this country could have increased so extraordinarily as to have justified the great increase of our importations from 1857 to this time, an average increase of \$15,000,000 per annum. It was impossible in the nature of things, as I conceive, that this could have been a healthy increase. I know there were one or two years of high prices produced by the state of things in Europe when we got more for our produce and breadstuffs on account of short crops abroad; but that is an inconsiderable item of the large increase from 1847 to 1857. In 1857, the imports were one hundred and sixty or one hundred and seventy millions more than they were ten years ago. I say the ability to buy articles has not increased with that rapidity, and the inference which I wished to draw from all this was, that the gentleman who had charge of the finances of the Government ought to have seen it.

In reference to the currency, I mean to say nothing now. I shall not go into the question of the exportation of specie, because the honorable Senator has not alluded to it; and what I am now saying I wish to be strictly in reply to him. My argument was intended to show that if he would give the proper weight and consideration to this large increase of our importations in the last ten years, he would see that much of it was founded upon credit; it was artificial; it was not a true index of the ability of the country either to buy or to pay; and that when he relied upon a revival of trade and business in this country on the figures of 1855, 1856, and 1857, his calculations would never be realized, and he had better make provision at once for an increased revenue. I think, upon a fair and deliberate consideration of the facts I have presented, any man will see that they furnish no grounds of faith that this country will, within any short period, reach a similar condition of prosperity so far as it is indicated by the amount of merchandise imported.

Another thing I threw in—an appeal to the good feelings and sympathies of men—an appeal to which, as I pointed out, the English Government was ever ready to respond. I thought we might fairly adopt the proposition of the Senator from Rhode Island, as providing the means of paying the debt proposed to be contracted and supplying the Treasury next year; for the Senator from Virginia himself does not pretend to say that he calculates with any certainty that the ordinary receipts of the revenue will pay the expenditures of the next year, and I pointed to the fact that at the close of the next year you would have a public debt of more than seventy or eighty million dollars. Looking back to the circumstances to which I have already alluded as to the character of our trade, I thought we all ought at once to perceive that there was no good sense or wisdom in delaying for a year or two to see whether business would revive. I thought the evidence was conclusive, that it could not and would not, to such an extent as would meet the wants of the Government; and hence, I thought we might as well, at once, relieve the country to the extent that such a measure would relieve those who have been thrown out of employment, by increasing the imposts upon imported merchandise coming in conflict with the domestic produce of the country. The honorable Senator from Virginia has drawn into his short argument, made to-day, that *ad captandum*—I will not call it by any less dignified name—appeal which is made on such occasions about the injustice done to the poor by

increasing the impositions upon the articles of imported merchandise.

Mr. HUNTER. I said nothing about the poor. I spoke of the consumers. The consumers embrace poor and rich.

Mr. BELL. I understand; but then the honorable Senator alluded to the appeal made on account of the suffering portion of the community now thrown out of employment, and said, "how could that be, when you take from one class, by imposing protective duties, to put into the pockets of the capitalists, those who are not suffering?" He said you increase the means of the capitalists and you throw the burden on the unemployed, the poor, the toiling millions. The honorable Senator from Virginia and the honorable Senator from Georgia do not differ much when we come to discuss that point. It is in that odious point of view that the arguments of some of the gentlemen on this side of the Chamber are held up and presented before the country. My own judgment on the subject is, that unless you lay a duty so great as to prohibit the importation of articles, the effect of duties affording protection to a reasonable extent on the great bulk of manufactured articles that come in conflict with similar articles which we have the raw material and the skill and knowledge to manufacture here, diminish prices in the end, and that the capitalist, after all, can receive only a reasonable remunerative price or interest on his capital, such as all other employments justify. I will not detain the Senate further.

Mr. DAVIS. I should like to ask the Senator from Tennessee a question: how the proposed modification of the manner of collecting the duties would entirely avoid the danger of fraud? He alleges fraud to exist now, and to some extent, no doubt, it does. I wish to know how he is going to avoid it; how the proposed plan will do it?

Mr. BELL. I will answer to the best of my knowledge and judgment. You cannot altogether avoid frauds by a change in the mode of valuation. Frauds will continue to exist, to some extent, under any system. I only pretend to say that they must more exceedingly abound under the present practice of the Government in collecting revenue than could possibly be the case in collecting revenue under the system of home valuation. Of course there may be a difference between the judgment of appraisers in one port and another. One proposition is to fix New York as a standard. I have conversed with the honorable Senator from Virginia on this subject heretofore, and he asked me how you would fix a value in any one port that would be equally just in California? I replied that, if the standard was fixed at New York, and the effect should be that we lost in the revenue in regard to the goods consumed in California, the consequence would be that the importing merchant and consumers in California would pay less duty.

Mr. DAVIS. It might be more.

Mr. BELL. It might be more according to the principles on which you base the calculation, but now they would pay a less duty in San Francisco by the New York standard. I presume the standard would be fixed at the wholesale market value at New York. You might make some deductions one way or the other, if you thought proper; but that is the idea and the principle. When you take goods from New York to California, the cost of freight and transportation from New York to California adds to their value; and then, when you require the merchants and consumers in California to pay duty only by the New York standard, you lessen the burden upon them. The article, the moment it arrives there, is worth more than that standard by the cost of transportation and insurance and commissions. All that would be added; but they would pay no duty on it. That would be unfair to some extent, and might be said by some gentlemen to be contrary to the Constitution; but practically, I think, in levying revenue in a country like this, so divided as our sea-ports are, that is a matter of small consideration compared with the great importance of having our system uniform as far as practicable, and our revenues honestly raised.

Now, I will state another fact. When I was at New Orleans, some six or seven years ago—and I dare say the representatives from Louisiana can

verify it—I learned that the merchants could then, notwithstanding the honesty of our appraisers, actually import their goods cheaper through New York. The honest merchants, who would not condescend to use false invoices, found it was better to have their goods shipped to New York, entered there, and then reshipped to New Orleans, with all the charges of reloading, the coastwise freight, and insurance. That was a mode by which some of them continued in the trade so as to avoid the competition which they had to meet in New Orleans with merchants who imported under the custom-house invoice system.

I am not familiar with these subjects, as my friend from Mississippi very well knows. They have not been in my line at all; but I studied them to some extent when I saw that they were likely to arise here. I do not know that I have given a satisfactory answer; but I think my friend from Rhode Island could perhaps devise a scheme that would be satisfactory.

Mr. DAVIS. I think the Senator from Tennessee does himself injustice. He shows familiarity with the general principles involved, but I do not think he removes my difficulty by any means. The question which I asked presents to my mind several difficulties. In the first place, I do not see how it would be possible (to take the ports he names, San Francisco and New York) for the appraisers at San Francisco to know the value of any article of commerce in New York upon the day when it was entered in the harbor of San Francisco. The price is fluctuating, and the time is considerable between the two ports. If the price was ascending or descending, the appraisers in San Francisco would make the error just in proportion to the ascent or descent of its value in the port of New York.

Mr. BELL. That would be a practical inconvenience.

Mr. DAVIS. Then again the Senator is quite mistaken in supposing that all commerce must incur an increase of value by going to San Francisco. I think one of the great elements in the present system likely to produce discontents among the people of the Pacific coast is that we legislate entirely in relation to our duties on imports by regarding the interests of those people, who look out on the Atlantic and draw their trade across it; but the people of the Pacific coast must some day or other have a very extensive trade of an Asiatic character. Now to take an article which is already one of considerable import into the harbor of San Francisco, Chinese rice, how would an appraiser at San Francisco determine the value of Chinese rice, in the port of New York, where not one grain probably ever enters as merchandise?

Mr. BELL. That could be provided for.

Mr. DAVIS. It could not possibly. The article has no value in New York known to the appraiser. So a very large class of French goods are imported into New Orleans which find no other market in the United States. How are you to fix a New York standard for measuring these goods which are never imported into New York? It is impossible. And if you could reach it, if goods of Asiatic production should enter into New York and become matter of merchandise there and acquire value there, would it be fair to impose upon an importer in San Francisco the increase of value of those goods when they should have been carried around the Cape and on a stormy sea to the port of New York? It would be manifestly unjust, manifestly injurious to the trade of those people who look out upon the Pacific and not on the Atlantic.

I think, therefore, that, whilst we are met at the first step with the difficulty, at last you must rely on the intelligence and integrity of the appraisers, as you do now; and, secondly, that, by such a regulation as is proposed, you give a preference to one port over another, making it the interest of the merchant to do that which the Senator from Tennessee finds that, in some cases, the merchant in New Orleans now does—making it always his interest to import into New York; having no additional charge of duty when he arrives at New Orleans, if he brings the goods from New York; but having an additional charge if he brings them from elsewhere. It is to create a preference for that port over the others, necessarily;

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it is to rely, at least, upon the integrity and intelligence of appraisers, and compelling them to measure by a standard which does not appeal to their general commercial knowledge, but their capacity to guess whether the value of the article has gone up or down at the port where the standard is fixed, between the date of the last price-current and the date of the delivery of the goods at the port of entry. It seems to me to have all the difficulties, and to be liable to all the frauds—

Mr. BELL. Permit me to ask the honorable Senator a question. Is there any other civilized trading nation in the world that has duties paid on its importations on their foreign valuation, or that ever did such a thing? Do not foreign nations lay the duty on the valuation in the port in which the goods arrive?

Mr. DAVIS. I am not able to answer the question.

Mr. BELL. I do not pretend to have a perfect knowledge on the subject; but my understanding is, that this is the only country that levies its duties on a foreign valuation.

Mr. SIMMONS. My proposition—of which the Senator from Mississippi is complaining—had a provision in it to meet just such cases as he has presented. It provided that, when the duty could not be ascertained in any other way, the collector might take it in kind, and sell it in the market. In that way you could certainly get your percentage. I should like to see how the Senator can get over that?

Mr. DAVIS. My objection is, that I am afraid the appraisers would ascertain it to suit themselves. You would have one great central commercial metropolis, from which you would send out agents, trained in the one great custom-house of the country, to apply their own notions and their own standard to every port of the United States.

Mr. SIMMONS. Those are provisions to get rid of the abstractions which have been thrown in the way of a home valuation. I think that is perfectly constitutional—

Mr. SEWARD. I wish to ask my honorable friend from Rhode Island whether this has much to do necessarily with the river and harbor bills?

Mr. SIMMONS. Not at all; but I thought perhaps I could get along better by explaining exactly what I proposed.

Mr. DAVIS. I am objecting to the abstraction of money from the pockets of the importers of every other part of the United States for the benefit of the one great central metropolis of commerce. I am objecting to a scheme which is to swell the number of your custom-house officers, and to give them a larger discretionary power than they now have.

Mr. BELL. Let me ask my friend from Mississippi what effect the fraudulent system of undervaluation, in the city of New York, had on New Orleans? That is one of the grounds on which I felt excited and interested on the subject ever since I made the examination to which I have referred some years ago at New Orleans. I saw that the consequence of the system of undervaluation was to make New York the objectionable *entrepôt* of which the Senator from Mississippi speaks—the great emporium of trade in this country. That is one of my very grounds of objection to the present system. I ask my friend from Mississippi whether it would not be a much more easy task, on the part of the Government here, to see, supervise, and exercise a patriotic spirit in consulting the most honest and skillful officers in a single port than a dozen ports, as we have to do now?

Mr. DAVIS. The Senator presents me the objection that the New York standard is taken for the importer at New Orleans, and yet he proposes to take the New York standard at every port.

Mr. BELL. What I mean to say is, that I contemplated a different standard of men in New York, though I am told the present officers are very good. Mr. Schell, I have not heard complaint of.

Mr. DAVIS. I sympathize in the hope the Senator has on the perfectibility of man, but I hardly expect to find the full development of perfectibility in the midst of a custom-house. I think the Senator is mistaken in the case to which he refers. A large number of the mercantile houses in New Orleans are branches, having still larger

houses in New York. They import through New York on account of their dependency on New York. We even sell our cotton in New Orleans for bills of exchange which are drawn on New York. New York is now the great center of the commerce of the United States, and, probably, will ever so remain. I object, however, by legislation, to giving it more than its capital and its natural advantages confer upon it.

Mr. BELL. I object to that, too.

Mr. DAVIS. The whole importation to which the Senator refers is not because the custom-house officers in New York are less honest, less capable than those of New Orleans. It results from the fact that they make their money arrangements in New York more conveniently than elsewhere, and from the other fact to which I refer, that a large number of the merchants of New Orleans are connected with still larger mercantile houses in the city of New York. That is the reason of the fact which the Senator no doubt found.

Mr. BELL. I do not know whether the Senator understood me that the case there was that it was on account of the lower duties assessed in New York.

Mr. DAVIS. Oh, no.

The VICE PRESIDENT. The question is on the amendment of the Senator from Virginia [Mr. HUNTER] to the amendment of the Senator from Ohio, [Mr. PUGH.]

The Secretary proceeded to call the roll; but before the result was announced—

Mr. WILSON. I vote "nay" on this question to satisfy others, not myself.

Mr. FITCH. I was not in when this amendment was moved, but I previously notified the Presiding Officer that I had paired off with the Senator from Louisiana [Mr. BENJAMIN] on all questions relating to river and harbor improvement bills—a general pair on these bills. If that involves this question likewise, I shall not vote. If it does not, and is so decided, I am willing, as I understand my vote will affect the question materially, to do what other Senators say is proper.

Mr. SEWARD. The honorable Senator from Louisiana consulted me about pairing off, he being a friend of the bills, and told me he had paired off with the honorable Senator from Indiana. The friends of the bills understand that this is a vote which is covered by the pair.

Mr. FITCH. If there is any doubt whatever about it, I shall decline voting.

The result was announced—yeas 24, nays 26; as follows:

YEAS—Messrs. Allen, Bright, Brown, Clay, Clingman, Davis, Fitzpatrick, Gwin, Hammond, Hayne, Houston, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Pearce, Polk, Reid, Rice, Slidell, Thomson of New Jersey, Toombs, and Wright—24.

NAYS—Messrs. Bell, Bigler, Broderick, Chandler, Colamer, Crittenden, Dixon, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Harlan, Jones, Kennedy, King, Pugh, Sebastian, Seward, Shields, Simmons, Stuart, Trumbull, Wade, and Wilson—26.

So the amendment to the amendment was rejected.

Mr. DAVIS. I move an amendment to the amendment:

That all articles now on the free list be classed among the unenumerated articles, and be charged with a duty of twenty per cent. *ad valorem*, on all importations made after the 1st day of July, 1858.

Mr. PUGH. I ask the President whether he considers that amendment in order? It proposes to raise revenue, to originate a bill in this House to increase the tariff.

Mr. DAVIS. It is a question which the Senate had before it yesterday.

Mr. PUGH. It is not the same by a great ways.

Mr. DAVIS. I do not know on which side the Senator from Ohio was, on the point of order raised by the Senator from Virginia.

Mr. PUGH. The answer then made by several Senators was, that they did not propose to raise the duties at all, but simply to affect the measure of valuation. I did not care anything about the constitutional question then, because I was against the home valuation anyhow; but here is a provision to raise duties, the origination of which by the Senate is unconstitutional.

Mr. DAVIS. It is a modification of the scale of duty. It certainly will increase the revenue. Until I was compelled to surrender to the better

judgment of the Senate, I thought the origination of any bill which proposed to increase the revenue of the country by duties on imports was assuming a power not delegated to the Senate; but a large majority seemed to be against that construction the other day, and I am but bowing, as I always do, to the judgment of the Senate.

Mr. KING. I ask for the yeas and nays on the amendment.

The VICE PRESIDENT. The Chair will submit the question of order, if any Senator desires it, to the sense of the Senate.

Mr. WILSON. I would rather take this vote on the point of order. We took it on the principal question yesterday—not on the point of order.

The VICE PRESIDENT. The Senator from Massachusetts desires the question of order submitted to the Senate. The Chair will submit it: Is this amendment in order? Senators who think the amendment is in order will say "ay."

Mr. CRITTENDEN. I wish to know if the question should not properly be put, "Is this amendment constitutional?" That is the question. It is alleged to be out of order, because it is unconstitutional. I want to know if that is the specific question—whether it is constitutional?

The VICE PRESIDENT. The Chair will state—

Mr. SLIDELL. I would suggest to the Vice President that I understood, if the point of order had not been waived yesterday, it was the intention of the Chair to have propounded the question to the Senate, "Will the Senate receive the amendment?" That was my impression, and I understood that was the usual form, when the Chair doubted whether a proposition was in order or not, in which the Chair presented it to the Senate.

The VICE PRESIDENT. The Chair indicated the other day that he would decline to decide any question of order of this character; yet, in the broad sense, it is a question of order—the precepts of the Constitution, the rules of the body, and, where they are silent, the law of Parliament, constituting the standard of our proceedings. If the point of order is raised, the Chair will submit the question to the Senate, "Is this amendment in order?" and, in his opinion, that is the appropriate mode of submitting the question.

Mr. CRITTENDEN. I know very little about the rules of order. Suppose I have just come into the Senate, knowing nothing about the rules of the body, never having read them, but I have studied the Constitution: when the question is propounded to me, "Is an amendment in order?" how should I decide it? You may have some rule, for aught I know, that regulates this matter as a question of order; but, is it the Constitution that I am comparing it with when I vote upon it as a question of order? Then, when I vote on the question as you are propounding it—"Is the amendment in order?"—am I to consider that there is any other rule than the Constitution by which I am to regulate my judgment? I do not know anything about the rules.

The VICE PRESIDENT. The Chair knows of no other rule affecting this question than the Constitution.

Mr. CRITTENDEN. Then, I understand I am to vote whether this amendment is constitutional.

Mr. MASON. I wish to say a single word, if the question is to be taken on this matter as a question of order, only as indicative of the reason of my vote. I did not at all agree the other day with Senators who thought the propriety of an amendment of this character was one to be decided as a question of order, if we look upon it as the Senator from Kentucky does, as a question under the Constitution. The Constitution declares that bills for raising revenue shall not originate in the Senate. I may think this is a bill to raise revenue; others may think it is not a bill to raise revenue; and our votes will be governed accordingly on it when the question is put on the amendment. I cannot perceive that the Constitution, in giving to the Senate the right to prescribe its own rules, intended to do more than to vest the Senate, and the Presiding Officer of the Senate as the organ to expound the rules, with the power to prescribe what they might consider best for the dispatch of business. I do not consider that the Constitution can affect the order of the Senate technically, so speak-

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ing, at all; therefore, whatever my vote might be on the amendment, for it or against it, I shall be constrained to vote that it is in order, although I may be opposed to the amendment.

Mr. PUGH. It seems to me that the decision of the Chair is one to which there can be no answer made. The Senate is the creature of the Constitution, and there are as many rules of order for this body, in the Constitution, as in our rules—just as many; and they are as completely binding—yea, and more so. We can change our rules, but we cannot change the Constitution. The Constitution says that each Senator shall have one vote. Suppose I attempt to vote twice on a question: where is the rule of the Senate to prevent me? There is no rule of the Senate; there is a rule of the Constitution. It is out of order clearly. The Constitution says that every bill shall be read three times in three days. Suppose I attempt to put a bill on its passage after its first reading; that is out of order, because the Constitution says it shall be read three times. I could name several cases in a few moments. The Constitution has prescribed certain rules of order for us, and we must obey them. We have prescribed others for ourselves; and those, too, we must obey until we change them. Now, the Constitution says that every bill for raising revenue shall originate with the House of Representatives. A bill which raises revenue cannot originate here; it is out of order. We cannot entertain it; it ought to be thrown out on its first reading; and the mere fact that the rule of order is in the Constitution gives it no less force, certainly, than if it were within our own rules; and therefore I say that, in my judgment, the amendment offered by the honorable Senator from Mississippi is out of order. It violates not a question of constitutional law, but a plain rule of order written in the Constitution; and therefore I insist that the question shall be taken so that we may know in the future what is in order.

Mr. TOOMBS. Mr. President, the Chair has put the question in the only way it can possibly be raised. The idea that an amendment is out of order because it is unconstitutional, cannot be maintained for a moment. That is no test of order, for according to my judgment I could have objected on the same ground that the bill was out of order. It never would get in order with me, for I have no more doubt of the unconstitutionality of the bill, than I have of my own existence. Could I, therefore, get up and say, you shall not introduce unconstitutional bills, you shall not introduce unconstitutional amendments? It is all a mistake. The only question is: is this amendment within the rules of your body? It is an amendment in the second degree, and therefore in order; hence I shall vote that it is in order; there can be no question about that point on any rule of ours. I have no doubt, however, that it is unconstitutional; and yet I shall vote for it. I have a perfect right to vote for an unconstitutional amendment to an unconstitutional bill. I will put any rider on it that will kill it. Though it is unconstitutional, I shall vote that it is in order, and I will put it on the bill if I can. The business of the Senate would be embarrassed at every stage, if a question could be raised as to the unconstitutionality of an amendment. I might raise the same objection to every bill for internal improvements.

Mr. WILSON. I understood the Senator from Georgia to unite with the Senator from Virginia on the point of order in regard to the amendment submitted by the Senator from Rhode Island to the loan bill.

Mr. TOOMBS. No, sir; I said it was unconstitutional, but not out of order. I could not vote for any bill with it in, on the constitutional point. This, however, is an amendment within the rules of the Senate; it is an amendment to an amendment. Whether that amendment is constitutional or unconstitutional is not a question of order, and never can be. The Constitution is the rule for my voting for measures; but it is perfectly competent and parliamentary for me to make an unconstitutional measure as good as I can, even by an unconstitutional amendment. I may be wrong in this, but I think I am correct, according to all parliamentary law. I intend to vote against the whole bill; but I will put the amendment on it because it will be better in that form.

I look on it as most extraordinary that, in the present state of the Treasury, when gentlemen know we have not the money for these improvements, they should press appropriations for them; and I am still more amazed at gentlemen who claim to be connected with the dominant party that they should, in the face of the Senate and of the country and of their constituents, vote to spend five hundred thousand or a million dollars for these objects, without giving the administrative Government a dollar to pay it with. It is very extraordinary, whatever may be their opinions on internal improvements. I can understand that an Opposition who desire to embarrass an Administration, to throw trouble in their way, would raise all the objections they could, but I am surprised that others should join them in this. Certainly, if these appropriations are to be made, the means of making them should be furnished.

I say the Chair has put the question right: "Is the amendment in order?" In my judgment, it is within the rules of your body, and that is all that is involved in the question of order—not whether it is constitutional. I shall therefore vote, without hesitation, that it is in order, and then vote it in the bill if I can, and then vote against the whole bill if I be put in.

Mr. TRUMBULL. I take it, Mr. President, that questions of order are to be summarily decided; and I must confess that I am very much surprised that questions as to the constitutionality of measures are to be treated here as questions of order, and submitted as such to the decision of the Senate. I shall vote with the Senator from Georgia. I have no sort of doubt that this amendment is unconstitutional—that is, that we have no right to pass a bill of the character indicated by this amendment; but it seems to me it is not to be raised as a question of order. I shall vote against the amendment without considering its merits when we come to vote upon it; and the conclusive reason why I shall vote against it is that we have no right to originate such a proposition; but still I am not for deciding whether a bill can be introduced into this body upon constitutional grounds as a question of order. I will determine that when I come to vote upon the measure. As has been very truly remarked, there is hardly a great question that comes up here about which somebody does not raise a constitutional point; and are we to go off into a discussion of order, and have it submitted to the Senate to be determined by a solemn vote whether a bill is constitutional or not, as a question of order. I do not think such a question should be submitted to the Senate in that form.

The VICE PRESIDENT. The 6th rule of the Senate provides that the President may call for the sense of the Senate on any question of order. The question is raised whether this amendment to the amendment is in order or not. The Chair believes it to belong to that class of questions which it does not become him to decide upon as being in or out of order. For whatever reason Senators may vote, undoubtedly it may be broadly stated that the amendment is or is not in order. That may be predicated of every amendment. The question being raised, the Chair presents it to the Senate: "Is this amendment in order?"

Mr. FOSTER. It seems to me, Mr. President, that this question can be disposed of in very few words. The Constitution undoubtedly is of higher obligation than any rules of order which this body can make. No doubt we may introduce a bill here which, in the judgment of a portion of the members, is in contravention of the Constitution, and in the judgment of another portion is not. It is not, in my judgment, in that state of things, a proper test to apply to the bill when it is introduced, to make a question of order on the ground that the party making the point of order believes the bill is unconstitutional, and can show it ever so much to be unconstitutional. That is not a question of order; because members may differ about that, and each member will vote upon the bill according to his judgment of it, as a constitutional or an unconstitutional measure, when he comes to vote on it. But where the Constitution itself determines which of the two branches of Congress may originate a bill, it presents a different question altogether—one as wide as the poles from the question of the mere unconstitutionality of a bill.

The Constitution says—I do not quote its words, but the idea is in the minds of all of us—that this body shall not originate bills to raise revenue. Now, a member rises here and proposes a bill to raise revenue. It is not enough to say that the bill is unconstitutional. That may be said, undoubtedly; but over and above that, it is to be said the Constitution declares that this body shall not originate such a bill. Then it is a question of order.

Mr. PUGH. I would suggest to the Senator that the bill is not unconstitutional; it only begins unconstitutionally.

Mr. FOSTER. I agree that my friend from Ohio is right, because, if we pass such a bill, and the House of Representatives pass it and it becomes a law, it is as good a law as was ever made. We cannot go back of the bill as passed, and show in the Supreme Court that it originated in the wrong body. We must make the objection *in limine*, or we cannot make it at all. The House of Representatives, when the bill is sent to them, may throw it under their table, because they say the Senate has no business to originate it; but if they pass it, it is as good a law as Congress ever made, so far as the origin of the bill is concerned. Suppose the Constitution had said the Senate should originate no bill, had created the Senate and House of Representatives as it now has, but had given the House of Representatives the sole power to originate all bills: when we, under these circumstances, were in session, a member rose in his place and offered a bill on a proper subject of legislation, would it not at once be objectionable upon the ground that, in this body, we could not originate bills? Would not every member say amen to that? Clearly I think every member would. Well, so far as this proposition is concerned, the Constitution has said that very thing; it has said the Senate shall not originate such a bill as this amendment is. In that state of things, I say it is clearly a question of order, because we are forbidden to entertain or consider the proposition.

Mr. SEWARD. Will the Senator allow me? I wish to ask whether this question which is submitted is amendable; whether the question which has been submitted by the Chair to the Senate can be amended?

The VICE PRESIDENT. The Chair will hear any amendment the Senator may offer, and then decide.

Mr. SEWARD. Because I suppose what is covered by it is, whether the proposed amendment is constitutional; and if it is, I should like to move to amend the question so that the point to be submitted shall be, whether this amendment is consistent with the Constitution.

The VICE PRESIDENT. The Chair would not consider that in order.

Mr. FOSTER. It seems to me that the question cannot be more fairly and directly presented than in the mode it is proposed to be presented to the Chair. With the suggestions I have made, asking to some extent pardon of the Senate for intruding when the question was about to be put, I trust we shall have a vote.

Mr. THOMPSON, of Kentucky. It is very seldom that I have anything to say about points of order; they are matters in which I take very little interest, though I was presiding officer of a legislative body once, and had very little trouble in getting along. The Senator from Mississippi submits his amendment. It is objected that it is out of order, and I understand the Chair proposes to leave it to the sense of the Senate to say whether it is in order or out of order. We have rules, governing the proceedings of the Senate, and under those rules any proposition is to be received that is pertinent, that is not scandalous, that is not objectionable to anything in the rules. It is said this amendment is unconstitutional. That takes the whole question for granted. You might just as well say this is unreasonable. You do not know what may be decided about the Constitution. You are not to take it, as has been suggested, *in limine*; but you are to take it when you come to the death—voting upon it. It is not submitted—constitutional or unconstitutional? Why, sir, suppose I make a motion, and a Senator gets up and says my motion is out of order. I ask him why? "Oh," says he, "your motion is an

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unconstitutional motion." Is that allowable? That is the case here.

Mr. FOSTER. Will the Senator pardon me for interrupting him?

Mr. THOMPSON, of Kentucky. Certainly.

Mr. FOSTER. I will take the gentleman's own illustration. If the Constitution has said such a motion as that should not be made in the body, I ask him, then, if he could make it? If the Constitution had said in express terms that such a motion as he proposed to make should not be made in the Senate, could he make it?

Mr. THOMPSON, of Kentucky. I am not making any motion. I say the objection to this amendment is on the ground that it involves the constitutional proposition, the origination of a revenue measure by a proceeding in this House. I say that amounts to nothing, as a question of order. You, sir, must be governed by the rules, and, with the highest respect to the body, I think, if I were in your place, I would decide it in or out of order, and if they did not like it they might let it alone.

Mr. HALE. I did not think, sir, that I should be led into this debate; but the honorable Senator from Connecticut has advanced a proposition which I think erroneous; and as it may have some influence here, I desire to have it considered. He says that if a bill is originated in this body against the provisions of the Constitution, and is carried to the other House, and enacted there, and becomes a law, no court can go behind the record, and say that it was not constitutionally enacted, and adjudge it null. I dissent from that entirely, and I believe that several of the States in this Union have decided differently. I know that the supreme court of my own State have, within the past year, decided that, where the constitution requires the Houses to keep a journal, and requires bills to go through certain stages, and it appears, on an inspection of the journal, that a bill did not go through the stages required by the constitution, notwithstanding it has all the forms of law, signed by both presiding officers, and approved by the Governor, it is not a law. The honorable Senator from Georgia tells me that such has been the ruling in the State of Georgia. The Constitution says certain things shall be done, and that each House shall keep a Journal to show what it has done. If it appear by its Journal that a bill which the Constitution says shall not originate here, has originated here, I contend that it would be the clearest duty, and within the legitimate province of the Supreme Court, or any other court before whom the matter might be brought, to pronounce that, although such a bill had all the forms of law, it was not a law. For that reason, I think it is exceedingly important that the Senate should settle—I do not care whether you call it a constitutional question or a question of order—and should settle rightfully, whether it is within the legitimate province of this body to originate such a measure.

Mr. FOSTER. Allow me to ask the Senator, before he sits down, how, after a bill has passed the Senate and House of Representatives, and becomes a law and has all the forms which such a bill ordinarily has, he would ascertain in the courts, in which House it had originated?

Mr. HALE. In the easiest way in the world. By looking at the Journals. The Constitution says we shall keep Journals, and they are kept for the very purpose of ascertaining just such facts as those.

Mr. DAVIS. I think Senators on the other side have pushed the argument greatly beyond the practice, and any reason which exists, either in the Constitution or without it, to carry it to the extent to which they now press it. I am sorry they did not take the same position on the amendment offered by the Senator from Rhode Island to the loan bill. Carried, however, to the extent they now press it, it would be, that any proposition made in the Senate which would increase the revenue of the country, would be out of order on the ground that it was unconstitutional. The men who framed the Constitution lived before that great discovery that the imposition of duties on imports made them cheaper, and they meant that no tax bill should originate in the Senate. I have no disposition to limit it or to extend it beyond the judgment of the Senate, and I am

acting now under the judgment which the Senate indicated two days ago. But, sir, no railroad grant has ever been proposed in the Senate on which the argument was not made that by giving away a part of the lands to insure the construction of a road, you would increase the value of the rest, and hasten its sale. Under such arguments as are sprung on this amendment, such a proposition was a bill to raise revenue, and unconstitutional and out of order. The propositions which are now pending to improve harbors, it is urged, will increase the commerce of the country, and so increase the revenue, the general fund of the country; and, I might just as well say, that is out of order and unconstitutional, because it is a mode of raising revenue, and that belongs to the House of Representatives. The point is pushed to the extent of absurdity in the argument, whatever may be the merits of the amendment itself.

Mr. COLLAMER. I perceive that gentlemen do that which is not very unfrequent among us—they assume that their view of the amendment offered by the Senator from Rhode Island to the loan bill, is the true one; and they attempt, from their view of it, to apply it as an argument with relation to this case. Our opinion in regard to that amendment was that it did not raise revenues. I do not wish to be understood as using the word "raise" in the sense of "increase." If a bill were presented which made the duties all ten per cent., that would still be a revenue bill. Suppose that was the first bill for revenue that was ever offered in Congress, would it not be a bill raising revenue? Certainly. Then you are to judge of it in the same way at all periods of our history. If it is a bill raising revenue to begin with; it is a bill raising revenue at all stages of our history. The Constitution does not require that it shall be a bill increasing revenue; it means nothing more than a plan for producing money, getting it into the Treasury. The amendment of the Senator from Rhode Island, in our view, was nothing but carrying the law into effect, and getting the revenue which the law provided. What if it did increase the amount of revenue? I say you cannot make a law to prevent frauds, that will not increase the revenue. If it does not, it will not do any good.

Mr. CLINGMAN. Allow me to ask the Senator a question in regard to a difficulty that occurred to my mind; and it will illustrate this particular point. The proposition that he and others voted for was to adopt the home valuation. Well, I find that, taking railroad bar-iron for example, when it would be worth at Liverpool about twenty-six dollars a ton, its selling price in New York would be about forty dollars; and, by the last statement I was able to get, when the selling price in New York was sixty-two dollars, it was thirty-eight and a fraction at Liverpool—

Mr. COLLAMER. This is a pretty long question. We shall want a surveyor, with a compass and chain, to run it out.

Mr. CLINGMAN. I come to the point in this way: the home valuation is fifty per cent. higher than the foreign.

Mr. COLLAMER. I deny the fact.

Mr. CLINGMAN. It is on bar-iron, as the gentleman will find if he will take the lists of prices for the last ten years.

Mr. COLLAMER. That must be owing to the freight and duty.

Mr. CLINGMAN. Exactly; and the very amendment the Senator voted for, adopted the New York valuation, and that valuation was equivalent to raising the duty on bar-iron from twenty-four per cent., as it now is to thirty-six per cent. on the foreign valuation. If that was right, what is the objection to this? If you could raise the duty by that form of language, thirty-six per cent., what is the objection to making the change now suggested?

Mr. COLLAMER. I will say to the gentleman about his question, as the witness said to the lawyer, after a very long one, with a great many expletives—"I do not know," said he, "about that, may it please the court; I cannot answer that question now, without a surveyor with his compass and chain to run it out and get at what it is." [Laughter.] I am not proposing to make any tariff speech at this time. The gen-

tleman is mistaken in saying that I voted for that proposition.

Mr. CLINGMAN. I beg pardon. I thought the Senator was among those who voted for it. It was generally voted for by his political friends, and I supposed he voted with them.

Mr. COLLAMER. The gentleman assumes a great many things in his question. In the first place, I was saying that we viewed the proposition of the Senator from Rhode Island as nothing more nor less than an attempt by some efficient legislation to obtain the revenues and duties for which the existing laws provide. I deny that the foreign valuation is the present law, or ever has been since 1799. Our duties have been most generally specific; but that our *ad valorem* duties, so far as they have existed, have been laid on any foreign valuation, never was true, and is not true to-day, except so far as we are cheated. The act of 1795 provides for assessing the duty at the place of importation.

Mr. CLINGMAN rose.

Mr. COLLAMER. I understand what I am about. The gentleman need not trouble me with any more of his questions. He will get his answer, and get it understandingly too, if he chooses to attend to me. Neither shall I be embarrassed by the gentleman's question. I shall not be thrown off my guard in the least by it.

The act of 1795 provides for levying the duty on the foreign price of the goods as put on board the vessel, with the charges of getting them on board; and it adds "all other costs and charges except insurance and commissions," which, of course, included the cost of getting them to this country. What did that mean? Can any man on earth tell me what that means? Take it as it reads, and can there be a mistake about it? It is that you take the foreign price, with the addition of all the costs and charges, until you get the article here as the more means, the scaffolding, the elements, out of which to get the price on which to lay your duty when it arrives here. The duty is not laid on the foreign valuation; it is laid upon the price abroad, together with the costs and charges, with certain exceptions mentioned. What costs and charges? Those of shipping the article and getting it to America. All costs and charges, except insurance and commissions, are to be put on the foreign price—what for? To get the price at home. That is the law now. We find, however, that we are deceived in these elements, we are cheated in these means, and we want to carry out the true intention of the law by getting at the price in the market, simply by going into the market and ascertaining what the price is, and thus carry out the law. That it will produce more money we know. That is the very reason we want it now; but it is to produce no more than the law intended. That is the character of that proposition.

Now, sir, with the explanation I have made about raising revenue, dismissing the idea that "raising" means "increasing," I say still that any measure which institutes means of getting money into the Treasury is a revenue measure. This amendment is evidently of that character. The mover of it does not disguise that, but he uses the *argumentum ad hominem* on the idea that he is going to get us to vote for this measure because he says we are inconsistent with regard to another.

Mr. DAVIS. Allow me to say to the Senator in all frankness that it is not merely an *argumentum ad hominem*, but I am in earnest; if we are going to spend this money, and have not got it, I want to increase the revenue, and I think the proper way to do it is to tax the free list.

Mr. COLLAMER. The gentleman does not think I wish to misrepresent him?

Mr. DAVIS. Certainly not.

Mr. COLLAMER. What I meant by the *argumentum ad hominem*, was that the Senator must have reasoned in this way: "I am moving this not because I have a constitutional right to induct this measure in the Senate; I do not pretend that; but I mean to present it in the Senate, and then I am going to address the gentlemen on the other side who, I say, voted for such a measure yesterday to vote for this to-day in order to be consistent." That, I say, is the argument he addresses to them; not that he supports it on that ground.

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Internal Improvements—Mr. Simmons.

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A word now as to the question of order. If any point which is raised is a point which should govern a man's vote on the passage of a bill, that cannot be a question of mere order. If it enters into the merits of a bill, and determines a man's vote on the bill, it is not a matter of order. I think that is a criterion which will settle any question of this kind. If a point which is presented relates to and must affect the merits of a bill, it is something more than a question of order; but, if it is of a character which would not affect the passage of the bill in the view of the voter, then it may indeed be a question of order. Now, how is it in this case? Here is a revenue bill—for this amendment is substantially the same thing as a bill—undisguisedly presented in the Senate. The point is, can any Senator rise in his place, and say to the Chair, "I object to that as out of order?" Try that question by the test which I have just suggested: would that determine my vote on the merits of the bill? I think it would not.

If the bill was just such a revenue bill as I was satisfied was a good one upon its merits, why should I refuse to vote for it? It might indeed be a question with the other House whether they would permit us to originate a revenue bill in this way; whether they would consent to it. But if they took no exception, its origination would not affect the merits of the bill; for I agree entirely with the Senator from Connecticut that if the bill passed both Houses, it would be a valid law—though at the same time I know full well that there has been some such decision as that suggested by the Senator from New Hampshire. I know that there has been a decision in New York to this effect: the constitution of New York required a two-thirds majority of the Legislature to grant a bank charter, and the question arose before their supreme court in relation to the validity of an alleged law of that State which granted a bank charter. The court looked behind the mere passage of the bill to ascertain whether it had received the constitutional majority, and ascertaining that it had not received two thirds, the supreme court decided that it was not a law. But what of that? There was an objection which entered into the very merit of the thing: the bill never had the constitutional majority; here the only question is as to the inception of the paper. In point of fact that bill never passed into a law; it never passed the House by a constitutional majority. But in this instance, would the mere fact of the inception of a bill in one House or the other, nullify its legal effect if it had been passed with the consent of both Houses by the proper constitutional majority? Certainly not at all; therefore it is not a matter which would enter properly, as I think, into the vote of a man on the merits of the bill; and hence, in my estimation, it is a proper question of order, and it is in the province of the Chair to decide it as a question of order, or to submit it to the Senate.

Mr. WADE. To me this question seems very plain; and I have wondered that it led to so much discussion. When I came into the Senate, like every other Senator, I took an oath that I would maintain the Constitution of the United States. Whenever I think a proposition in any form, or in any stage of any proceeding, is palpably unconstitutional, to me it is void; I cannot make use of it for any purpose, not even to defeat a bill to which I am opposed. Whenever I think any proposition is unconstitutional, my course of action is, "hands off;" but another gentleman may think that is constitutional which to me appears to be unconstitutional; and so every man must judge for himself.

The proposition before the Senate is, to my mind, so palpably unconstitutional that I cannot give force or effect to it in any form whatever. The Senate has no jurisdiction over the subject-matter; we can do nothing with it. That is my judgment. I understand the Constitution to prohibit us from starting such a measure. The Constitution says that bills of this kind shall originate in the House of Representatives. Then how can we originate them here? Plain as the question appears to me, however, it seems that there are other minds to which it appears differently.

I can have no difficulty about the point of order. I do not think you can sink a constitutional question into a mere question of order. I do not be-

lieve it is in the nature of it to be submitted to the Presiding Officer as a question of order; but it should enter as an element into the proceeding before the body, for each member to judge of according to his own views. I do not care how it is presented to me. If it is presented as a question of order, I will say it is out of order, because it is unconstitutional and can have no effect. If I were asked whether an unconstitutional thing was in order, I would say no; it has no business here; it can have no effect; without violating my oath I cannot entertain it at all. I do not care at what stage of the proceedings you face me with an unconstitutional proposition; if I think it unconstitutional I adjudge it void and go against it in any stage, whether you make it a question of order or leave it as an element in any proceeding, or bill, or resolution.

This amendment is presented by those who manifestly wish to defeat the bill. I hope there will be no more discussion over it. I hardly ever say anything on such questions, and probably I ought not to have said what I have on this occasion. I trust the friends of the bill will have no difficulty in voting against this proposition, whether it be presented as a question of order, or whether suffered to come to a vote on its merits or demerits.

Mr. CLINGMAN. I do not wish to be troublesome to the Senate, but I wish to say that in putting my question to the Senator from Vermont, I had no purpose whatever to embarrass him, or to throw him off his guard, but a *bona fide* purpose to see if he could show any distinction in principle between this proposition and the one which I understood him to be advocating; but he informs me that he did not vote for it yesterday. From the course of his remarks to-day defending it, I supposed he had voted for it, but I learn that he left the Senate Chamber before the vote was taken, and, therefore, did not vote at all. If I understand him now, he says there is no law or usage to justify foreign valuation.

Mr. COLLAMER. I did not say usage.

Mr. CLINGMAN. Well, no law. I may have misunderstood the gentleman. Then, if there be no law, I confess I am at a loss to see why the Senator from Rhode Island should have introduced a proposition to change the law. I understand that it was a proposition materially to amend the existing laws.

Mr. SIMMONS. I stated, when I introduced it, that it was in strict conformity with the principles of the present law, and every law that had existed on the subject.

Mr. CLINGMAN. Then I must remind the gentleman of what occurred in 1833. I do not know how far back this foreign valuation has been adopted; but I remember very well, at least I read of it—and I presume the gentleman's recollection, as he was perhaps, an actor at that time, will bear me out—when Mr. Clay, in 1833, introduced, and got through the system by which *ad valorem* took the place of specific duties, it was provided that at the end of nine years, during which period the duties were being gradually reduced, they should come down to twenty per cent. and the home valuation. Mr. Calhoun, advocating the bill, declared that he would vote for it, but that he believed, when the time came, the home valuation would be impracticable. I ask the gentleman from Rhode Island whether that bill of 1833 did not provide for a general *ad valorem* system; and whether it provided for a home valuation until the nine years ran out in 1841? Am I right about that?

Mr. SIMMONS. Certainly. While the modification was going on from specific duties to duties strictly *ad valorem*, how could the home valuation prevail? It could not apply until the change was effected.

Mr. CLINGMAN. That bill provided that you should scale the duties regularly down, and make them all *ad valorem*; and from that time the Senator, I am sure, will remember that in every tariff we have had while there have been specific duties, there have always been *ad valorems*. I understand that while there were *ad valorems*, as he well knows, in that tariff, it left them upon the foreign valuation, and the tariff of 1842 contained a number of *ad valorems*. I ask the Senator if that tariff made a provision for home valuation on the *ad valorems*?

Mr. SIMMONS. I will tell you what the provision of the tariff of 1842 is. It is, that where there is any doubt about undervaluation you shall take the duties in the article itself.

Mr. CLINGMAN. Yes; where there is a doubt about undervaluation; but that is not meeting my question. Did that bill provide for home valuation on the *ad valorems*—the tariff of 1842, which I presume he had a share in passing?

Mr. SIMMONS. Yes, sir; I voted for it. The provision was that the market value should be ascertained by taking the foreign cost, and adding to it all charges, except insurance, to constitute the value of the article at the place of importation on which the duty should be assessed.

Mr. CLINGMAN. Did it include freight?

Mr. SIMMONS. I think it did.

Mr. CLINGMAN. My recollection is the other way; but I have not the act before me. I think it did not include the duty. The gentleman's proposition includes the duty.

Mr. SIMMONS. If the gentleman will allow me to speak five minutes, I will dispose of what I want to say.

Mr. CLINGMAN. I supposed the gentleman could answer that question, yes or no.

Mr. SIMMONS. I have not been in the habit of being catechised across the Chamber.

Mr. CLINGMAN. I beg pardon. I asked for information. If the gentleman does not choose to answer my question, of course—

Mr. SIMMONS. I will answer any question that is put in such a form that it can be answered.

Mr. CLINGMAN. Well, I ask whether in levying a duty on the *ad valorems* in the tariff of 1846, it added the duty as a component part of the value, as in the Senator's proposition, or not?

Mr. SIMMONS. I will answer. I say if the Senator had understood my proposition, he would have known that it did not add the duty. I stated in it that the home value should be taken, the market value to include so much of the elements of cost as entered into the value. Does that assume that the duty enters into the value? Suppose the market value of the article should be cheaper in New York than at the place of exportation, would it include the duty then? The Senator takes it for granted that nothing is imported and sold here but what pays every item that is an element of cost.

Mr. CLINGMAN. I understand all that; but we can arrive at it in this way: the Senator from Rhode Island says that the duty did not enter into the price; but in estimating the value of iron at New York, for example, they will say, "this bar-iron is worth so much if you pay the duty; but if I pay the duty, or duty paid, it is worth so much in the market." Now, which of these statements did the gentleman intend by his proposition the other day to arrive at? I understood him to take the market value of the iron, for example, in New York, the duty being paid.

Mr. SIMMONS. I did not intend to be drawn into any discussion on this question. I think I understand the purpose of the amendment, and the object of the discussion. It is to embarrass the passage of these measures; and, for one, when I see such a purpose manifested, people may attack me from one side of this Chamber or the other, but I shall keep my seat, if possible. But as the Senator from North Carolina avows a purpose of merely asking questions for information, I will answer him as candidly as I know how to do. There has always been a difficulty in the minds of those who wanted to get rid of paying duties, who wanted to lessen duties, in coming at what is the market value of an article; and one great reason of it is that they generally illustrate by putting a question about some article of merchandise that they do not know anything about, and that the Senate knows nothing about. Generally they put such a question as was put by the Senator from Mississippi: "Suppose rice should be imported into California from China, and no rice of that kind came into New York?"

Mr. DAVIS. I did not say "suppose." I said Chinese rice was a large importation into San Francisco.

Mr. SIMMONS. I have always found very many of these practical difficulties. Now the

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Senator from North Carolina says there is a price in New York for iron, so much duty paid, and so much duty not paid. I should like to hear him read a quotation of that kind in any paper he ever saw. You never saw the market value in New York stated in that way, but the price is stated after everything has been paid, whether the article be free or dutiable. Then people may go on and reason, if this is the actual price, and the duty on it by law is so much, the price would be so much less if there was no duty. That is a matter of reasoning. There is no difficulty in determining the market price of an article, and nobody could misunderstand it if familiar with the article. The only difficulty, and the only strange thing I see in all this discussion about taking the market price at the principal market of our own country, is that people seem to think they can tell a great deal better what a thing is worth in a country they know nothing about, and about the currency of which they know nothing, and that they can never get at any instrument by which they can tell the price in their own country, and in their own coin. That has been argued here at great length.

Mr. CLINGMAN. The Senator from Rhode Island has substantially answered my question. He now says his proposition was to take the iron at the selling price in New York. That includes, of course, whatever addition may be made to its value by the duty, which may be much or little. He asks if ever I knew the price stated with reference to duty paid or not paid. I can tell the Senator that railroad companies of my State have imported iron, and sometimes buy it at a certain price, paying the duty themselves, or they pay a larger price, and the person from whom they buy it pays the duty. My object was to arrive at that result. He admits that his proposition was to take bar-iron, for example, at its selling price in New York. That obviously, as every Senator knows, will be affected by the duty.

The Senator says that some article is referred to, that the person referring to it knows nothing about, and the Senate knows nothing about. I do not know a great deal about bar-iron; whether the Senate knows much about it or not, other gentlemen can judge as well as I; but the effect of my question is fully obvious to the Senate, on the Senator's explanation. He takes the selling price of iron in New York, and that is from forty dollars a ton and upwards, and the foreign price at Liverpool is about fifty per cent. lower. Since the tariff of 1846 has been in operation, under the instructions of the Secretary of the Treasury and the usages of the Government the duties are ascertained on the foreign price; and therefore there is no fraud in any importer adopting it. The idea is thrown out that the Senator's proposition was merely a measure to remedy frauds; but there is not one of those who supported it who, if he was importing iron himself, would hesitate to adopt the foreign value, or who would hesitate to tell his constituents that they were practicing no fraud in adopting it. If that be the case, it is idle to be professing to strike at frauds, when the feature struck at is no fraud, but the intention of the law, as at present explained, and as the gentleman admits, substantially the intention of the *ad valorem* system in 1833, and 1842, for he does not urge that the system which he now proposes was then adopted. My object, therefore, was to show that the very provision for which gentlemen on the other side voted yesterday, would have increased the duty fifty per cent. on some bulky articles. I took iron, and if that be the case, I think it was liable to the very objection now made; it was increasing the duties or taxes. If by any form of language we can increase the taxes, or duties, it is a bill like this of the Senator from Mississippi to raise revenue. I am free to admit that I am opposed to his proposition; I do not think the Senate can originate such a bill; but I think the objection lay with equal force on the other side of the Chamber, and therefore I put the question to the Senator from Vermont with great respect, to see whether I was in error on this point, and whether or not the distinction existed. I do not think the Senator from Rhode Island has been able to show any valid distinction in principle between the present proposition and the one which received so large a vote yesterday.

I beg the Senate's pardon for having taken so much time, when I did not intend to embark in the debate originally.

The VICE PRESIDENT. The question is: Is the amendment offered by the Senator from Mississippi in order?

The amendment was decided not to be in order.

The VICE PRESIDENT. The question recurs on the amendment of the Senator from Ohio, [Mr. PUGH.]

Mr. POLK. I wish to take out of the amendment offered by the Senator from Ohio that part of it which provides an appropriation for completing the St. Clair flats.

Mr. STUART. It is rather premature to propose that now.

Mr. POLK. I do not wish to offer it now, but I desire to indicate my intention to propose that amendment, because I cannot vote for anything in this proposition except the improvement of the St. Clair flats.

Mr. BIGLER. I understand the question to be on the amendment offered by the Senator from Ohio. Of course, the Senator from Missouri can move an amendment to that if he chooses. If he does not do so, I propose to amend the amendment by striking out two items. I first propose to strike out that which is known as Senate bill No. 363, as the bills stand on the Calendar, making appropriations for unforeseen contingencies of lake harbors. The words that I move to strike out are:

"And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$20,000 for unforeseen contingencies of lake harbors, to be expended under the direction of the Secretary of War."

Mr. SEWARD. I hope the amendment will not prevail. It is only a way of defeating the whole proposition.

Mr. CLAY. I think it is worth while to have the yeas and nays on this amendment. There are Senators on the other side of the Chamber who generally object to allowing any discretion to the Executive Departments in the expenditure of money. They have preferred sometimes, as I thought, just complaints against a Department for the exercise of some discretion in the expenditure of money. They constantly complain about deficiency bills. Now, the Department which has the supervision of these works, has sent these estimates to us and proposes that we shall give a margin of \$20,000 over and above these appropriations, to provide for unforeseen contingencies. I think it is a fair time to test the fidelity of some gentlemen to the principles they profess as governing their action here; and therefore I ask that the yeas and nays be taken.

The yeas and nays were ordered.

Mr. PUGH. I wish to ask the Senator from Alabama a single question. I ask him whether, when he reported this bill, he reported it upon an estimate from one of the Departments?

Mr. CLAY. I did. They did not furnish any details at all; but in reply to the question which I addressed, by instruction of the Committee of Commerce, they returned me an estimate of the funds demanded for certain works, and at the close of those they say: "For unforeseen contingencies of lake harbors, \$20,000."

Mr. PUGH. That is the item. I think it is safe enough.

Mr. IVERSON. I ask whether the amendment of the Senator from Ohio, which proposes to throw all these various improvements together in one bill, is not divisible, and whether we cannot call for a division, and a separate vote on each item?

The VICE PRESIDENT. Yes, sir.

Mr. IVERSON. Then I call for a division, and ask for the yeas and nays on the first item.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Pennsylvania to the amendment of the Senator from Ohio.

Mr. DAVIS. Before taking the vote, I merely wish to say that the expression, "the estimate of the Department," conveys to the country at large, and frequently to the ears of Senators, a sentiment which is not just. As I understand the case, the Department has not sent any estimate, has not asked for any appropriation; but when

called upon by a committee to state what money is required for a particular work, they send back the estimate made in a bureau as an answer to the committee, in dollars and cents, to the questions which they put—not an estimate from the Department in the sense in which we ordinarily use the term.

The question being taken by yeas and nays, resulted—yeas 25, nays 27; as follows:

YEAS—Messrs. Bigler, Bright, Broderick, Brown, Clay, Clingman, Davis, Fitzpatrick, Hammond, Hayne, Hunter, Iverson, Johnson of Tennessee, Mallory, Mason, Pearce, Polk, Reid, Rice, Slidell, Thompson of Kentucky, Thompson of New Jersey, Toombs, Wright, and Yulee—25.

NAYS—Messrs. Allen, Bell, Chandler, Collamer, Crittenden, Dixon, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Jones, Kennedy, King, Pugh, Sebastian, Seward, Shields, Simmons, Stuart, Trumbull, Wade, and Wilson—27.

So the amendment to the amendment was rejected.

Mr. BIGLER. I propose to amend the amendment in another point. It is due to myself to say that I voted in committee against reporting the items which I move to strike out. I now move to strike out of this amendment the item known as Senate bill No. 346, making appropriations for the completion of the improvements of the Red river raft.

Mr. POLK. I understood the effect of the call by the Senator from Georgia for a separate vote on each of these items as obviating the necessity of such an amendment as that of the Senator from Pennsylvania.

Mr. IVERSON. I was very much disposed, a little while ago, to call for that division, for this is exceedingly nauseating medicine to me; and to cram it down a man's throat at a single dose, seems to me rather hard. I prefer to take it in broken doses. I think we had better take one question at a time; but I suppose it is very much like it was when I was a child, and was sick, and my mother was administering medicine to me, she poked the jalap and calomel at me, and I would shudder and revolt; but she would say, "you must take it, my son; the doctor says it is good for you." I presume the doctors on the other side of the House, and especially the great doctor from New York say, "you will have to take it; it is good for you;" and therefore, I will withdraw my motion to divide, and take it all down at a single gulp. [Laughter.]

Mr. PUGH. The Senator from Georgia gave us a very large dose when the Savannah river was up, it will be recollected. [Laughter.]

Mr. IVERSON. I deny that I ever gave that. The Senator does not represent the facts.

Mr. PUGH. I recollect the Senator's speech; I do not recollect his vote.

Mr. IVERSON. The appropriation for the Savannah river was made at a time when I was not in Congress. The proposition which I made, was simply to change the direction of the appropriation, and not to appropriate a cent.

Mr. PUGH. The Senator from Mississippi, as Secretary of War, decided that it could not be used for that purpose; and it was practically the same thing as appropriating the money over again. The Senator could not have got a cent of it without a reappropriation.

Mr. IVERSON. I voted against that very appropriation in the other House.

Mr. SEWARD. The Senator from Georgia will admit that I am very good in taking my own medicine, though administered by southern hands; I vote for the Red river raft.

The PRESIDING OFFICER, (Mr. Foster in the chair.) The question is on the amendment of the Senator from Pennsylvania to strike out of the amendment of the Senator from Ohio the following words:

"And be it further enacted, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$10,000 for completing the improvement in the raft region of Red river, to be expended under the direction of the Secretary of War."

Mr. PUGH. This is the only one of the provisions reported by the Committee on Commerce for an improvement within the southern States, and I hope that my friends on the other side, if they strike this provision out of the bill, will have nothing more to say on the subject of its being a sectional appropriation. I have only taken those items which the committee reported. If I had

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Internal Improvements—Mr. Crittenden.

SENATE.

made my own selection, I would have named several other rivers in the South; but I warn them this is the only one they have in my amendment; and if they choose to strike it out, it is their own affair.

Mr. MASON. I have not looked at the proposition, but if the Senator represents it correctly, and there is but one appropriation in it for the whole South, I ask what could be more sectional than it is before striking out this item?

Mr. PUGH. I stated to the Senate that I had not offered to introduce any bill for beginning or continuing a work; but the Committee on Commerce have reported to us from the War Department certain estimates for the protection and preservation of works already commenced, and this is the only one they have reported for the South. I wish there were two or three more in the southern States.

Mr. TOOMBS. I differ with the Senator from New York. I do not take measures like this any more in the South than in the North. Believing the system to be essentially wrong both in principle and in policy, I would apply the same rule to the Red river as to the northern lakes. It is said that these items are all in accordance with the estimates of the Department, and have been reported by the Committee on Commerce. So far as their being reported is concerned, it was done in obedience to an almost peremptory order of the Senate. A majority of the committee, of which majority I was not one, determined to report them; I would never have reported one of them. You might have taken the bills out of committee so far as I was concerned, but I would never agree to report one of them. This measure is probably about as good as the Chicago improvement, according to the account of the Senator from Illinois, only probably a little worse. I have no idea that the work will ever be finished. They have been drawing out the logs from Red river for the last twenty years. I suppose the improvement will have its incidental advantages to the people of the United States. Perhaps, it will benefit the wool-grower in Vermont, because the people in the Red river region will want woolen clothes. Working in the water and spending \$110,000 there, will help the wool of Vermont! That is the idea now; but as for this improvement helping anybody in the region where it is made, that is a delusion. I have paid some attention to it, for it is an old customer; it has been here ever since I have been in Congress. I suppose if you spent a \$1,000,000 and got this raft out, you might have good navigation for two or three months of the year, but the first flood that came would bring the logs all back again. It is the same case with these other works.

The truth about the Chicago harbor seems to be that if you run your pier out into the lake three hundred yards this year, you must run it out five hundred next year, and seven hundred the next year, and so on until you run it across the lake. If you are to throw away money for the benefit of particular localities, I want a fair division. If you are going to distribute money in this way, you ought to distribute it more generally over the United States, north as well as south. Nine tenths of the bills which have been reported, I think are for the lakes. The enterprising gentleman from New York, imagines that he is serving his constituents by getting a large amount of money spent in that State. I think he will be able, by the aid of the Senate, to protect Gerrit Smith's wharf property; and no doubt he would vote \$800,000 with much more pleasure than \$80,000; but I think the people of the North had better look to these schemes. Not one of these bills is for New England unless they suppose they are to be generally benefited by taking money from the public Treasury and spending it somewhere. I do not see any other advantage they have.

If you go on the idea of sections, as my friend from Ohio seems to do, the injustice is still more apparent; but this is not a sectional question. This system is as much plunder of the agriculturist and laboring man in New York as in Georgia, but the idea is put forth that it is a sectional question, so as to combine the North, I think southern men have done injury to this and other questions, by charging them to be northern meas-

ures, and therefore making a great many northern people believe that they are benefited by them. In fact they are as injurious to a man in one portion of the United States as in another, unless he is located immediately at the spot where the public money is expended or has wharves to be protected. There is not a particle of difference between the Massachusetts man and the Georgian in that respect.

Not one of these bills is for the Atlantic coast. It is a singular fact that the engineer department, when called upon to state what amounts were necessary to preserve existing works, sent in estimates nearly altogether for the lakes. I think the majority of the committee determined to report these bills because they fell within the principle of preserving existing works. I know that, at the last Congress, the Senate passed above sixty bills, all of which failed in the House of Representatives, except five, and I think they were all for continuing existing improvements; at least that was the policy on which they started. I resisted them then one by one as I came to them, as I shall do in this case so far as I think it necessary to bring public attention to them. This is a mere conspiracy, if I may so term it. It is not by any means sectional, but it is appealing to local interests. The gentlemen who live on the Ohio and the Mississippi unite with those who live on the lakes as a general rule, and all others having rivers in their neighborhood that they want improved.

Where these improvements are to be made, a large amount of public opinion is manufactured by those who have wharves to protect and town lots to sell. A combination is made to get money out of the Treasury. It is not sectional at all; it extends all over the United States. The Arkansas river has had appropriations from time to time; and so has the Red river, and the mouth of the Mississippi. At the last Congress it was proposed to appropriate \$600,000, I think, or it may have been \$900,000, to complete the improvement at the mouth of the Mississippi; but it was reduced to \$300,000 for one year, and in that form passed, over a presidential veto. I have noticed that the votes of members are affected according to their locations on the rivers or at the harbors proposed to be improved. This is the general rule; it is not universal, for some few who live there do not support the system. In New England, for many years past there have been very few of these improvements; many of their harbors are very good ones. Take New Hampshire; her port is a fine one; it needs nothing to be done. Maine has some very good ports, and occasionally they get an appropriation for some of them; and all along down the shore they come in for shares. This time the western rivers are left out. I do not think the Ohio gets anything now.

Mr. PUGH. Not a cent.

Mr. TOOMBS. The Ohio river is quiet this time. They either have stopped mending the works or they are not amendable—they are not even within the statute of jeofails, and I think that will be the case with a great many of your improvements, on which you have spent twenty or thirty million dollars. Where are the monuments to the skill of Congress in improving rivers and harbors? According to the accounts we receive, all these works are in the most dilapidated condition; we are called upon to appropriate for them now, immediately, quickly, instantly, at the heel of the session; and the Senator from New York wants the session prolonged, because if aid is not given now, this moment, the works will go to utter ruin. These are the magnificent monuments to the genius and wisdom of that policy by which you attempt to build up these improvements from the public money. The most lamentable account of a set of rickety, broken down, inefficient works the world ever saw, you will find in the reports of the condition of these improvements. Everything is washed away; everything is broken down; and unless you do something instantly the whole thing will be ruined. That is the history of these works. That is the reason of it. Because you have attempted to make ports where nature made none; because you have attempted to improve rivers, when, according to any known plan, it was impossible to improve them; and the only effect has been to put money

in the pockets of contractors and others, to spend it in localities.

I want an opportunity to record my testimony against the Red river improvement. I wish there was a bill for the Arkansas, having a more immediate interest of my own on the banks of that river, that I might vote against it; but I will take the nearest to it—the Red river. I vote against them all, in whole and in detail, singly and together. Of course I would put in a hundred more works, if I could hurt the bill by doing so; but I despair of being able to break down the bill in that way. I believe the more money you get into such a bill, the stronger it would be with the great body of the coalition of Black Republicans and what I consider fishy Democrats, who sustain these measures. I may be one of that class of Democrats myself, [laughter,] but I say that is the coalition which has carried these measures for two or three years past.

Mr. HOUSTON. From some little knowledge of the Red river, I am inclined to think that all the money you have spent on it for the last twenty years has been thrown away, and the river has been always getting worse. From the time of Shreve, all the efforts that have been made to improve the river have been unavailing; and I am inclined to think the result of spending the \$110,000 now proposed to be appropriated for it, will result in the same way. If you want to spend money on the southern waters, I could point out some that would really be benefited by an appropriation; but this is a most inauspicious time to revive the old experiments on Red river. They have died out, been resuscitated, and died out again. There has been a succession of deaths and resurrections of projects to throw away money on Red river. I must confess that I am not in favor of it. I have not had an opportunity of consulting the Senators or Representatives from Louisiana; but this river is a boundary to the State in which I reside and represent, and it is very strange that I should not have gained some information about it. I should be very glad if the bill were laid over for the present—unless there is some urgent reason to the contrary—and that it be allowed to lie on the table until I can look into the matter, and see what amount has been unavailingly expended, and what is necessary to complete it according to the report of the engineers, and who the engineers were, and what plan is to produce the advantage they anticipate. I hope the bill will be suffered to lie over for the present.

Mr. ALLEN. As one of the members of the Committee on Commerce, I have to state that \$3,500,000, or more, were applied for, for repairs and extensions of works, and the committee considered that an appropriation of that amount could not possibly be made in the present situation of the Treasury. Accordingly, they requested the War Department to inform them what sum would be necessary to keep in repair works already in existence; and the Department sent a communication, on which the committee have acted, and reported bills to the amount of about five hundred thousand dollars.

Mr. CRITTENDEN. I have, for many years, voted for appropriations to clear out the Red river; but I am entirely unacquainted with the effects that have been produced by the attempts to remove the raft, and render the river navigable. If any gentleman has any such information, I should like to receive it; for, though I think navigable rivers are very proper subjects for all the improvements we can bestow on them within our reasonable means; yet I am not disposed to vote a single dollar that cannot be usefully applied. I came to the conclusion, some years ago, that it was impracticable to remove this raft; that you might, for a little time, open a way for a boat; but that the next flood would close it up again; and that it would be infinitely cheaper to make a canal, or adopt any other mode of transportation, than to be at the continually recurring expense of opening through the raft a passage for boats. I do not know what has been done, nor do I know what this \$110,000 will accomplish; and on that subject I desire information before I vote.

Mr. DAVIS. I cannot state the present condition of the work, but I can probably give the Senator from Kentucky some part of the inform-

ation he desires. He will remember that many years ago an appropriation was made, and a steamboat captain of much energy, Captain Shreve, was employed to clear out the raft, and so far effected it as to make a passage through the raft for one or more boats to pass through. It was a very narrow passage, whereas the raft is a great island of interlaced logs, with some shrubs and pretty large trees growing upon it. Immediately thereafter, the logs from the sides of the raft joining with those borne down by the next flood, filled up the passage. Some other appropriations were made of such small amounts as really to effect nothing. In 1852, an appropriation was made, I think, of \$100,000: my memory is never very accurate about numbers, but I think that was the sum. It devolved on me in another capacity to seek a contractor to remove the raft with that appropriation. Advertisements were issued, and proposals were invited from persons who were said to have studied the subject, and had some peculiar facilities for removing the raft; but I could never get a contractor who, for the amount appropriated, was able to give bond that he could complete the work, and I did not choose to give him a dollar with a knowledge that I should have to come to Congress for more. After various attempts, it was found fruitless to get a contractor; and, on the matter being reported to Congress, the act was changed, and power was then given to the Secretary of War to apply the money in any manner for the improvement of the navigation of Red river through or around the raft.

Upon an examination and report by a gentleman of some reputation as a civil engineer, and who is now in charge of the work, it appeared that instead of attempting to remove the raft, it would be better to clear out a bayou through which there was already a partial navigation, and which ran out of Red river above the raft, and into Red river again below the raft. They commenced the improvement of this bayou, which consisted in removing logs and stumps, and some little dredging where it expanded into a kind of lake. The work is not yet completed; I believe the appropriation is not exhausted. My expectation was, that the money on hand would make the bayou navigable into Red river above the raft; but I had no doubt it would be necessary at a subsequent period to make another appropriation, on account of the extension of the raft, which, constantly extending up the river, would finally pass the head of the bayou. Some provision was made for catching the logs as they came down the river, and transferring them into a sort of basin or natural lake, lying on each side. This would require an annual expenditure. Sometimes there are two floods in the river, and when that is the case, it would require twice in each year an expenditure of money to catch the logs and take them out of the river into some place of safety. I think the navigation may, in the manner I have stated, be made feasible for a large portion of the year for a small class of steamboats.

I would say further, that the Red river, as it runs now, is higher than the country for some distance west of it, and there is a seeming inclination of the river to find its way through bayous, and possibly to cut a new channel. I think it would have been possible, with a very large amount of money, to remove the raft; but it was not possible to do it for the amount which was appropriated, and I do not believe it was possible to remove the raft for an amount which could judiciously have been appropriated for that purpose.

I am a little struck, however, with the exception which is made to this particular improvement. The reason for taking out this particular work from the general class is, that it is not to preserve and keep in repair work already done. It is as much so as the others. You must prevent the accumulation of the raft and its extension above the bayou, which now constitutes the whole navigation; and it is as much the keeping of the navigation around the raft in repair, as the binding together of the stone piers you have built with new crib-work at the harbors along the lakes. It is additional work in order that you may keep up a navigation which has been created by artificial means. They are all subject to the same objection. It is a mere pretext to say that you are

keeping a work in repair when you are in fact renewing the construction.

When the Government has generously gone into the wilderness and made a harbor where nature had made none, and upon that harbor has grown a great city; for that city, with its wealth, to come here annually and ask for appropriations to keep up its piers, seems to me more objectionable than that this region, lying, as it does, in a frontier position, should come here in its poverty, and ask aid to its navigation. Yet that is not a plea which I could make; it is not a reason on which I could ever cast a vote; but if there is any one measure in the whole list which may be excepted from the objection that we are making to the bills as a whole, it is the particular work which it is now proposed to strike out. It runs into the Indian country; the navigation leads to your frontier military posts, kept there as a cover to the frontier settlements, and to control the Indians. If that navigation were open as high as the mouth of the False Washita or Preston, it would greatly diminish the expense of keeping your military forces on the upper waters of the Red river. It might, therefore, be put on the ground of means of access to the frontier for military purposes, and hence it might be made an exception, which you might take out of the bill for the purpose of voting for it separately, when you were going to vote against the bill. But that the friends of the whole class of measures should take this one out on the mere pretext that it is not keeping a work in repair, and endeavor to discriminate against it, surprises me.

Mr. SEWARD. The honorable Senator will allow me to suggest that I think he has misapprehended the friends of the whole class of these measures. No person here has taken that exception. The motion comes from the honorable Senator behind him, [Mr. BIGLER.] No person on this side of the Chamber, I know, has responded to it.

Mr. DAVIS. I will make a single remark; and I shall not continue my observations on the subject. The Senator who sits behind me, and who, I am very glad to say, is my friend, does not happen to be with me on this question. This seems to be a question that upheaves party distinctions.

Mr. SEWARD. I do not see that it does.

Mr. DAVIS. I scarcely know how to find a Democrat on the question of internal improvements.

Mr. SEWARD. I do not know about the Democrats.

Mr. DAVIS. A certain portion of them seem always to me, somehow or other, to get seduced into the camp of the enemy; and I know how hopeless it is to struggle against a great scheme, in which a variety of local interests are combined, to obtain a large sum of money out of the Treasury. Were my strength greater, my prudence would warn me not to make the attempt.

Mr. GWIN. I have no doubt that this is the most meritorious measure which has been brought before the Senate in connection with river and harbor improvements. The navigation of the Red river for two or three hundred miles above this obstruction is very good, and this raft is the only difficulty in the way of navigation from the mouth of the Red river, certainly up to the mouth of the False Washita, or even perhaps higher. It runs into a section of country where we now have to transport munitions of war at great expense, and in the direction of a region where the Indians are most warlike and commit the most depredations on our frontier settlements.

Gentlemen speak of this as a sectional question. Why, sir, there never was a more partial set of measures than these bills. In the whole series there is not a single dime proposed to be appropriated for the Pacific coast, where we have two thousand miles of sea-coast and interior rivers that need improvement. It is said these measures are for the repair of works already commenced by the Government. Well, sir, five or six years ago an appropriation of \$30,000 was made for the purpose of preserving the harbor of San Diego, one of the most beautiful harbors within the boundaries of the United States. It was being destroyed by the San Diego river having broken through an obstruction which formerly existed, and washing

the sand into the harbor and filling it up, instead of going through False bay, its former mouth, into the ocean. That work was progressed with to a certain point; it was not completed; and what was done there has been of great injury to the harbor, because the works are being washed into the harbor and are filling it up rapidly. If there is any case where it is necessary to appropriate money to preserve work that has been done heretofore, certainly that is one; and when the War Department was called upon to report the works for the preservation of which an appropriation should be made, that was one of those which ought to have been sent in; but, as I said before, that coast is left out entirely in these appropriations. That is the justice accorded to us.

Mr. BIGLER. I had not supposed, Mr. President, that the question of improving rivers and harbors, either making new work or extending work that had been commenced, or repairing or protecting improvements already made, ever had been considered a question of Democracy. I have not so understood it. I could not so understand it, looking at its history long before I came here as a member of this body. I do not recollect ever to have seen a distinct party vote on the subject. It is a question of policy, of expediency, on which statesmen may differ. It may be a question of constitutional power. It may be one of policy for one section of the Union, and not policy for another. It is generally understood to be a part of our commercial policy. I recollect that in the last Congress members of this body who stood high in the Democratic party advocated large appropriations to commence new works and to extend improvements of this character. I have not favored an extension of the system; but I have a settled aversion to sudden, impulsive changes of the policy of the Government.

It is not for me to attempt to inquire at this day whether these improvements were necessary for commerce; whether the policy has been a wise one. I have regarded it as part of our commercial system, which had been adopted and cherished from the foundation of the Government. I am not certain that it ought to be continued; but in deciding to vote in favor of reporting the necessary measures to protect the works which we have, I was controlled mainly by the consideration that it was unwise to change suddenly a policy which the Government had so long embraced. As stated by the Senator from Rhode Island, [Mr. ALLEN,] the report of the topographical bureau to the War Department asked appropriations of \$3,500,000, to extend and construct new improvements of rivers and harbors. I was not willing, in the present depressed condition of our finances, to report in favor of new works, or the extension of new improvements; but I was willing, and I did vote to report bills for such repairs as seemed to be necessary to protect, for a time at least, the improvements which had been heretofore made.

Now, sir, I differ with my honorable friend from Mississippi in reference to this Red river improvement. I do not believe it falls within that class which the instructions of the Senate contemplated. If I recollect aright, the resolution of the Senate was for repairs. The Senator's own showing is, that this work is never to cease; that, from its very character, the improvement which is constructed one year is to be destroyed the next, and so the work is to be perpetual. I consider such a work impracticable. I do not confine my objection to the idea that it is to commence new works, or complete a work instead of repairing one. From what I knew of it before I heard of it here, and from what I heard in committee, I came to the conclusion that it was an impracticable scheme, did not fall within the instructions of the Senate, was not an appropriation for repairs, but to prosecute a hopeless enterprise which would be continued year after year. I shall be very slow to vote for the entire bill, if I am requested to include this Red river appropriation. I think I stated in committee, that I would hold my opinion in reserve on that point; I do so now. My judgment is clear that this \$110,000 will be thrown away if it be appropriated. I move to strike it out, as I intend to move to strike out every appropriation which I think not pressing necessary, with a view of voting for the bill. I shall not trouble the Senate further.

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Appropriations for Lake Harbors—Mr. Goodwin.

HO. OF REPS.

Mr. DAVIS. The Senator from Pennsylvania puts me in the attitude of a prophet, which I am not willing to occupy. I did not say the work on this improvement would never cease; but that I did not know when it would. It certainly will cease, whenever the logs shall be prevented from coming down, at a remote day.

Mr. BIGLER. I did not intend to make my language too strong, so as to misrepresent the honorable Senator, nor to dignify him with the position of a prophet; but I thought the case so strong that, in measuring matters of finance, I might say the expenditure would never cease. I have had some experience myself in this kind of improvement.

Mr. DAVIS. Will the Senator allow me to ask him when the logs that make the crib-work and form the piers of the lake harbors are going to quit rotting? That is what your appropriations are for now; the logs have decayed and you want to put in new ones.

Mr. BIGLER. That is a question which can be answered, and it will be answered, in reference to each specific item. If you had live oak below the water, I should say it never would rot.

Mr. DAVIS. But at the surface, between wind and water?

Mr. BIGLER. That depends on the character of the timber, and when it is cut. Some of it will last ten years and another kind of timber will not last two.

Mr. DAVIS. I want the Senator to inform the Senate how one work is interminable and the other is terminable? and when he gets through the decaying timber and makes it perennial, then I should like to know when the sands that constitute the deposits now floating against those piers and forming bars at the end of the piers, such as existed before the piers were built, are to cease their eternal roll down the lake? and beyond that, as I do not wish to trouble the Senator again, I would ask him when he expects to get through with those questions which involve the interference of the General Government with the State sovereignty, and which have arisen constantly on the claims of riparian proprietors at every one of those works along Lake Erie?

Mr. BIGLER. It is very easy to distinguish between the character of the works to which I referred, and this Red river improvement. I had reference to superstructure, to piers which will last, under ordinary circumstances, ten, twelve, fifteen, or twenty years; but they will require slight repairs. Now, the distinction which I make is this: the Red river is found, in its natural condition, entirely impassable to steam navigation. You may repair it one season, and the next season you find it in its natural condition, from natural causes. That is what I mean by a work never to be completed.

Mr. PUGH. I should like to ask the Senator from Pennsylvania a question, with his consent. I understand him to acknowledge the constitutionality of these appropriations for the regulation and protection of commerce between the States. Does he think the duty of Congress is exhausted in one year or in two years?

Mr. BIGLER. Certainly not.

Mr. PUGH. What objection is it, then, that an improvement has to be renewed and continued? The duty of Congress continues.

Mr. BIGLER. I made no allusion to any constitutional question. The honorable Senator from Ohio misunderstood me. In that connection, I spoke of it as a question of expediency, of utility. However constitutional it may be, is there any wisdom in prosecuting a work that does not answer the purpose intended?

Mr. GWIN. I differ entirely with the Senator from Pennsylvania, and the Senator from Mississippi, about the practicability of making the Red river navigable around the falls; for the obstruction of the raft is not only on account of the deposit of timber, but the obstruction is not greater than the falls of the Ohio.

Mr. DAVIS. My friend from California has misapprehended me. I said, or intended to say, that not being able to execute the task of removing the raft, with the money appropriated, the work was undertaken to clear out the bayou near the raft, so as to come out of the main channel of the Red river above the raft, and enter into it be-

low the raft, which would require an expenditure of money to prevent the raft extending itself up the Red river, until it closed the mouth of the bayou.

Mr. GWIN. I have been in that country, and when I was in Congress before, I always looked upon it as an exception; and I always thought that if there was anything really national in improving rivers and harbors, it was the removal of that raft. It was most important at that time, for a large portion of the country beyond it then, did not belong to the United States. Texas was a foreign country, and we had to have military posts on the frontier there, and transport military supplies to the Indian country. This work was then on the western borders of the Republic, and it was looked upon as a national work. I have not a solitary doubt, but that in time it may require a large sum of money, but not anything approaching what we appropriate here to keep our Navy and our Army in marching order for the purpose of preserving peace on the frontier and with foreign nations, in any one year, to make a perfect system of navigation through the raft or around the raft. I think it is one of the most meritorious works. It was commenced many years ago, and if it had been prosecuted with vigor, steamboats would now be running there, as they do around the falls of the Ohio, and the work is as necessary to that section of the country and as useful to the whole Union as any other for which you appropriate money.

The country above the raft is one of the finest in the United States, extending for hundreds of miles. It will soon be densely populated, and would be now but for the Indian territory north of the Red river. It is a splendid country. I traveled over it many years ago, and I know what it is. One of the difficulties in new portions of the country is, that you will not give us any appropriations to clear out our rivers and harbors, because we have not had a survey; and then you will not give us an appropriation for a survey, so that we are never to have any. There is an obstruction in the Sacramento river, in my own State, over which millions of commerce pass, that is every year becoming more and more a hindrance to navigation simply for the want of a dredging machine. Thirty millions of gold pass down that river for the purpose of benefiting this section of the country, and we cannot get an appropriation for its improvement, because we have not had a survey. I intend, at the proper time, to offer a resolution in this language:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation to complete the works already commenced for the improvement of the harbor of San Diego; and, also, to survey the rivers and harbors of the State of California.

Mr. HOUSTON. I do not know that I shall wish to say anything on this improvement; but if so, I should like to understand it better than I did when I made my remarks before. I am satisfied that it is inexpedient to make the appropriation, and that the best way it could be applied would be to take the money and throw it over this raft, and set the people to digging for it there. They might by that means get it out; but if you let one contractor, or a dozen contractors, have it, you will never get the work done. Put the money on the raft, and people will get it, and in getting the money, they will remove the obstacle, and in that way the river will be opened, otherwise it will never be opened. Now I move that the Senate adjourn, and I will finish to-morrow.

Mr. SEWARD called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 22, nays 27; as follows:

YEAS—Messrs. Bright, Brown, Clay, Clingman, Crittenden, Davis, Fitzpatrick, Hayne, Houston, Iverson, Johnson of Tennessee, Kennedy, Mason, Pearce, Polk, Reid, Shields, Slidell, Thompson of Kentucky, Toombs, Wright, and Yulee—22.

NAYS—Messrs. Allen, Bell, Bigler, Broderick, Chandler, Dixon, Durkee, Fessenden, Fitch, Foot, Foster, Hale, Hamlin, Harlan, Hunter, Jones, King, Pugh, Rice, Sebastian, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, and Wilson—27.

So the Senate refused to adjourn.

Mr. HOUSTON. It is unusually late, and I really can see no particular urgency for the passage of this measure now. I think we should expedite business as much by adjourning at the usual hour, and coming here refreshed in the

morning, instead of coming half exhausted, having our official business to transact and our correspondence to maintain after we return from the Senate and get some refreshment. I am not in the habit of taking a lunch here; I wish that understood. I think we might get along as well by adjourning now. This is said to be a measure of peculiar and of great advantage to a lovely section of country, most desirable for occupation, with every fine prospect possible for the completion of the work at an early day, and a wise investment of the sum proposed to be appropriated, \$110,000. Let me read an extract from the intelligent report of the Secretary of War:

"The prosecution of this improvement has been attended with numerous embarrassments of a character to retard its progress, and greatly to enhance its cost. Among the impediments in the way of its advancement, the insalubrity of the raft district, the difficulty of procuring and retaining laborers, the scarcity and consequent high prices of provisions and labor, and the sickness and frequent desertions of the employes, are the most considerable. Efficient laborers, white or black, could not be obtained at a cost less than thirty dollars per month for each hand, besides their board, and, in most cases, their conveyance from remote points.

"The progress of this work, from the beginning of the last fiscal year to the 1st of September, 1856, has been set forth, in details sufficiently copious, in my annual report of that date, and in the documents appended thereto. The operations subsequently performed are sufficiently explained in the annual report of agent Fuller, hereto appended." (See Appendix, Doc. No. 8.)

We have not had an opportunity of examining these documents; but they are doubtless very important, and would shed a great deal of light on this subject.

Mr. FITZPATRICK. Will the Senator give way for a motion to adjourn?

Mr. HOUSTON. Yes, sir.

Mr. FITZPATRICK. I move that the Senate do now adjourn.

Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. FITZPATRICK. Although I made the motion, I shall not vote for it, because I have paired off with the Senator from Maine, Mr. FESSENDEN.

Mr. BROWN. I have paired off with the Senator from Minnesota, Mr. SHIELDS.

Mr. FOOT. I have paired off with the Senator from Florida, Mr. MALLORY.

The question being taken by yeas and nays, resulted—yeas 23, nays 18; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Clay, Clingman, Crittenden, Davis, Hayne, Houston, Iverson, Johnson of Tennessee, Jones, Kennedy, Mason, Pearce, Polk, Reid, Rice, Slidell, Thompson of Kentucky, Thomson of New Jersey, Toombs, and Wright—23.

NAYS—Messrs. Bell, Chandler, Collamer, Durkee, Foster, Hale, Hamlin, Harlan, King, Pugh, Sebastian, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—18.

So the motion was agreed to; and the Senate adjourned.

APPROPRIATIONS FOR LAKE HARBORS.

REMARKS OF HON. H. C. GOODWIN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GOODWIN said:

Mr. CHAIRMAN: The commerce of the north-western lakes—those great inland seas—both from its national importance, the vast amount of capital invested, and the number of vessels and men employed, has come to be one of the important and leading interests of the country: as such it justly demands the care and attention of the Government. The Committee on Commerce both of the House and Senate have reported several bills making appropriations for the preservation of various harbors on these lakes; absolutely necessary for the protection of this extensive commerce, and without which the Government works at those points will be almost entirely destroyed, and the trade and business of a large section of the country seriously injured. I ask the attention of the House while with as few words as possible, I submit some plain facts and suggestions for its consideration in relation to this subject. Here allow me to remark that the principle and policy involved in these appropriations in behalf of our internal

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commerce have been sanctioned by the action of nearly every Administration down to the present time; they received the practical approval of the administrations of Jefferson, Madison, and Jackson. The question now presented, is not, whether the Government will originate these works and continue these improvements, but simply whether the Government will, after expending millions in establishing these improvements; allow them to be destroyed and its money lost, for the want of small appropriations to save them from destruction? Whether this trade and commerce shall be in a great measure paralyzed, or enabled to contribute to the revenues and the wealth and prosperity of the country?

ITS EXTENT AND IMPORTANCE.

From the report made by the Committee on Commerce in the Thirty-Fourth Congress, and from other sources of information, I find that the value of the commerce of these lakes in 1855 was more than six hundred and thirty million dollars; I also have the figures to show that the lake tonnage constitutes one-fifteenth of the entire tonnage of the United States; and for the last few years the ratio of its increase has been more than double that of our ocean tonnage. I also find that the clearances of vessels from ports in the United States to Canada and entries from ports in Canada to ports in the United States for the year 1855, were greater in amount of tonnage than between the United States and any other foreign country. The value of our trade with Canada, carried on mainly over these lakes, is greater than with any other foreign country, excepting England and France; and this trade is rapidly increasing. The coast line of these lakes on the American side is eighteen hundred and sixty miles, and they have an average breadth of about forty seven miles. This lake shipping has also access to Lake Superior, opening new and rich avenues of trade and commerce which will rapidly increase in value and extent.

REVENUES AND EXPENDITURES.

In the discussion a few days ago in relation to the extravagant expenditures of the Government, the gentleman from Virginia [Mr. LETCHER] seemed to include in that term those bills making appropriations for lake harbors, and for river navigation. Now, sir, I will briefly refer to this point. From 1837 to 1855, inclusive, the revenue derived from duties on imports at the various ports on the great lakes amount to \$5,713,129 98. The total amount appropriated by the Government for the improvement of the navigation of these lakes, from the beginning to 1855, inclusive, is \$2,884,125, less than has been appropriated for a custom-house at New Orleans; surplus revenue received by the United States, \$2,829,004 98.

The following table will show the amounts of duties collected at the different points on the lakes from 1837 to 1855:

Oswego.....	\$1,296,932 00
Genesee.....	159,866 26
Niagara.....	224,651 84
Buffalo Creek.....	615,295 62
Oswegatchie.....	189,150 84
Champlain.....	558,763 91
Cape Vincent.....	150,626 38
Presque Isle.....	8,504 51
Miami.....	320,561 87
Sandusky.....	246,469 73
Cuyahoga.....	530,331 65
Detroit.....	218,695 43
Michilinauckinac.....	10,876 61
Chicago.....	1,044,917 96
Milwaukee.....	137,485 45

It will be found, by examination, that the Government has realized from this commerce a handsome income over and above all expenditures and expenses.

But, sir, I do not ask for these appropriations because of the profits this commerce has yielded to the Treasury of the nation. I place it on a broader ground. Our domestic commerce is as much entitled to the care and protection of the Government as our foreign commerce. The preservation of these harbors is essential to this commerce; necessary for the safety of the property and lives of the people engaged in it. The fact cannot be denied that these harbors have saved the country the amount the Government has expended on them over and over again. In principle, the commerce of the lakes is a national commerce, as well as our ocean commerce. Seven of our States, containing about half of the popula-

tion of the country, are bounded, in part, on the great lakes. By rivers, canals, and railroads, this commerce is extended to, and connected with, the tide waters of the Atlantic and the Mississippi river, threading with links of intercommunication many States, and adding to the wealth and prosperity of the whole country.

CONDITION OF THE LAKE HARBORS.

The annual report of Colonel J. D. Graham, the officer in charge of the lake harbor works, made September 30, 1857, and published by the order of this House, sets forth the condition of these harbors and earnestly recommends immediate appropriations to save them from destruction. I would call the attention of members to this valuable official report, containing as it does, a great amount of information on this whole subject. It will be found that the harbor works are in a ruinous and dilapidated state, the improvements heretofore commenced by the Government, and partially completed, are being rapidly destroyed, and without some aid the millions of money already expended by the Government on the lake harbor improvements, necessary for the preservation of life and property, must become a total loss. Your present Committee on Commerce, in the report on this subject, says:

"In many instances the fruits of repeated appropriations are now perishing for want of proper attention; and in all, the works may be not only saved at their present state of completion, by timely appropriations, but preserved for future improvement."

Mr. Chairman, in this connection I wish to refer to the situation of Oswego harbor, New York, the most important one on Lake Ontario, and necessary for the protection of the commerce of the lakes; it will afford an illustration of the condition of the lake harbors generally. The following is an extract from Colonel Graham's report:

"OSWEGO HARBOR, NEW YORK.—The works for the protection of this harbor are in a very precarious condition.

"They were constructed at a period when, it would seem, there could not have been a just appreciation of the force of the lake sea which they were intended to resist.

"During the present season a portion of the work has crumbled, which was built only four years ago, at the extremity of the west pier. The crib work has been undermined at four different places, and the stone washed out by the force of the sea. One of these breaches is within one hundred and fifty feet of the light-house. We have endeavored to make temporary repairs at these places, in the best manner practicable, with the very small means at our command; and, indeed, while writing this report, our attention has been frequently attracted from it, under the necessity of endeavoring to save important parts of the work from more serious injury. We have not, however, the means to do it in the permanent manner required to make it last.

"I consider the light-house to be in danger from the storms which must occur between the present season and the ensuing spring.

"The inner harbor, designed to be protected by the works, is also in imminent danger of being seriously injured, if not altogether ruined, unless immediate appropriations be granted for the most urgent repairs required.

"For these repairs I herewith submit an estimate, marked S 1, amounting to \$46,391 44.

"I would earnestly recommend that this sum be granted with as little delay as possible, and in a single appropriation, because it is very important that the requisite materials be collected, and certain portions of the work be done the ensuing winter. The whole work of repairs should be in full vigor on the opening of spring.

"The harbor of Oswego, whether considered in a commercial or military point of view, is undoubtedly the most important on Lake Ontario.

"By canals and railroads it has a direct commercial connection not only with Syracuse, Albany, and the city of New York, but also with Philadelphia, to which it is the nearest port on the great lakes. The value of its internal and coastwise trade is not less than sixty million dollars per annum, the statistics of which I shall endeavor to present in detail in a future report. It is certainly the most extensive wheat market in the State of New York, and its trade with the Canadas is greater than that of all other ports in the United States joined together.

"The Oswego river empties into Lake Ontario at this point. It is a powerful stream, studded with falls and rapids, and the water power derived from it operates a great number of mills and other factories.

"It brings into one torrent within its channel, the waters of nearly all the small lakes in the western part of the State of New York. The united waters of the Canandaigua, the Seneca, the Cayuga, Oswego, and the Oneida, all flow into it.

"Fort Ontario is situated on the east side of this harbor, about twelve hundred feet from the light-house. It overlooks and completely commands the harbor entrance.

"It is an important work in the chain of defenses requisite in times of war for our northern frontier, but its importance would be greatly diminished if the harbor were to become deteriorated for want of the requisite protecting works."

This report was made in September, 1857; since that time these works have sustained serious injuries, as will appear by the following let-

ter from Captain Malcolm, United States custodian at that point:

OFFICE OF PUBLIC WORKS,
OSWEGO, April 14, 1858.

SIR: I would most respectfully call your earnest attention to the deplorable state of the Government pier at this place, and to the absolute necessity for an early appropriation by Congress for its repair.

For several years past the stone work has been rapidly crumbling away, and during the past winter two hundred cords of stone filling have escaped from the undermining of the old crib work, built some twenty-five years since.

Indeed the whole pier is in a most dilapidated condition. The counter ports or small piers inside, which strengthen, and are the backbone to it, are fast washing away.

The oak plank sheathing which faces the pier at the light-house, with a portion of the crib timber, is cut away some forty feet, by the action of the waves.

If no appropriation is made this year, another year will find us without light-house or pier.

The loss will not end here, for the remains of the work will be carried into the channel, entirely closing its entrance to the inner harbor, for which the work was designed to protect.

In conclusion, I would most respectfully refer you to the admirable report of Colonel Graham, for 1857, which places this subject in its true light.

I am very respectfully, sir, your obedient servant,
WILLIAM SCHUYLER MALCOLM,
United States Custodian.

Hon. H. C. GOODWIN, Washington.

Again, under date of May 13, 1858, he says, in a letter urging action on this subject:

"There is not a harbor on the American side of Lake Ontario where the piers are not washing away, and filling up the channels to them. As there is nothing now in the pier (at Oswego) to keep it in its place, the first severe gale will completely demolish the whole work, and, of course, destroy the commerce of this port."

Mr. Chairman, the gentleman from Virginia, [Mr. LETCHER,] in his remarks made several days since, in opposition to the proposed appropriations for completing custom-houses at various points, referred to Oswego as a port where the collection of the revenue cost the Government more than it received, and condemned the expenditure for a custom-house at that point. I replied to the gentleman at the time. Now, I have, from the Treasury Department, the figures to show how the matter stands between Oswego and the Government. The duties collected at the port of Oswego, from June, 1848, to June, 1856, amount to \$1,209,113 84. The amount of appropriations for this harbor, from the beginning, is but \$271,086. After deducting the cost of the custom-house, and the cost of collecting the duties at this point, it will be found that the port of Oswego has paid to the Government, for the eight years prior to 1856, an average net income of at least one hundred thousand dollars per year.

Now, sir, it is true, that since the adoption of the "reciprocity treaty" the revenue at this point has fallen off, for certain property is allowed to be imported duty free; but while the duties collected are less, the importations and trade have greatly increased. The imports have to be entered at the custom-house so that the officers may decide what are free from, and what are to be charged with duties. The duties paid at this port for the last calendar year before the treaty went into effect, amounted to more than two hundred and ninety thousand dollars. Some of this amount was afterwards refunded under the operation of that treaty; but had the old rate of duties been paid on the imports at this point in 1856, I am told they would have amounted to near half a million dollars. Allow me to call attention for a moment to a few facts illustrating the importance of maintaining this harbor, in a commercial point of view. In 1856, the arrivals of vessels at this port numbered three thousand five hundred and fifty, with thirty-eight thousand four hundred and fourteen men, and a tonnage amounting to eight hundred and fifty-six thousand seven hundred and seventy tons; this statement is only for arrivals. Colonel Graham, in his report, refers to its importance as a market for wheat. There are at Oswego and its vicinity some twenty mills, capable of manufacturing more than ten thousand barrels of flour per day; and twenty-one elevators that can deliver fifty thousand bushels of grain per hour. I have hastily glanced at these various facts to correct any erroneous impressions that may have been made by the remarks to which I have referred. I also desire to call attention to the remarks of Colonel Graham as to the importance of this harbor in a military view. In case of a rupture with Great Britain, this harbor, being

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protected by Fort Ontario, would be of the utmost importance to our vessels engaged in this commerce, and would also be essential for the safety of Government vessels and stores, and although a war may be utterly improbable, yet all experience and recent occurrences show the propriety of not allowing the usefulness and efficiency of such defenses to be destroyed for the want of attention on the part of the Government.

Mr. Chairman, there is another point to which I will briefly refer, showing the importance of these appropriations for the lake harbors, and that is the fearful loss of life and property that occurs on these lakes from the want of proper protection in the shape of harbors. For a period of eight years the value of property lost on the lakes and damage sustained, was more than five million eight hundred and twenty-eight thousand three hundred and forty-six dollars; number of vessels lost in that time one thousand two hundred and thirty-one; of those, five hundred and sixty-six were stranded. The total loss of property on the lakes in 1857, was more than one million three hundred and eighty-seven thousand nine hundred and thirty-five dollars. Total loss of life in 1857, was four hundred and ninety; in 1856, four hundred and seven. Those most intimately acquainted with the commerce of the lakes unite in saying, that much of this loss, both as respects life and property, is owing to the want of harbor accommodations and protection. This applies particularly to the loss sustained by the stranding of vessels. Why, sir, the value of the property exposed to the perils of lake navigation is about equal to the total value of all the merchandise exported from the United States to foreign countries added to the value of all that is imported into our country. Some years it exceeds in value the sum total of our exports and imports, and in other years it falls but little short.

Mr. Chairman, we are near the close of the session. These bills have been for a long time before the House and Senate. We have just appropriated a million dollars to continue the works for bringing water to the city of Washington. We shall appropriate near a million dollars to continue the works on the Capitol extension. Now, after all this, is it right for Congress to refuse or neglect to make these small appropriations for the protection of these vast interests, for the safety of life and property, for the improvement of these grand highways of trade and commerce? Sir, let not the Government turn aside from these duties that lie directly in its pathway, but mete out to the commerce of the great lakes—a national interest—the same measure or justice that it has not been withheld from our interests on the sea-board.

PERSONAL EXPLANATION.

SPEECH OF HON. WILLIAM SMITH,
OF VIRGINIA,
IN THE HOUSE OF REPRESENTATIVES,
May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. SMITH said:

Mr. CHAIRMAN: I have been here for twelve hours, under quite feeble health; for until to-day I have not felt tolerably well for ten days; but a purely personal matter was thrown into the discussion in which I participated to-day, of new matter out and out; and I was denied the comity, which is rarely refused, of responding to that matter at the time. I owe nothing to the gentlemen who objected. At this late period of the session, it was obviously a matter of great interest to me that the remarks which I might deem proper to submit on that question should go out with the main debate; and yet they denied me the floor.

The gentleman, also, who has just addressed the committee, [Mr. LEITER], has certainly entitled himself to some reply from me. I must confess that the line of his remarks has provoked no little indignation; for I consider it politically unjust, and politically very abusive, in its character.

Mr. Chairman, of course I am obliged to be very brief, it being past ten, p. m. It will be recol-

lected by those of the committee who were present that to-day I forbore, as much as was in my power, to make any reference to one of the members from Illinois—the member who last spoke, [Mr. MORRIS.] I avoided it simply from an indisposition to introduce him into this discussion, beyond what was indispensable. Nevertheless, he came into it with matter obviously prepared, and with a view, if possible, to make an issue with me on a question of fact. And, sir, never was I more astonished than when he introduced the affidavit of an old soldier, of impaired hearing, and who can hardly have heard or understood an entire sentence of the conversation, and

“Whose trembling limbs have borne him to your door,” with a view to secure him a pension, not from the justice, but from the sympathies of Congress. I was astonished that the member should have sent home and got the affidavit of this old man as to a question of fact between the member and myself, who were conversing upon an interesting subject, naturally calculated, from its character, to arouse our liveliest attention. It is a deep wrong, Mr. Chairman, which the member has perpetrated on that old man, and I now propose to show it. I will read here what the member himself did say on a former occasion in this connection. It will be recollected, sir, that I charged that a certain conversation had taken place. Now, here is what the member said:

“If I ever had a conversation with the gentleman from Virginia, (and I recollect having one,) it was some time in December last, in my private room at the United States Hotel, in the presence of my family. I invited the gentleman to my room for the purpose, as I think the gentleman will bear me witness, mainly of introducing him to an old friend who formerly lived in Virginia, and who had come on here for the purpose of obtaining a pension, and I was desirous of enlisting the members of the House in his favor. The conversation to which the gentleman alludes came up incidentally. I entered into it with him with a view of ascertaining if this Kansas question could not be settled without any serious division in the Democratic party. In that conversation much was said. I remember remarking to the gentleman from Virginia that he ought to recollect that in Illinois we were differently situated from himself; that we had a different constituency; that the Democracy of Illinois had, before the meeting of Congress, with scarcely an exception, taken their position in opposition to the Lecompton constitution, and that neither DOUGLAS nor any other man could be returned from that State to the United States Senate if he favored an instrument of that character. I recollect stating to him that southern gentlemen ought to have some charity and feeling for our position.”

That is what the gentleman himself admitted to have been the character of the conversation, and yet he introduces to this House this poor old man's affidavit, backed up with a certificate signed by a number of persons, which was gotten up for another purpose in the year 1855, as to his reliability and trustworthiness; and he makes this poor old man say as follows:

“Affiant further states that said SMITH came to said room about half-past seven o'clock, p. m., of said day, and remained there from one half to three quarters of an hour. That the only persons present were the said SMITH, MORRIS and his wife, and affiant now most positively states that no such statement as said SMITH has attributed to said MORRIS, in a speech recently delivered by him (SMITH) in the House of Representatives, in substance, that ‘the Illinois delegation in Congress had had a conference, and determined or agreed that the only way for Judge DOUGLAS to secure his reelection to the United States Senate was by opposing the admission of Kansas under the Lecompton constitution,’ were made by said MORRIS at the time, nor was anything said by said MORRIS which could be so construed as to bear any such meaning.”

It is only necessary for me, Mr. Chairman, to fix attention upon the statement of the member himself, which I have just read, and to contrast it with the affidavit of this old man. The truth is, it raises an issue of fact with himself, and disproves, if anything, his own statement, which I have read. But that is not all. I did not advert to the statement of the gentleman [Mr. BURNETT] who spoke on this subject on a former occasion; but I will now read sundry extracts from what he said. He said:

“The gentleman from Virginia, some time ago, in a conversation between us, when we were discussing the action of the Democratic party upon the Kansas question, or of those of the Democratic party who differed with us, and the reasons for their course, said to me, substantially, what he has stated here. I remarked to him then that I had had a conversation with Mr. MORRIS, in which he repeated, substantially, the same language to me.”

Again:

“The gentleman from Illinois [Mr. MORRIS] approached me this morning, and said that he understood that I had stated that I had had, substantially, the same conversation

with him which the gentleman from Virginia repeated yesterday.”

Again:

“Now, sir, as to the facts. The time I cannot fix. Some time early in the session, I, in company with another gentleman, who is a member of this House, met the gentleman from Illinois on the street. I introduced him to the gentleman, and some conversation passed between us of a light and trivial character, I do not now recollect what. He then asked me to call at his room, saying that he desired to talk with me. I was then on my way, I think, to the War Department. I did call at his room on my return, and a long conversation took place between us. I cannot pretend to give the whole of that conversation, nor will I undertake to give the language used, because every gentleman, whether he be a lawyer or not, knows how impossible it is to give the details of such conversations, or the precise language used by any individual. I do not desire to do the gentleman from Illinois any injustice. The conversation was commenced by him. I did not know what his purpose was. He commenced by speaking of the position which had been taken by the distinguished Senator from Illinois, and by his colleagues in this House upon the Kansas question. I understood him distinctly to say, that upon a conference of the friends of Judge DOUGLAS—the friends from Illinois—it had been agreed that he should take the course which he has pursued in reference to the Kansas question as the only means by which he could sustain himself at home; that unless he did take that course he would not only inevitably suffer defeat at home himself, but his friends would fall with him.”

“During this conversation, which, as I have said, was one of some length, and which was held with me as a friend of Judge DOUGLAS, something was said about some arrangement by which the Democratic party could act together, and stand a unit upon this question. We talked a good deal upon that subject. During the conversation there was a statement made, that one reason why Judge DOUGLAS felt himself aggrieved, and why he had pursued this course, was, that there had been an attempt upon the part of the present Administration to destroy him, to crush him, to break him down; that his friends had been neglected in appointments, and the claims of Illinois overlooked; and that Judge DOUGLAS did not intend to be crushed by the present Administration.”

In my speech of the 26th March, with such statements from honorable gentlemen, the extraordinary course of Judge DOUGLAS and his colleagues in this House, and other evidence of a highly significant character, which I did not feel at liberty to use, I think I was fully justified in saying in reference to Judge DOUGLAS:

“I fear ambition has done its work. I fear imaginary private griefs have been actively at work. I have heard of a meeting of the Illinois delegation to consider of the policy to be pursued.”

And, sir, the gentleman from Illinois, [Mr. MARSHALL,] in his first speech, breathed forth the general dissatisfaction of Judge DOUGLAS and his friends, as the following extract will show. Speaking of Illinois, the gentleman says:

“From the moment she became a sovereign State to the present time, she has never failed in her adherence to the national Democracy. With men of acknowledged talents and statesmanship in her midst, not one of her sons has ever, at any time, received a first class appointment from the Federal Government. Her claims in this respect have been disregarded. Notwithstanding all this, we have adhered to our faith and battled for the right without a murmur.”

Mr. Chairman, I will add, in this connection, that there are other gentlemen to whom I might have referred, the gentleman from Louisiana, [Mr. DAVIDSON,] and another gentleman from Kentucky, both of whom had similar conversations, in effect, with the member from Illinois [Mr. MORRIS.] And yet, sir, after that admission, after my statement, after the evidence to which I have referred, the member brings in this affidavit to raise a question of veracity with me! Sir, I consign him to that destiny which he deserves and which will be accorded to him by the judgment of the House as well as by the country at large.

Having said thus much, sir, allow me to turn in another direction. I am surprised, beyond degree surprised, that the gentleman from Ohio [Mr. LEITER] should have indulged in the speech with which he entertained us to-night. He has sat here in comparative silence during the whole winter; he has heard, for five months, this discussion go on; he has waited until this late hour of the session, and this late hour of the night, to make a violent attack upon the Democratic party in general, and upon his colleagues from Ohio in particular, when he knows that there is a great chance that they cannot possibly have any opportunity of replying to him. I submit, sir, that it was not treating the question, or his colleagues, or the Democratic party, fairly. But that I happen to have the floor at this late hour of the night I should have had no opportunity to advert to it, and now, having the floor, I beg leave to indulge in a few remarks.

The gentleman commences remarkably, very remarkably indeed, by charging that there are

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traitors in the Democratic party in the North. Well, the gentleman is competent to judge, for he has had experience upon that subject.

Mr. LEITER. Yes, I have seen them.

Mr. SMITH, of Virginia. Yes, sir, he has seen them, and been of them. I understand that up to 1854, you were of the Democratic party yourself, and now you charge treason upon that party which brought you into distinction, and gave you honor and fame.

Mr. LEITER. I wish to say that I have in my possession means to prove that I stand upon the same platform now that I did before.

Mr. SMITH, of Virginia. Oh, certainly—exactly. No man ever changes, but a great party swings around to enable the gentleman to preserve his consistency! Shame on him! I would not so add insult to injury as to affect to be unchangeable. Who sent the gentleman here? Did the Democratic party?

Mr. LEITER. A part of it.

Mr. SMITH, of Virginia. Ay, a very small part, I will be bound. A hundred, perhaps, gentlemen, who had a little fellow-feeling for his old Democracy, whom he took into corners, perhaps in some retired place. Sir, he was sent here by the Black Republican party, and he insults them by getting up here now and claiming still to be a Democrat. By the gods! I have never seen such cool and deliberate assurance. Yes, sir, he played false to the Democratic party in 1854, and, as he acknowledges, practiced treason against those whom he now denounces. Nor is that all; he insults the very party to whom he owes his present greatness by scorning it and telling us that he still cleaves to the Democracy and is still a Democrat.

Mr. LEITER. I do not claim to belong to that Democratic party. I claim that essentially, and to all intents and purposes, the Republican party is standing upon Democratic principles.

Mr. SMITH, of Virginia. Exactly! Lord! "how we apples swim." Why, sir, that is the game such changelings ever play, as is shown in the history of parties in this Republic of ours for seventy-five years; the opposition to the Democracy have all along been trying to get our name. They have nicknamed us almost every other day; yet, under the influence of sound principles, and those ennobling sympathies which bind us to our kind, we have made even their nicknames popular. The gentleman undertook to prove us knaves. Sir, he proves himself and his party fools in doing it.

Mr. LEITER. I wish to say that I attempted no such thing. I talked about the northern Democracy.

Mr. SMITH, of Virginia. He charges the Democratic party with hypocrisy. He used the term hypocrisy more than once deliberately. He charges us with playing the country false; with falsifying our pledges. He arraigns Mr. Buchanan, the head of the Democratic party, as a criminal. In charging us thus, he undertakes to prove us knaves; and what does he prove, if anything? That the people of the country are fools; that his party, with his best efforts, claiming the right, had not the sense to make the right appear before the country; that we—we, the groundlings, the unwashed, the uncombed, the unperfected, as the enemy sometimes maliciously call us—had the intellect and the brightness, in spite of all the efforts of the Opposition, to honey-fuggle and obfuscate the great mass of our intelligent countrymen in whose hands repose the greatest sovereignty, it may be, under the sun!

Now, sir, it is a matter of astonishment—positively a matter of amazement—that the gentleman should so far forget himself as to stand boldly before the country in the attitude of acknowledging that having the right on their side, he and his party had not the smartness to make the people understand it. He reflects upon himself and his party by showing what weak vessels they are, or, at any rate, that they are of very inferior capacity, or else that the people are as dull as the ground on which he treads, and are incapable of appreciating the truth.

Mr. LEITER. I will say to the gentleman that the canvass before the people upon the issue as now made up has not yet taken place. We will try it next fall. Wait till then.

Mr. SMITH, of Virginia. Yes, sir; the gentleman is now playing the part of Mr. SEWARD and others, in the grand canvass of 1856, who gave us the very number of hours that we, the Democratic party, had to live. After the passage of the Kansas-Nebraska bill, Mr. SEWARD told the country, in that dogmatical and prophetic vein in which he sometimes indulges, the exact number of hours that it was our destiny to linger in this vale of tears; and the gentleman humbly follows his illustrious predecessor. Sir, I thank God that there is intelligence enough in the people to unmask the hypocrite. I thank God that there is intelligence enough in the people to detect the wolf in sheep's clothing; and that, when traitors stalk abroad, there is power enough in the great masses of the people to detect them, and hang them as high as Haman.

The gentleman talks about a time-honored compromise, and the repeal of the Missouri restriction. He says that "the great first sin" was perpetrated in 1854, and that the whole nation sent up one howl of indignant anguish. Sir, what was that question? What was it? The gentleman was a Democrat up to 1854, and concurred in the universal reprobation of that Missouri restriction. It was almost universally conceded to be a wrong. But what did its repeal do?

Mr. LEITER. I wish to ask the gentleman if he did not indorse it in 1845?

Mr. SMITH, of Virginia. No, sir; no.

Mr. LEITER. Nor in 1849?

Mr. SMITH, of Virginia. No, sir; I did not.

Mr. LEITER. Not in the annexation of Texas?

Mr. SMITH, of Virginia. Oh, my dear sir, you know how all that question is. It is not worth while to go into it now. I am ready to meet the gentleman upon that; but I want to deal now with the popular aspect of the question. What did the Missouri compromise do? Who did it wrong? who? The Missouri compromise, which the gentleman now whines over, did undertake, to be sure, to interdict the right of popular sovereignty, and to say that persons owning slaves should not go on one side of a given line. What did its repeal do? It simply said that all free white persons should have the power of doing their own will; that they should establish their own government; and that there should be no geographical distinctions. And who is there, having proper sympathy in his heart and an element of moral justice in his bosom, will object to every white citizen in America being entitled to the same rights and privileges? Who can object to it? The gentleman from Ohio does. It is the misfortune of those going over from the Democratic party never again to see a ray of that glorious light which is destined to illumine the world, and conduct it on in its glorious career.

Well, the Democracy repealed that line, and the gentleman says a struggle ensued. So it did; and the Democratic party were floored, in 1855, by the howls of fanaticism of that party with which the gentleman is so proud to act. They floored us for a time; but Democracy, though floored—true to its exultant and buoyant nature—springs with elastic bound to its feet again, knocks all kinds of isms into pi, and promptly recovers its beneficent ascendancy. The intelligent people were aroused, spoke the voice of command, and elected our present Chief Magistrate.

But that is not all. The Black Republicans came into this Hall with a majority. What was the result? It undertook to revolutionize the Government.

Mr. LEITER. Does the gentleman mean to say that we had a Republican majority?

Mr. SMITH, of Virginia. You had, until your atrocities lost it to you. You came here with a heavy majority; but your conduct was so damnable that some of your own men left you with disgust. You came with a majority full of all the hope that is borne upon the vision of a glorious triumph, and full of unction and delight; but a nipping frost came, as was the case in 1841, and has been the case on various occasions.

Mr. LEITER. Is it not the fact that the highest number of votes we were ever able to give for our Speaker was one hundred and three out of two hundred and thirty-four members?

Mr. SMITH, of Virginia. Yes; but you got

your Speaker, and you got the committees, and you, in effect, undertook to upset the Government. The people took away your power of mischief. A reaction ensued, and we came here in power. Unhappily there were differences of opinion in regard to Kansas affairs, in regard to the obligations growing out of the Cincinnati platform, and in regard to certain proceedings in Kansas. That is all true; but let me tell the gentleman that the doctrine of popular sovereignty is a doctrine which recognizes the power of the people to govern according to law, not according to mobs or incendiary assemblies. That is the great, the fundamental principle which regulates our Government in all its forms. The people establish what Government they choose. Squatter sovereignty is the right of a few to go into the Territories and exercise in their infancy the powers and privileges of full-grown maturity.

Mr. LEITER. Who is the father of that doctrine?

Mr. SMITH, of Virginia. He was no conservative man. The Territories possess no power except that which the Federal Government itself possesses. It is qualified in character, and limited in extent; but it recognizes the will of the people when exercised in conformity to law, and in no other case.

I claim that the Cincinnati platform has been respected by the Democratic party, and by the chief head of that party. What have they done? What frauds have they perpetrated? They submitted to the people of Kansas the propriety of calling a convention; and the people, by a vote which cannot be impeached, determined that they would have a convention. That convention was accordingly called. Delegates were elected, and they met in convention to perform their duties. What were those duties? To frame a constitution and submit it or not to the people. Mind you, the people were acting through their representatives. Do not we represent the people? Are not our acts binding upon the people? Do not the people speak when we speak? *Facit per alium, facit per se.*

Those delegates assembled, and they had the right to form a constitution; and, in the absence of all legal requirements to the contrary—and it is not pretended that there were any—to adopt a constitution *in toto* or in part, and to submit it *in toto* or in part.

Mr. LEITER. Did not Governor Walker desire them to submit it under the instructions of the President?

Mr. SMITH, of Virginia. No, sir; Walker, in my opinion, was a meddling man, out in Kansas, and did a great deal of mischief. The President's instructions to Walker, as the gentleman has shown, were to protect and sustain the legal voters and to resist and punish illegal ones. So say I. And that was what he ought to have done; and having done that, he would have acted up to the limit of his power and authority. But he did not stop there. He had ulterior views. He made himself active in shooting from his sphere, and disturbing the repose of that Territory. I take the ground, then, which the President took in his instructions. How have they been disregarded? What voter was withheld from the polls who did not choose to stay away? The election came round, but did the revolutionists stop there? No, they meant to have nothing to do with the organization of the government under the constitution. Who voted, then? Was not the proclamation to all to come in and vote? and who have the right, in questions of this sort, but those who speak through the ballot-boxes?

Gentlemen talk about the election of a free-State Legislature and Governor. Is it not remarkable, if it be true as charged, that there was a disposition to commit frauds, that they were not cheated out of the returns on those officers. But the January election comes on, and ten thousand good voters, says the gentleman, spoke their voice, instead of the insignificant number of two thousand and five hundred, who voted in October. I would like to know how the gentleman finds out that they were good voters. Where there is no contest, and a disposition to make a grand show, I think it likely that almost everybody went to the polls, and no questions were asked. But there is evidence which marks the character of that vote.

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When they took the census upon the free-State side, they got the voters to sign a petition to this Congress to allow Kansas to come in under the Topeka constitution. It was done at leisure. Every man was put down who had any claim to being a voter. It was presented here by the Delegate from that Territory, and is in these words:

"Memorial of four thousand one hundred and seventy citizens of Kansas, asking that Kansas may be admitted into the Union under the Topeka constitution."

Mr. LEITER. I want to know from the gentleman if he supposes they are all the voters of the Territory?

Mr. SMITH, of Virginia. It is the census of the Topekaites, taken by their own party, in their own way, and I take it for granted it contains all the voters they have got. It is not to be supposed they did not swell the number as large as they could, and yet four thousand one hundred and seventy votes are all they have, according to their own showing.

What argument, then, is to be derived from the assertion that they have ten thousand voters in the Territory? Why, sir, the men in buckram of Falstaff are no comparison. Here is their own official testimony, presented by their own Delegate from that Territory.

But now I come to another statement of the gentleman from Ohio. Sir, I traveled through several counties in that State last fall, before the election, and I know the monstrous tales that were told to excite the people there against the Democratic party. But, sir, the sober second thought of that people operated, as it always will in this country, and you may see the result by looking at the majority with which Chase was elected then, and at the vote he got in this last election.

Mr. LEITER. Governor Chase was not elected by a majority vote on either occasion.

Mr. SMITH, of Virginia. Well, that makes no difference. I ask you to look at the vote he received at the former, and the vote he received at this last election. Sir, truth will always triumph with the people when they come to reflect; and you see the mesmeric influence which it has had there. Well, sir, this being the case, there is a great outcry raised by many, and you see here men who have left the Democratic party, men who are mere political bawds, absolutely calling us to account for want of patriotism. Why, I recollect some days ago, when the honorable gentleman from Kentucky, [Mr. MARSHALL,] with his adroitness, had succeeded in drawing the Black Republicans into positions which violated the principles which they professed, and which they consented to occupy for the purpose of success, and after all were defeated, he challenged any one of them all to say that they did not vote with their eyes open for the Montgomery amendment. He repeated his challenge, when a member from Ohio [Mr. SHERMAN] acknowledged that his party had acted with their eyes open, but had not consented so to vote until assured that certain gentlemen would stand by them to the end. Another gentleman from Ohio [Mr. GIDDINGS] stated that he came into the arrangement with extreme reluctance, and not until he was assured of the pledge of honor of the Douglas wing of the Democracy to stand by them to the last.

And that was not all. The gentleman from Maine [Mr. WASHBURN] at another time read a paper, in which was put down what he regarded as the understanding between the two parties. It turned out, upon examination, however, that a great many of the Douglas Democrats had not gone into the arrangement, and that the Black Republicans had been sold. And now, in their spite, in their vexation, this pure, immaculate party, embracing the gentleman, [Mr. LEITER,] undertakes to call us to account. Yes, sir, even he himself, and they, in the vexation of their heart at having been sold, at having been thwarted in their political schemes for success—for they gave up their principles to accomplish that, and nothing else—this party, which stands before the world as political charlatans and tricksters, talks about calling us to account!

Well, sir, I have no fear of them. This party, which stands before the country convicted, by their own confessions, as political bawds, that party whose only end is to win and rule this

people, and who strive to accomplish that end by means absolutely shocking to the moral sense of the people, excites no fear with me.

Sir, in the mad fanaticism of the North—I will not say the gentleman from Ohio is included in that mass, but so far as his action is concerned it goes to accomplish the same purpose—it is notorious that the great heart of the Black Republican party is unfriendly to the continuation of the Union, unless they can rule it all. They had rather be the first man in a village than the second in Rome. They had rather rule in hell than serve in heaven. "Rule or ruin" is the great doctrine—is the great doctrine of that obnoxious party.

But, sir, I have already said enough; and will now conclude by quoting, as applicable and appropriate to the Black Republican party, these words of the infernal one to his roaring associates:

"But of this be sure:
To do aught good will never be our task,
But ever to do ill our sole delight."

POLITICAL ORGANIZATIONS.

SPEECH OF HON. B. F. LEITER,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. LEITER said:

Mr. CHAIRMAN: My friend from Washington Territory has devoted one hour of the time of this committee to the discussion of the relations between the red men and the white men on the Pacific coast. I think, sir, that gentleman succeeded in proving, to the satisfaction of every gentleman present, that the red man is treacherous; that there is no faith to be put in his pledges and his promises—in short, that the red man on the Pacific is a treacherous hypocrite. Now, sir, in the hour allotted to me by this committee, I propose to consider other relations than those existing between red men and white men—other relations than those existing on the Pacific coast. I propose to consider relations existing between white men of the North. I propose to consider relations which political parties of the North bear to each other; and I think I shall be able to succeed in proving to this committee that there are other men than red men who are not to be trusted, and who are treacherous and hypocritical. I propose, in this hour allotted me, to prove that the leaders of the Locofoco party are equally treacherous with the red man of the Pacific coast, and that their pledges and promises are mere hypocritical pretenses, unworthy of the confidence of the people. I do not propose to include in my remarks the rank and file of the so-called Democratic party, because, in my judgment, they are as much disposed to do right as any other men of any other party. This I know from the relations which I at one time held with that party, and my intercourse with them.

Now, sir, I wish it distinctly understood by this committee that I find no fault with any gentleman who may differ with me in regard to the great political issues which divide the people of this country. I say, as a Democrat, that I respect every man, although he may differ with me in opinion; and when I see gentlemen from a certain section of the country advocate in this House principles which I deem to be antagonistical to good government, I have the charity to believe that they, coming from the section which they do, are honest in their convictions, and intend to do right. They, by education, have been taught to believe that the peculiar institutions of their locality are sanctioned, not only by man, but by the Almighty, which, in my judgment, is a fundamental error; yet they are entitled to their opinions, radically wrong though they may be. But, sir, when I look about me, and see men whose education has been the reverse, who have been taught from the cradle principles entirely different from those which they advocate—I say that although I respect the men, I have no kind of respect or regard for the principles which they advocate. Although I may treat them with the civility due between

gentlemen, yet I have my misgivings that they do not themselves believe in them, and as much despise those principles as I do. I have had the fortune, or misfortune, of being born and brought up in a slave State. My early education was received in a slave State. Nevertheless, I was never taught to believe that slavery was a godly institution or a great blessing, but that it is a great wrong, opposed to every principle of republican government. Now, sir, if I could not get that education in a slave State, I appeal to gentlemen who have been raised in free States, and who have been educated there and taught that every man has the God-given rights of life, liberty, and the pursuit of happiness, which every other man is bound to respect, whether they would be found advocating the principle they do, were it not for the political organizations of the day? Were it not for power and political plunder, in my judgment, you could not find a single man north of Mason and Dixon's line who would advocate the institution of slavery as these gentlemen do. It has been but within a few years that I have heard it defended by southern statesmen as a matter of right, and never by northern men, until they found the success of Locofocoism dependent upon that course, since which time they are its most zealous advocates.

Now, Mr. Chairman, it has been the universal practice of the political parties of this country, ever since their organization, to make declarations of principle, to govern them in the administration of Government, in case of their success. The Democratic party has ever laid down its principles and platform; the Whig party has done the same; and each of them has gone with those principles before the people, solemnly pledged, in good faith, to administer the Government accordingly. I do not propose now to go further back in our political history than 1854, where I can successfully commence to show the hypocritical partisanship of the Locofoco party leaders, by advocating slavery and slavery-extension in the South, and half-way slavery and anti-slavery at the North. It is a matter known to every man, especially those of the North, that when it was proposed to repeal the Missouri compromise a storm of universal indignation pervaded the entire free States. Petitions and remonstrances by the hundred thousands were sent here, protesting against the injustice of the act. Public meetings were held in all the towns, cities, and school districts of the free States, in which the members of all parties participated; and resolutions were passed, sufficient to fill a large volume, in denunciation of the attempted outrage.

But, sir, for some reason or other, the remonstrances of the people were disregarded, and their petitions unheeded by the political parties of that day. Not only the Democratic leaders, but the Whig leaders, participated in the repeal of the Missouri compromise. When this storm was coming thick and fast, the Democratic party became alarmed, disorganized and disbanded at the North, and their flag was left dragging in the dust. Then it was they were bound to apply all of their ingenuity and all their inventive powers to bring before the country issues never before known, not recognized before, never proclaimed before by any party, North or South. It was a kind of afterthought on the part of these politicians. It was a thing never dreamed of by any party, until they saw the burning, withering, damning indignation of an insulted and betrayed people, and found it necessary, for the purpose of success, that they should get up some swindle to deceive the people, and thereby succeed. The Democratic party of the North commenced creeping and crawling, and dared not show their drooping faces before the people, until they had got up some excuse for the extraordinary course of Pierce's administration on the slavery question. As soon, however, as they recovered from the first shock, they began to preach Free-Soilism. They commenced to tell the freemen of the North that the Kansas-Nebraska bill was the great measure of freedom, and that the North would be vastly benefited, and the area of freedom extended by the repeal of the slavery restriction. This I then regarded as a mere hypocritical pretense, and my mind has not undergone any change since.

Why, sir, I heard it publicly proclaimed by the Locofoco stump speakers in Ohio that it was the

peculiar province of the Democratic party to extend the area of freedom; and that the Kansas-Nebraska bill was the first step in that great programme; that by means of the repeal of the Missouri compromise, and the inauguration of the new doctrine of popular sovereignty, we of the North would gain at least three new free States out of the territory now contained within the boundaries of the State of Texas. We were told this, too: that if we left all these questions to the people of the Territories, then, as a matter of course, the free States of the North would have all the new States that would come into the Union; that no slave State could be ever again admitted under this new doctrine of popular sovereignty. Well, that plausible doctrine gave the Democratic party considerable strength with the people, and they again showed their faces and gave battle to the faithful friends of the country. Although the Loco-foco party had violated faith, yet I must say it always had a facility for making attacks on the Opposition, and showing the plausibility of their course, so as to meet the approbation of the people when it was unmerited. It always had the means of argument to use to the people; it had the means of persuasion in discussion which were always formidable, and, in my judgment, dangerous to the best interests of the country.

Well, sir, the campaign of 1854 came on, but the people were not satisfied with the pledges and promises of that so-called Democratic party, nor were they satisfied that the idea of popular sovereignty was just exactly what it was represented to be; nor did they believe, although they had been often so told, that in the doctrine of popular sovereignty the people would have perfect security against the aggressions of what they believed to be a great wrong in the country—the extension of slavery. The party was overthrown in every free-State, and all its forces were put to flight in 1854. Eighteen hundred and fifty-five came on, and by that time their appeals had been heard, long and loud and effectively, in many of the States, and although they had been, in 1854, overthrown, perfectly demolished, yet they had such power of attraction about them with their declarations of leaving the people of the Territories to do just as they pleased, not alone in regard to slavery, but in regard to everything else, that they again rallied, and gave battle to the Opposition. That doctrine, I must confess, is a very popular doctrine, and very readily commended itself to the people. I would like that way of doing business myself. I would like right well to have things just as I want them, and have nobody interfere with me; and I judge that all people have the same feeling. Therefore the doctrine of popular sovereignty was very formidable to the Opposition party, and indeed the only argument that could be used against it effectually was that the so-called Democratic party would not in good faith carry out its pledges, the truth of which is now fully verified.

Well, sir, 1856 came on. The time for the presidential election was approaching, and it became necessary then for political parties again to make declarations of their principles; and, true to its instincts, the Loco-foco party was ready again to make any and every kind of pledge in order to succeed. I hold in my hand the platform and pledges of that party in the official proceedings of the Cincinnati convention—the convention which nominated James Buchanan as the Loco-foco candidate for President of the United States. On pages twenty-five and twenty-six I find the following resolutions declaratory of their supposed principles:

"Resolved, That claiming fellowship with, and desiring the cooperation of, all who regard the preservation of the Union under the Constitution as the paramount aim, and repudiating all sectional parties and platforms concerning domestic slavery, which seek to embroil the States and incite to treason and armed resistance to law in the Territories, and whose avowed purpose, if consummated, must end in civil war and disunion, the American Democracy recognize and adopt the principle contained in the organic laws establishing the Territories of Kansas and Nebraska as embodying the only sound and safe solution of the 'slavery question,' upon which the great national idea of the people of this country can repose in its determined conservatism of the Union—non-interference by Congress with slavery in States and Territories, or in the District of Columbia.

"2. That this was the basis of the compromises of 1850—confirmed by both the Democratic and Whig parties in national conventions, ratified by the people in the elections of

1852, and rightly applied to the organization of Territories in 1854.

"3. That by the uniform application of this Democratic principle to the organization of Territories, and to the admission of new States, with or without domestic slavery, as they may elect—the equal rights of all the States will be preserved intact; the original compacts of the Constitution maintained inviolate; and the perpetuity and expansion of this Union insured to its utmost capacity of embracing in peace and harmony, every future American State that may be constituted or annexed, with a republican form of Government.

"Resolved, That we recognize the rights of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution with or without slavery, and be admitted into the Union upon terms of perfect equality with the other States."

We are informed by this pamphlet that the reading of these resolutions "was followed by long continued and enthusiastic applause, in which every delegate joined in the most earnest manner."

Here was a time of great rejoicing and universal applause, demonstrative of the deep feeling that animated that august body of political schemers, on the adoption of a platform to be repudiated by their party before the first year of the administration of James Buchanan had terminated.

Good faith and fair dealing, as well as consistency, required that they should carry out these pledges and promises, and their failure to do so is a violation of every principle of right and justice, and convicts them before the country of hypocrisy and false pretense in making them, notwithstanding the "enthusiastic applause of all the delegates" of that convention upon their adoption.

A violation of good faith has received the condemnation and denunciation of the virtuous and good in all past time, and will continue to do so, while truth and integrity have a votary.

For the purpose of showing how James Buchanan held those who violated their pledges and promises to the people, I will read an extract from a speech made by him, in 1841, in the United States Senate. Then he had no regard for those who made pledges and disregarded them, and made the following emphatic record, to which I invite your and his attention, and particularly the attention of the country:

"If you go into the sacred walks of Christianity—Christianity, the purest and best gift which ever descended from heaven upon man—and you there find its professors preaching what they never practice, and never intended to practice, what would be your conviction of the sincerity and true character of such professors? What would you think of that man if, with the principles of this sublime doctrine on his lips, his life gave the lie to his professions? You would not hesitate to pronounce him guilty of the grossest hypocrisy? All mankind would unite with you in calling him a hypocrite."

It might have been well for him and his party if he read this speech before his wanton violation of his platform. He saw fit to adopt the very familiar word "hypocrite," and I propose appropriating it freely in my remarks, and make a proper application of it in my arraignment of his Administration. When they adopted their platform, they knew that there was no danger of a dissolution of the Union, yet they found it necessary to make a "Union-saving" plank for their platform, for the purpose of bolstering up their rotten cause, under the hypocritical pretense that the Union was in danger. They found that popular sovereignty was not strong enough to carry their party through the presidential election, and, therefore, they adopted this "Union-saving" resolution, hypocritical as it was, for the purpose of alarming the people, and thereby gaining support to their tottering party.

They further hypocritically pretended and proclaimed to the country, that the Republican party was in favor of the dissolution of the Union, and that they, the great Democratic party of the country, which was preaching anti-slavery at the North and pro-slavery at the South, were the peculiar friends of the Union, and would preserve it forever. Sir, if I have any knowledge of political parties in this country, I do know and believe that neither is in favor of a dissolution of the Union, and that this charge is false, and the men that made it knew it to be false when they made it, and that it was made to deceive the people, and thereby they would receive their support. I

believe that but a very small portion of the people, either North or South, are, in good faith, in favor of a dissolution of the Union. And yet, in order to make their dogma of popular sovereignty stick and be effective, it was necessary to put this Union-saving plaster upon it. Well, sir, after they get through with the saving of the Union, they come in with the declaration of popular sovereignty—that doctrine which was dug up after the passage of the Kansas-Nebraska bill, as I have heretofore shown, for the purpose of appealing to the freemen of the North by telling them that the people of the Territories could regulate their domestic institutions in their own way, and bring in all Territories as free States. If any gentleman had then said that this party ever intended to digress in the least to the right or to the left, or to permit a violation of any single jot or tittle contained in that resolution, he would probably have been branded as a traitor to his country, as a disunionist.

These men themselves violated their own platform, which was given to the people as a panacea for all their evils, and a certain remedy against slavery extension at the North, where that is unpopular with the masses. Yes, sir; that resolution was "adopted amidst applause, in which every delegate in that convention joined." The doctrine was popular; it was a hard doctrine to combat; it was a correct doctrine; and the only mode we had of combating it was, to tell the people that these men did not intend, in good faith, to carry out the principles laid down in their platform. Well, they succeeded; and in their success it was implied that they would carry out the principles laid down in that platform. On the 4th day of March, 1857, James Buchanan was inaugurated here, at the east portico of this Capitol; and there, in the presence of the vast multitude of assembled citizens, he said:

"What a conception, then, was it for Congress to apply this simple rule—that the will of the majority shall govern—to the settlement of the question of domestic slavery in the Territories!"

"But be this as it may, it is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved!"

Prior to that time he had said to the country that he stood upon the Cincinnati platform, and would not add one plank to it, nor take one from it. He stood pledged, then, to carry out in good faith the doctrines laid down in the platform, and I say that it became his solemn duty to do so. Good faith to the country required he should do so. The doctrine was established. The principle was settled. The country relied on the pledges of these men that nothing should hinder or delay them in carrying out the principle which they had thus warmly advocated, and which had thus been applauded by the intellect congregated in the Cincinnati convention. It became necessary, in the course of events that some action should be taken in regard to matters in Kansas, and then the President again reiterated this same doctrine, in his instructions to Governor Walker, of that Territory. Why, sir, the old gentleman had become eloquent—absolutely eloquent. The enthusiasm with which that resolution had been adopted in the Cincinnati convention, had kindled such a fire in his soul that he could not avoid belching forth his patriotic sentiments, when he sent forth his instructions to the Governor of the Territory of Kansas. Hear him:

"Freedom and safety for the legal voter, and exclusion and punishment for the illegal one, these should be the great principles of your administration."

Again:

"And a fair expression of the popular will must not be interrupted by fraud or violence."

"Freedom," "safety for the legal voters," and the "exclusion and punishment of illegal ones." This was sound doctrine; and the people of the country had a right to expect that this President, their Chief Magistrate, sworn to administer the laws of the country in accordance with the principles of the Constitution, thus pledged by the Cincinnati platform which, in party organization, is higher and deeper and wider than all constitutions, thus pledged in his inaugural address and in his instructions to Governor Walker—I ask what had the country a right to look for at the hands

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of the President? Nothing but good faith and fidelity. Governor Walker, as a faithful servant of the people, considered himself bound, not only by these instructions coming from his superior officer, but by his oath, the Constitution, the law of the land, and the pledges of his party, to see that the people of the Territory of Kansas should be protected in their rights and privileges as American citizens. And what has been the sequel of all this? Nothing more nor less than treason to every pledge made by the Administration, which authorizes me in branding it as hypocritical, in the language of the President in 1841! Why, sir, Governor Walker could not have survived a day had it been known that he intended to do just what the President told him he should do.

Popular sovereignty had by this time taken a new turn. The party found it necessary to change front, as they had done on the Kansas-Nebraska bill. They were playing a double game. It was a two-faced party, having one face for the North and another for the South. It had a South wing and a North wing; but the latter was unsound, and broke in our contest. When it was found that the free-State men had taken possession of the Territory, and that upon a fair and proper vote there would be a repudiation of the institution of slavery, all of a sudden, when the Administration party had its face turned to the right, and in the right direction to carry out popular sovereignty, where do you find it? Without a moment's notice, this political engineer who had hold of the machinery of the Government made a sudden halt, and the word was, "right about face," and away went the great mass of people one way and this Locofoco juggernaut the other. Thank God! it did not go the same way the people did, or it might have rolled over them all; as it is, the people will crush them. Where then were your leading Democrats? Where then was the gallant Douglas, who had stood by you in 1856-57, and elected James Buchanan President, and a majority of Locofocos to this Congress? Where was your Wise, who had immortalized himself in his campaign against Sam? Where were your men of the North, and of the South, who had been preaching the doctrine of popular sovereignty? They stood firmly by popular sovereignty, and are now denounced as traitors; and if they remain in this party, they must do service in the rear ranks. Why, sir, the President's guillotine was put to work taking off the heads of the friends of the very men who had been put upon the track of popular sovereignty by this same political organization called the Democratic party.

Now, I say these are very unkind acts in the President. If he intended to change front, he should at least have given a little notice. He should have at least given as much notice to his friends, as we have to give a man in the State of Ohio to turn him out of our premises. But, sir, I can imagine an orator in our country addressing an assemblage of Democrats, upon the stump, dilating upon the beauties of popular sovereignty, when a horseman comes up at a high speed, in the middle of the speech of the stump orator, bearing the intelligence that the party has changed front. That the Administration at Washington have decided that, instead of popular sovereignty being a good institution, although it had pleased all our people all over our country, North and South, it had become a most abominable heresy; and every man engaged in that kind of preaching was to be ostracized, and forever held in disrepute by the party. Think of the surprise of the stumper at such an announcement. Yet this is illustrative of the course of the Administration. No matter if they were men who had always stood by the party even in its evil days; even in days when many good men had left it they had stood by with the hope of reforming it; because they would not abandon a doctrine of the party, a doctrine which had been preached so long, so loud, and so effectively to the people. One single day swept them out of existence; and the great misfortune is that they have got to go down to posterity as delinquents and political renegades. They can never recover from such a shock unless they join the Republicans, and make themselves useful to the country by adherence to correct principles. There are a great many of them good men. I know a

great many Democrats, good and true men, who are included in this class.

Well, sir, during the time these things are taking place in the General Government, we, the people in the States, who, though we were at first suspicious about its origin, had pretty much made up our minds that this doctrine of popular sovereignty, as proposed to be carried out by the President, in the first place, was a reliable and good doctrine. The Democratic party in the State of Ohio, in 1857, became highly elated with the doctrine; they made it the watchword of the party, and with it they made the party stronger than it had been since 1854, because they adhered more closely to principle. In 1857, that party met in State convention at Columbus, and nominated Henry B. Paine for Governor. Their candidate, an eloquent man and a man of learning, came out and made them a speech, from which I will read a short extract, which shows conclusively where they stood, if they were honest, and if not, that they are of that peculiar class called hypocrites. He went on to eulogize the Administration; but that was before the Administration changed front on this popular-sovereignty doctrine.

It was before popular sovereignty had become a heresy in the Democratic party. He says:

"Under his administration Kansas, protected alike from New England and the South, is working out the peaceable results of righteousness. At a day not distant or doubtful, as from the beginning had been predicted, Kansas will be admitted into the galaxy of States, with a free-State constitution, by the votes of her own people; abolishing forever slavery in her midst, thus furnishing an application of practical Democratic doctrines."

• Here you see it declared again that it is the destiny of Kansas to be admitted as a free State, by the votes of its own people, under the auspices of the Democratic party. This is called the "practical results of righteousness." This is just what was "predicted from the beginning." There the Locofocos are anti-slavery, here pro-slavery. It was upon that doctrine that this Democratic candidate for Governor of the State of Ohio went into the canvass, and received a very large and complimentary vote. If he had avowed any such doctrines as are practiced by northern Locofocos here, he would not have received one third the vote he did, and would have been a disgraced man. Yet, with this hypocritical doctrine, he came high being elected Governor of the great State of Ohio.

Why, sir, what is the principal Democratic doctrine? At the South it is the admission of Kansas as a slave State; is it not? Is not that what the Democracy of the South want? At the North they pretend to favor its admission as a free State, and yet their Representatives voted for her admission as a slave State. This I regard as unadulterated Locofocoism.

MR. SMITH, of Virginia. I will answer the gentleman, if I can get the floor.

MR. LEITER. You will have to answer your own Democratic Governor first, who will hold you up in your true light in Virginia.

MR. SMITH, of Virginia. I will answer you first, and him afterwards.

MR. LEITER. Well, you will have a nice job of it. Now, sir, that this doctrine might be fully disseminated in Ohio, it became necessary to have more than the speech of their Democratic candidate for Governor, and on the 7th September, 1857, the Democratic State central committee of Ohio issued an address to the people; and there is some tolerably good reading in that address. I commend it to the consideration of my Democratic friends on this floor. I will read a short extract from it:

"The committee point with pride to the firm and statesmanlike attitude of the President and the Administration in reference to the affairs of Kansas. The determination of Mr. Buchanan to use all his constitutional power, to secure to the people of the Territory the free exercise of their suffrages upon the adoption of the State constitution, meets the unqualified approval of the whole national Democracy, North and South. In the North it could demand no more; in the South it could claim no less. The position taken by Virginia at this juncture is sufficient to arouse the exultation of her sons, wherever they may be found within the limits of the Union, and should be enough to excite the emulation of Ohio to take a stand of equal patriotism. In the eloquent language of one of her Democratic organs, 'Virginia will pray that the Union, as its affairs are now administered, may, in duration, exceed that of the Egyptian pyramids, which, after the lapse of four centuries, still stand erect and unshaken above the floods of the Nile.' The obstacles interposed to prevent a peaceable settlement

of the affairs of the Territory, by the people at the ballot-box, in order to create capital for the tottering Republican factions in Ohio and New York, cannot be too severely reprehended."

Here is an endorsement by that central Democratic committee, of the doctrine of popular sovereignty, of the right of the people of Kansas to settle their own domestic affairs in their own way, without interference from the North or the South, or any other quarter. That was good Democratic doctrine in 1857. It was indorsed by the Democratic party of Ohio. The Democratic candidate stood upon it in his canvass for the gubernatorial chair. Then Kansas was to come into this Union as a free State, "thus furnishing an application of practical Democratic doctrine." Here you gentlemen of the South have evidence of the hypocrisy of the Locofocos of the North, and their double dealing on this question. But prior to the election in Ohio, a convention had been called to meet in Kansas for the purpose of framing a constitution, the delegates to which were publicly pledged to a submission of the constitution to a vote of the people of the Territory; and this, too, was urged in Ohio in defense of their position. That convention, called the Lecompton constitutional convention, met. Mark you; the word must have been passed around that Kansas should be a free State, or Mr. Payne would not have made such a speech; nor would that address have been published; for he and they are the most arrant hypocrites that live. Fearful of the results which would follow the action of that convention, a sudden and unexpected change of policy was adopted by the convention, and it adjourned its deliberations until after the election in the States were over. The Republicans in Ohio, and all over the country, sounded the tocsin of alarm, that treason again had entered the camp, and that the enemy were about to usurp the rights of the people of Kansas.

Boldly and manfully were the rights of Kansas upheld by the Republicans all over the country. The President and his party, instead of carrying out their pledges in good faith, with an unworthy disregard of the rights of the people, cast their promises to the winds, and the hypocrisy of their professions became apparent, and the country now is left to depend upon broken promises and violated faith from them. This Lecompton constitutional convention met on the seventh of November, and framed a constitution for Kansas: Then the Legislature of Ohio was elected, and all the elections of the State were over. What, then, was done? They framed a pro-slavery constitution for Kansas—a pro-slavery constitution from the beginning to the end, without a mitigating clause for the relief of the people. Yet, pro-slavery as it was, and pledged as they had been, they dared not submit it to a vote of the people of Kansas. By a system of political thimble-rigging and legerdemain they expected to entrap the free-State men in that Territory. It was all the time claimed, however, by them, that this Lecompton constitution was not a pro-slavery constitution. It was said that portions of the constitution could be stricken out; but the villainy of the thing was too apparent to deceive.

That that constitution is preëminently pro-slavery no fair-minded man will gainsay or controvert; yet it was, and is, claimed by some that such is not its character; and that the people, by the vote provided, could make it a free State. I must dissent from all such constructions of that instrument. I deny that it is susceptible of any such construction; and charge that it is pro-slavery, and pro-slavery only, be the vote what it may. In this opinion I am confirmed by the following extract from the speech of Mr. Randolph, a member of that notable convention from Atchison:

"Now, what was this scheme? What is said? Why, here we have two constitutions—one for slavery, and one without. Well, that's a good one. [Laughter.] Yes, you may laugh; it's just humbug. The fact is, it's a slave-State constitution, and a slave-State constitution. That's it; you may laugh. I'll tell you, the world will soon be laughing at us. This is a grand humbug. It's not fair. It is supposed by some of the gentlemen here that they are awful smart, or that the Abolitionists are awful fools. We expect them to vote for a slave State in this way. They are not such fools as you suppose. But let us suppose that they are such fools. Is it right to swindle them in this way? It isn't fair; I won't do it. If we are to submit it at all, submit it fair; let them have a free-State constitution if

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they vote to beat us, or do not submit it at all. I tell you this scheme of swindling submission will be the blackest page in your history; and we will never hear the end of it."

This gentleman has spoken like an honest man, pro-slavery as he is, and denounced this scheme of submission as "scoundrelism and humbuggery," intended to defraud and deceive the free-State men of Kansas. I commend this extract to the special consideration of gentlemen here, who claim that the people of Kansas had an opportunity of making a free State, and obstinately refused.

But, sir, this is not all. I have other evidence to prove that instrument pro-slavery. Another gentleman, a member of that convention, and who assisted in forming the constitution, has also spoken on this subject; and I now direct the attention of gentlemen to the following extract from his speech; I allude to Mr. Mobley, a pro-slavery delegate, who said:

"He was a pro-slavery man, and wanted to take steps to make Kansas a slave State. He denounced the trick of the majority report. There were but two ways of making a State constitution. One of them was to submit, and the other was to send direct to Congress. He denounced the majority report. It is a swindle—a monstrous fraud. It wears falsehood on its face in letters of brass. It pretends to submit the constitution, and does not. This is a glaring fraud. It was concocted, not by the pro-slavery party, but the political Democracy. It is a lie, a cheat, a swindle. He is a pro-slavery man. He wants to make Kansas a slave State. He, therefore, puts in the clause requiring the oath. Their enemies will not take that oath. They will thus proceed in a straightforward, regular manner. What do you expect to catch the Republican party of Kansas with that bait? You can't do it. I tell you, if you adopt that report, there will not be five hundred votes for the constitution. The Republicans will never touch it. The true pro-slavery men will forsake it. Where will it be? You can't induce the free-State men of Kansas to vote under such a cheat."

It is to be presumed that this gentleman knew what he was doing, and what he was speaking; and no man will venture to say he was an Abolitionist, determined to make Kansas a free State, or had any motive to do anything less than make a slave State of Kansas. He brands this submission scheme as "a monstrous fraud, a lie, a cheat, a swindle," and a pretended submission of the constitution, when it did no such thing. Notwithstanding these bold and manly declarations, men are found here from the free States of the North who claim that this swindle is a *bona fide* submission, and that the people are bound by it, and should have voted. These gentlemen, representing free State constituencies, voted to force this fraud, cheat, and swindle, without any change or modification whatever, upon a patriotic and free-dom-loving people who had rejected it by an overwhelming majority; and now these gentlemen, with an unparalleled audacity, set themselves up as rulers and lawgivers for the Democratic party, with power to read Jeffersonian Democrats out of the so-called Democratic party, for refusing to force upon that unwilling and greatly injured people a repudiated constitution.

I congratulate the country upon the fact, that notwithstanding all the schemes and machinations of these Locofocos, they were unable to force the Lecompton constitution upon the people of Kansas. Being foiled in this, their favorite scheme, they applied themselves to getting up another swindle, by which to cheat and defraud that people. The English bill was the result of their deliberations, as the last resort, to make a slave State of free Kansas—a favored scheme of these men. That bill is no less a fraud and cheat than the submission scheme proposed in the Lecompton constitution. We have, in this case, the first trick of the kind ever attempted by any party to influence the people to vote for slavery in consideration of a land bribe and their admission into the Union as a sovereign State, with a pro-slavery constitution and forty thousand population, while they had the penalty for refusal held out to them in the proposition, that, if they did not accept it, they should not be admitted into the Union until there should be a population within that Territory of from one hundred and ten to one hundred and twenty thousand. This is the first instance of an infliction of punishment for the love of freedom, since the days of George III. and the American Revolution. I specially call the attention of this House and the country to this matter, and now, in my place here, give the slave-Democracy notice

that I shall hold them responsible before the people for this flagrant outrage upon the people of Kansas, and their usurpation of the rights of the freemen of the United States. This disparagement of free institutions, by these pretending Democrats, shall be published throughout the whole length and breadth of the land, and upon it we will go before the country and take the judgment of the people at our coming elections.

We have again the humiliating spectacle of free Kansas in the North, and slave Kansas in the South, that was so hypocritically and shamefully practiced upon the people of those sections of the Union, with only this difference: that it is now submission of the Lecompton constitution under the English bill in the North, and non-submission in the South; thus playing off the same old game of fast and loose that was too successfully played under the Kansas-Nebraska act.

The Lecompton Locofocos of the North are now placing themselves upon the high ground of submission, and that party at the South put themselves upon the opposite ground, and claim there is no submission; and, with this important decision upon an essential question, they are now before the country claiming to be a national party, with principles harmonious in both sections, while, in truth, their principles are antagonistical and diametrically opposite. Let them settle this inconsistency. They dare not submit it to a vote of the people of Kansas, and they know it.

The December election was held, at which there were some twenty-five hundred legal votes polled—I say nothing of the fraudulent votes—and this is now claimed as an indorsement of the swindle by the people of Kansas. The Legislature which was elected in Kansas, being a free-State one, organized and passed a law to submit that constitution to the people on the 4th day of January. The result you have: overwhelming was the condemnation of that fraud and swindle, that attempted usurpation of the rights of the people of Kansas. I will not discuss the legality of the elections of December or January. The facts are before the people. The country understand the position of parties, and they well know how to make up their action with regard to them. Condemned as that constitution was, pledged as Mr. Buchanan and his administration had been to a submission of the constitution to a vote of the people, yet the President, a Democratic President—God save us from all such!—sends to this House a miserable, whining, sickly, regretting message, recommending its adoption, in violation of all the confidence ever reposed in him by an honest people, who had been deceived into his support.

Gentlemen tell me that the men out there would not vote. I admit it. What was the use of their voting? What propriety was there in their voting? None, sir; for if they had voted they would have fared no better than they did without voting; but, in my opinion, worse, infinitely worse. The thing was set upon them. It was prearranged. The programme was fixed. The trap had been set to catch the free-State men in the Territory of Kansas; but they were not caught; this trick, at least, failed.

Mr. COX. I ask my colleague whether he ever adopted the Lecompton constitution?

Mr. LEITER. No, sir.

Mr. COX. Did you ever vote for the preamble to the Crittenden-Montgomery bill containing that sentiment?

Mr. LEITER. My dear sir, there never was a vote taken on that preamble.

Mr. COX. Yes, there was.

Mr. LEITER. There never was a vote taken on that preamble, and I call the attention of the officers of the House to that fact.

Mr. COX. Let me read it. Will the gentleman allow me to explain? I simply wish to call my colleague's attention to it, for I want to have the fact on record, for use in the next campaign.

Mr. LEITER. Certainly; I know what the preamble is.

Mr. COX. Let me read it. The preamble is:

"Whereas the people of the Territory of Kansas did, by a convention of delegates called and assembled at Lecompton, on the 4th day of September, 1857, for that purpose, form for themselves a constitution and State government, which said constitution is republican, and said convention having asked the admission of said Territory into the

Union as a State on an equal footing with the original States—"

Mr. LEITER. But you cannot show that I ever voted for that preamble, and you know it, if you know anything.

Mr. COX. You voted to strike out all after the enacting clause, and that was before the enacting clause.

Mr. LEITER. Exactly; and instead of taking a vote on the preamble as usual, no vote was taken; and you cannot show that there was.

Mr. COX. I can refer the gentleman to the Congressional Globe, showing his vote. He will find it at page 1438.

Mr. LEITER. Show it to me, sir. This vote was not on the preamble, but upon what followed; and I repeat, the preamble was never voted upon, nor was it ever adopted by this House.

Mr. COX. I do not say but my colleague may have done it in mistake.

Mr. LEITER. No, sir; I do not make mistakes in voting. I never voted for that preamble, and I never would vote for it, and I challenge you or any other man to produce the record or vote that will show it. The preamble remained upon the bill by bad engineering, and not by the vote of any one.

RIVER AND HARBOR IMPROVEMENTS.

SPEECH OF HON. I. T. HATCH,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. HATCH said:

Mr. CHAIRMAN: I shall ask the attention of the committee for a brief time to the consideration of the subject of river and harbor appropriations.

No general appropriation since the year 1852 has been made for the improvement of harbors on the northwestern lakes, and of the navigation of our north and southwestern rivers.

The millions of property and the thousands of lives lost upon these waters through the neglect of the Government, it would seem, should arrest public attention. The loss of life and property is still annually increasing. It is doubted, now, whether the bill reported by the Committee on Commerce for the mere repair and preservation of the public works on the northwestern lakes will receive any consideration proportionate to the magnitude of the interests involved.

Your Committee on Commerce say, in their report, they "accept for their guide on this occasion that legislation of their predecessors which, having been now nearly consummated by appropriations, appeals not only to their judgment with the force of a precedent, but presents to their discretion the impropriety of suffering, through neglect, the sacrifice of the millions of money already expended. The vast expanse of commercial enterprise which occupies the extent of the country, and employs the myriads engaged in its pursuits, is well worthy of the fostering hand of Government, stretched to the utmost constitutional verge." They also say "the fact has been quite apparent that without some assistance the money now expended at various points along our sea, lake, and river lines must become a total sacrifice. In many instances the fruits of repeated appropriations are now perishing for want of proper attention; and in all, may the works be not only saved at their present state of completion by timely appropriations, but preserved for future improvement. Your committee, therefore, though arrested by the exhausted condition of the Treasury in their desire to extend liberal assistance to all works of internal improvement, yet have determined to report a bill comprehensive of appropriations required for the preservation of improvements commenced at harbors and in rivers, but in an unfinished and incomplete state."

The amount recommended by your committee, is \$1,479,861; an amount almost equal to the cost of four or five gun-boats or screw propellers proposed to be now built to protect your foreign commerce!

The reason assigned by your committee for recommending this limited appropriation is the "retrenching policy." This committee must speak sarcastically when they talk about retrenching river and harbor appropriations! As before remarked, no general appropriation for these purposes has been made for six years. During this period your *Treasury was overflowed*; now that it is empty, you *cannot appropriate*, because you must *retrench*. The resumption of the improvements of the harbors and rivers is not to be determined, as we have seen, by an empty or full Treasury; not as a question of constitutional or equal rights; but, sir, it will have to be determined as a question of political power. Persistent refusal to grant these appropriations, and indiscriminate opposition to them, is forcing on this issue; every new State added to the Northwest hastens and insures the resumption of the public works. My constituency are deeply interested in the inland commerce of the country; and, as their Representative, I am bound to urge these appropriations. I shall only now present the subject briefly, leaving a fuller vindication of their justice to the future.

I believe none will dispute the proposition that the external commerce of a nation is entirely dependent on the internal commerce and trade. Foreign commerce cannot exist without domestic commerce.

The history of the rise and fall of nations, in past and modern times, attests this truth. There is only one exception among the four Powers of the world, and the colossal wealth of that country has been accumulating from national robbery and conquest throughout the earth.

No nation on this globe has an inland commerce that equals that of this country, either in the grandeur of its geographical characteristics or in the magnitude of its agricultural and mineral wealth. Nowhere can be found such a chain of inland seas—*Lakes Champlain, Ontario, Erie, St. Clair, Huron, Michigan, and Superior*—all connected by rivers, canals, or ship-canal, and bound to the valley of the Mississippi by a net work of railroads. But, sir, it is only the agricultural and mineral wealth which annually pours through these inland channels of commerce to which I wish briefly to call attention. All the gold that has passed through the *golden gates* of California since its discovery does not equal one year's value of our inland commerce.

Its origin was the completion of the Erie canal in 1825, which opened the vast wilderness and boundless prairies of the West to an eastern emigration such as never before has been witnessed in any exodus of the human races. Here the industrious poor of the world found homes, and founded States. The products of their labor established an inland commerce, from which has arisen foreign commerce sustaining an ocean marine that rivals British supremacy on the seas.

I shall briefly now, sir, refer to the *character, extent, claims, and mode of protection* of this inland commerce.

THE CHARACTER OF INLAND COMMERCE.

Chief Justice Taney says, in 12 Howard, page 452, (1851:)

"These lakes are, in truth, inland seas—different States border on them on one side, and a foreign nation on the other. A great and growing commerce is carried on upon them between different States and foreign nations, which is subject to all the incidents and hazards that attend commerce on the ocean. Hostile fleets have encountered on them, and prizes have been made; and every reason which existed for the grant of admiralty jurisdiction to the Government on the Atlantic seas, applies with equal force to the lakes."

THE EXTENT OF INLAND COMMERCE.

For the extent of the inland commerce, I refer to the official report.

Andrews, in his Colonial Lake Trade, 1852, says—page 49:

"The whole traffic of these great waters may be now unhesitatingly stated at \$326,000,000, employing seventy-four thousand tons of steam and one hundred and thirty-eight thousand tons of sail, for the year 1851. Whereas, previous to 1800, there was scarcely a craft above the size of an Indian canoe to stand against an aggregate marine, built up within half a century, in what was then almost a pathless wilderness, of two hundred and fifteen thousand tons burden."

In 1856, you will find in a report of the Committee on Commerce to this House (No. 316, page 9, vol. 3) an elaborate statement of the tonnage,

imports, and exports of each of the lake districts, as follows:

Commerce of the lakes—exclusive of freight and passenger trade.		
	Tonnage entered and cleared.	Value of imports and exports.
Buffalo district.....	\$3,330,232	\$303,023,000
Cuyahoga district.....	1,782,493	162,185,640
Sandusky.....		59,966,000
Maumee.....	1,034,644	94,107,000
Chicago.....	2,062,000	233,878,000
Detroit.....	1,588,000	140,000,000
Milwaukee.....		35,000,000
Oswego.....	1,607,000	146,325,000
Double exports and imports.....	2)	1,174,394,650
Other ports on Lake Ontario omitted....		587,197,320
		42,226,000
Total value of commerce of the lakes, exclusive of Presque Isle and Michilimackinac.....		639,423,320

I will also add from Graham's official report to the Senate—page 401:

"The States of New York, Pennsylvania, Ohio, Michigan, Indiana, Illinois, and Wisconsin, and the Territory of Minnesota, have their shores washed by the great inland seas, whose intercommunication, by ship navigation, is much interrupted by the want of a safe and sure channel over these flats.

"The States of New York, Pennsylvania, Ohio, and a portion of Michigan, on the one side, are crippled in their important commercial relations with the remaining portion of the State of Michigan, and with the States of Indiana, Illinois, and Wisconsin, and the Territory of Minnesota, on the other side, by this intervening obstacle. Something would seem, then, under the purview of the Constitution, to be necessary to be done, in order to regulate the commerce between these States. Viewed in this light, the subject becomes one of great public concern.

"The value of the articles of commerce and navigation which passed over these flats during the two hundred and thirty days of open navigation, in the year 1855—say between the middle of April and the 1st of December—will be presently shown to have amounted to the immense sum of \$259,721,455 50; that is to say, two hundred and fifty-nine million seven hundred and twenty-one thousand four hundred and fifty-five dollars and fifty cents; or, per day, during the navigable season, \$1,120,923 72. The improvement, then, when undertaken, should be executed with a degree of permanency and celerity combined, commensurate with its importance and the magnitude of the interests involved."

Those who wish to make the comparison between the inland and foreign commerce will find that the former always largely exceeds the latter whenever a healthy prosperity exists among the people, and the balance of trade with foreign countries is preserved. Exports are the credits of a nation and imports its debits; internal commerce furnishes its exports. This commerce had received every sanction which could establish its claim for protection from the General Government. The highest tribunal pronounced it identical in feature and substance, in every commercial and national view, with that carried on between nations on the ocean. So large and of such kind was it, that in 1845, from the necessities of trade, Congress was obliged to pass a law extending over it the whole body of the admiralty laws—a system of laws never before made applicable save to the high seas.

The inland commerce, sir, has not only had judicial and legislative recognition, but its general protection has been sanctioned by the practice of the Government until 1852. I add, from a report of Colonel Albert to the Senate, No. 44, Executive Document, second session Twenty-Ninth Congress:

Recapitulation for the construction and repair of roads and improvement of harbors.	
Under Mr. Jefferson.....	\$48,000
Mr. Madison.....	250,000
Mr. Monroe.....	707,000
Mr. Adams.....	2,310,475
Mr. Jackson.....	10,582,882
Mr. Van Buren.....	2,222,544
Mr. Tyler.....	1,076,500

I will not stop to comment here upon these appropriations, except to mark the fact that three quarters of the harbor and river appropriations have been made by Democratic Administrations.

The rule which governed these enumerated appropriations was laid down by Mr. Monroe:

"That Congress has a discretionary power, restricted only by the duty to make appropriations to purposes of common defense, and of general, not local—national, not State, benefit."

This was recognized by Jackson. He says: "The practice of making appropriations for light-houses, public piers, harbors, and ports of the United States, to

render the navigation thereof safe and easy, had been coeval within the Constitution itself, and been continued without interruption or dispute."

THE CLAIMS OF INLAND COMMERCE.

Now, sir, as to the claims of this inland commerce on the General Government.

In the census of 1850 it will be found that more than half the white population of this country was in the lake States.

The increasing population of the Northwest and the advancing immigration have enlarged this proportion. If it be true that the consumer pays the duties, then, sir, the lake regions pay over half your revenues—some thirty millions. They are the consumers and the producers. They are doubly taxed by the delays, the obstructions, and dangers of the navigation of your lakes and rivers. The additional charges for freight and insurance from these causes diminish the value of their productions and increase the cost of articles of consumption. Duty-paying merchandise which they consume they buy dearer, while they sell their own products cheaper, from the neglect of the Government to improve their lines of inland commerce. I will refer again to Graham's report to show the beneficial influences which the neglect to improve a single work—the national gateway of the inland commerce of this country—has had upon the people of the Northwest. At page 408, he says:

"Freights over St. Clair flats in American vessels in the year 1855, were \$13,761,840; and in foreign vessels trading with American ports \$551,256.

"These results are derived by allowing six dollars per register ton as the price of freights upon the amount of tonnage that passed over the flats to and from the ports mentioned in the districts of Chicago, Milwaukee, Detroit, Cleveland, Buffalo, Oswego, and Ogdensburg, as shown in the accompanying statements marked from N. 55 to N. 70 inclusive. These sums are, of course, the gross amounts of the receipts accruing on freights.

"The net proceeds would be the difference between these sums and the expenses of navigation, such as the hire of crews, insurance on vessels, repairs, tugging off St. Clair flats when aground, losses from detention while thus aground, pilotage, harbor fees, &c.

"Among these enumerated expenses, that which arises from the detention, damage, and towage by steam tugs, caused by the obstruction to navigation at the flats, is the one regarded as the most onerous by the navigators, the merchants, and the farmers of the nine States and one Territory beforementioned." They all have to bear a portion of the additional charges which arise from this cause. The farmer, has, however, the most oppressive part of the burden to bear; because the navigator clears himself, in a great measure, by his increased charges for freight, and the merchant by increasing his prices at retail on account of the losses by the detention and risk growing out of this obstruction to navigation. But the farmer is compelled to be governed by current prices for his grain, and the diminution of price allowed him by the shipper, on account of the contingencies due to the want of free navigation over the flats, is a direct tax on the fruits of the farmer's industry.

"The increase on the rates of freights owing to the obstructions, as it now exists, may be estimated at full fifteen (15) per cent., or annually to the sum of \$2,064,276. Full two thirds of this amount falls on the farmers. They may, therefore, be said to pay an annual tax on their produce, and necessary articles of consumption, arising from this obstruction, of \$1,376,184; which is more than two and a half times the estimated cost of the work upon the most extended plan proposed."

I have referred to the fact that the largest portion of the revenues in this country is paid by those interested in the inland commerce. If this be not true, I ask, sir, to what cause will you look for the decline of the revenue? The southern staples have gone to market in increased quantities and enhanced prices.

From an overflowing Treasury the Government suddenly becomes a borrower. You will have to look to the decline in the inland commerce for the cause. I add the comparative returns for two years of the Erie canal, in the State of New York, which is the greatest channel for the exchange of the inland and foreign commerce, and has made New York city the merchant carrier and banker of the Union:

Statement showing the aggregate quantity and value of the property transported upon the canals during the years 1856 and 1857.

	1856.	1857.
Tons.....	2,774,412	2,047,884
Value.....	\$208,418,441	\$122,206,259
Decrease in tonnage 1856 and 1857.....		726,528
Decrease in value " ".....		\$86,212,182

* The States of New York, Pennsylvania, Ohio, Michigan, Indiana, Illinois, Wisconsin, Iowa, and Missouri, and the Territory of Minnesota, (now State.)

† It will be remembered that the farmer is burdened in a two-fold capacity, viz: first, as a producer; and second, as a consumer.

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The millions of this decrease of the inland commerce, whilst it gives a solution of your financial difficulties, shows unerringly the source of your revenue.

I might follow this inquiry and show that every facility you added to inland transportation and every consumer and producer that emigrated to the West increased the means of your foreign commerce, and in return, increased your revenues.

As a question in political economy in the augmentation of national wealth, the improvement of harbors and rivers should be the first care of the Government.

If those who bear the burden of Government are entitled to share any of its benefits, then these inland interests should not be longer neglected.

You do not hesitate to vote annually millions to protect life and property engaged in foreign commerce in distant seas; yet upon your inland seas, millions of property is there sacrificed and thousands of lives there lost by your persistent neglect to appropriate insignificant sums to preserve their harbors from destruction.

You do not hesitate to vote millions for fortifications, and harbors on the Atlantic coast, but your inland coast, equal in national importance and almost equal in extent, is unfortified, and harbors neglected and perishing receive no consideration, even for common defense; when all know that in the event of war with England, now threatened on this floor, hostile fleets, as in 1812, will again encounter on every inland sea, and our whole frontier again smoke and blaze with contending armies.

It is true you appropriate a few thousand dollars every year for light-houses on our lakes, for which we are thankful, as that gives "light" to warn our mariners in the darkness and the storm to shun your decaying and dilapidated piers, and your dangerous and treacherous harbors.

THE OBJECTIONS TO APPROPRIATIONS.

In the remarks I intended to make, I cannot notice fully all the objections against these appropriations. I can only refer to two, which are the principal ones: First, *That they involve schemes of private speculation and public corruption.*

If this allegation be true, it assails the integrity of the representative and the fidelity of the public servant. It proves too much; it proves a decay of public virtue that strikes at the fundamental principle as well as the progress of self-government. When the public welfare of millions of our agricultural people must be neglected and sacrificed because the Government has not vigor and virtue enough to prevent political profligacy from dividing with them the means which the Government appropriates for the promotion of these paramount interests, then our representative system is not worth preserving.

The other objection made to appropriations for our commercial conveniences and securities in the West is, that the collection districts, as they allege, produce no revenue. This is a modern cavil.

To make revenue a test of these western appropriations is a fallacy not creditable to the intelligence and statesmanship of those who make it. It is answer enough that these general appropriations are demanded by the "public welfare" and the common "defense."

The reciprocity treaty diminished the revenue, but increased the business, and has required enlarged commercial conveniences. If the vigilance now maintained by the custom-house police on the frontier were relaxed, you would find the West soon underselling your New York, Boston, Philadelphia, and Baltimore merchants, from the supplies of contraband goods, and the necessities for the palatial custom-houses on the Atlantic coast would no longer exist, as you would have no revenue to collect.

The revenue which the West pays to the national Government is not to be measured by the meager returns of your custom-houses—it must be estimated by what its millions of consumers pay; for no fact is more undeniable in political economy than that revenue is a tax upon the consumption of the country.

Yes, sir, the consumers and producers of the West demand these appropriations, not as concessions of favor, but of right—constitutional and

equal rights among the States and the people of the States of this Union, to have their harbors improved, their rivers and channels of commerce cleared for the cheap transportation of their articles of consumption and production to and from the markets of the world.

The enemies of inland appropriations vote free trade on the frontier, and then claim that we are not entitled to any appropriation because we collect no revenue. Their logic is as bad as their inconsistency is unpardonable. I will add here, to remove the misrepresentation constantly made on this floor, on these points a statement of the amount of revenues collected, and appropriations made for northwestern lakes, from 1837 to 1855:

The revenues collected in fifteen districts amounted to.....	\$5,511,129 98
Amount appropriated for lakes.....	2,884,125 00
Excess of revenue over appropriations.....	\$2,627,004 98

It will thus be seen that appropriations for the western lakes are in the aggregate about equal to appropriations for the construction of the New Orleans custom-house, which still cries "give!"

THE ONLY CONSTITUTIONAL MODE FOR THE PROTECTION OF INLAND COMMERCE.

I have now to refer to the only mode for the improvement of harbors and rivers suggested, except that sanctioned by the practice of the Government since its origin—the *tonnage system*. This, sir, I believe, is impracticable and unconstitutional. It was tried under the Confederation, and one of the causes which led to the early formation of our present Constitution was the conflict between the States in their internal and external commerce.

The result was the transfer of the power over both, as well as of the revenues of all the States, in trust for the "public welfare," to the General Government as the only remedy for angry collisions and conflicting rivalries between the States.

The history of that period is full of admonition as to its inexpediency, even if it were constitutional, to return to this exploded system.

We would suppose our Constitution plain on this point:

"Nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."—Sec. 9, art. I.

Free trade among the States was the policy of the framers of the Constitution, and in analogy with its spirit and all its provisions. It was recognized in the ordinance of 1787:

"The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of said Territory as to the citizens of the United States, and those of any other States that may be admitted into the Confederacy, without any tax, impost, or duty therefor."

This was reaffirmed by Congress after the adoption of the Constitution by an act of Congress of 7th August, 1789. So it will be seen that in the Constitution as well as in Congress, the principle of liberty was not only intended to be established as an equal right of the people, but free trade between the States was made a part of our organic form of government.

I felt called on, sir, to refer to this tonnage system, from the distinguished recommendation it has received for the last six years—[Mr. DOUGLAS.] It is to be regretted that it has been renewed by some of the friends of the inland commerce of the country, as the effect can only be to divide them on the only constitutional and practicable measure of relief.

I have thus, sir, concisely presented the leading features of our inland commerce, and its claims for these very limited appropriations. It is idle for gentlemen to suppose that they can much longer successfully resist them. This great interest must be restored to its equal position as a branch of public service. The time was when these national questions occupied the attention of this House, but, unfortunately, slavery and anti-slavery abstractions have crowded from these Halls all fair consideration of the public welfare. This cannot continue. These long neglected inland interests must resume their place in the public mind!

Their recognition here will be enforced by the political power that is accumulating in the North

and Southwest from the increasing immigration. The elements of political power with us are population and the ballot-box.

The strip of a sea-board on the Atlantic, and the manufacturing portions of the country bordering on it, must sooner or later yield to the just demands of the numerical supremacy of the West for the improvement of their great lines of internal trade and commerce, which will and must ever be kept free, open, and common to our people. Inland commerce is the peaceful sovereign of the Union.

Its seat of empire is in the summits of the West; the sources of the mighty rivers of this country are there. They cannot be in one Government and their outlets in another. Inland commerce, will hold all together—sea-board, lakes, rivers, valleys and mountains, and from its outward movement to the ocean will be created a community of interest and a fraternity of feeling that will bind the Union of these States together and forever.

POST OFFICE AT COLUMBUS.

SPEECH OF HON. SAMUEL S. COX, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. COX said:

Mr. CHAIRMAN: I did not come here this evening with the intention of saying a word; I expected only to have been a hearer; I wished to pay that compliment to a distinguished colleague, [Mr. LEITER.]

During the course of my colleague's speech, I asked leave to propound this question: whether, notwithstanding all his repudiation of the Le-compton constitution, and after all his statements that the people had repudiated it, he did not record his voice in favor of the preamble of the Crittenden-Montgomery bill? That preamble is as follows:

"Whereas the people of the Territory of Kansas did, by a convention of delegates called and assembled at Le-compton on the 4th day of September, 1857, for that purpose, form for themselves a constitution and State government, which said constitution is republican, and said convention having asked the admission of said Territory into the Union as a State, on an equal footing with the original States—"

My colleague denied having so voted. I referred him to his vote in the Globe, page 1437. He insisted on saying that he did not thus vote. I told him, as I thought very charitably, that he no doubt did so vote for the preamble, under a mistake. My colleague replied that he made no mistakes in legislation. He knew what he did when he voted. I take him, then, at his word. I confess, for myself and many anti-Le-compton Democrats, that we did not know we were voting for that preamble; though I do not consider preambles of much legislative force. But my colleague makes no such mistake—not he. Let us see, then, what he did knowingly.

Mr. LEITER. We were entitled to a separate vote on that preamble.

Mr. COX. Did you get it? Did you ask for it?

Mr. LEITER. That preamble was never adopted by this House.

Mr. COX. I will refer to the record. The gentleman, it must be remembered, never votes by mistake. I have the Congressional Globe before me. Turn to page 1436, where Mr. MONTGOMERY offered his amendment:

"Mr. MONTGOMERY. I move to amend the bill by striking out all after the enacting clause, and insert the following:—"

After voting down Mr. QUITMAN's amendment, the amendment of Mr. MONTGOMERY was voted in. Then Mr. CAMPBELL, an old legislator, who knew well the effect of the vote, called for the yeas and nays on the passage of the bill. What was that bill? I have it before me. It has a preamble before the enacting clause. All after that was stricken out; but the preamble remained. Mr. CAMPBELL called for the yeas and nays on the preamble and amendment of Mr. MONTGOMERY, which constitute the entire House bill. On that vote my colleague's name is recorded for the

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preamble and amendment, page 1437, fourth line from the bottom of the last column.

Mr. LEITER. It must be remembered that resolutions and bills are always passed before the preambles.

Mr. COX. We will come to that in a moment. He did not vote for that preamble; and he never votes by mistake, he says. There is no escape for the gentleman from this dilemma. I would not call attention to it, but for the fact that my colleague's political friends in Ohio, in the course of their unexampled abuse of my vote for the conference bill, have quoted the same preamble which all the Republicans voted for, for my condemnation. I do not profess to understand this thing as well as the gentleman. He never votes by mistake; therefore, he must have sustained that bill as it went from the House to the Senate; and that bill, as it passed the House, had the preamble in it. How could it have got through this House without his vote? for on this bill he voted every time with the majority! Can there be any doubt about it? Turn over to page 1438, and you will see that Mr. MONTGOMERY, after "the bill, as amended, was passed," moved to "strike out of the preamble a part of the language used."

Mr. LEITER. We ought to have had a separate vote on that preamble. It was poorly engineered. I looked on the management then as bungling.*

Mr. COX. Whether it was good engineering or not, my colleague voted for the preamble; and he never votes by mistake. If it was bad engineering and bungling, my colleague is in for it; and cannot help it by his denial. Ah! the gentleman is beginning to understand the matter. If it was all right, and he made no mistake, and he did not vote for the preamble, where is there any bungling? Where the bad management? If my colleague did not vote for the preamble, there is no bungling, none at all. Why should Mr. MONTGOMERY move to strike out a part of the preamble, if the gentleman [Mr. LEITER] voting with the majority did not vote for it? Allow me to quote from the Globe, page 1438:

"Mr. MONTGOMERY. Is it in order to move to strike out of the preamble a portion of the language?"

"The SPEAKER. The Chair is of opinion that it is not. The question has been suggested within the last few minutes. The proper time to have moved any amendment to the preamble was, in the opinion of the Chair, before the bill was ordered to a third reading."

So that it was then too late, as it is now too late, for any of us to get rid of that vote for the Montgomery bill. I have no such desire. I think, before the fall election is over, certain gentlemen will be sorry for their attacks upon members who honestly voted for the conference bill,

*The complaint of Mr. LEITER is, that he did not get a chance to vote against the preamble; that it ought to have been submitted to a separate vote. The inference he would like us to draw is, that as he could not get a separate vote, he had to vote for the whole bill—preamble and amendment. Now, he had a clear chance to take; if he did not like the preamble, he could have voted against the previous question, which estopped a separate vote. This he did not do. He voted to sustain the previous question. He therefore voted to cut off his own chance to get a separate vote; for it is well settled that after a bill is passed under the previous question it is out of order, as Speaker ORR decided, to amend or strike out the preamble. Never has a point been more notoriously settled. It was settled in the Twenty-Ninth Congress, famous for its accomplished parliamentarians—Winthrop, Cobb, Douglas, John Quincy Adams, Toombs, Ingersoll, and others. It was settled in the Mexican war bill. Its famous preamble ran thus: "Whereas, by the act of the Republic of Mexico, a state of war exists between that Government and the United States: Be it enacted," &c.

Many of the Opposition wished to vote supplies, but believed the preamble false. But they had no power, as they knew, to amend the preamble, or strike it out. They could not get a separate vote on it after Mr. Brinkerhoff demanded the previous question. Mr. Garrett Davis, laboring under this dilemma, said: "I object to the preamble, because it sets forth so bold a falsehood. I protest solemnly against defiling this measure with the unfounded statement that Mexico began this war." Congressional Globe, vol. 15, page 794. Mr. Garrett Davis asked to be excused from voting; but he was not excused. He voted for the bill, but he did what Mr. Leiter did not—protested against the preamble. He never claimed a separate vote on the preamble, because he knew it was unparliamentary. The parliamentary law was before then well settled. No doubt many (Deiano, Root, Giddings, Adams, Vance, and others) voted against the bill because they did not like the preamble. Mr. Leiter had the same privilege on the House bill. He did not exercise it; and it is too late now to complain. Certainly he cannot complain of the Democrats who voted with him for the same preamble—in the Senate bill, the House bill, or the conference bill.

which, as Mr. MONTGOMERY himself says, is the same thing in substance, except, perhaps, a "few verbal alterations."

How, then, can the gentleman say there is a preamble to the House bill, unless he voted for it? He never gave a vote against the bill in any shape. The preamble was voted for by him when he voted for the bill as amended.

Mr. LEITER. It was permitted to remain there, when it should have been stricken out.

Mr. COX. Very well. I have said all I desired to on that point. That remark of my colleague is enough for him. I do not refer to this matter now for any other purpose than to advise gentlemen that they are not to be allowed to put the Democracy of Ohio to the defense of that which they themselves did—knowingly did—did under no misapprehension. And when we are charged with voting, by way of preamble, that the "people of Kansas" made Lecompton "for themselves," we point to the entire Republican record to show that gentlemen, under "no mistake," recorded the same thing as their opinion.

But, Mr. Chairman, I rose principally because I desired to express my views, briefly, upon a matter of local importance to my State, district, and city. I wish to place upon record the views and facts which appertain to a local measure that lies close to my heart, and which I have pursued this whole session with a sleepless anxiety. I hold in my hand House bill No. 539, reported unanimously from the Committee on the Post Office and Post Roads, "providing for certain public buildings for post offices and other Government purposes." Among the hundred cases submitted for their consideration, the committee, on the 28th April, wisely selected about a dozen, and, among them, the city of Columbus, and have reported \$50,000 "for the purchase of a site and the erection of a building there, for a post office, and other Government purposes." Yesterday, the Post Office Committee of the Senate selected Columbus, with three other cases, for the favorable action of the Senate. To-morrow the vote will be taken on it in that body.

With this double and emphatic recommendation, I propose to give to the House some of the reasons I have been urging for the appropriation.

I know that it is an unpropitious time for such matters. The Treasury is empty, although the country is rich. The Government, however, has no debt of any consequence to a nation like ours; and although the Secretary of the Treasury frowns upon such objects at present, yet I do hope that a case of necessity like that of Columbus will not meet with a rebuff from Congress. At least, I shall have done my duty in presenting its merits now; trusting, if not to the present, then to the next session, to do what ought to be done now.

I desire, at least, now to lay the foundation of a claim on the legislation of Congress which, at a more seasonable time, I will urge, with no such drawback as a poor Treasury.

No one who has ever seen the present Columbus post office building would doubt that there exists a pressing necessity there for the construction of a Government building. Some eight hundred of its prominent citizens have memorialized Congress upon that subject.

The following among other reasons are urged in its behalf:

1. Columbus is the capital of Ohio, in which is annually assembled the Legislature of the State, composed of about one hundred and sixty members and officers. This body is in session at least three months. The supreme court of the State holds terms during one half the year. The executive offices and nearly all of the public institutions are located here.

Other State capitals, among the rest our neighbors, Indiana and Illinois, have had the benefit of a post office building conferred on them. Our State has at least equal, if not superior, claims to the same regard.

2. The city contains a population of about twenty-seven thousand inhabitants, and is the center of extensive and important business transactions. There are four railroads radiating from thence—to Cleveland, to Wheeling, to Indianapolis, to Cincinnati—each cardinal thoroughfare to the four points of the compass.

3. The office performs the business of a pop-

ulation of nearly forty thousand, in addition to the population of the city. Its revenue is \$4,224 65; but that is no adequate criterion of the importance and service of the office.

4. It is one of the three distributing offices of the State, and has in its service the labor of twelve clerks, and requires really a larger force.

5. The building now in use is poorly adapted to the business of the office. Its construction does not afford the necessary facilities for the convenient transaction of business. It is badly lighted, and cannot be warmed without danger. It is not a safe depository for the valuable matter passing through the office. In its rear is a bake-shop and coffee and spice-grinding establishment, which has three times been consumed by fire. On the last occasion of fire, an adjoining building was destroyed, and many others put in danger. On one side is an extensive eating establishment, which has its kitchen under the office. In the upper part of the building are offices, and a public hall for concerts and exhibitions. The rent for the present office is \$800. It is on the south side of the public square, in a most convenient location, but wholly inadequate for the purpose for which it is used.

6. There is no building in the city, with a proper location, and of proper construction and arrangement, which can be rented for the office. The building ought to be in the heart of the city, and no such building can be had at present.

7. There is another claim which central Ohio makes for the accommodation of the capital. There will be terms of the United States courts held again at Columbus, when the law now reported for that purpose in the Senate shall have passed. The exigency of the case demands such a law. The separation of the State into two judicial districts, in 1854, was a loss to the capital, in more than one sense. It was a great disadvantage to one third of the counties of the State, which were interested in the litigation of the United States courts. Ohio furnished at Columbus, for years, a building, rent free, as I believe, for the United States courts; and now she asks, in her necessity, for a building for Federal purposes—as one sign, at least, of Federal recognition.

8. She has had but little attention of this kind. Although paying, as I shall show, over six million dollars annually, into the Federal Treasury, she has received in appropriations for buildings, altogether, only about six hundred thousand, as follows:

Cincinnati.....	\$201,130
Toledo.....	75,001
Sandusky.....	74,571
Cleveland.....	159,800
	\$601,502

I might show what other States, which pay smaller tribute to the Federal Treasury, have received, not counting immense appropriations for sea-coast improvements, but simply for buildings alone. Maine has received more than \$650,000. Little Rhode Island over \$264,000—a State with one tenth of the representation which Ohio has on this floor. The New Orleans custom-house alone has already cost \$2,675,258, and requires, to finish it, \$1,500,000 more. It has already cost nearly five times as much as Ohio has received altogether. Virginia—less than Ohio in her Federal representation and Federal taxes—has received \$800,000 for public buildings.

But these comparisons are invidious. I venture to say that Ohio, by the votes of her members of Congress, has contributed liberally toward those improvements which lie out of her State. She has been as liberal by her votes to the Atlantic and other States, as she has been by the payment of her Federal taxes. She pays, as I said, one tenth of the Federal revenue. The taxes paid by the people of Ohio stand thus:

Taxes paid to the State.....	\$2,609,395
Taxes paid for local purposes.....	6,063,903
Taxes paid to the United States.....	6,000,000
	\$14,673,298

The taxes paid to the National Government are more than double those paid to the State Government; and the people of Ohio pay for the support

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of the State government but *one sixth* what they pay for the support of the National Government; for one half of the above \$2,609,000 is paid for schools.

The statement that we pay \$6,000,000 to the national Government is based on these facts:

1. The average national revenue (wholly indirect) is about sixty-five million dollars per annum. This year it may be \$70,000,000; but \$65,000,000 is a fair average.

2. The entire amount of this is paid by the white inhabitants of the United States, excepting, perhaps, a very few free blacks.

3. Of the white population of the United States, the State of Ohio has just about one tenth.

4. The people of Ohio have as much property, and live quite as comfortably as the people of any section of the Union.

5. From these facts, it follows inevitably, that the people of Ohio consume one tenth of all the products on which the custom-house tax is levied, as iron, sugar, &c. They also, undoubtedly, pay their full proportion of what is paid for public lands. In the last ten years, full seventy thousand people have gone from Ohio to Iowa alone. This is a matter of certainty. Millions of our capital have been sent West and invested in the public lands of the new States and Territories, and have contributed to swell the Federal exchequer. The conclusion, then, is unavoidable, that the people of Ohio contribute one tenth, namely, \$6,500,000, to the national revenue. For caution's sake, I put it at \$6,000,000.

Is it not fair and just that a State so liberal and ready to do her part toward the Federal revenue should receive some consideration. Even in a time when the Treasury seems depressed, when she presents a case of necessity and urgency, should she not have a small quota of the public expenditure? Ohio gives freely to the improvements of the coast. She has paid her tribute for the maintenance of our noble little Army. She has voted to sustain the Navy which bears our flag; and though "inland far she be," she is as ready today to vote supplies of balls and powder, shells and ships, and other instruments of naval warfare, to punish British insolence and aggression, and maintain the nationality of our flag, as she was in her youth, on the 10th of February, 1810, when, by the resolutions of her Legislature, she pioneered the sentiment which led to the late war with England. In every relation which Ohio sustains to the Federal Government, she has shown a fidelity and a patriotism which it is not now in bad taste, I trust, to recall, when I ask for her beautiful capital, which I am proud to represent here, a structure which may at once decorate it with a monument of elegance, and subserve the most practical purposes of a prosperous and growing population.

I conclude, Mr. Chairman, by moving that the committee rise.

Mr. LEITER. I wish to ask my colleague a question here. Have I not quoted correctly the remarks of Governor Paine?

Mr. COX. I expect you have. I expect that Governor Paine will say the same thing upon the stump in Ohio in the next canvass. We will stand up to the doctrine of the Cincinnati platform, and we will, I have no doubt, *after the election*, have the gratification of knowing that we have again thrashed our Republican opponents. We will not claim the victory until it has been won. We will not go into ecstasies over a result until it has been announced. We will not, as the gentleman from Virginia says my colleague has done, count our chickens before they are hatched.

Mr. LEITER. Did I not quote from the Democratic Central Committee of Ohio correctly?

Mr. COX. I am not positive about that. I should like to examine for myself. I have no doubt the gentleman has endeavored to quote correctly.

Mr. SMITH, of Virginia. The Democrats of the South only ask that the people of Kansas shall manage their own affairs in their own way. Let that be conceded to them, and there will not be a murmur from us.

Mr. COX. That is my doctrine.

Mr. LEITER. My colleague must know that I would not quote what was not a true extract.

Mr. COX. I concede that.

WASHINGTON AND OREGON WAR CLAIMS.

SPEECH OF HON. I. I. STEVENS,

OF WASHINGTON,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. STEVENS said:

Mr. CHAIRMAN: I take this occasion to present a few observations in regard to the Washington and Oregon war claim. This is a matter certainly of some little consequence, for it involves no less a sum than \$6,000,000. Incident to this, however, is another question of more importance still, namely: the character and honor of the people of those distant Territories, and the honor of our whole country. One question touches the Treasury of the United States, and the other the good name of the people of the United States. I shall dwell upon them both. I shall endeavor to vindicate the character and conduct of the people of those Territories, and the operations undertaken by the authorities of those Territories for the purpose of suppressing Indian hostilities. I shall endeavor to show that those operations were necessary, that they were economical, and that they are entitled to the confidence and sympathy of the country; and finally, I shall endeavor to show by precedents, by the course of the Government in regard to other portions of the country, that we have a right to expect prompt and ample justice from the Congress of the United States.

Mr. Chairman, it has been often charged against us that that war was brought on by outrages upon the rights of the Indians; that it was gotten up for the purpose of speculation; and that it was the treaties which caused the war. Well, sir, suppose the treaties did cause the war; suppose we did have vagabonds in that country who committed outrages upon the Indians; suppose some few citizens were operated upon by the motive of making a speculation out of the war; if these things be true, did they make it any less the duty of the people and of the authorities of the Territories, a war having come upon them, to protect the settlements? What account would an Executive have had to render, who, when he heard that the Indians were devastating the settlements, burning the houses, and massacring the women and children, had declined to protect those settlements, on the ground that here and there a white man had outraged the Indians, and had driven them to arms? Suppose the treaties *did* incite the war, was it the fault of the people of those Territories? Was the appointment of commissioners, the calling together of councils, and the forming of treaties, their act? Not at all. It was the act of your Government. It was the act of your Congress. It was done under the orders of your President. The people of the Territories certainly were not responsible, nor were the Executives of those people responsible. Sir, it does seem to me that it would be trifling with the intelligence, and insulting the understandings of gentlemen of this committee, if I were to undertake to defend the people of those Territories from the charge of having brought about this war for purposes of speculation. Who are the people of those Territories? How did they get there? Were they mere vagabonds and outcasts? Did they go there without law, and give to the world an example of lawlessness and insubordination? No, sir, they were American citizens, the very choice and flower of your yeomanry. They went there carrying with them the arts and arms, the laws and institutions of their country, and there they planted empire and civilization. How is this Government, and how are the people of these States known upon that coast? It is through the eighty-odd thousand people there who have given to the world, from their first settlement, an example of a law-abiding, an industrious, a patriotic, a suffering—ay, and a heroic people. You are known there through them, and through the institutions which they have carried there with them. Sir, when men talk about vagabonds in that country, I might with propriety refer them to Baltimore, and to Philadelphia, and to New York, and to all your large cities, and even to this national capital.

Have you no vagabonds? Have you no courts, no juries, no jails, no penitentiaries? Why, even here, murder stalks at noon-day, and has marched in procession. It has controlled the elections of a neighboring city; and this, too, in your densely populated old States—this, too, in your cities, where civilization and refinement reign. I say to gentlemen who fling the term *vagabond* into our faces, first pull the beam out of your own eye, and then you can see clearly to pull the mote out of your brother's eye.

But, Mr. Chairman, I most emphatically deny all these charges; and I speak from the most abundant opportunities of personal observation. The good name of that people is dear to me. They have behaved in such a manner as entitles them—not to sufferance, not simply to be passed along, but entitles them to your admiration and praise. They have held high advanced the flag of their country's honor, and have maintained the humanity and beneficence of its institutions.

Mr. Chairman, the Indian tribes of those two Territories number some forty-odd thousand souls: in Washington some twenty-two thousand, and in Oregon some twenty thousand. When the war commenced, in 1855, we had in Washington only about seventeen hundred able-bodied white men. The Indian tribes were all greatly disaffected; and their friendship could not be depended on. They numbered in the neighborhood of Puget Sound alone some two thousand five hundred warriors, whilst on that sound we had not over one thousand able-bodied white men. East of the Cascades the Indian tribes are rich, proud, and brave. They had great chiefs—such chiefs as Kam-ay-kan and Pu-pu-mux-mux. They had shown their prowess in war; at one time requiring the provisional government of Oregon to exert all its strength in order to punish them for the atrocities committed in the robbery and murder of Mr. Whitman and his whole family. In the summer of 1855, just before the war commenced, the general impression in both Territories was, that there was little or no fear of war; for, Mr. Chairman, we had had rumors of this during previous years. The Indians had been, more or less, disaffected for a long time. There were many rumors of disaffection in the spring of 1855, though they were generally discredited. In the spring of 1855 both Colonel Bonneville, in command of the Columbia river district, and Major Rains, in command at the Dalles, came to the conclusion that the Walla-Walla chief, Pu-pu-mux-mux, ought to be seized and put in confinement, on the ground that he was getting up a general Indian war; and he would have been seized, and put in confinement, had it not been for the persuasions of the Indian officers, who, equally with myself, discredited the reports, and had confidence in Pu-pu-mux-mux.

Previous to my going to the Walla-Walla council, word was sent to me by the good father Richard, the superior of the missions in Yakima and Cayuse country, that the Yakimas, Cayuses, and Walla-Wallas would attend that council with a hostile purpose, and that I would go there at the hazard of my life. I had warning from various sources; but the council had been called, and I went there in good faith, in order to attend to the business for which it had been called. We were in council fourteen days, in friendly council and friendly converse with the chiefs and the great body of the people of all these tribes. All these chiefs, who afterwards took up arms, were in my camp, and sat at my table during these fourteen days. I talked with them morning and evening, besides our formal talks in council; and in regard to that council this House has now in its possession an official record of its proceedings—a record which was taken *verbatim* by two secretaries separately. It is not a fixed up or patched up concern. It has been charged that the Indians there were threatened, and that force was brought to bear in order to get their consent to the concessions they made. Mr. Chairman, how ridiculous the charge! General Palmer and myself were the commissioners, and with the Indian agents, a few employes, and twenty-five soldiers to preserve order on the council ground, we met there fifteen hundred warriors, brave and proud men; and I say it is ridiculous to talk of our using threats and bringing force to bear to get them to yield to

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our terms. The record speaks for itself. The commissioners have no reason to be ashamed of it; nor has the Government reason to be ashamed of it.

When the Indians separated, it was with a cordial farewell on all sides; Kam-i-a-y-kan was the last man I saw; and that chief parted from me in the most cordial manner, expressing the utmost satisfaction at the results of the treaty.

I said to him on parting, "the agent Bolon will soon go into your country to select a site for the mills, and schools, and agency; and I wish you to advise him in the matter." And he replied, "I shall be glad to see him, and will point out a good place for the mill."

Pu-pu-mux-mux also parted from me in the same manner; and if ever the face of an Indian expressed joy and satisfaction, it was the face of Pu-pu-mux-mux. Such was the fact in reference to every Indian chief, and every Indian there assembled. I may remark, in regard to Puget Sound, that it is the testimony of the Indian chiefs, without exception, and also the testimony of all well-informed and disinterested white men there, without exception, and such is my own deliberate judgment, that if we had not made these treaties, the war would have been general. The treaties were the controlling element in maintaining peace. Had it not been for these treaties, the field of war would have stretched from the coast to the divide of the Bitter Root mountains.

But, sir, in the observations I submitted a few days ago, I spoke of the conduct of our people, and of the conduct of the volunteers during that war. Their conduct was throughout humane and meritorious. At no time during that war was there any unauthorized killing by the volunteer forces.

The Indians, whether friendly or hostile, were sacred in the camps of the volunteers; and it is this fact that we hold up in the noon-day sun to disprove the accusations made against the people of those Territories.

The first act of war was by the Indians. I have referred to Kam-i-a-y-kan, to his cordial farewell when I left him, and to his promise to assist the Indian agent Bolon, when he went into his country. The Yakimas occupy a country from the Cascades to the Columbia, one hundred and fifty miles east and west, and some two hundred north and south. In the month of August we began to hear of our citizens being murdered by the Yakimas. Finally the reports became so well authenticated that a military force under Major Haller was sent there by Major Rains, to demand the surrender of the murderers, or, on the event of refusal, to punish the tribe.

Who were killed by these Indians? The victim of most mark was this Indian agent Bolon. He was killed by the Yakimas, and by the order of Kam-i-a-y-kan, though he went there as their agent, loving the Yakimas. He went there, and went alone, unwilling to believe that the reports of their having killed our people were true, and hoping that the results of his investigations would show that no such killing had been done. He was much beloved by the Yakimas, was recognized by them to be their friend, but having resolved on war, they said, (referring to Bolon,) "we kill our friends as well as our enemies." He was one of our slaughtered citizens on the grounds of the Yakimas. We had some ten or twelve others—there were one or two of my own neighbors; there were two or three from Pierce county, as well as several from the neighboring county of King; men of sobriety, men of character, men who had means at home in the settled portions of the Territory, but who had gone, as our adventurous American people will go, into the wilderness to see whether they could not better their fortunes. They were killed on their way to the mines at Colville. I submit it to the gentlemen of this committee: was it right that the military arm of this Government should be stretched out, when a tribe of Indians, in violation of the plighted faith of treaties, guaranteeing safe conduct to all whites passing through their country, slaughtered an officer of the Republic, and citizens of the Republic; without cause or provocation?

I trust that I have not to pause for a reply. Such has been the general policy of the Govern-

ment. Such has ever been the policy of the British Government upon that coast, although under the control of a simple trading company. The Hudson's Bay Company owe their ascendancy over the Indians to this fact more than to all things else; that the life of a Hudson's Bay employé has been held sacred, and the Indians who did violence to it were held to a strict accountability. I could mention many instances when this course was pursued.

It has been alleged that the miners passing through the Yakima, violated the Indian women, and committed other outrages, which provoked them to retaliate. I heard nothing of this on the Spokans coming in from the Missouri, though I used every means to ascertain whether the war had been provoked by indiscretion and wrong, conferring not only with the Indians of the Spokane and neighboring tribes, but with the fathers of the mission at the Cœur d'Alene and at Colville, and with the officers of the Hudson's Bay Company at the latter place.

In consequence of these murders, Major Haller marched into the Yakima country with about one hundred regular troops; was met and attacked by a force of from ten to fifteen hundred warriors; and though for a time entirely surrounded and cut off from water, maintained his position, reached water after an obstinate and protracted fight of some twenty-four hours, and finally succeeded in making good his retreat and saving his command with a loss, in killed and wounded, of one third of his entire force. While surrounded, he was fortunate enough to get off a friendly Indian, who made his way to the Dalles, and gave information of the condition of Major Haller's command. There was great excitement throughout both Washington and Oregon in consequence. Major Rains immediately made a requisition upon the Governors of Washington and Oregon for volunteers; and that requisition was promptly complied with. The volunteers moved into the field; and thus this war had its origin, so far as the volunteers were concerned. I have here a whole volume of requisitions and orders and correspondence, demonstrating these facts, but will not read from the volume, as it will occupy time needlessly.

The volunteers, Mr. Chairman, came into service in consequence of the attack of an overwhelming force of Indians upon the troops of the regular service, in virtue of a requisition of the officer in command of the military district, and because the regular troops were inadequate to protect the settlements, and bring this war to a conclusion.

On Puget Sound we had extraordinary difficulties to contend with. The war first broke out by the murder of a settlement of twelve persons on White river, and under circumstances of great atrocity. The settlers became alarmed in consequence of the floating rumors that the Indians were bent on war, and had fled from their homes to the nearest town—Seattle. The Indians who were their neighbors, went to them at Seattle, and told them that they were needlessly alarmed; asked them to go back to their claims, and assured them that if any danger should threaten them, they would give them timely warning. They returned back; but before the morning's sun had risen, they were all slaughtered in cold blood, and by the Indians who had invited them back. Not men only were murdered, but helpless women and tender children. Two children, with the mangled remains of their mother, were thrown to the bottom of a well. The Indians on that sound exceeded the whites as five to two. It was time, certainly, that our citizens should take up arms, and by energy and vigor, endeavor to reduce to subjection the Indians engaged in this terrible massacre, and prevent the other tribes joining them. It was done, and I have yet to be convinced that it was not done rightly.

Why, Mr. Chairman, on that sound, so inadequate was the force of regular troops, and in such imminent danger was the whole community, that a volunteer company—raised for the field—was detained for the defense of Fort Steilacoom, in charge of the regular troops. Lieutenant Nugen, in command at that post, took the responsibility of raising a company of forty men, under Captain W. H. Wallace, and then wrote the adjutant

general of the volunteers, trusting that the acting Governor would approve his action; and he also wrote for cartridges to be sent them, as he was deficient in ammunition. I give his letters in full, establishing these facts:

FORT STEILACOOM, W. T., October 31, 1855.
SIR: I have the honor to state that I have called upon the citizens of Pierce county for one company of volunteers, to act against the Indians on White river and vicinity, who have been murdering our citizens, and attacked the company of rangers under Captain Eaton, mustered into the service of the United States.

This call has been promptly responded to, and a company of forty are now ready to take the field, under the command of Captain Wallace, who will report to you for orders.

I wish you would come down to our post, as I think your presence would expedite matters. I trust you will succeed in getting another company in your place, as I am of the opinion that no less than one hundred men should think of taking the field, they to act together, and the work will speedily be finished. I trust that the acting Governor will approve of my action, as I could see no other way to maintain the peace of our country.

I am, sir, very respectfully, your most obedient servant,
JOHN NUGEN,
Second Lieutenant Fourth Infantry, Com. Post.
JAMES TILTON, Adjutant General W. T. Volunteers.

HEAD QUARTERS, FORT STEILACOOM,
November 1, 1855.

SIR: I have detained Captain Wallace's company of volunteers to assist in protecting this post, in case an attack should be made. Dr. Folmie, just in from Nisqually, informs me that one of his shepherds saw a band of some twenty Klikitats, just in rear of Nisqually, last night.

I have nearly all the women and children in the country at the post, and will, of course, protect them.

I would respectfully request that all the men in this section of the country be called out, as I am firmly of the belief that we are to have a general Indian war in this vicinity.

Send me down cartridges at the earliest moment, as it is reported that the Indians are to make an attempt at taking our fort to-night. This is just a report, but I wish to have plenty of ammunition, and I am rather short just at this time.

With great respect, I have the honor to be, your most obedient servant,
JOHN NUGEN,
Second Lieutenant Fourth Infantry, Com. Post.

JAMES TILTON,
Adjutant General W. T. Volunteers, Olympia.

These letters show the cordial relations between the regular and volunteer service in the Territory, when the difficulties first occurred. Such had been our relations from the first organization of the Territory. Such they continued to be until the veteran commander of the department of the Pacific pronounced the war the act of unprincipled white men—as having been got up as a matter of speculation; denounced authorities and people as Indian exterminators; refused to recognize the necessity of calling out volunteers, and endeavored to ignore them when in the field.

However, this same commander did finally call upon me in March for two companies of volunteers for the defense of Puget Sound, which I refused to respond to for reasons given in full in the official correspondence.

It is a fact well known on that coast to the officers of the Hudson's Bay Company, that the Indians of southern Oregon have always been so hostile that the employes of that company did not dare to trap there. Parties passing through to California never ventured to stop there for a day. I have this from the chief factor of the company, at Vancouver. I need not go over the ground in southern Oregon; for it has been fully occupied by the distinguished Delegate from that Territory.

Here, then, was the origin of this war—a war entirely unprovoked, a war caused by no bad conduct of our people; but caused altogether by the feeling of antagonism between the two races. The Indians there had heard of Indian difficulties on this side of the Rocky Mountains; and it was a combination with them to drive the whites out of the country.

Mr. CURTIS. I wish to say to my friend, at this point, that his country, in respect to this charge of the Indian difficulties having been commenced by the whites, is precisely in the same situation that our whole Indian frontier has been for the last ten years. Whenever there have been hostilities, there are traders and others who have carried abroad the idea that the first assaults were made by the whites. Never mind what atrocities have been committed by the Indians, such are the reports circulated. It has been in my experience, and I have no doubt such is the case in Oregon and Washington, that the Indians are always the aggressors.

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And I accord my testimony to that of the gentleman, that these charges against the white people of the frontier are most unjust. I had no opportunity before to reply to the remarks of the gentleman from Virginia, [Mr. GARNETT,] who insinuated that all these Indian wars were got up on speculation. I recollect that many years ago Indian wars were quite as common as on the frontier; and I would like the gentleman to say whether, when John Smith had charge of the Virginia colony, he was not provoked by Indian warfare, and had not his calamities with them as we have at this day?

Mr. SMITH, of Virginia. They were not so expensive.

Mr. CURTIS. But they destroyed your colonies. There was nothing but your bones left. Your soil was red with the blood shed in the Indian wars, and the history of the country shows that that has been the character of this warfare.

Mr. STEVENS, of Washington. I am greatly obliged to my friend from Iowa for the remarks which he has made. I know, myself, that in 1853 I had a strong feeling that there was much of outrage committed by the whites upon the Indians, and that that was the prolific cause of Indian wars. But, as I became acquainted with the frontier population, and as I came to know facts as they were, my mind was changed, and I here declare, on my responsibility, that the charges are utterly unfounded.

Mr. Chairman, in regard to the military operations undertaken in those two Territories, I desire to say a few words. I shall mainly confine my observations to the operations at Walla-Walla, for that is the salient point of the whole business. It is admitted on all sides that there was a war in southern Oregon, and on Puget Sound, in the Territory of Washington, and that it became absolutely necessary that the white settlers should organize for defense. But it has been said that the advance of the volunteers upon Walla-Walla, drove the Indians into hostility; that the Walla-Walla chief, Pu-pu-mux-mux, was friendly; and that even when the volunteers reached the valley he endeavored to make peace; that he was treacherously slain under the protection of a flag of truce; that the volunteers commenced the attack, and that the Indians resisted simply to get in safety their women and children. The fight of the Walla-Walla was a four days' fight. I was moving at the time from the Spokane to the Nez Perces country. I was in the midst of an Indian council with the Nez Perces, making my arrangements with that tribe to get the services of its warriors, to force my way through the hostile Walla-Wallas, Cayuses, and other tribes, under the lead of Pu-pu-mux-mux, to the settlements, when the news came of that fight. The Indian, who had rode one hundred miles the previous eighteen hours, told all the circumstances of that fight, at one end of the council lodge, to the Indians there assembled, and it was interpreted to me, sitting in council, at the other end. I had previously conferred with the chiefs of the Nez Perces tribe and with the chiefs on the Spokane, in order to satisfy myself of the attitude of Pu-pu-mux-mux. I became satisfied it was one of unmitigated hostility.

When I reached the Nez Perces country, the chief Joseph, the third chief of the tribe, an old man of over seventy years of age, had returned but a short time from a mission of peace to the Walla-Walla. He had endeavored to dissuade Pu-pu-mux-mux from going to war. But Pu-pu-mux-mux drove him away with scorn and contumely, telling him, "I am the chief here—I am like yonder mountain above other men. I counsel with no man. Go home! Perhaps your own people will listen to you." Joseph then went to the Cayuses, and saw their chiefs—the Young Chief, the Five Crows, and Camespelo—and intreated them to continue friendly. They treated him with the same scorn and contumely as did Pu-pu-mux-mux, the more significant, as he was allied to them by blood, being a half Cayuse. And Joseph went home discouraged and heart-broken. These same facts I had, on reaching the Walla-Walla, from the friendly Cayuses and Walla-Walla chiefs, small in number, who persisted in their refusal to join the war party. Howishwampo, Tintemitse, and Stickas, of the Cayuses; and Pierre, of the Walla-Wallas, with their

followers, had maintained their friendship at the hazard of their lives, having left the main camp of their tribe and encamped with the settlers who remained in the valley. These settlers were not attacked by Pu-pu-mux-mux and the allied chiefs, because it could only be done by passing over the dead bodies of the friendly chiefs. All these facts I learned before any controversy had grown up, and before I imagined any controversy could possibly grow up, in regard to the position of Pu-pu-mux-mux and the allied tribes and chiefs.

A gentleman who has made himself conspicuous by his denunciations of the volunteers, and his defense of Pu-pu-mux-mux, has admitted that the seizure of Fort Walla-Walla was an act of hostility; that the appropriating of Government property there, and distributing it among the several tribes, was an act of hostility; that the burning of the houses of all the settlers in that valley was an act of hostility; but that there was convincing evidence that all these acts of hostility were not the acts of Pu-pu-mux-mux, but the acts of the Yellow Serpent. Now, Pu-pu-mux-mux and the Yellow Serpent are one and the same man. Pu-pu-mux-mux, in the Walla-Walla tongue, Serpent Jaune, in French, and the Yellow Serpent, in English, are the several names of this renowned chief, known to all voyagers and well-informed men in that country, and well known to myself. And this Indian chief, whether he be called Pu-pu-mux-mux, Serpent Jaune, or the Yellow Serpent, was guilty of the acts of hostility above enumerated, and this, too, by the admission of Pu-pu-mux-mux's defender and apologist.

The record evidence is overwhelming and conclusive of Pu-pu-mux-mux's hostility. It was early reported by the Indian agent on the ground. It was testified to by all the settlers of that valley, and by the factors and employes of the Hudson's Bay Company posted at Walla-Walla. And the record evidence is equally overwhelming and conclusive that all the charges of Pu-pu-mux-mux being entrapped by a flag of truce and treacherously killed, are utterly unfounded. The officers, the Indian agent, and the interpreter, present at the first conference—every eye-witness, and they are men of unimpeachable honor and integrity, present at his death, agree as to the essential facts. Pu-pu-mux-mux did approach the volunteer camp with a flag of truce, and a conference was held. Colonel Kelly, in command of the troops, refused to receive him, except as a prisoner. Pu-pu-mux-mux went to his camp as a prisoner, his object being to gain time in order to concentrate the Indian forces; and also by cunning and management to induce the troops to occupy a position where he could attack them with advantage. On his reaching camp, Colonel Kelly still refused to receive Pu-pu-mux-mux on any other terms except as a prisoner, and offered to let him go home. Pu-pu-mux-mux continued with the volunteers, receiving from them kind treatment, and, as he stated, sent word to his people to keep friendly. The volunteers marched towards the Indian camp, Pu-pu-mux-mux accompanying them, when they were attacked by Pu-pu-mux-mux's people. In this manner the action commenced, and while it was going on the chief endeavored to make his escape, and was killed whilst furiously attacking his guard. He was killed while struggling with his guard and endeavoring to wrest the gun of his guard from his hands. This action lasted four days, resulted in a complete victory over the Indians, and drove every hostile Indian to the northward of Snake river. Its effect on the Indian mind was prodigious, as I personally know from my own intercourse with the Indians of the interior at the very time.

Mr. Chairman, this movement on the Walla-Walla, therefore, did protect our frontier. It maintained the peace of the interior for the long winter of 1855-56. In this connection I desire to refer to the general order emanating from the conqueror of Mexico, Lieutenant General Scott, complimenting the valiant officers and men of the army, who made an expedition of twelve days against the Apaches of New Mexico. It was an expedition of eight companies—four hundred men—moving against one of the nomadic tribes of the far-famed Apaches. In that general order, twelve

officers and twenty-six men are mentioned as having particularly distinguished themselves. Here are three reports, [holding up the open volume containing them,] one from Colonel Bonneville, a gentleman well known to me; another from Captain Ewell, a friend of my youth, three years with me at the Military Academy, a most gallant and meritorious man; and the third from Colonel Miles, giving all the details of this action. It was not a case simply of soldiership, but of conduct. It was not enough that the men were brave, but they must be well managed. It was a case of tactics and strategy, of flanks, and rears, and reserves.

These reports show that eight companies of troops—four hundred men—pursued, overtook, fought, and defeated—how many? Forty warriors. There is your feat of arms made the subject of a general order, in which twelve officers and twenty-six men are reported for distinction. I speak of it with entire respect. The gallant Scott knew full well that the disparity of force did not make the affair ridiculous.

Now, gentlemen, go with me to the distant Territories of Washington and Oregon, and to the plains of the Walla-Walla, where three hundred volunteers fought seven hundred Indians for four days, and defeated them, killing some seventy Indians. Go with me to the Grande Ronde, where the gallant Colonel Shaw, with one hundred and sixty volunteers of Washington, fought three hundred Indians, killing some forty, and striking a great blow upon the hostile Indians. Go with me to the battle of Connell's prairie, on the shores of Puget Sound, where one hundred and sixty volunteers fought two hundred Indians, and defeated them, killing thirty of their number.

This movement of Shaw's was something more than a twelve day's march. Three columns of troops moved simultaneously from the sound, from the Columbia valley, and from the Nez Perces country, meeting at the Walla-Walla, within a single day, and then a vigorous movement with a portion of this force was made across the Blue mountains, a forced march, some sixty miles, in one night and a day, when the enemy was struck and completely routed. The troops from the sound crossed the Cascades, snow still on the mountains, and marched some three hundred miles to the point of rendezvous. Of all these three columns, the arrangements were complete, and the means of transportation ample, the column from the Dalles having in their train forty-five wagons, carrying not only supplies for the troops, but a large quantity of provisions for the friendly Indians.

Sir, I say, all honor to the officers and men who conquered the Indians in New Mexico; but I ask the committee also to do like honor to the volunteers of Washington and Oregon, who fought the Indians, always being outnumbered, and sometimes more than two to one. I ask for the people of those Territories the same measure of justice which has been rendered to the people of New Mexico and the people of Florida. There have been Indian difficulties in Florida, and, within two years, you have had twelve companies of regulars there, and at least six companies of volunteers. And I thank God that Florida was near enough to the Federal capital for its Governor to come here, post-haste, and to procure the recognition of the services of the volunteers of Florida by the General Government. Sir, that force was unquestionably necessary; they fought the Indians, and now, when they have subdued them, it appears that there were about one hundred and sixty-two Indians there, including women and children. You sent that force against less than one hundred warriors, and the expenses incurred by the Florida volunteers have been paid, and paid promptly, by this Federal Government. So with New Mexico: the expenses of the volunteers in New Mexico have been paid by the General Government, and the provision to pay them was put in the Army appropriation bill. So in the case of California: Congress made an appropriation to pay the Fremont riflemen, and organized a board of three Army officers to inquire into the balance of the claims. The Army officers made an examination, they reported to the Secretary of War, and at the very next session of Congress their awards were provided for in the

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Army appropriation bill. The Army appropriation bill of the session of 1853 and 1854 contained an appropriation of nearly one million dollars for paying the volunteers of California for expenses incurred in suppressing Indian hostilities previous to 1854.

We ask the same measure of justice for the people of our Territories that has been already extended to people nearer to you—in Florida, New Mexico, and California.

I desire now to dwell, for a few moments, on another topic. I contend that the expenses were economical; that they were small; that they were much less than any intelligent and disinterested man, after looking into all the facts, would expect them to be. We had in Washington eighteen hundred and ninety-six men enlisted, and their average term of service was one hundred and twelve days. The total expense of each man, exclusive of pay, was but little over five hundred dollars—\$507 32. What is the expense, per man, in the regular service? It was about one thousand dollars a year, last year, and throwing out the pay, it was about eight hundred and fifty dollars. That is the expense of troops in the regular service—a large proportion of whom are stationed at the forts and depots on the Atlantic, the Gulf, the lakes, and the Mississippi river and its tributaries, at points accessible to steamboat navigation. But, sir, when you come to compare the expenses of the regulars with the volunteers, I shall insist that you compare them in like conditions. It will not do to compare the expenses of the volunteers in Oregon, on the plains of Walla-Walla, one hundred and fifty miles from our settlements, protecting those settlements by their gallantry and conduct throughout the winter of 1855-56, with the expenses of the regular troops lying in their rear, at this very time in garrison at the Dalles, the Cascades, and Vancouver. You must compare their expenses in the field with the expenses of the regulars in the field. Compare the expenses of the volunteers, in their campaign of the Walla-Walla, with the expenses of the regular service in its campaign of the Yakima, and, my word for it, you will find that our expenses were the smallest, per man. In this estimate I mean to include transportation from the depots, at home, as a charge upon the regular service. That is my deliberate judgment from a careful examination of the matter. And here, in this comparison, I shall have a charge to make against the regular service. I shall insist that the nineteen dead bodies left on the ground at the Cascades, in consequence of Colonel Wright advancing upon the Walla-Walla, and leaving his rear unprotected and insecure, be taken into the account. He did not leave a sufficient garrison at the Cascades. It was attacked by the Indians, and held in their possession (with the exception of one block-house and one house) for twenty-four hours; every house, except these, was burnt; nineteen persons were slain, and it compelled a retrograde movement of Wright, already in march for the Walla-Walla, and finally caused the abandonment of that movement on the Walla-Walla, and the organization of a new campaign into the Yakima country. Let all these things be taken into the account in a comparison between the services; for, I affirm, no such military blunder was committed in the volunteer service.

Sir, I make no point against the regular service. I was bred in that service, and have given to it fourteen years of faithful service. There I have all my early friends; there many of the warmest friends of my manhood now are; and I thank heaven that, through all the controversies we have had there in reference to affairs in those Territories, those men are still my friends. They are ever ready to do their duty; but, during the winter of 1855-56, the frontier east of the Cascade mountains was protected by the volunteers, while the regulars were in garrison. That is a fact which should stand out, and which I have brought out, on this occasion.

Mr. Chairman, objection has been made to the allowance, by the commissioners, of two dollars a day for each enlisted man, and two dollars a day for each horse; and yet I have here an official document from the Quartermaster General showing that no laboring man, no packer, no teamster, was employed in the regular Army in these Ter-

ritories during that Indian war for less than sixty dollars per month, and that their pay ranged from that up to ninety dollars per month. I find that for pack mules they have invariably paid three dollars a day. If, then, the regular service is obliged to go into expenses like these in that country, paying, on an average, \$2 50 a day for common hands, and paying it in cash, why should you object to the volunteers being paid two dollars a day, who have already waited two years for payment? If the regular service has paid for pack mules three dollars a day, why should you object to pay two dollars a day for the horses used by the volunteers? Sir, these are pregnant facts.

But there is another topic which I wish to dwell upon for a moment, and that is the employment of troops for short intervals. I desire to correct an erroneous impression made by reports which have emanated from the Adjutant General's office. In these reports the expenses of volunteers or militia (who served simply for three months or more) are compared with the expenses of the regular establishment, where the expenses of recruiting and discharging are distributed over the entire period of enlistment of five years. And in these same reports, also, the expenses of our volunteer service in those two Territories are compared with the expenses of a regiment of infantry simply in depot, having no expenses whatever in the way of movements of troops.

Now there are certain large contingent expenses incident to raising troops, bringing them into the field, and discharging them. In militia or volunteer service it is distributed over a period of three or six months; in the regular service, over a period of five years. To institute a comparison, therefore, between the expenses of the regular and volunteer service for a period of three or six months, these expenses should be thrown out altogether, or the whole of it in each case be included for the equal period of comparison; otherwise a very heavy charge will be made upon the volunteer service and held up against them to their disparagement, when the expense is not because the troops are volunteers or militia, but because they are troops raised for short intervals of time.

So it is very unjust to compare the expenses of our volunteers with the expenses of infantry in depot. The proper comparison is between the expenses of our foot and horse in the field, in these Territories, with the expenses of the foot and horse of the regular service in the field in those Territories.

But this is not all. If, in an emergency, you do not resort to volunteers, what will you do? You must institute a new military system, increase your Army largely, and have in depot surplus troops for any emergency which may arise. And, therefore, the true and only just comparison of expense is a comparison of the expenses which we incur under our military system, relying upon the militia and volunteers of the country in case of emergency, and of the only system that can take its place, namely, that of a large standing army.

Suppose that in our Indian difficulties you had this large standing army, and that there had been a surplus of troops at the depots at home to send out there: when you take the cost of transportation, the cost of recruiting, the cost of getting them to the field of action, you would find in the case supposed that there would have been an expense of two or three hundred dollars a man, at the very point where the expenses of the volunteers commence. And then when the emergency was over you would have the cost of sending them home again. You, gentlemen, can compute the cost for yourselves. I ask again, if you did not have the volunteer service, what would you do? You must have a standing army large enough for any emergency, doing nothing nine years out of ten. But such statements and comparisons as these, the only just and proper ones, are not made in these reports; and yet, the mere statement of it will convince the mind that they are just and sound statements and comparisons. If you take the view I have presented, it will be found that in our Territories, the expenses of the volunteers per man is much less than the expenses of regulars, if sent from the States there, and sent back, as must necessarily have been the case had you been obliged to rely upon regulars alone. Our

means of transportation were more economical. We used ox-trains instead of mule trains, and we carried fifty per cent. more freight per employe than were carried in the trains of the regular service. That is a fact known of all men there. We made at least as rapid trips as the regular service, and we showed that oxen were the proper animals for wagons in that country.

But every effort was made to reduce expenses, and the effort was a successful one. All allowance of extra pay for fatigue service was prohibited in orders, and the accounts for such service were disallowed and thrown out. No such accounts were submitted to the commissioners appointed by the Secretary of War under the authority of Congress. This was deemed, by many, very unjust at the time, as payment for fatigue service was recognized in the Army, and the rates established by act of Congress. Our troops did a very large amount of fatigue service, as shown in the block-houses built by them, and the roads cut out by them; one company was especially raised for fatigue duty, and was called the pioneer company; most of its members were mechanics, or very experienced axmen, and for many months they were constantly employed at fatigue service. It was emphatically a company of pioneers as well as a company of fighting men; the Indians making the first attack upon them, whilst cutting out a road, at the battle of Connel's Prairie.

I refused, Mr. Chairman, to allow any extra compensation for fatigue service, because I expected the pay of our troops would have some relations to the price of labor in the country; and for a temporary, rapid service, organized for an emergency, I did not think the idea of extra pay for fatigue service should be countenanced.

In the disposition of public property in the volunteer service of Washington, every exertion was made to guard the rights of the Government. I refused to allow any volunteer to retain one animal even on an appraisal by the officers of the quartermaster department, the same to be charged upon the muster-rolls against his pay, but directed every animal to be disposed of at public auction. Everything was sold at public auction for the scrip issued in purchasing. The sales amounted to nearly one hundred and forty thousand dollars, and to this amount was the war debt reduced by these sales. The sales were at a considerable advance on the original cost. Horses which cost from two hundred and fifty to four hundred dollars brought from two hundred to six hundred dollars; wagons costing \$200 were readily sold at \$300; and oxen were disposed of at thirty per cent. above cost. This, too, after the property had been of course deteriorated by six months' active service.

The report of J. Ross Browne, special agent of the Interior Department, gives so graphic a picture of the condition of the Territory in 1857, the year following the war, that I cannot do better than quote from his report, as follows:

"On the road from the Cowlitz landing to Olympia, a distance of fifty miles, the whole country bears distressing evidences of the disastrous effects of the late war. In 1854, when I first passed through this region, it abounded in fine farms, well cultivated, and bearing luxuriant crops of grain. Immigration was rapidly filling up all the vacant lands; and large herds of stock were grazing upon the prairies. From the signs of prosperity then apparent, it was not unreasonable to predict that in the course of three years the products and population would be more than doubled. But, notwithstanding this region was exempt from any actual collision with the Indians, the effects are nearly the same as in other parts of the Territory. All along the road houses are deserted and going to ruin; fences are cast down and in a state of decay; fields, once waving with luxuriant crops of wheat, are desolate; and but little, if any, stock is to be seen on the broad prairies that formerly bore such inspiring evidences of life. The few families that remained, either from necessity or inclination, were forced to erect rude block-houses for their defense, into which they gathered by night during the hostilities, in constant apprehension of attack. These rude defenses still stand at intervals along the road. I mention these facts with a view of showing that, so far, at least, the 'war speculation' charged upon the settlers of Washington Territory presents an unprofitable appearance."

There were erected in the Territory, during the war, thirty-one block-houses by the volunteer troops, twenty-one block-houses by the citizens, without assistance, and some seven block-houses by the troops of the regular service. Some of these block-houses were large establishments, there being space enough inside the pickets for small houses for the families of the neighborhood—the

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block-houses intended to protect. The name and site of each block-house, as well as the roads and trails cut out by the volunteer service, are given in an official document published by order of the Legislature of Washington.

Of the whole number of eighteen hundred and ninety-six enlisted men in the Washington volunteers, two hundred and thirty-six were friendly Indians, and two hundred and fifteen citizens of Oregon, leaving fourteen hundred and forty-five citizens of Washington in service from October, 1855, to September, 1856. Their average term of service, as I have before observed, was one hundred and twelve days. Thus it will appear that nearly seven eighths of our citizens served nearly four months during that war—an amount of service that has not certainly its parallel in this, or probably in any other country.

In Washington, the volunteers were nearly equally divided between foot and mounted troops. There were one thousand and seventeen men who served as cavalry, and eight hundred and seventy-nine who served as infantry. The operations on the sound—a large portion of the country being very heavily timbered, and there being in the timber dense underbrush and fallen logs—required that the troops should be principally foot troops; the operations in the interior, it being mostly a prairie country, that all the troops should be mounted. The greater vigor and success of the volunteer operations east of the Cascades, over those of the regular service, were due very much to the fact that the volunteers were well mounted, whereas the greater bulk of the regular force was infantry. The volunteers were, however, very superior in all the qualities of service to the regulars. There was scarcely a man in the volunteer service who had not crossed the plains, become inured to all the routine of camp life, and thoroughly accustomed to moving in that country, either on his horse over the prairie, or on foot through the dense forests.

We had no difficulty whatever in raising foot troops, nor in dismounting our horse troops, when, as on the sound, the operations extended from the prairie region, at the head of the sound, to the wooded regions eastward, where horses could not be used.

The remarks, Mr. Chairman, of Mr. J. Ross Browne as to the causes of the war, are so pertinent and so just that I will give them at length:

"Kam-i-a-y-kan, the chief of the Yakimas, was bitter in his animosity. As early as 1853 he projected a war of extermination against the whole race of Americans within the country. It was his settled determination to make the war general, and he spared no inducements to effect a coalition with the Nez Percés, Cayuses, Walla-Wallas, and other tribes. For your information on this point, showing that war actually was premeditated in 1853, I send you inclosed a translation of the letter of Father Pandory, priest at the Atlatum Mission, dated 'April, 1853,' to Father Mesplie, at the Dalles, in which he says: 'A chief of the upper Nez Percés has killed thirty head of cattle at a feast given to the nation; and this number of animals not being sufficient, seven more were killed. The feast was given in order to unite the hearts of the Indians to make declaration of war against the Americans.' Through the whole course of the winter have heard the same thing—that the Cayuses and Nez Percés have united themselves for war. During the course of last spring I was in the Cayuse country after they had given a similar feast. I said nothing, because I thought that they had a sub-agent who would speak."

"I will recount to you what they say. All the Indians upon the left (north) bank of the Columbia, from the Blackfoot to the Cheenook, inclusive, are to assemble at the Cayuse country. All on the right bank, through the same extent of country, are to assemble on the Simcoe, (on the Yakima), including those from Nisqually and the vicinity. The cause of this war is, that the Americans are going to seize their lands."

"This grave and startling information, so fearfully verified since, was promptly communicated to Major Alvord, who reported it to General Hitchcock, the then commanding officer of the military department on this coast. Major Alvord was censured as an alarmist, and Father Pandory was treated in the same manner by his superior."

"It will be observed that the date of the letter is April, 1853. If the war, therefore, was one of speculation, gotten up by the settlers of Oregon, the scheme should have been frustrated then. Information that a war was actually going to take place—that the Indians had avowed it in council—was in possession of the commanding officer of the military department. Why did not he expose the speculations? Why did not the Departments in Washington issue orders to the Governors of the Territories, apprising them of their knowledge of this scheme, and cause it to be then arrested? Simply, as I conceive, because no such scheme was ever contemplated, either then or since. The settlers only asked protection for their lives and property; and after both have been freely sacrificed, the charge is, for the first time, brought against them."

"But to return a moment to the combination. As no

change took place in the Hudson Bay Company's posts after the treaty of 1846, and their possessions and appearance of power remained the same as before, the Indians, up to a very recent date, regarded the Territory of Washington as under the influence of 'King George.'

"The Nisqually and other tribes of Puget Sound, whose chief intercourse had always been with 'King George' men, naturally shared their animosity against the Americans. When Governor Stevens treated with them, he found them in a very disaffected condition. It was with difficulty the chiefs could be gotten together. Something had to be done with them, and, under the circumstances, of difficulty attending the making of these treaties, I am satisfied no public officer could have done better. The treaties were not the cause of the war. I have already shown that the war had been determined upon long before. If Governor Stevens is to blame because he did not so frame the treaties as to stop the war, or stop it by not making the treaties at all, then that charge should be specifically brought against him."

"Leschi, the celebrated Nisqually chief, was most determined in his hostility. Bold, adventurous, and eloquent, he possessed an unlimited sway over his people, and by the earnestness of his purpose, and the persuasiveness of his arguments, carried all with him who heard him speak. He traveled by day and night, caring neither for hunger nor fatigue; visited the camps of the Yakimas and Klickitats, addressed the councils in terms of eloquence such as they had seldom heard. He crossed the Columbia, penetrated to southern Oregon, appealed to all the disaffected there. He dwelt upon their wrongs; painted to them, in the exuberance of his imagination, the terrible picture of the 'polakly illeha,' the land of darkness, where no ray from the sun ever penetrated; where there was torture and death for all races of Indians; where the sting of an insect killed like the stroke of a spear, and the streams were foul and muddy, so that no living thing could drink of the waters. This was the place where the white man wanted to carry them to. He called upon them to resist like brave men, so terrible a fate. The white men were but a handful now; they could all be killed at once, and then others would fear to come. But, if there was no war, they would grow strong and many, and soon put all the Indians in their ships and send them off to that terrible land, where torture and death awaited them."

"It may readily be supposed that a rude and ignorant people, naturally prone to superstition, were not slow in giving credence to these fearful stories. Each tribe had its grievances, from the north to the south. Common interest bound them in their compact against a common enemy."

"The Mormons, at this time, had also sent their emissaries among them to spread the disaffection. In the Simcoe, at a council of the tribes, in 1854, a chief from the Mormon country urged them to war. The talk of this chief, as detailed by a friendly Indian who was in the council, was to this effect: 'That far in the desert there lived the greatest people on earth, who controlled the sun. He had been among them and talked with them, and they had sent him here to say what they were. They could strike dead anybody at a distance; they could make the sun stand still; they could make powder and muskets, and they were the friends of the Indians. The Americans were the enemies of the Indians. They wanted the Indians to kill them all. They would send them powder, and muskets, &c.'

"That the Mormons did furnish several of the tribes with ammunition, is proved by the narrative of Captain Shaw, of the Walla Walla volunteers. At the last battle fought up there, he found powder, muskets, balls, &c., among the Indians bearing the Mormon brand."

"George B. Simpson, late interpreter and agent at the Cascades who originally came to Salt Lake as an agent for the Salt Lake mails, stated, from his own knowledge, that the Mormons sent out emissaries among all the tribes of Indians prior to the war, urging them to unite in exterminating the Americans."

"But the plan of operations had not been sufficiently matured. Some of the tribes were too impatient to wait till the proper time had arrived. In the summer of 1855, after the discovery of the Colville mines, a general rush took place there. The first man murdered was Mattice, a miner, who was on his way there with a considerable amount of money and provisions. He was killed soon after descending the Snoqualmie pass by a party of Indians supposed to be Yakimas. Near the same time, Fantjoy, another miner, was killed. These were both respectable men from the State of Maine. They were proprietors of a coal mine on the Danamish. The murders on the White river occurred some two months after. Agent Bolon, hearing of the Yakima murders, crossed over from the Dalles to see the chief Kam-i-a-y-kan. Onah, another prominent chief, was present in camp. Bolon spent the night there, no doubt remonstrating with them for their acts. Next day, as he was riding back, he was overtaken by two or three Indians, who rode along with him in an apparently friendly manner. One lagged behind, and while the others engaged his attention, shot him in the back. He was then dragged from his horse, scalped and partly burnt. One of the murderers is said to be a son of the chief Onah."

"On the 8th or 9th of October the Indians of southern Oregon began the work of extermination. They slaughtered, indiscriminately, men, women, and children. At or about the same date the war had opened in Washington Territory. The movement was simultaneous, and could only have been the result of concert; but the Indians themselves have since freely admitted that their plan embraced all parts of the country, from north to south."

"I will not undertake to follow up the history of the war to a later period. Its peculiar features have been represented officially on both sides, and its progress and termination are matters of public record."

"Upon a careful perusal of all the dispatches, I find nothing to sustain the charge of speculation. No person can visit the Territories of Oregon and Washington, converse with the people, see them on their farms and at their daily labors, and consider their true interests, without coming to the conclusion that such a charge is absurd and monstrous. What could they hope to gain? Few of them had

anything to spare upon which to base a speculation. A farmer is well off who has his fields fenced in, a few head of oxen, and three or four cows. If he got treble price for his stock, the sale, upon an unlimited credit, would have been a sacrifice to him. His farm must go to ruin. The interests of the settlers of nearly every pursuit are nearly identical. Their future prospects depend chiefly upon the prosperity of the country, the increase of emigration, enhancement in the value of property, security of life, opening of new facilities for the transportation of their products. All this was diametrically opposed to a war. No compensation that Government could make would atone for the murder of families, the stoppage of labor everywhere, the loss of time, the suspension of emigration, and the numerous evils resulting from this disastrous conflict."

"The commissioners at Vancouver have faithfully and impartially performed their duty. Whatever sum they may have decided upon in estimating this war debt, I hold that amount to be justly due, and trust that Congress will at once provide for its extinguishment."

In conclusion, Mr. Chairman, I ask for the people of those Territories, prompt and equal justice at the hands of this Congress. I ask, in the name of their patriotism and heroic services and sufferings, for the immediate liquidation of their claims. A commission appointed under its authority—a commission representing this Government, and not the people of these Territories—a commission, who, if they had any bias or prejudice, were biased and prejudiced against us, have investigated the whole question, have made their awards, have submitted their report, and that report, with the approval of the War Department, is now before Congress. We ask firmly and emphatically for the indorsement of this report, and the payment of these awards, the present session of Congress.

RIGHT OF VISITATION.

SPEECH OF HON. REUBEN DAVIS,
OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

June 7, 1858,

On the following resolution, introduced by himself:

Whereas, visitation of American merchantmen in the waters of the Gulf of Mexico and in the ports of Cuba, as now carried on by British war steamers, is in violation of international law: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the President be, and he is hereby, required to instruct our naval officers to arrest all offending vessels, until full indemnity be given for the injury done, and a guarantee against the exercise of the visitation in the future.

Mr. DAVIS said:

Mr. CHAIRMAN: Being limited, as I am, to a single hour in the discussion of this resolution, I must condense what I have to say as rapidly as possible. In introducing this resolution, I was influenced by no desire to involve this country in a war with England. I have no prejudices against her as a nation; but her arrogance I would humble by arms, if necessary. I felt, under the insults offered to our flag in the waters of the Gulf of Mexico, and in sight of our very shores, as I know millions of my countrymen must feel, humiliated and degraded, and, therefore, determined to put upon record my indignant denial of the right claimed and exercised by Great Britain to arrest and visit American merchantmen engaged in due course of trade. If war must grow out of it, the act is England's, and she must alone be amenable at the bar of nations.

The resolution first asserts that visitation of our merchantmen in the waters of the Gulf of Mexico by British war steamers is a violation of the law of nations. The correctness of this assertion I shall now proceed to establish. As early as the publication of the Consolato del Mare, the right of visitation and search was recognized as a belligerent right. The marine ordinance of Louis XIV., published in 1681, copied so much of the Consolato del Mare as recognized the right of search as a belligerent right, and thus gave the sanction of France to this doctrine. England recognized the right and practiced it. Very many of the northern States of Europe then controverted it, and contended that it was not a natural right belonging to nations, and refuse to give it their sanction down to this day. It will thus be seen that it never has been the law of nations, never having received the sanction of all or even a majority of nations. I could show that it is not a natural right of nations, if my time would ad-

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mit; but I must content myself with the simple statement that it is aggressive, and therefore conflicts directly with the natural right of self-defense, and the unmolested enjoyment of property and locomotion.

I desire now to state that visitation and search is a technical expression, and both words are used to express the one act—the act of searching. And I desire that members upon this floor will mark the distinction, because I shall have occasion, in the subsequent part of my remarks, to refer again to this position.

I have said that even the nations which recognized the right of visitation and search declared it to be a belligerent right only to be used in time of war, and then only for the purpose of determining the proprietary interest in the vessel and cargo. If the vessel and cargo were found to be the property of neutrals, they were universally dismissed; if the property of the enemy, they were confiscated. It may not be amiss to examine why the right of search was only to be exercised in time of war, and not in time of peace. The property of a belligerent has always been regarded as the legitimate subject of seizure and confiscation wherever found, and therefore became the object of search. In times of peace, when confiscation could not be made, there was no object against which it could be directed, and therefore it became a source of annoyance, and not admissible in time of peace.

Now, I have said it was strictly a belligerent right, if a right at all, and is so defined by the nations who exercise it. The *Consolato del Mare* so asserts it; the marine ordinance of Louis the Fourteenth so affirms; the armed neutrality organized by Catharine, Empress of Russia, so regarded it. Lord Castlereagh, in 1818, in a paper which he laid before a convention composed of the principal maritime Powers of Europe, assembled in London, declared it to be a power only to be exercised in time of war. Lord Stowell, in the case of the *Louis*, said the right of visitation and search was exclusively a belligerent right. Chief Justice Marshall, in cases of the United States of America against some Spanish and Portuguese vessels, said the same thing. In an official correspondence between Sir Stamford Canning and John Q. Adams, in 1823, it is again asserted; in a word, the entire correspondence between this country and Great Britain has thus treated it. This definition has the sanction of ages, and stands now sustained by a series of adjudications, diplomatic admissions, and legislative recognitions, which leaves it no longer an open question.

But, sir, I do not admit its existence as a belligerent right, because, as I have said, it is aggressive, and therefore has not the merits of being natural. In the early period of the history of nations, when a few maritime States had the power to coerce obedience and submission to it, the law was established; but even in those times it was more a municipal than a national right, and has been at every period of the world contested and denied. In 1780, the Empress Catharine, of Russia, put forth the declaration that "neutral vessels may navigate from port to port and on the coasts of nations at war, and that goods belonging to the Powers at war should be free in neutral ships;" and in support of this position organized what is known in history as the armed neutrality of that day, and which received the sanction of Russia, Norway, Sweden, Spain, Austria, Prussia, Portugal, the Netherlands, the King of the Two Sicilies, and the United States. This organization was made against the doctrine of search as a belligerent right natural to nations, and denied utterly its existence as such, and has steadily been persisted in ever since, only as it has been by treaty stipulation mutually surrendered in reference to specific objects. This country went into a war with Great Britain in 1812, in resistance of a right of search in times of war or peace. But, sir, this resolution directs itself simply against the right of visitation in times of peace. I must be allowed to say that it was never attempted to be separated from the word "search" until 1818, and not a single writer on the law of nations can be produced by the enemies of this resolution who has ever asserted it as a right separate from search. It is a part of the definition of search, and until within the last forty years no one has attempted

to separate them. Lord Aberdeen, in his letter of the 13th of October, 1841, to our Minister at the Court of St. James, Mr. Stevenson, for the first time feebly attempted a distinction, to which Mr. Stevenson replied in the following language:

"We confess ourselves unable to collect from the real nature of the distinction alleged to exist between the right claimed by the British Government and the ordinary right of visitation and search. If his lordship has failed in expressing, with sufficient clearness and precision, the conceptions of his own mind, it is certainly not for the want of the requisite talents as a writer, since his letter is written with the greatest terseness and elegance; but ought rather to be attributed to the embarrassment occasioned by the intrinsic difficulties of a bad cause left him as an official legacy by his predecessor, and which the joint ability of both might well prove insufficient to maintain. Be that as it may, Lord Aberdeen expressly asserts that he renounces all pretensions on the part of Great Britain to visit and search American vessels in time of peace; nor is it as American that such vessels are ever visited."

But in the face of this solemn renunciation, I say, "as American" such vessels are now being visited.

It was in 1818 that this right of visitation of vessels at sea was first mooted, and then not asserted as a right belonging to nations, as a national law, or as of general scope; but was asked by Lord Castlereagh to be established by negotiation and treaty in reference to one subject only—the African slave trade. He had assembled the Ministers of the principal maritime Powers of Europe, in London, in the month of February, 1818, and in a written communication he says:

"That as early as July, 1816, a circular intimation had been given to all British cruisers that the right of search, being a belligerent right, had ceased with the war; that it was proven beyond the possibility of doubt that unless the right to visit vessels engaged in the slave trade should be established by mutual concessions on the part of the maritime States, the illicit traffic must not only continue to exist, but must increase."

The British Government, by her Minister, did not then claim visitation as a right belonging to her by virtue of any natural rights, by prescription, by exercise, or otherwise; did not claim it as even a belligerent right. He, in the immediately preceding paragraph, said the right of search had ended with the war; and then he proceeds to ask that the right to visit in times of peace for a specific purpose, should be established by mutual concessions on the part of maritime States. The very words "establish by mutual concessions" is conclusive that the British Government knew well that no such separate right as visitation then existed; and in the request will be seen the suggestion to create a new element in international law. Every one at all familiar with British arrogance must acknowledge that if she had had the slightest foundation, instead of consulting with the maritime nations of the world in relation to its establishment, she would at once have proceeded to exercise it, as she is doing now, under no other pretense of right, only that she has been in negotiation with this country and other maritime States, until, in her insolence, she is claiming it by usage.

Let me examine rapidly the history of the diplomatic correspondence between this country and Great Britain in reference to this subject, for the purpose of ascertaining how far she has reasons, at this time, for supposing this country will acquiesce in it. In the latter part of the year 1818, or the spring of 1819, Mr. Rush, our Minister resident at the Court of St. James, was addressed upon this subject by Lord Castlereagh, which was reserved by him for reference to this Government. Mr. Adams was then Secretary of State; and, in his reply to this communication of Lord Castlereagh, he used the following clear, emphatic language:

"The admission of a right in officers of foreign ships-of-war to enter and search the vessels of the United States, in time of peace, under any circumstances whatever, would meet with universal repugnance in the public opinion of this country."

In December, 1820, Canning, the British Minister at Washington, again called the attention of Mr. Adams to this proposition for the grant of right to visit, which application was again refused in courteous but decisive language.

Again, on the 29th day of January, 1823, Sir Stamford Canning stated to Mr. Adams—

"That the British Government still remained convinced that the only effectual remedy of suppressing the traffic was to be found in the proposed mutual concession of the right of search."

The concession was again refused by our Government, and, although perhaps the boldest statesman Great Britain ever had, was, in the control, he did not dare assert or claim the right to visit without concessions. The very language is concession. The very word used in all this correspondence was "concession"—"concede to Great Britain. If it was hers of right, we had nothing to concede, she nothing to demand. And when in her history has she failed to claim and enjoy all that was hers of right, and more, far more? The very fact that she asked concession is of itself enough to convict her before the bar of the civilized nations of the earth that she had no right, and she knew it. I have already shown that, as late as 1841, Lord Aberdeen, in his communication of the 13th of October, expressly renounced all pretensions in time of peace to visit and search American vessels. I will not detain the House longer by referring to other evidences to be drawn from renunciations of this right in time of peace. But I will, before I quit this branch of the subject, refer the House to a curious item of English history in relation to the same subject. It seems that, in 1839, the Haytian Government enacted a law providing that any vessel, whether Haytian or otherwise, found engaged in the slave trade, should be seized, and brought into port for adjudication. This law aroused the indignation of the British Lion, and Lord Palmerston responded in the following language:

"Hayti has undoubtedly the full right to make such an enactment about her own citizens and ships, but that her Majesty's Government apprehends that Hayti has no right to legislate for the ships or subjects of other States. That in time of peace, no ship belonging to one State has a right to search and detain ships sailing under the flag of, and belonging to, another, without the permission of such State."

He also states that the right of search and detention to be exercised must be first given by treaty. And yet, in the face of all this, she has many vessels in the waters of the Gulf of Mexico, daily detaining and searching our merchantmen; and men are to be found—yes, men upon this floor—who speak of it with suppressed tone, as if afraid they would offend Great Britain and cause her to make war upon us. Sir, I must say, that if to this complexion things must come at last, because we shall demand that our honor be not violated, and our commerce destroyed, let it come; and in that hour will come forth millions of firm hearts and strong arms, to strike down and humble the haughty imperialism which exists on the little spot called England.

But, Mr. Chairman, I desire to present this subject to the House in another aspect, so that every earthly difficulty may be removed from around it. In 1817 a French vessel called the *Louis* was captured and condemned in the inferior courts of admiralty. The case was brought before Lord Stowell, who reversed the sentence of the court below, upon the special ground that, even admitting that the slave trade had been prohibited by the municipal laws of France, (which was doubtful,) the right of visitation and search (being exclusively a belligerent right) could not consistently be exercised in time of peace. He also says:

"No nation can exercise the right of visitation and search upon the common and unappropriated part of the ocean except upon the belligerent claims."

In the case of *Madrago vs. Willis*, in the King's Bench, in 1820, it was decided that the British Government could not prevent the subjects of other States from carrying on the slave trade out of the limits of the British Government. Now, with all these admissions by her ministers, these decisions of her courts, these declarations made by our courts and our Government a thousand times over—that she should send her cruisers in our very neighborhood, in sight of our shores, and constantly, in a manner most offensive, most lawless and defiant, search our merchantmen, is enough to call forth a murmur of scorn from the graves of our revolutionary ancestors against this generation if we longer submit to it. Timid men here may bow in menial silence, and cry, "Wait the slowness of negotiation!" but, should there be such, they will, when they return to their constituents, meet an indignant rebuke from high-souled freemen, who will not willingly yield to individual or national dishonor.

Thus, Mr. Chairman, I have shown the non-

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existence of the right of visitation. I have surrounded it with evidences unanswerable. And if it shall be tolerated by the action of this House, its non-existence shall take an appeal to the people of this country, with evidences that they will see and feel, and perish before they will yield it. I would have been glad to have had time to give this branch of my resolution a more thorough examination, but the importance of the other propositions contained in the resolution admonishes me I must enter at once upon their discussion.

The resolution directs that the President be required to instruct our naval officers to arrest the British cruisers engaged in visiting our merchantmen. And it is this feature which causes it to be denominated a war measure. Not so, sir. I have the sanction of the British Government herself for this procedure. In the case of *Madrago vs. Willis*, decided in the Court of King's Bench in 1820, the court says:

"If a ship be acting contrary to the general law of nations, she is thereby subject to condemnation."

It may be said this remark applies only to private ships. That would be an inference unsupported by any language used. I see no reason why a vessel of war should be allowed to float at large, disregarding law, insulting nations, violating national law, and injuring private property, and trampling upon private rights, and demand indemnity, because the owner may be a nation. From my knowledge of British character, I doubt not, if an American armed vessel were in its vicinity, and exercising acts in violation of international law, and trampling upon the rights of her citizens, but what she would arrest her instantly; and I would, by my vote, justify her. This view of the subject is predicated upon the supposition that these acts of visitation are unauthorized by the orders of the British Government; but if by her orders, then she is now waging war against the United States; and if so, where is there a man to-day so base as not to meet war with war, blow with blow, violence with violence? I have said, if this act is the result of orders from the British Government, then she is making war on us. For authority, I refer again to her. In the case of *Hayti*, who had by law (amounting to an order) authorized the arrest of slavers at sea, Lord Palmerston said to the Haytian Government that, in time of peace, no ship belonging to one State had the right to search and detain ships sailing under the flag of and belonging to another. Why? Because it is a belligerent right, not to be exercised in time of peace.

Now, then, if visitation is being made by authority of the British Government, they are doing what they have admitted themselves they have no right to do by the law of nations, and they are in the use of a belligerent right in doing it. So you see, in any aspect you may view the subject, those offending vessels are the subject of capture. If they are acting upon their own authority, according to the decision of the King's Bench, to which I have referred, they are proper objects of arrest; if by the authority of the British Government, then war exists between this country and Great Britain, and that by the act of the British Government, and we must meet it even if against our will.

Thus it will be seen that this portion of the resolution is not a war measure, but one that legitimately grows out of an existing state of things for which we are in nowise responsible. This country has always respected the honor and feeling of other nations, and, if she is true to herself, will respect her own honor; and the only proper mode of doing it, is to submit to no insolence, yield to no unjust demand, and have it plainly understood that we are always ready for war.

The resolution next proposes that the arrest of offending vessels shall be continued until indemnity has been granted by Great Britain, and guarantees given against visitation in the future. This, it is said, cuts off negotiation. Not so; it only gives impetus to it. It only requires the President to compel Great Britain to talk in monosyllables—answering, yes or no. I confess, sir, my object is to avoid the slowness of negotiation; it is the curse of this country; it is the disgrace of the nation. I remember, with mortification, that during the last Administration similar outrages were committed upon our flag by Spain. I remem-

ber that the President announced to the country that he intended to have instant and immediate satisfaction. The demand was made, and what has been done? Five years or more have elapsed, and my pride as an American citizen is humbled when I am forced to answer, nothing, nothing—that Spain has complicated it with a thousand other questions; and when my locks shall be gray, the answer will still be, "It is being negotiated."

Sir, I detest the very word negotiation. It is the shame of this country and of this people. I want negotiation hereafter to be had at the mouth of the cannon, and then one negotiation will end all our troubles. Let Congress adjourn, and when Congress meets here next winter, we will be informed that the Premier of England required time to draw up his answer, and that weeks were consumed; that in his communications he complicated the question with the Clayton-Bulwer treaty and Central American affairs generally; and, perhaps, that a commission has been appointed to negotiate upon all subjects of difficulty between this country and Great Britain; and five years will see the negotiation still pending; and, finally, a half-finished treaty will be entered into, which, like the oracles of old, will be so dubious that England will give her construction to it, showing she has gained all—we have lost all. This day we have more unsettled questions with England, growing out of our treaties with her, than originally existed. I will have no more negotiations with her. The treaties which now exist must be cut by the sword, and the sooner it is done the better.

In the better days of France, she always met the propositions of England to negotiate with an indignant denial, saying the peace of the two countries depended upon avoiding complicated alliances. The sword will unravel their recent concert in oppressing nations. This very assault upon us is intended by England to create a necessity for negotiation. I will have none of it. The green sod of Cuba is red with the blood of Crittenden; her soil now drinks in the blood of American citizens, and negotiation still lingers. The blood of American citizens, unlawfully shed by a tyrant hand on Cuban soil, cries to us for vindication; and the American heart, humbled by the deed, inquires in vain, "What has been done?" and it sinks more humbled when the answer is given, "It is being negotiated." The indignation of this great people burns deep in the soul, like the raging lava of the volcano, and, like it, unless something is done to vindicate the honor of the nation, will burst forth, and, like a fiery deluge, roll over this country, and consume forever the timid hearts that rule them. We have endured with patience; we have endured too long. I will submit to no more delays. I will not consent to negotiate. We must demand, and instant satisfaction must be given, or we must punish.

I am told that Congress should confer full power upon the President to settle this whole subject. I believe if we have had a President since the day of President Jackson, who could be fully trusted in this matter, it is President Buchanan. But by my vote I shall confer upon him no power to place under his mere discretion that which belongs to me in part by the Constitution.

The Constitution, I confess, vests in the President the treaty-making power. Let him exercise it. But, sir, in the lawless acts of British cruisers now being committed on our coast, I see no subject of negotiation. What shall be the subject of treaty? England is exercising the right to visit our merchantmen in time of peace. No such right belongs to her, as I have shown in the early part of my argument. Shall we treat with her to keep the peace—to induce her to respect the laws of nature and of nations? There is no dispute between us upon this subject. I have shown that she has admitted the non-existence of the right of visitation in herself. It is, therefore, not the subject of treaty, and I will not consent that it shall so become. These acts reflect on the honor of the nation; and its vindication by the Constitution is vested in Congress, and I will not consent to delegate it to another. We are invested with the war-making power, and war is waged in vindication of right and defense of honor; and I feel that we, coming as we do, from all portions of this

widely-extended country, are more competent to reflect the sentiments and feeling of our people, than the President; and will not delegate to him the performance of duties legitimately our own. I doubt not that these very outrages are the result of the timid policy of this Government, in reference to similar acts committed upon us by Spain. If, after the demand was made upon her Catholic Majesty, and hesitation indicated, we had broken her silence by the fear-producing thunders of the cannon, our ships would now ride at sea in calm and storm with swelling canvas and defiant mien, and everywhere on earth, the words "I am an American citizen," would be a passport and an honor. But England sees our halting course towards her, and has presumed to exercise similar acts, under the hope that it would be followed by negotiation, and she might thus obtain that which has been so long denied—the right to visit our vessels in time of peace.

My resolution in nowise interferes with the rights or duties of the President. I would not interfere with them. If he has demanded an explanation from England, let her give it, and the objects of the resolution have been accomplished. I only add an additional element of power with which to enforce this demand, and I make it obligatory on him to use it if necessary. The resolutions do not require him to arrest the vessels which had offended before the demand was made; it only requires the arrest of those which may thereafter offend. And is it not right that they should be arrested?

Nothing can be more harmless; they look to peace; to the prevention of the continuation of acts which have already excited the people almost beyond patient endurance, and which will madden them beyond restraint if continued. If this House is for peace, I call on members to sustain this peace measure; if for war, vote it down; and when the thunder cloud of war shall hang darkly over the land, say to your constituents, "My folly did it."

RIGHT OF SEARCH—FOREIGN SLAVE TRADE.

SPEECH OF HON. C. B. COCHRANE,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
June 8, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. CLARK B. COCHRANE said:

Mr. CHAIRMAN: The recent outrages committed by British cruisers upon American vessels in the Gulf of Mexico have excited—and, as I think, justly excited—the indignation of our people in every section of the Confederacy. No intentions, however good, no object, however laudable, can justify these seemingly persistent assaults upon our commerce.

The ocean is the great highway of nations, and upon her bosom the ships of all are equal. The rights of nations to traverse the seas are as free, as absolute, and as equal, as are the rights of American citizens to travel the people's highways. As the citizens of every free country possess a community of privileges within the State, so each independent nation is regarded as a moral person, having its own distinctive identity, and is in all respects precisely equal to every other member in the sisterhood of States. No matter how weak or how inconsiderable may be any given Power in the intercourse and transactions of nations, she stands upon equal footing with the largest and most powerful.

This is a favorite and fundamental doctrine in international law, absolutely essential to the growth and freedom of commerce, the progress of civilization, and to the honor, integrity, and even existence, of independent nationalities.

Another principle, equally well grounded in reason and public law, and one of universal recognition, is, that the jurisdiction and distinctive sovereignty of each nation follow and cover its vessels to the remotest seas, rendering them as exempt from seizure and molestation upon the waters, as the soil of their country from invasion upon the land. It follows as a necessary corollary from these settled doctrines of international

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and maritime law—doctrines forever fixed and forever closed to the discussions of mankind—that an assault upon, or an assumption of control over, the ships of one country, no matter for what cause, or under what pretext, if against its consent, is an act of hostility, an invasion of national jurisdiction, and a breach of public law, to the observance and vindication of which all are bound by considerations of the highest obligations and solemnity, and if avowed, constitute a just cause of war. If, as is incontrovertible, our national sovereignty and jurisdiction follow and surround our ships upon the waters of the world, their detention and search by British cruisers, though for the purpose of detecting and punishing crime, admits of no other or better justification than the invasion of the soil of the Union for similar purposes. The right of the United States to execute its penal laws is as absolute and as exclusive as its right to make them. To rigidly enforce and faithfully execute our criminal code, whenever and wherever violated by our citizens, whether upon the land or upon the sea, is a duty of the highest and sternest obligation—as well laws against external as against internal crime. But to admit the uninvited and unreciprocal aid of a foreign Power in the administration of our laws, is at once a confession of weakness and a surrender of independence. To tolerate such an unasked-for protection, no matter under what pretenses sought to be imposed, would be but the deserved forfeiture of national honor and the common respect of mankind.

It would involve upon our part, as one of the great and enlightened Powers of the world, the basest infidelity to those great principles of national personality and equality which constitute the condition to the civil and commercial freedom of the world.

No nation can arrogate to herself the police and espionage of the ocean, without violating its freedom and trampling upon the honor and rights of others. By the law of nature and nations, American ships upon the high seas are as free as the billows over which they bound, and the stars upon the flag they carry are as high above the reach of foreign invasion as the stars they symbolize.

The plea under which these assaults upon our commercial rights by the Government of Great Britain are sought to be excused, if not justified, is her desire, which I do not doubt is sincere, to suppress the African slave trade—a traffic long since declared piracy by the laws of both countries, and now prosecuted with increased activity and comparative impunity, under the fraudulent assumption of the flag of the United States. If the practice complained of could admit of any apology, none more potent could be devised. The Christian world, for more than half a century, have united in branding the accursed trade as a crime against nature and humanity, as unparalleled in its intrinsic atrocity, and aggravated to the climax of horror by the circumstances of cruelty attendant upon its prosecution.

The fact that a foreign trade in human beings, a commerce which Jefferson more than eighty years ago, while yet in the freshness of his manhood and the dawn of his great fame, denounced as “the opprobrium of infidel Powers,” should, in the last half of the nineteenth century, be revived, and vigorously and notoriously carried on under the protection of a Christian flag, is well calculated to induce the more humane of our people to acquiesce in the claim and practice of the English Government, now again, as often heretofore, made the subject of complaint. This leaning towards acquiescence is rendered the more powerful, from the fact that the prosecution of the traffic is supposed to command the sympathy, if not the indirect coöperation, of an influential and resolute class of our own citizens, who make slavery expansion and the increased supply of slave laborers a cardinal principle of their political creed, while at the same time it must be confessed that no very effectual means or efforts are made, on the part of the Administration or the Federal authorities, to prevent or punish the piratical use to which the flag of the Republic is thus shamelessly prostituted.

But be it remembered that a great good may be purchased at too dear a rate. There is no single object within the compass or contemplation of

the social effort, so commanding or desirable as to justify for its accomplishment the sacrifice of any one of those great principles which lie at the foundation of a broader philanthropy; and, elaborated and established by the wisdom and experience of ages, furnish those primary processes by which alone the freedom and civilization of the race are to be carried forward to their ultimate perfect triumph. Progress is a law of our humanity; but the improvement of men and of nations advances by principles as fixed as those which have brought the physical universe from chaos to a state of order and beauty.

Among the principles of international law, none are better settled than those to which I have referred. The Government of Great Britain professes to admit them to their fullest extent, and to be governed by them. She admits that the right of search is strictly a belligerent right, and cannot be exercised in time of peace, unless such right be granted by treaty stipulation, but seeks to draw a distinction between the right of search as defined by public law, and a right of visitation in suspicious cases, for the purpose merely of ascertaining the vessel's nationality. The claim of the British Government is clearly and fairly stated in a note addressed by Lord Aberdeen to Mr. Stevenson, when our Minister at the Court St. James, under date of October 13, 1841. It contains these words:

“The undersigned readily admits that to visit and search American vessels, in time of peace, when that right of search is not granted by treaty, would be an infraction of public law, and a violation of national dignity and independence. But no such right is asserted. We sincerely desire to respect the vessels of the United States; but we may reasonably expect to know what it really is that we respect. Doubtless the flag is *prima facie* evidence of the nationality of the vessel; and if this evidence were in its nature conclusive and irrefragable, it ought to preclude all further inquiry. But it is sufficiently notorious that the flags of all nations are liable to be assumed by those who have no right or title to bear them. Mr. Stevenson himself fully admits the extent to which the American flag has been employed for the purpose of covering this infamous traffic.”

“The undersigned renounces all pretension on the part of the British Government to visit and search American vessels in time of peace, nor is it as American that such vessels are ever visited; but it has been the invariable practice of the British navy, and, as the undersigned believes, of all navies in the world, to ascertain, by *visit*, the real nationality of merchant vessels met with on the high seas, if there be good reasons to apprehend their illegal character.”

“The undersigned admits, that if the British cruiser should possess a knowledge of the American character of any vessel, his visitation of such vessel would be entirely unjustifiable. He further admits, that so much respect and honor are due to the American flag, that no vessel bearing it ought to be visited by a British cruiser, except under the most grave suspicions and well-founded doubts of the genuineness of its character. The undersigned, although with pain, must add, that if such visit should lead to the proof of the American origin of the vessel, and that she was avowedly engaged in the slave trade, exhibiting to view the manacles, fetters, and other usual instruments of torture, or had even a number of these unfortunate beings on board, no British officer could interfere further. He might give information to the cruisers of the United States, but it could not be in his power to arrest or impede the prosecution of the voyage and the success of the undertaking.

“It is obvious, therefore, that the utmost caution is necessary in the exercise of this right claimed by Great Britain. While we have recourse to the necessary, and, indeed, the only means for detecting imposture, the practice will be carefully guarded, and limited to cases of strong suspicion.”

This claim of Great Britain, as thus defined and limited, has been uniformly resisted on the part of this Government as unfounded in public law, and an infraction of the freedom of the seas; not so much, indeed, because in a given case the exercise of such a limited claim must necessarily be, considered by itself, objectionable or offensive, as for the reason that no such qualified right is recognized by the law of nations, and is in its nature utterly incapable of practical execution without leading to the gravest abuses, and periling the peace of nations and the freedom of commerce. The distinction sought to be drawn between the “right of search” and the “right of visit” is not admitted by the Government of the United States. On the contrary, this Government has, upon all occasions, as is believed, maintained and insisted that no such distinction could be found in the writings of approved publicists or in the decisions of courts of admiralty, and could not be carried into practice without necessarily drawing after it the right of search, and the right to use whatever force might be necessary to render such search effectual.

During the administration of President Tyler, Mr. Webster, then Secretary of State of the United States, speaking in behalf of the Government, met this claim of Great Britain, and the distinction upon which it was sought to be supported, in the following language:

“But if the vessel thus approached attempts to avoid the vessel approaching, or does not comply with her commander's order to send him her papers for inspection, nor consent to be visited or detained, what is next to be done? Is force to be used? And if force be used, may that force be lawfully repelled? These questions lead at once to the elementary principle, the essence of the British claim. Suppose the merchant vessel be in truth an American vessel, engaged in lawful commerce, and that she does not choose to be detained—suppose she resists the visit: what is the consequence? In all cases in which the belligerent right of visit exists, resistance to the exercise of that right is regarded as just cause of condemnation, both of vessel and cargo. Is that penalty, or what other penalty, to be incurred by resistance to visit in time of peace? Or suppose that force be met by force, gun returned for gun, and the commander of the cruiser, or some of his seamen, be killed: what description of offense will have been committed?”

“The Government of the United States, on the other hand, maintains that there is no such well-known and acknowledged, nor, indeed, any broad and generic difference between what has been usually called ‘visit,’ and what has been usually called ‘search;’ that the right of visit, to be effectual, must come, in the end, to include search; and thus to exercise, in peace, an authority which the law of nations only allows in times of war. If such well-known distinction exists, where are the proofs of it? What writers of authority on public law, what adjudication in courts of admiralty, what public treaties, recognize it? No such recognition has presented itself to the Government of the United States; but, on the contrary, it understands that public writers, courts of law, and solemn treaties, have for two centuries used the words ‘visit’ and ‘search’ in the same sense. What Great Britain and the United States mean by the ‘right of search,’ in its broadest sense, is called by continental writers and jurists by no other name than the ‘right of visit.’ Visit, therefore, as it has been understood, implies not only a right to inquire into the national character, but to detain the vessel, to stop the progress of the voyage, to examine papers, to decide on their regularity and authenticity, and to make inquiry on board for enemies’ property, and into the business in which the vessel is engaged. In other words, it prescribes the entire ‘right of belligerent visitation and search.’”

“On the whole, the Government of the United States, while it has not conceded a mutual right of visit or search as has been done by the parties to the quintuple treaty of December, 1841, does not admit that, by the law and practice of nations, there is any such thing as a right of visit distinguished by well-known rules and definitions from the right of search.”

Again: Mr. Cass, in a letter of recent date, addressed to Lord Napier, who, in his note of December last, had reaffirmed the pretended “right of visitation,” restates the American doctrine in these words:

“Your lordship, while stating that it is the habit of vessels upon the coast of Africa to hoist the American flag as a protection against British cruisers, remarks that ‘this precaution does not protect the slaver from visit, but exonerates her from search.’ The distinction here taken between the right of visitation and the right of search, between an entry for the purpose of examining into the national character of a vessel and an entry for the purpose of examining into the objects of her voyage, cannot be justly maintained upon any recognized principle of the law of nations. To the former, Lord Palmerston, in his correspondence with the American Minister at London, added, that the vessel must be navigated according to law. To permit a foreign officer to board the vessel of another Power, to assume command in her, to call for and examine her papers, to pass judgment upon her character, to decide the broad inquiry whether she is navigated according to law, and to send her in at pleasure for trial, cannot be submitted to by any independent nation without injury and dishonor. The United States deny the right of the cruisers of any other Power whatever, for any purpose whatever, to enter their vessels by force in time of peace. No such right is recognized by the law of nations.”

It must be conceded, I think, that the position, early taken upon this important question by this Government, and steadily maintained on all occasions and by all parties down to the present hour, is impregnable, on the ground both of authority and principle. The doctrine contended for by Great Britain would be not only an interpolation of a new principle into the maritime code of the world, but, as it seems to me, an infraction of sound policy, incompatible with the interest of commerce, the freedom of the seas, the independence of States, and the peace of the world. However this may be, the judgment of the United States will not be reversed. The question, so far as we are concerned, must be considered as closed. A doctrine so uniformly and resolutely maintained for more than half a century, and to which we are so fully committed, cannot now be surrendered without national inconsistency and dishonor. To incur these, the United States cannot afford.

But this very position, so liable to be attributed

to indifference on the part of the United States to the slave trade, especially at this unfortunate juncture of time, when this infamous traffic is assuming unusual magnitude and boldness, lays us under stern and peculiar obligations to employ the whole energies of the Government for the suppression of this unnatural crime. We owe it to our own character and faith as a nation. We owe it to the other Christian Powers of the world, before whom we were the first to denounce it as criminal, and to whom we inaugurated and commended the policy of its extirpation; we owe it to the manly records of our past, and the just expectations of our future; to the great cause of humanity and Christian civilization.

If we deny the right of Great Britain to interfere in the execution of our criminal laws, let us see to it that we execute them ourselves. If we deny the right of that Power to detect and expose the piratical use of our flag, let us testify our professed detestation of the piracy by the vigorous application of our own remedies. In the generous movement of the enlightened Powers of the world for the suppression of a general commerce in human bodies—a commerce to which common humanity is sacrificed to the lust of unholy gains—let not the United States manifest its indifference by enacting the part of the dog in the manger.

The fact that we have resisted the pretension of the British Government as well to the right of visitation as of search, and claimed for our flag absolute inviolability upon the highway of nations, coupled with our refusal hitherto to join the principal maritime Powers of the world in their common efforts to suppress the trade by yielding the mutual right of search, through treaty stipulations, has led, as might well have been foreseen, to the general and fraudulent use of our national ensign to cover and protect this great crime. These facts are so well put by Mr. Calhoun, in his able defense of the Ashburton treaty, that I beg leave to read an extract from his remarks, not only because of the clearness and brevity of the statement, but also on account of the peculiar class of opinions which that distinguished statesman was supposed to represent. Mr. Calhoun said:

"Congress, at an early day—as soon, in fact, as it could legislate on the subject under the Constitution—passed laws enacting severe penalties against the African slave trade. That was followed by the treaty of Ghent, which declared it to be irreconcilable with the principles of humanity and justice, and stipulated that both of the parties—the United States and Great Britain—should use their best endeavors to effect its abolition. Shortly after, an act of Congress was passed declaring it to be piracy, and a resolution was adopted by Congress requesting the President to enter into arrangements with other Powers for its suppression. Great Britain, actuated by the same feeling, succeeded in making treaties with the European maritime Powers for its suppression; and, not long before the commencement of this negotiation, had entered into joint stipulations with the five great Powers to back her on the question of search. She had thus acquired a general supervision of the trade along the African coast, so that vessels carrying the flag of every other country, except ours, were subject, on that coast, to the inspection of her cruisers, and to be captured if suspected of being engaged in the slave trade. In consequence ours became almost the only flag used by those engaged in the trade, whether our own people or foreigners; although our laws inhibited the traffic under the severest penalties.

"In this state of things, Great Britain put forward the claim of the right of search as indispensable to suppress a trade prohibited by the laws of the civilized world, and to the execution of the laws and treaties of the nations associated with her by mutual engagements for its suppression. At this stage, a correspondence took place between our late Minister at the Court of St. James, and Lord Palmerston, on the subject, in which the latter openly and boldly claimed the right of search, and which was promptly and decidedly repelled on our side. We had long since taken our stand against it, and had resisted its abuse as a belligerent right at the mouth of the cannon. Neither honor nor policy on our part could tolerate its exercise, in time of peace, in any form, whether in that of search, as claimed by Lord Palmerston, or the less offensive and reasonable one of visitation, as proposed by his successor, Lord Aberdeen. And yet we were placed in such circumstances as to require that something should be done."

The question remains with us, whether anything shall be done. Action, immediate and earnest action, is demanded, if for no other reason, in order to preserve our faith and honor as a nation. We are committed against this trade by an irreversible record. The Christian world is committed against it. The instincts of our common humanity arraign and condemn it as the most atrocious of crimes, and call for its immediate suppression.

From the catalogue of human wrongs, this has been singled out for ignominy and extinction by

the judgment of the world. From that tribunal, by which its doom has been pronounced, there is no appeal.

Towards the consummation of a great object, so devoutly to be wished, the Republic is pledged to no undistinguished part. The glory of first branding the traffic and initiating the policy for its suppression is ours. If we are true to ourselves, we shall labor to deserve the chief plaudits of the world in the hour of final success.

It is a law of the chase that the huntsman who starts the game is entitled to be in at the death. Let the Republic, which inaugurated the enterprise, lead the nations in the pursuit, and to the fame of its beginning add the brighter luster of its close.

Instead of vigorously and earnestly employing the means and remedies we already have, or devising new and more effectual measures to suppress the evil, we seem at least to stand in the way of its suppression. That the foreign slave trade has of late largely increased, and is now principally prosecuted under the cover of the American flag, is notorious. This has been lately charged by the Government of Great Britain and not denied by our own.

The note of Lord Napier to General Cass, of the 24th of December last, contains, on this subject, a mortifying statement of facts, and a noble and generous appeal. He says:

"It has been my duty, under the instructions of her Majesty's Government, to draw your attention verbally, on several occasions, to the present activity of the African slave trade, to the fact that it is now chiefly prosecuted by the criminal and fraudulent assumption of the United States flag, and to the incommensurate means which are employed for its suppression.

"I have also, in an official letter of the 16th of September last, conveyed to you the hope of her Majesty's Government that their increasing efforts for the extinction of this traffic may be supported by the hearty coöperation of the naval forces of the United States."

"Since I had the honor of addressing you, additional evidence has transpired of the abuses to which I have alluded. I have been directed by the Earl of Clarendon to make a written communication to you of certain particulars hereafter stated, and I deem the occasion proper for presenting, at the same time, such a general view of the subject as the materials at my command afford, and which, I trust, notwithstanding its incompleteness, will furnish the United States Cabinet with ground for serious deliberation, and for repressive measures of an energetic character.

"The demand for slaves in the Cuban market is supplied by vessels constructed, purchased, and often possessed and fitted out in the ports of the United States. The number of ships so employed cannot be exactly ascertained; but, in the opinion of competent judges, it is considerable and increasing.

"The accompanying extracts from the official correspondence of her Majesty's consular authorities in Cuba, and the reports of the British functionaries on the coast of Africa, which I have also the honor to inclose, are submitted to the attention of the Government of the United States in the belief that similar information has not reached them from any other quarter.

"The vessels engaged in this branch of the slave trade, which alone possess any vigor or extension, whether owned by American citizens, by colonial Spaniards, or by foreign residents in the Union; whether issuing from the harbors of the United States or from those of Cuba, have now embraced the almost universal habit of hoisting the colors of the United States for the purpose of sheltering themselves against the scrutiny of the British cruisers."

The Secretary of State of the United States admits that he has no doubt that "his lordship is correct in the statement that the American flag has been fraudulently assumed by the vessels of other nations engaged in the traffic," but gives in his long and elaborate reply no assurance or promise to the country or the world that any very effectual measures will be prosecuted, at least during this Administration, to arrest the evils complained of, or prevent the piratical prostitution and use of our flag.

There is, in my judgment, nothing wanting to secure the complete destruction and overthrow of the slave trade, at once and forever, except the cordial and earnest coöperation of the United States with the maritime Powers of Europe in such reciprocal measures as the wisdom and experience of the past have shown would be both effective and feasible for the accomplishment of the end proposed.

Some plan provided for by treaty with Great Britain and the other principal European Powers, and conceding on our part the mutual and equal right of visitation and search, is believed to be indispensable for the removal of this gigantic and inveterate wrong.

That such reciprocal right might successfully

be administered, under such well-regulated and well-defined limitations as would prevent any serious inconvenience or abuse, cannot be doubted. The evil is not beyond the reach of human remedies; and wherever there is a will there is a way.

The concession would be as compatible with national honor as consonant with the Christian sentiment of the world. Whatever rights are conceded in furtherance of a common end, equivalent rights would be yielded in return, and equality is not dishonor.

To a fair and equal concurrence in a scheme of this character, the United States has been repeatedly invited, and has as often, and in my judgment, without sufficient reasons, declined. The history of our country, however, is not without evidence of earnest effort, on the part of certain departments of the Government, to induce the proposed coöperation.

In 1820, so much of the annual message of Mr. Monroe as related to the suppression of the slave trade was referred to a special committee of the House of Representatives. In their report, subsequently submitted to the House, the committee said:

"On this subject the United States, having led the way, owe it to themselves to give their influence and cordial coöperation to any measure that will accomplish the great and good purpose; but this happy result, experience has demonstrated, cannot be realized by any system, except a concession by the maritime Powers to each other's ships of war of a qualified right of search. If this object was generally attained, it is confidently believed that the active exertions of even a few nations would be sufficient entirely to suppress the slave trade."

Such was the judgment and such the spirit of the people's representatives, at that period, upon this important subject. They felt, in the language of Mr. Calhoun at a later period, that "something should be done." Again, in 1822, a committee of the House, raised upon the same subject, made an able and convincing report, in which, among other things, they said:

"But the conclusion to which your committee has arrived, after consulting all the evidence within their reach, is, that the African slave trade now prevails to a great extent, and that its total suppression can never be effected by the separate and dissimilar efforts of one or more States; and, as the resolution to which this report refers requires the suggestion of some remedy for the defects, if any exist, in the system of laws for the suppression of this traffic, your committee beg leave to call the attention of the House to the report and accompanying documents, submitted to the last Congress by the Committee on the Slave Trade, and to make the same a part of this report. That report proposes, as a remedy for the existing evils of the system, the concurrence of the United States with one or all the maritime Powers of Europe in a modified and reciprocal right of search on the African coast, with a view to the total suppression of the slave trade.

"It is with great delicacy that the committee have approached this subject, because they are aware that the remedy which they have presumed to recommend to the consideration of the House requires the exercise of a power of another department of this Government, and that objections to the exercise of this power, in the mode here proposed, have hitherto existed in that department.

"Your committee are confident, however, that these objections apply rather to a particular proposition for the exchange of the right of search than to that modification of it which presents itself to your committee. They contemplate the trial and condemnation of such American citizens as may be found engaged in this forbidden trade, not by mixed tribunals sitting in a foreign country, but by existing courts of competent jurisdiction in the United States; they propose the same disposition of the captured Africans now authorized by law; and, least of all, their detention in America.

"They contemplate an exchange of this right which shall be in all respects reciprocal; an exchange which, deriving its sole authority from treaty, would exclude the pretension—which no nation, however, has presumed to set up—that this right can be derived from the law of nations; and, further, they have limited it, in their conception of its application, not only to certain latitudes, and to a certain distance from the coast of Africa, but to a small number of vessels to be employed by each Power, and to be previously designated. The visit and search, thus restricted, it is believed, would insure the coöperation of one great maritime Power in the proposed exchange, and guard it from the danger of abuse.

"Your committee cannot doubt that the people of America have the intelligence to distinguish between the right of searching a neutral on the high seas in time of war, claimed by some belligerents, and that mutual, restricted, and peaceful concession, by treaty, suggested by your committee, and which is demanded in the name of suffering humanity."

The proposition was earnestly and ably seconded by Mr. Monroe. Negotiations were entered upon for the purpose of securing the object, and in March, 1824, a convention between the United States and the Government of Great Britain was actually signed, in which, among other things stipulated for, was "the right of visiting,

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capturing, and delivering over for trial, the merchant vessels of the other, engaged in the traffic of slaves." This right to be administered and executed "by such commissioned officers of their respective navies as shall be furnished with instructions for executing the laws of their respective countries against the slave trade."

The Senate amended the convention so as to exclude from its operation the "*coasts of America*." By reason of this amendment, it failed to receive the ratification of the English Government, and so the negotiation failed of its object. The whole subject has been a fruitful source of protracted controversy between the two Governments.

The controversy should be terminated, and terminated in a way not only compatible with the honor of both countries, but in the cordial adoption of such mutual and remedial measures as shall sweep from the seas a system of piracy the most guilty and stupendous in the annals of human crime.

The world looks in confident expectation for the accomplishment of a great purpose, and, in this attitude of profound anxiety, awaits the vindication of our sincerity, and the faithful redemption of our pledges.

REVOLUTIONARY CLAIMS.

SPEECH OF HON. R. E. FENTON,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
June 11, 1858.

After moving to suspend the rules to enable him to take up the bill to provide for the final settlement of the claims of the officers and soldiers of the revolutionary army—

Mr. FENTON said:

Mr. SPEAKER: Early in the present session I referred this bill to the Committee on Revolutionary Claims; and the committee, after a careful examination of its provisions, with entire unanimity reported it back, and it was placed on the Calendar of the House. I had expected to reach it in the regular order, but as that is now impossible, I have adopted this, the only method, of getting it before the House for consideration this session; and while I make an appeal to the friends of the bill, the friends of the heroes of our revolutionary struggle, the friends of equity and justice, to aid in suspending the rules, I beg the indulgence of the House to briefly assign my reasons in favor of the passage of the bill.

It differs from that of the late distinguished Senator from South Carolina, Judge Evans, which passed both Houses of Congress at different sessions, in this: it allowed the half pay promised by Congress, from the close of the Revolution to 1826, and deducts the commutation certificates for five years' full pay, which the officers received, (although worth at the time one eighth only of their apparent value,) but does not deduct the pensions allowed the survivors by the act of May 15, 1828; nor does it make any provision for the soldiers; whereas my bill allows the half pay from the close of the war to the date of the officer's death, and deducts all the Government ever paid by way of commutation, or as pensions under the act of 1823. It also grants a quarter section of land to the surviving children of the soldiers: in other words, extends to them the benefits of the act of March 3, 1855, from which they are excluded by the word "minor," their being no minor heirs of the revolutionary soldiers.

The committee, in their able report, have sustained the principles of this bill in a masterly and conclusive manner; and I cannot so successfully, by any argument of my own, make plain to the House and the country the great injustice of our refusal to pass this bill, as by including a portion of it in my remarks.

The committee say:

"That, since the Revolution, the claims of the officers of the continental army for the half pay for life, promised them by various resolutions of the Continental Congress, have frequently been before the committees of this House, and received their favorable consideration. At the last Congress a report was made from the Committee on Revolutionary Pensions, by Mr. Broom, (see House Report No. 31, first session Thirty-Fourth Congress,) in which the subject is so fully considered that the committee deem it unnecessary to enlarge upon the views therein expressed, but adopt it as a part of their report, to be printed therewith.

"From an examination of that report, and various other documents relating to the subject, your committee have arrived at the following conclusions:

"1. That the resolves of October 21, 1780, and other acts of Congress, promising half pay for life to the officers of the Continental army who should serve to the end of the war, or until the time of their reduction, formed a contract between the United States and the officers of the Army, in their individual capacity, at a time when both were free to make it, founded upon a good and valid consideration.

"2. That the officers fully performed and fulfilled the contract on their part, and by their services, sacrifices, and sufferings, gained the liberty and independence of the country.

"3. That on the performance of said contract, each officer, as an individual, acquired a vested right of property therein, of which he could not be divested 'without due process of law,' or by his own free and voluntary relinquishment; and any act of Congress impairing or affecting this right is repugnant to the Constitution and void. Under this contract each officer became entitled from the United States to half pay, according to the rank he held in the Army from the close of the revolutionary war, or from the time of his discharge from the service, until the period of his death, to be paid yearly and every year during that period; and for the performance of such contract on the part of the United States the faith of the nation was solemnly pledged. The committee also find that such officers were also entitled to an interest of six per cent. per annum on the yearly payments, and on the aggregate from the date of the officer's death to the time of settlement, under the resolution of Congress passed June 3, 1784, which provides 'that an interest of six per cent. shall be allowed to all the creditors of the United States for supplies furnished or services done, from the time that payment became due.' In alluding to this resolve, Chief Justice Gilchrist, of the Court of Claims, in a recent decision, says: 'No language could be more express or free from doubt than this. The resolution was passed from a feeling that it was just and right that interest should be paid from the time the half pay became due, and it was a voluntary contract on the part of the United States, constituting a legal claim against them which no subsequent legislation could release without the consent of the other party.' The above contract for half pay, although made under the Confederation, is equally binding upon Congress, for by the sixth article of the Constitution of the United States, section one, 'all debts contracted or engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.'

"4. That on the 22d of March, 1783, an attempt to avoid the above contract and procure satisfaction thereof was made by Congress, under an act called the commutation act, by which it was proposed to commute the above life annuities for five years' full pay.

"5. This act was manifestly unjust in compelling individuals to abide by the decisions of the lines of the Army, and placing the old and the young on an equal footing. An officer sixty years of age might well commute his life annuity for ten years' half pay in advance, while one of thirty would have a right, upon the principles which govern life annuities, to estimate his life at a much longer period. It wholly deprived the officers, as individuals, of the right to determine whether they would accept or refuse, and the committee have not been able to ascertain that the officers, either by lines or as individuals, ever gave their assent to the commutation. But if, under the pressure of their poverty, (for he remembered the Continental money in which their monthly stipends had been paid was nearly valueless,) they had assented, 'it cannot be considered as a voluntary assent, but rather a submission to an uncontrollable and instant necessity, which admitted of no deliberation or delay.' The resolve of Congress, an act of the Government, left them no choice except to abide by the decision of the lines and corps of the Army. They were entirely within the power of the Government, and could do nothing which presented better prospects for themselves.

"6. The money was not paid, nor were the securities bearing an interest of six per cent., such as the act contemplated, or as the officers expected. The Government made no provision for the payment of either principal or interest of the commutation until long after the imperious necessities of the officers compelled them to part with the certificates for less than a year's pay. It is true, however, that paper certificates of service were issued by John Pierce, paymaster, payable to the officers or bearer, for five years' full pay, and many doubtless received them. They were worth, at the time of their issue, one eighth of a dollar only; and not until after a period of about ten years, and most of them were in the hands of speculators, were they funded and paid by the United States. The loss of interest alone on the commutation of a captain, (\$2,400,) who lived in 1828, was \$2,536, and so in proportion to other officers; and this amount the Government saved by the commutation.—See *Annals of Congress*, vol. 4, part 1, for 1827-28, page 441.

"The commutation then is clearly liable to the following objections:

"1. That the commutation was not a valid accord and satisfaction for the half pay for life.

"2. That it was so construed as to take away the rights of these officers under the resolve of October, 1780.

"3. Of not being an equivalent for the half pay.

"4. Of having been effected under circumstances, and by the operation of motives, which deprive it of all obligatory force.

"5. That, according to strict legal construction, these officers did not commute their promised half pay for life by accepting the so-called commutation certificates; they, in no respect, having been in conformity to the act.

"6. Of partial execution.

"7. The reports of Mr. Madison in 1783, Mr. Nelson in 1810, Mr. Johnson in 1818, Mr. Sergeant, December 10, 1819, Mr. Hemphill, January 3, 1828, Mr. Burgess, May 8,

1826, and February 11, 1828; the act of May 15, 1828, Senator Walker's report in 1832, Senator Evans's, February 4, 1854, and Mr. Broom, April 4, 1856, show a repeated recognition of the contract on the part of Congress; but no general provision appears to have been made by Congress for the relief of these officers until the act of May 15, 1828, in which the contract of 1780 is fully recognized. They are there acknowledged as *creditors* of the Government, and not pensioners. That act, however, applies to the few surviving officers only, and made no provision for those who died before its passage.

"In the very able report of Mr. Burgess, made February 11, 1828, the committee say: 'That in their opinion, the delivery of those certificates, as well on general principles as on those which govern courts of law and equity, did not annul the right of half pay, or exonerate the Government from the obligations of the original contract. Such of those officers as had survived the war, and continued in the service until peace, became severally and individually vested with a complete right to the reward of half pay for the residue of their lives. The reward was gallantly won at the point of the sword; it was the price of our independence purchased with blood, and secured by public faith.'

"The committee, therefore, report the bill referred to them without amendment, and recommend its passage. It allows half pay for life to the officers from the close of the Revolution to the date of their death, deducting therefrom all sums which have ever been paid to them by the Government by way of commutation or as pay, under the act of May 15, 1828. For the purpose of extending to the surviving children of the soldiers of the Revolution the benefits of the act of March 3, 1855, a section has been inserted for that purpose. The act referred to was doubtless intended to embrace their claims, but the word 'minor' excludes them, as there are no 'minor children' of the Revolution; and hence the necessity of further legislation in behalf of these meritorious claimants. The committee will add that bills embracing the principle contained in the bill herewith reported, so far as relates to the officers and their descendants, have passed the Senate and House of Representatives by large majorities, at different sessions of Congress."

Strange to say, nearly fifty years ago a bill similar, but much more liberal in its provisions, to the bill now before the House, was reported at a time when all business of the country was depressed, and the Treasury was empty, for this half pay, and all the committees to whom these claims have been referred since that time have all united in the admission that these claims for half pay were justly due. How could they do otherwise? History finds that after the war had continued some fifteen months by enlistments for short terms, Congress resolved to raise eighty-eight battalions to serve for the war; and that on the 16th September, 1776,

"Resolved, That, in addition to a money bounty of twenty dollars to each non-commissioned officer and private soldier, Congress make provision for granting lands, in the following proportions, to the officers and soldiers who shall engage in the service, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy. Such lands to be provided by the United States; and whatever expense shall be necessary to procure such land, the said expense shall be paid and borne by the States, in the same proportion as the other expenses of the war, namely: to a colonel, five hundred acres; to a lieutenant colonel, four hundred and fifty acres; to a major, four hundred acres; to a captain, three hundred acres; to a lieutenant, two hundred acres; to an ensign, one hundred and fifty acres; each non-commissioned officer and soldier, one hundred acres."

And Congress afterward was obliged to add the resolve of May 15, 1778:

"Resolved, unanimously, That all military officers commissioned by Congress, who are now or hereafter may be in the service of the United States, and shall continue therein during the war, and not hold any office of profit under those States, or any of them, shall, after the conclusion of the war, be entitled to receive annually for the term of seven years, if they live so long, one half of the present pay of such officers: Provided, That no general officer of the cavalry, artillery, or infantry, shall be entitled to receive more than the one half part of the pay of a colonel of such corps, respectively."

And it should not be forgotten that during this time the Government was in good credit, and the war was being carried on with loan office bills and certificates; and there had issued up to November 29, 1779, two hundred million of dollars, and a very large amount of other classes of Government securities; that the Government soon after became utterly insolvent, and all the schemes of the Government to carry on the war by the aid of loan offices utterly failed; and as early as March 18, 1780, Congress was obliged to relinquish the hope of redeeming the Government paper, (much of it then being in the hands of the officers,) and on the 18th of April, 1780, passed a resolution—

"That the principal of all certificates taken out since the 18th of March, 1780, should be discharged at the rate of one Spanish milled dollar, or the current exchange thereof in other money at the time of payment, for every dollar of the said bills of credit secured on loan; and that the principal of all certificates that should thereafter be taken out, until

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the further order of Congress, be discharged at the same rate and in the same manner as those that had been taken out since the 18th of March, 1780."

Here, then, was the public declaration of the utter insolvency of the Government, as early as the 18th of March, 1780.

Thus, while the *State troops* were being paid by State authorities, the Provincial Government had neither money nor credit to carry on the war. These important facts should be kept in view; for it will be seen that after the war had continued over five years that, in consequence of the utter insolvency of the Government, two distinct classes of currency were established by law. That the paper of the Government had ceased to be considered as security, and therefore the seven years' half pay contract of October 3, 1780, promised the supernumerary officers, was made payable in *specie*. That on the 3d of October, 1780, Congress reorganized the Army, to take effect on the 1st of January, 1781, the effect of which was to throw many of the officers out of service. They, therefore, at the same time, adopted the following resolution:

"And whereas, by the foregoing arrangement, many deserving officers must become supernumerary, and it is proper that regard be had to them:

"Resolved, That from the time the reform of the Army takes place, they be entitled to half pay for seven years, in *specie*, or other current money equivalent, and also grants of land at the close of the war, agreeably to the resolution of the 16th of September, 1776."

It will be observed, by the letter of General Washington, that it became necessary, inasmuch as there was no funds in the Treasury, to offer some strong inducement by pledging the honor of the nation for some prospective reward, and all were embraced in the resolve of October 21, 1780.

It was at this critical time of the eight years struggle for liberty, when the hopes of those who had born its burdens seemed about to terminate in disappointment and despair, that Congress on the 21st day of October, 1780, after the repeated and earnest solicitations of Washington,

"Resolved, That the Commander-in-Chief, and commanding officer in the southern department, direct the officers of each State to meet and agree upon the officers for the regiments to be raised by their respective States, from those who incline to continue in service; and where it cannot be done by agreement, to be determined by seniority, and make return of those who are to remain; which is to be transmitted to Congress, together with the names of the officers reduced, who are to be allowed half pay for life. That the officers who shall continue in the service to the end of the war shall also be entitled to half pay during life, to commence from the time of their reduction."

This resolution having embraced those officers named in that of October 3, 1780, it was simply supplementary, additional to, and blending of that contract, and was therefore payable in *specie*. It could not have been viewed otherwise, because the act of the 18th of March and April, and 28th June, 1780, fixing the value of all Government paper to two and a half dollars to the hundred, was in full force and so continued during the whole period of the old Confederacy. Here, then, it is admitted that this was a solemn contract, by which these officers were promised half of their annual pay during their lives; that this *life estate* was, as the committees have always found, a *vested right*, and could not be impaired by any subsequent legislation; that it was a promise to each officer individually. Was this half-pay contract for life ever paid in *specie* or otherwise, during the period of the old Confederacy? All agree that no portion of principal or interest was ever paid during that time nor since as *half pay*.

But it is sometimes contended that the computation act, as it is sometimes called, of March 22, 1783, was passed at the request of some of the officers. Because, as it is alleged in the preamble of the resolution itself "in order to remove all subject of dissatisfaction from the minds of their fellow-citizens, (not the officers let it be remembered:)

"And whereas, Congress are desirous as well of gratifying the reasonable expectations of the officers of the Army as removing all objections which may exist in any part of the United States to the principle of the half pay establishment, for which the faith of the United States hath been pledged; persuaded that those objections can only arise from the nature of the compensation, not from any indisposition to compensate those whose services, sacrifices, and sufferings, have so just a title to the approbation and rewards of their country: Therefore,

"Resolved, That such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the amount of five years' full pay in money or securities on interest at six per cent. per annum, as Congress shall find most convenient, instead of the half pay

promised for life by the resolution of the 21st day of October, 1780; the said securities to be such as shall be given to other creditors of the United States: Provided, it be at the option of the lines of the respective States, and not of officers, individually, in those lines, to accept or refuse the same: And provided, also, that their election shall be signified to Congress, through the Commander-in-Chief, from the lines under his immediate command, within two months, and through the commanding officer of the southern army, from those under his command, within six months from the date of this resolution."

This act does not repeal that of the 21st October, 1780, and there are many objections to this resolve which should be conclusive why it ought not to have any influence over the half-pay contract.

1. Because it appears by the preamble that the few officers who petitioned Congress for some act which should give them a sum in gross for a term of years did so for the only reason to remove "dissatisfaction from the minds of their fellow-citizens" to the "half-pay establishment."

2. Because, by the terms of the act itself, the officers were expressly prohibited from expressing their dissent to the same.

3. Because this resolve was not passed until after the peace, after the contract had been fulfilled on the part of the officers.

4. Because it was well known to Congress, at the time of the passage of that act, the Government had no power to comply with any of the conditions of that act, either to pay said officers in *specie* or give them *security*. The sending out those commutation certificates, and inducing the officer to believe that they were to be secured and brought within the terms even of this resolve, was utterly at variance and inconsistent with, and in violation of, the pledged faith of the American people; and the officers should not be held to account for only their legal value, two dollars and a half to the hundred; this was its true value by law during all the period of the old Confederacy, for some three years afterwards; and it was merely a certificate of a captain's rank for only sixty dollars instead of twenty-four hundred dollars. And this was the relation of the officers who held a *specie*-paying contract through all the old and during the new Confederacy up to the 4th of August, 1790. Even at this late day, after these certificates had been passed from hand to hand at their legal value of \$2 50 to the hundred, and while out of the hands of the officers, they are funded on the *specie* basis of one dollar to the hundred.

But in order to remove all doubts in relation to the final disposition of these certificates, even by those who held them, and to show that there was deducted, and never paid to any person whatever, in the ratio of a captain's grade, which amounted on the 1st day of January, 1828, to the sum of \$2,536 32, the second section of the funding act of August 4, 1790, authorizes the President to cause \$12,000,000 to be borrowed, part to pay arrears and installments of the foreign debt, and to make other contracts relating to the foreign debt. The act then proceeds in relation to the domestic debt thus:

"And whereas it is desirable to adapt the nature of the provision to be made for the domestic debt to the present circumstances of the United States, as far as it shall be found practicable, consistently with good faith and the rights of the creditors, which can only be done by a voluntary loan on their part."

The third section then authorizes a loan to be proposed to the full amount of the "domestic debt," by opening books for receiving subscriptions, by a commissioner of loans, to be appointed in each of the States; and that the sums which shall be subscribed thereto be payable in "certificates," issued for the said debt according to their specie value; which said certificates are designated and described as follows:

"1. The 'certificates' issued by the Register of the Treasury.

"2. Those issued by the commissioners of loans in the several States, including 'certificates' given pursuant to the act of Congress of the 2d January, 1779, for bills of credit of the several emissions of the 20th May, 1777, and of the 11th April, 1778.

"3. Those issued by the commissioners for the adjustment of the accounts of the quartermaster, commissary, hospital, clothing, and marine departments.

"4. Those issued by the commissioners for the adjustment of accounts in the respective States.

"5. Those issued by the late and present Paymaster General, or commissioner of Army accounts.

"6. Those issued for the payment of interest, commonly called indents of interest.

"7. And the 'bills of credit' issued by the authority of

the United States, in Congress assembled, at the rate of \$100 in the said bills for one dollar in *specie*."

The fourth section designates and describes the three new certificates which the subscribers to the said loans shall be entitled to receive; upon all certificates bearing interest the same is to be received up to the last day of December, 1790.

"That for the whole or any part of any sum subscribed to the said loan, by any person or persons, or body-politic, which shall be paid in the principal of the said domestic debt, the subscriber or subscribers shall be entitled to a certificate purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum to be expressed therein, equal to two thirds of the sum so paid, bearing an interest of six per centum per annum, payable quarter yearly, and subject to redemption by payments not exceeding in one year in amount of principal and interest the proportion of eight dollars upon a hundred of the sum mentioned in said certificate. A second certificate for one third, payable as aforesaid, bearing interest after 1800. A third certificate, for the amount of the interest, bearing an interest at three per centum per annum, payable quarter yearly; provided it shall not be understood that the United States shall be bound or obliged to redeem in the proportion aforesaid; but it shall be understood only that they have a right to do so."

Thus the facts find that none of the terms or conditions of the resolve of March 22, 1783, were complied with by the old or the new Government, but repudiated. This five years' full pay, by the terms of the resolve, was to have been paid in *specie* or securities. This first contract for half pay being payable in *specie*, it would have been exchanging *specie* for the depreciated paper of the Government, worth by law only two and a half dollars to the hundred. Such an act might conditionally have been considered supplementary to that of October 21, but that having utterly failed in its execution, it is not important to show whether the officers, relying upon the good faith of the Government at that time, accepted said certificates or not. It is certainly true, that if they had been either *specie* or security, it would not have been necessary for the holders to have funded them at a loss of over thirty per cent. even on a term of time requiring about forty years for their liquidation. And not only so, this Government, it will be seen, by the funding act reserved the right of paying even that amount or not. But after these facts have been found, some may not agree to the construction of the funding act. I therefore submit the remarks of Mr. Tucker, of New Jersey, while the same contract was being discussed, in passing the act of May 15, 1828. Referring to the records of the Register's office:

"Mr. TUCKER of New Jersey. It is ascertained, Mr. Chairman, that each captain, for his five years' full pay, received a certificate for \$2,400, bearing interest at six per cent., payable annually, and such a certificate Captain Dehart received in lieu of his half pay for life, which ran eight years without payment of interest, as before stated, namely, from the 1st of January, 1783, to the 1st of January, 1791, the interest amounting on the latter day to \$1,152; making in the aggregate \$3,552. It will be recollected that in March, 1788, the present Government went into operation, and in the year 1790 made provision for and funded the public debt.

"Well, sir, how did they provide for the payment of Captain Dehart's \$2,400 principal, and \$1,152 interest, due on the 1st of January, 1791? Why, sir, they gave him three certificates—one for \$1,600, being two thirds his principal, with interest at six per cent., and one for \$800, the other third of his debt, but deferred ten years without interest; and, instead of paying his \$1,152 down, or giving him paper at six per cent., they gave him a certificate for his \$1,152 interest, redeemable at the pleasure of the United States, at three per cent. Let us now examine how this funding system operated:

1. Loss of interest on \$800, deferred from 1st January, 1791, to 1st January, 1801, (ten years,) at six per cent.	\$480 00
2. Interest on the above sum from the 1st January, 1801, to the 1st January, 1828, (twenty-seven years,) at six per cent.	777 60
3. Loss of interest on the \$1,152 of the three per cent., from 1st January, 1791, to 1st January, 1828, (thirty-seven years,) at three per cent.	1,378 72
Total loss of Captain Dehart, down to this time, \$2,536 32	

"And, in the same proportion, every officer's pay or commutation, according to his rank.

"The commutation, then, is clearly liable to the following objections:

"1. That the commutation was not a valid accord and satisfaction for half pay for life.

"2. That it was so construed as to take away the rights of these officers, under the resolve of October, 1780.

"3. Of not being an equivalent for the half pay.

"4. Of having been effected under circumstances, and by the operation of motives, which deprive it of all obligatory force.

"5. That according to strict legal construction, these officers did not commute their promised half pay for life by accepting the so-called commutation certificates; they in no respect having been in conformity to the act.

"6. Of partial and defective execution."

35TH CONG....1ST SESS.

Revolutionary Claims—Mr. Fenton.

HO. OF REFS.

In that great national act of necessity—that of funding all the paper of the Government—Congress did not omit to make some provision for these half-pay claims. Accordingly, the ninth section of the funding act provides—

"That nothing in this act contained shall be construed in any wise to alter, abridge, or impair, the rights of those creditors of the United States who shall not subscribe to the said loan, or the contracts upon which their respective claims are founded; but the contracts and rights shall remain in full force and virtue."

Not only so: in order to make creditors some compensation for the inevitable delay of payment, which the impoverished Treasury could not fail to predict, on the 3d of June, 1784, Congress passed the following resolution:

"That an interest of six per cent. *per annum* shall be allowed to all creditors of the United States, for supplies furnished, or services done, from the time the payment became due."

This extended to all their arrears of pay long due, as well as to their half pay. Chief Justice Gilchrist, in a recent decision, in alluding to this resolve, says:

"No language could be more express or free from doubt than this. The resolution was passed from a feeling that it was just and right that interest should be paid from the time the half pay became due; and it was a voluntary contract on the part of the United States, constituting a legal claim against them, which no subsequent legislation could release without the consent of the other party." * "It may be added that, up to the year 1837, there was paid interest on fifteen hundred and two claims of widows and orphans, and claims of officers for personal services, the statute of limitation as to such claims having been suspended."

The omission, therefore, to pay the interest due annually on those certificates was a violation of the resolve of 1783, as well as the condition of the certificates.

The sixth article of the Constitution provides,

"That all debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States, under this constitution, as under the Confederation."

The act of 1783 admits the half-pay claim to be such a debt or engagement.

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

In order, if possible to render the public faith more secure, more sacred, the third section of the Constitution provides that—

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

The resolve of 1783, declares,

"That the faith of the United States hath been pledged to those officers whose services and sufferings have so just a title to the appropriation and rewards of their country."

But, notwithstanding these claims had been fully and ably discussed in the passage of the act of May 15, 1828, wherein the half-pay claims are fully recognized, and the act expressly declared, "that each of the surviving officers of the Army of the Revolution, in the continental line, who was entitled to half pay by the resolve of October 21, 1780, be authorized to receive, out of any money in the Treasury," &c., and takes no notice of, or makes any deduction for these commutation certificates. It does not attempt to describe such officers as were entitled to commutation. Yet Congress, since the pendency of these claims, have established a court for their investigation, and ordered one of the heirs of these same joint and several payees, to go before that court, and the United States were there by their attorney, and it was there contended that the commutation paid in specie was a compromise of the half-pay contract. We have the decision of this court, in confirmation of these claims. That is not all; the Thirty-Fourth Congress ratified that decision. That decision is a public law of the United States, made in pursuance of the Constitution under the authority of the United States, which that Constitution declares shall be the supreme law of the land. Congress cannot decline an investigation themselves, and refuse to adopt the legal and judicial exposition of these claims. The case referred to is that of Thomas H. Baird, as a son of Absalom Baird, who was

a commissioned surgeon in the army of the Revolution, and in that capacity was entitled by law to half pay for life and other emoluments, says Chief Justice Gilchrist:

"The proceedings in relation to the claim for commutation do not appear to be very material in relation to the case in the present position. On the 23d March, 1783, a resolution was passed, providing that the officers and others entitled to half pay for life 'shall be entitled to receive at the end of the war their five years' full pay, in lieu of half pay for life, in money—that is, specie—or in securities on interest, as Congress shall find most convenient.' On the 28th of January, 1794, Dr. Baird applied for the benefit of this provision, but died in the year 1806—having, as is said in the report of the Committee of Claims of the 5th February, 1855, 'become wearied and disheartened with delay.' In the year 1818, his son, Thomas H. Baird, having become of age, petitioned Congress for relief; and on the 3d of March, 1855, the committee reported that 'Dr. Absalom Baird was entitled to the benefit of the act of the 17th of January, 1781, extending the grant of half pay for life to the officers of the hospital department and medical staff.' No action was had upon the resolution until the 22d of June, 1836, when an act was passed granting five years' full pay as commutation, under the resolution of 1783, but without interest."

"Now, this claim does not depend for its validity upon any admission contained in the act of 1836. But the Congress which passed that act must have considered that Dr. Baird had a legal claim of some kind, otherwise their conduct, in granting him five years' full pay, was wholly indefensible. It is, however, relied upon as a final settlement of the claim. Upon any principle known to the law, this position is wholly untenable. It is easy enough to declare, *ex cathedra*, that it was a final settlement. But it is extremely difficult to imagine, in the absence of all evidence, what reasons can be urged for holding that the payment of a sum of money is of itself a discharge of a debt for a larger amount. A plea of payment of a small sum in satisfaction of a larger is bad, even after verdict. (2 Parsons on Contracts, 130, and notes.) This principle is familiar to every lawyer. A debt may be paid by a fair and well-understood compromise, carried faithfully into effect. But here there was no compromise. If it were a case between individuals, no one would dream of applying such a term to it. The United States are either bound by principles of law applicable to them, or they are not so bound. If they are not bound, there is an end of the discussion, for then all reasoning is fruitless. If they are bound by the principles of law, it is impossible to regard the payment of five years' full pay, without interest, as a satisfaction of this claim. There is no evidence that either party so regarded it; and, unless we set at defiance every principle of law, we cannot hold that one party to a contract, without the consent of the other, can discharge his debt by the payment of a smaller sum than the amount due." * * * "The amount of Dr. Baird's half pay was \$240 per annum, payable at the end of every year. He was entitled to this sum up to the 27th day of October, 1805, the day of his death, and interest on the payments as they became due, according to the express provisions of the resolutions of June 3, 1784."

The Court of Claims therefore reported a bill for the relief of Thomas H. Baird.

"Be it enacted, &c., That the Secretary of the Treasury be, and hereby is, directed, out of any money in the Treasury not otherwise appropriated, to pay to Thomas H. Baird, administrator of the estate of Absalom Baird, a commissioned surgeon in the army of the Revolution, the sum of \$10,074 84, with interest thereon from the 27th day of October, 1805, to the 1st day of June, 1855, deducting therefrom the sum of \$2,400, paid under the act of June 23, 1836."

This bill, as presented by the Court of Claims, was reported, and passed both Houses by large majorities, without amendment. The act was duly approved, and the amount paid at the Treasury.

If the half pay was due the son of Dr. Baird, Congress was in duty bound at the very same session to have passed a general act in behalf of all the other joint and several payees of the same contract. These heirs waited patiently for this decision, and yet, even to this day, they are still waiting impatiently for some general provision for their relief. The present bill gives less than one third the amount allowed to Dr. Baird. The twenty-second section of the funding act of August 4, 1790, provides:

"That the proceeds of the sales which shall be made of lands in the western territory now belonging, or that may hereafter belong to the United States, shall be, and are hereby, appropriated towards sinking or discharging the debts for the payment whereof the United States now are, or by virtue of this act may be holden, and shall be applied solely to that use until the said debts shall be fully satisfied."

Many of these officers gave not only eight years' service to the war of the Revolution, but in addition to that, they gave over eight years of suffering and deprivation in acquiring and retaining the possession of our public domain.

The proceeds of the sales of less than five million acres will cover all the provisions of the present bill; the Government can take its own time for the disposition of that amount. Over one hundred and thirty-nine millions, up to June, 1857, had been sold for cash; over sixty million acres for military bounty land warrants; sixty-seven

million for schools; and over ten million for internal improvements. Over fifty million acres have been granted by Congress for military service of three months and of fourteen days, of the value of more than sixty million dollars. But, strange as it may appear, even after the decision in the case of Baird, ratified by the last Congress, embracing many members of the present Congress, who voted and passed that act; yet the bill of the House, which only extends to the principal, *without interest*—in fact, giving only about one third as much for the same time as was allowed to the son of Dr. Baird—yet this bill has been reported, and on the files of this House, for more than two months; and when, too, it is not pretended that the commutation certificates which were sent to the officers were worth at the time they were sent over two and a half dollars to the hundred, are, by this bill, all to be deducted at their face; and, also, all which was paid them under the act of May 15, 1828. When we consider that all the money which has ever been paid to the officers and soldiers of the revolutionary army, and to their widows and children, does not exceed thirty dollars to each person who served in the army of the Revolution during that long struggle; so long as the United States, contrary to the true spirit of our republican institutions, in violation of the rights of their citizens, shall continue to exclude them from the Federal courts of the Government, and compel them to come before Congress for the collection of their just debts, we shall be summoned here to hear, and are bound to investigate, their claims. The forum cannot change the legality of their claims; the business relations of this vast country with our Government, and the numerous contracts, express and implied, which exist between the parties, demand the patience, nay, more, *all of the time* which Congress can possibly bestow. They appear before Congress, not in the degrading form of suppliants, but as a portion of the sovereign people, with that Constitution in their hands which was ordained to establish justice, and which had its origin at the birth of those world-wide achievements accomplished by the sufferings, the sacrifices, the patriotism, and the blood of those men of matchless valor, that this bill seeks to relieve and to honor.

The report of Mr. Hemphill, of the committee of the House, of January 3, 1826, in which he says "that, by virtue of those resolves, a solemn contract between the Government and officers was made, that ought to be observed on the part of the Government with the most profound sanctity; that when the power of rescission resides exclusively in the bosom of one of the parties, it should be exceedingly cautious that justice should be done to the other; that the claims are founded on a contract which has not been fairly rescinded, and if it has, there cannot possibly be a doubt that the commutation contract has not been fulfilled;" recommended allowing the officers their half pay, deducting their commutation certificates, without any reference to what may have been recovered under the invalid act of 1818.

So the committee of the Senate, in 1838, reported:

"After an assiduous investigation, the committee conclude that no legislation subsequent to the 21st October, 1780, could, or by a fair construction did, contravene or in any manner impair the claim of the officers of the Army, or any class of such officers, to the half pay promised them by the act of October 21, 1780. The half pay for life contracted by the act of October, 1780, to be paid to the officers of the Army for certain services to be performed by them, *instantly became a vested right*, of which subsequent legislation nor nothing whatever could divest the officer, save a failure on his part to perform the prescribed service. And it would be a libel on the good sense and justice of the distinguished statesmen and patriots of that period, to imagine, even, that any legislation subsequent to the 21st of October, 1780, had for its object to impair the deliberate engagement made by that act to allow half pay for life to the officers of the Army."

In confirmation of the justice of these claims, it is refreshing to refer to the remarks of the late Secretary Woodbury:

"But they have averred, and it is again repeated, that these officers are seeking a right, and that is a right both on common-law and on chancery principles. But if on only one, whether it be a right on strict common-law principles, or on chancery principles, it is equally a right, and the claim is equally a legal claim. The forum in which it becomes a right does not alter its legality. Hence, if every gentleman would agree with him from Virginia, (Mr. Tyler,) that the statute of limitation should be scorned, and that the pretended payments made to these officers was mere wind,

mere trash, I aver, that in any forum, before any court or jury in Christendom, this right, as between individuals, could now be unanswerably established. Let the issue be formed and the cause tried to-morrow, and no three or five judges, no twelve 'good men and true,' as jurors, could say that the wages of toil and blood, the solemn promises for sacrifices and sufferings, to secure the liberties of America, had ever been discharged by only 'wind and trash.'"

"Without dwelling a moment on considerations before urged in the argument, in favor of the legality of this claim, let me ask what has been the reply to the position of the committee that, on strict legal principles, the promise of half pay for life has ever been fulfilled? Has any one shown that the half pay, in the form of half pay, has ever been paid? No pretense for it. Has any one shown that the half pay has ever been technically released? No pretense for it." "How, then, has the promise of October, 1780, been fulfilled? In no way, except by the act of commutation. But it could not be fulfilled by that act, unless all things were transacted in conformity to the provisions of that act." "Every-body feels and knows, likewise, that the payment, to be in conformity to the act, was to have been money, or at least securities equivalent to money, when, in truth, it was neither; and even under the most favorable view, if the certificates were kept till the funding, fell short of what was due, from one fourth to one third. So the certificates, or the payment, should have been made in September, 1783; but were not, in fact, made until some time in 1784-5, when worth much less. But, break through the forms of measures, and every lawyer, every constitutional statesman, must admit that, on strict legal principles, there should not only have been a conformity to the commutation act, but, in the act itself, to make it binding, there should have been a regard to private vested rights."

In the early organization of the Government, the funding law was the only way in which over three hundred millions of indebtedness could at that time have been otherwise disposed of. But not so now; the sacred pledges and words of Washington are as applicable to us as to the old Confederacy:

"The path of our duty is plain before us; honesty will be found, on every experiment, to be the best and only true policy. Let us, then, as a nation, be just; let us fulfill the public contracts which Congress had undoubtedly a right to make, for the purpose of carrying on the war, with the same good faith we suppose ourselves bound to perform private engagements."

"In this state of absolute freedom and perfect security, who will grudge to yield a very little of his property to support the common interest of society, and to insure the protection of Government? Who does not remember the frequent declarations, at the commencement of the war, that we should be completely satisfied if, at the expense of one half, we could defend the remainder of our possessions?"

"Where is the man to be found who wishes to remain indebted for the defense of his own person and property to the exertions, the bravery, and the blood of others, without making the generous effort to pay the debt of honor and gratitude? In what part of the continent shall we find a man, or body of men, who would not blush to stand up and propose measures purposely calculated to rob the soldier of his stipend, and the public creditor of his due? And were it possible that such a flagrant instance of injustice could ever happen, would it not excite the general indignation, and tend to bring down upon the authors of such measures the aggravated vengeance of Heaven?"

"As to the idea which I am informed has in some instances prevailed, that half pay and commutation are to be regarded merely in the odious light of a pension, it ought to be exploded forever."

"That provision should be viewed as it really was, a reasonable compensation offered by Congress, at a time when they had nothing else to give to officers of the Army for services then to be performed."

"It was the only means to prevent a total dereliction of the service; it was a part of their hire."

"I may be allowed to say, it was the price of their blood and your independence."

It was more than a common debt; it is a debt of honor; it can never be considered as a pension or gratuity; nor canceled until it is fairly discharged.

These are not claims for a pension founded on a mere gratuity; but a legal debt, founded on a solemn contract duly recorded on the books of the Government, wherein there cannot by any possibility be any mistake as to the party, or the amount paid, and the sum now due.

The resolve of October 21, 1780, constituted a solemn contract with each officer for grants of land and half pay during life. The promise of land was blended with and made a part of the same entire consideration with the half-pay portion of the contract. The acknowledgment, presentation, or record, of the one, was the presentation, promise, and record, of the other. The suspension of the acts of limitation of one portion would equally affect the other. These were vested rights, and the contract could not be varied, rescinded, or impaired, by any subsequent acts of legislation, without the consent of each officer, individually.

How did the Government meet their obligation for the land portion of the contract? Why, their land was assigned to them in the wilds of the

western territory, then claimed by and in possession of hostile Indian natives, to be conquered, and the possession of it maintained by continued hardships, fighting, sufferings and dangers, which, during all of the eight years' war for independence, was never before endured. Here the officers and soldiers, or many of them, sacrificed their lives in advancing the settlement of our great western territory, adding ten years more of service without pay for the benefit of our country.

This Government became the assignee and trustee of the public domain.

The report of the Secretary of the Interior, of 1857, shows that the public surveys have already been extended over more than three fourths of the whole surface of the public domain. That surface, as therein stated, is fourteen hundred and fifty million acres; of this there have been surveyed and prepared for market, public lands &c., four hundred and one million six hundred and four thousand nine hundred and eighty-eight acres, of which quantity fifty-seven million four hundred and forty-two thousand eight hundred and seventy acres have never been offered, and are consequently now liable to public sale; in addition to which there were upwards of eighty million acres subject to entry at private sale on the 30th of September last.

Of the public domain there have been disposed of by private claims, grants, sales, &c., embracing surveyed and unsurveyed land, three hundred and sixty-three million eight hundred and sixty-two thousand four hundred and sixty-four acres; which, deducted from the whole surface, leaves undisposed of an area of one thousand and eighty-six million, one hundred and thirty-seven thousand five hundred and thirty-six acres.

It is said the cash sales of the public lands up to June 30, 1847, were for one hundred and thirty-nine million thirty-two thousand eight hundred and fifty-five acres; grants for schools, &c., sixty-seven million seven hundred and thirty-six thousand five hundred and seventy-two; internal improvements, ten million eight hundred and ninety-seven thousand three hundred and thirteen; none of which has been appropriated for the payment of these debts, long due. Much of it has been appropriated for mere objects of gratuity. There have been issued five hundred and forty-seven thousand two hundred and fifty land warrants, which required sixty million seven hundred and four thousand nine hundred and forty-two acres to satisfy. And since these claims have been presented for the consideration of Congress, strange to say—founded, as they are, upon an express contract, a mortgage on this public domain, embraced in this bill, all the provisions of which cannot call for the proceeds of the sales of over five million acres of this land, which many of them gave a service of eight years to acquire, and ten years' service to maintain—as I before remarked, more than fifty million acres have been applied for services of three months to fourteen days, amounting to over sixty-two million dollars, where there was no contract, express or implied; and this liberal action of our Government towards those who were engaged in the military service I entirely and cordially approve.

How much of the \$160,000,000 from the cash sales of these lands have been thus appropriated, it would not be an easy task to point out. There are, however, of this public domain, left undisposed of more than one thousand million acres. It would be a gross libel on the character and justice of the many very distinguished jurists, statesmen, and patriots, who have at different intervals since 1783, down to the present time, pronounced the commutation act of March 22, 1783, to have been founded on the great exigency of the Government, having for its object the delay of payment of just debts which could not have been met. Certificates of the Government could be funded, but the contract for half pay could not; this Government had long been preparing for that scheme of public finance, which was founded in necessity.

Now, this appears to me a plain case; I trust it so appears to others. Certainly, upon a thorough examination of the subject, all must realize that great injustice has been done to those who have achieved our independence as a nation, and that it is the duty of Congress to remove at once the foul blot which now rests upon our national honor.

I am moved to indignation at the ingratitude and the almost criminal neglect of the Government and the Representatives towards those who laid the foundation of all our greatness, our power, and our glory. Think not that the people will be content with delay—with the shuffling off from year to year these long-deferred and just claims. Let them know at once what they have to depend upon, and let it be in consonance with the voice of gratitude and justice. Be true to them, and they will be true to themselves and to you. They see us lavishly appropriating millions for purposes of doubtful expediency—if not, in part, to secure the advancement of party aims, to reward partisan favorites, and perpetuate in the rule of the Government measures of oppression and wrong—while we tardily, if at all, discharge their honest demands. The spirit of inquiry is awake. They are now watching with earnest interest all our acts. It will not do to leave this work undone, and say that other things are proper because they have been done; their voice, which is mighty in making and unmaking Presidents, cabinets, and Representatives, will be heard throughout the land, demanding the reason: wherefore millions for you, and not one cent for us?

ARREST OF WALKER—CENTRAL AMERICA.

SPEECH OF HON. W. WINSLOW,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

May 31, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. WINSLOW said:

Mr. CHAIRMAN: The interesting events which have recently occurred on the coast of Nicaragua and in the waters of the Caribbean sea, deemed by this House of sufficient importance to warrant a call upon the Executive for information, have justly excited much interest throughout the country, and therefore merit a thorough investigation.

Heretofore and ordinarily, the Executive and the other branch of the Legislature have drawn to themselves a monopoly of the foreign relations of the Government, and this House has rarely been called upon for consideration or in consultation, save when an occasional money grant was necessary to carry out some article of a treaty stipulation. This has resulted from the peculiar structure of our Government and the forms of the Constitution. The present case, however, is one that peculiarly addresses itself to the unbiased consideration of the Representatives of the people. It is our duty to look into it, and to pronounce upon it our judgment.

If it be true that the President has exceeded his powers, in his instructions to the officers charged with the command of your military marine, it is your right, nay, your imperative duty, so to pronounce.

If the commanders of your men of war have, running ahead of your instructions, committed acts not thereby warranted, whatever may have been the impelling motive, it is equally your duty to take order thereon.

If unlawful expeditions and predatory excursions have been begun, set on foot, and carried on, from our jurisdiction, against the dominion of a friendly Power, however small or great, however grand or insignificant, we owe it to that high sense of justice which should ever characterize the American people, to express our thorough disapprobation, and to take measures to arrest them.

Having upon all these matters very clear and distinct views and opinions, I purpose to occupy some part of the time of the committee in submitting and enforcing them.

In the early discussion of this subject, powers were attributed to the President which I do not concur in sustaining. I think the mistake happened in confounding the sovereign powers of the Government with the delegated powers of the Executive. When the thirteen colonies emerged from their dependence upon the British Crown, they assumed a place among the nations of the earth. They became, and were, entitled to all the privileges and authorities, and were subject to all

the duties and restraints which obtain among the civilized communities of Christendom. In forming their Constitution and federated form of government, they reserved to the States and to the people all such powers as, by that Constitution and the laws made under it, they had not conferred upon Congress and the Executive. The President has no power, therefore, except such as the Constitution confers upon him, or the laws made in pursuance of it invest him with. He has no inherent powers. If he assume to do an act, he must show that the power to do it is *there written*. Without authority of law he cannot arrest a citizen for the violation of law; nor can he use the land or naval forces of the country except by special grant of power. Although he takes an oath to see the laws faithfully executed, he is only to enforce, under the requirements of the law, the judicial process of the courts, or to use those means which the laws empower him to use. Unless, then, by force of the acts which are generally termed the "neutrality laws," the President would have no right to stop a military expedition, *begun, set on foot, or carried on*, within our jurisdiction, by our citizens or foreigners, against the dominions of a neutral Power, unless authorized by treaty, even within our own limits, much less upon the *high seas*.

Do those acts confer upon him that power, and impose upon him that duty? I think the conclusion that they do is irresistible, upon the face of the acts themselves by fair legal construction and intentment, as illustrated and explained by the historical incidents and causes of their enactment. I should have supposed there could be no doubt of this conclusion, but that I have heard, from the lips of gentlemen for whose opinion I entertain high respect, opposite judgment. The first act on the statute-book is the act of 1794. Certain sections of this act are incorporated, almost in identical language, into the laws of 1818, hereafter to be adverted to. The act of 1794 was passed in a memorable era of our history, amid the early throes of that political earthquake which rended the ancient Governments of the Old World, overthrew dynasties, and deluged Europe in blood. The people of France had risen in the fearful mightiness of popular power and frenzy to crush the hoary tyranny which had so long oppressed them. It was natural that the generous impulses of our country should have been aroused in their behalf; that the tender sympathies of our countrymen should have been touched. We remembered the services of our ancient ally; we knew the generous stranger who left, in early youth, the blandishments of a luxurious court to shed his blood upon the plains of Brandywine for our political salvation; the carnage of besieged Savannah was fresh in our recollection; and the men were living who had hailed the garlands of victory, as they gracefully twined around the white lilies of France and the stars and stripes of the Union, upon the plains of immortal Yorktown. It would have been unnatural that we should not have felt for France, armed in a contest against all Europe; and though, by language, religion, and consanguinity, allied to the most powerful of her opponents, we could not forget that England had been to us an unkind step-mother, and France a confiding friend. Had we followed where sympathy and sentiment would lead, we had sided with France. But cold prudence is often to be invoked to master tender sympathy. The clear, calm, and imperturbable judgment of Washington, with his unerring wisdom, marked out the straight and narrow path of duty. His eagle eye kept watch and ward over the rising fortunes of the infant and feeble Republic. The prudence and sternness and fortitude with which he maintained a strict neutrality preserved the country his valor won.

At this time, the waters of the United States were thronged with the cruisers of both nations, and with the private armed vessels of France. Captures were constantly made within our jurisdiction; and armed expeditions were *begun, set on foot, and carried on*, from within our jurisdiction, against the dominion of neutral Powers. There was no authority, by any statute, to empower the President to use the Army, Navy, or militia, to arrest these expeditions. If any claim had been made to the possession, inherently, by the

Executive, of such power, such claim was so disputed and resisted as to be weakened and diluted by the difference which existed in its moral influence.

But although captures, within our waters, of the ships of one neutral by the armed vessels of another, were illegal, and although it might be conceded that our own cruisers and police force might interfere to recapture, yet the courts of admiralty in the United States refused to take cognizance of such seizures. These circumstances caused the message of President Washington to Congress in 1793, which message led to the passage of the act of the succeeding year, identical in those sections bearing upon this controversy with the act of 1818. I repeat here a part of the message, which, for another purpose, I shall presently allude to:

"In like manner, as several of the courts have doubted, under particular circumstances, their powers to liberate the vessels of a nation at peace, and even of a citizen of the United States, although seized under a false color of being hostile property, and have denied their power to liberate certain captures, within the protection of our territory, it would seem proper to regulate their jurisdiction, in these points; but if the Executive is to be the resort in either of the two last mentioned cases, it is hoped that he will be authorized by law to have facts ascertained by the courts, when, for his own information, he shall request it."—*President Washington's message, 3d December, 1793, Annals of Congress, 1793-1795, page 10.*

It was, then, upon the recommendation of the President that Congress proceeded to enact the neutrality laws. These acts were much discussed, and, like all the great measures of legislation, passed by close votes. Parties were rapidly rising, and party bias warped the judgment. The section of the act with which we are now more immediately concerned, subsequently, upon sober second thought, received the sanction of all parties. It is as follows:

"SEC. 8. *And be it further enacted*, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States, as before defined, and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel, of any foreign prince or State, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or State, or of any colony, district, or people—in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibitions and penalties of this act, and to the restoring the prize or prizes in the cases in which restorations shall have been adjudged; and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or State, or of any colony, district, or people, with whom the United States are at peace."

The act of 1794 was temporary in its duration, but was continued by the act of 1797, and in 1800 made perpetual, meeting with not much opposition at either of those periods of enactment.

Thus stood the law until the rise of the troubles in South America. The same state of things existed as had occurred in 1794. Spain was loud in her complaints of the military expedition *begun, set on foot, and carried on* from our jurisdiction against her power in her revolted colonies, and against the fitting out, arming, and equipping vessels of war in our ports for their service. No provision of law existed, in the acts of 1794-97, to forbid a citizen from arming and equipping within our limits, vessels designed to act against the Spanish American colonies, and selling them to foreigners for that purpose. So that a citizen, and a foreigner could conjointly do with impunity that which neither of them separately might do: nor was there authority to detain a vessel thus fitted out by compelling from the suspected persons surety against the infraction of the law. There was, in fact, no preventive process.

"It is found, [said President Madison in his message of 26th December, 1816,] that the existing laws have not the efficacy necessary to prevent violations of the obligations of the United States, as a nation at peace toward belligerent parties and other unlawful acts upon the *high seas* by armed vessels equipped within the waters of the United States."

The passage of the act of 1817 follows this

executive recommendation, enlarging the powers conferred by the act of 1794. After the revolt of the slaves of St. Domingo had happened, and under the supposed authority of the act of 1794, the Eagle, a vessel fitting out in our waters, for the use of the insurgents, was seized by the officials of the Government. In a suit brought against the collector, and at this time finally decided, it was found that the acts of 1794 and 1817 did not cover the case, and heavy damages, ranging over one hundred thousand dollars, were awarded. This led to the act of 1818, a reenactment of the former laws, adding the words colony, district, or people, with some like verbal amendments.

These acts were opposed with warmth by the Speaker, Mr. Clay, then, as after, so distinguished. He felt, as our whole country did, the liveliest sympathy with the Spanish-American colonists in their struggle for independence. It is to be observed, however, that in the debates no opposition was made to the seventh and eighth sections, which were substantial copies of the sections of the acts of 1794.

Indeed, Mr. Clay, in effect, expressed himself satisfied with these. Speaking of the act of 1794, and of the causes which led to its passage, to wit: the desire of President Washington to maintain our neutrality, he says:

"If that law did not reach the case, which he understood to be doubtful, from some judicial decisions, he was willing to legislate so far as to make it comprehend it. Further than that he would not go."

It will be thus seen that he approved the act of 1794, and expressed his willingness to enlarge it; and, indeed, there was no serious objection to its reenactment, the opposition having been directed toward the new sections ingrafted upon it. Indeed, the House never divided upon those sections.

In this connection, I am free to say that the inclination of my opinion is, that some modification of the neutrality laws would be proper; not, however, in this eighth section; and that I believe them to be more stringent than those of any other people; and I think the President, for obvious reasons, ought to have the power to suspend them, in proper cases. I am willing, when the measures prepared by my honorable friend from Mississippi [Mr. QUITMAN] come up for discussion, to go into a careful examination of the subject.

Such being the history of these enactments we are lead to inquire if, under them, as connected with the present matter of investigation, the President has the power to use the naval forces of the country to arrest an armed expedition, *begun and set on foot* within our jurisdiction, and from thence *carried on* against the dominions of a neutral upon the *high seas*. That Congress has the power to pass a law for that purpose will, I think, be conceded; for Congress has the power to define, and punish offenses against the law of nations; and it is the duty of a nation at peace, towards belligerent Powers, and *a fortiori* towards a neutral, to prevent armed expeditions leaving her territory to make war against them, whether for power, or plunder, or in fulfillment of some supposed "high mission" or led by some "manifest destiny."

Has Congress done so? I think such is the true construction of the act. Those who think differently, argue that the seventh section of the act defines our jurisdiction, and limits it to the marine league, or three miles from the shore; and that in the construction of the eighth section, the words "from the territories, or jurisdiction of the United States," in the last paragraph, are to be explained by the words "within the jurisdiction of the United States, as above defined," to wit: defined in the seventh section. But, sir, the seventh section of the act was inserted for the purpose of conferring on the district courts of the United States, sitting as courts of admiralty, the jurisdiction over seizures and captures of vessels violating the provisions of this statute. If a neutral cruiser had, within the waters of the Chesapeake, captured the vessel of a another neutral, and the cruisers of the United States had interfered, the question would not have been one of prize or no prize, as I take it, and it became therefore necessary to enlarge the jurisdiction of the district court to cover such a case as well as to enforce the penalties denounced in the statute, at the suit of any informer; thus increasing and enlarging

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Arrest of Walker—Central America—Mr. Winslow.

Ho. OF REPS.

the jurisdiction, both as to persons and subjects. The jurisdiction as to cognate subjects had been theretofore limited to the marine league, and there was no necessity to alter it. This is obvious from the message of President Washington, to which I have already alluded.

If the eighth section be critically examined, it will be found that it gives the President the power to use the land and naval forces and the militia, in four cases:

1st. In detaining and taking possession of the ships of one neutral capturing the vessel of another neutral within the marine league.

2d. In suppressing any military expedition begun and set on foot contrary to the provisions of the act.

3d. When the process of the courts was disobeyed or resisted.

4th. To prevent the carrying on of any such expedition from the territories of the United States against the territories of any people at peace with us.

If the object of the latter grant was not to empower him to pursue and arrest such expedition on the high seas, but merely to authorize its arrest within our waters, it was supererogatory and unnecessary, for that latter power had just been granted.

Consider, sir, the whole scope and intention of the law. It was to preserve our relations of neutrality with foreign nations at peace with us; it was to prevent armed expeditions from being fitted out to attack the dominions of such foreign nation. That was the evil to be guarded against—the attack upon them, not the fitting out of such expeditions, much less the fitting out within our waters. The preparation of such expedition was harmless, nay, to us and to our commerce, beneficial, so long as no action against others occurred. If the suppression of the attack was the object, it were vain to confine the powers of the President to the marine league. If a storm were to blow off the expedition, begun and set on foot, beyond the marine league, then, according to the argument, his powers would cease; if, again, stress of weather forced them a foot within, the power would revive. Sir, with a coast like ours, of such prodigious extent, with the number of our inlets, estuaries, bays, and rivers, with the aid of steam-power, not Great Britain herself, with her thousand fleets that sweep the ocean, could effectually prevent the escape of an armed expedition without that limited jurisdiction.

The President of the United States was then justified in using the naval forces of the country to prevent the "carrying on" of the expedition of General Walker from the port of Mobile against the territories of Nicaragua. There could be no pretense that it was other than a military expedition, having in view the conquest of that country and the subjugation of its people. Whatever may be said of the antecedents of that gentleman, which, perhaps, might not bear scrutiny nor examination, the expedition left with hostile intent against the *de facto* Government of the country, with which only we undertake to deal. The interference of the President was legal, as I have shown, because done under warrant and authority of law; and, in my judgment, was eminently wise, demanded by duty, and invoked by patriotism and high, statesmanlike views and considerations.

It remains to be seen whether the flag officer in command of your squadron exceeded his orders, and if he were justified in landing upon the soil of Nicaragua, and forcibly expelling Mr. Walker and his followers. I do not think he was. All the orders forwarded to Commodore Paulding are comprised in the circular of Mr. Secretary Cass, and in the letter of Mr. Toucey, Secretary of the Navy, to Lieutenant Almy, of the Fulton, under date of October 12, 1857, which I shall take the liberty of reading:

DEPARTMENT OF STATE,
WASHINGTON, September 18, 1857.

Sir: From information received at this Department, there is reason to believe that lawless persons are now engaged within the limits of the United States in setting on foot and preparing the means for military expeditions to be carried on against the territories of Mexico, Nicaragua, and Costa Rica, Republics with whom the United States are at peace, in direct violation of the sixth section of the act of Congress approved 20th April, 1818. And under the eighth section of the said act it is made lawful for the President, or such person as he shall empower, to employ the land

and naval forces of the United States, and the militia thereof, "for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States." I am, therefore, directed by the President to call your attention to the subject, and to urge you to use all due diligence to avail yourself of all legitimate means at your command to enforce these and all other provisions of the said act of 20th April, 1818, against those who may be found to be engaged in setting on foot or preparing military expeditions against the territories of Mexico, Costa Rica, and Nicaragua, so manifestly prejudicial to the national character, and so injurious to the national interest. And you are also hereby instructed promptly to communicate to this Department the earliest information you may receive relative to such expeditions.

I am, sir, your obedient servant,

L. CASS.

NAVY DEPARTMENT, October 12, 1857.

Sir: In reply to your letter of the 7th instant, it is true that American citizens have a right to travel and to go where they please, when engaged in lawful pursuit, but not to violate the laws of their own or of any other country. They have a right to expatriate and to become citizens of any country which is willing to receive them, but not to make that right a mere cloak and cover for a warlike expedition against it or its Government. Your instructions do not authorize you to act arbitrarily, or upon mere suspicion. You will not seize an American vessel, or bring her into port, or use the force under your command to prevent her landing her passengers, upon mere suspicion. You will be careful not to interfere with lawful commerce. But where you find that an American vessel is manifestly engaged in carrying on an expedition or enterprise from the territories or jurisdiction of the United States against the territories of Mexico, Nicaragua, or Costa Rica, contrary to the sixth section of the act of Congress of April 30, 1818, already referred to, you will use the force under your command to prevent it, and will not permit the men or arms engaged in it, or destined for it, to be landed in any part of Mexico or Central America.

En route for Chiriqui, you will touch at Mobile and New Orleans, and communicate with the United States district attorney at each of those ports.

I am, respectfully, your obedient servant,

ISAAC TOUCEY.

Lieutenant JOHN J. ALMY,
Commanding U. S. steamer Fulton, Washington, D. C.

Whether the Secretary was justified in giving orders not to "permit the men or arms engaged in the expedition, or destined for it, to be landed in any part of Mexico or Central America," if those orders are to be construed as meaning to authorize the use of force within the marine league, it is unnecessary, for the purpose I have in view, to inquire. It is not probable that such could be the legitimate construction of the order, since the clause quoted is to be taken together with the preceding paragraph. What was the service upon which Lieutenant Almy, of the Fulton, was sent? The Secretary states it was to prevent the "carrying on an expedition or enterprise from the territories or jurisdiction of the United States against the territories of Mexico, Nicaragua, or Costa Rica, contrary to the sixth section of the act of Congress of April 20, 1818." And he directs him to use the force under his command to prevent it.

I believe it is the settled opinion of the writers on international law that the authority and jurisdiction of a nation over the seas which wash its shore, extend to a marine league. The rule of law is, "*terre domini finitur ubi finitur vis armorum*," and since the introduction of fire arms, that distance has usually been recognized to be about three miles from the shore. (Per Sir William Scott: The Anna 5, Rob. 385.) The armed vessels of one Power have no right to interfere with hostile intent in the ports of a neutral, or within the marine league, without the consent of the neutral; and such interference would be an invasion of the authority of the neutral, and "*casus belli*."

It is true, some opposite opinions have been expressed against a stringent construction of this rule. Some latitude has been sought to be extended under peculiar circumstances, as in the case of a vessel having the right of capture pursuing vessels subject to capture from mid-seas, and following, "*dum fervet opus*," while the blood was up, the chase within the sanctuary of the marine league.

The doctrine is thus laid down by Bynkershoek:

"*Un vero territorium communis amici valet ad prohibendum via quæ ibi inchoatur: non valet ad inhibendum quæ, extra territorium inchoatur, dum fervet opus, in ipso territorio continuatur.*"

The distinction taken by this writer being upon force lawfully begun in mid-seas, and continued within the league, *dum fervet opus*, and of force originally begun within the jurisdiction.

This opinion, however, was contested by Sir William Scott in the case of the Anna, and he

adds that it has not been adopted by other writers. He relaxes the rule only in cases where a cruiser having the right of search has summoned a vessel to submit to examination and search; there the escape of the summoned vessel, on the uninhabited coast of a neutral, within the marine league, will not prevent the cruiser's right to take possession.

However all this may be, there can be no question but that the act of Commodore Paulding in landing on the coast of Nicaragua was a clear invasion of the sovereignty of that people, an act not warranted by his orders, and, in the language of the President, "a grave error." Indeed, Commodore Paulding admits thus much, in terms, since, in his letter to the Department, under date of December 11, 1857:

"In the course I have pursued, I have acted from my judgment; and I trust it may meet the approbation of the President."

And in the letter of the 15th of December, he says, speaking of this proceeding:

"In doing so, I am sensible of the responsibility that I have incurred, and confidently look to the Government for my justification."

I do not impeach the motives of Commodore Paulding. That distinguished officer, no doubt, acted from the most patriotic motives, and with patriotic purposes. But we are not dealing with his motives. That he should have erred in judgment, as to the extent of his powers, is, perhaps, not to be wondered at; since here, in this body, composed of experienced statesmen, and of gentlemen of distinguished legal ability, we find diverse opinions upon the whole question. If his error be a grave one, we must beware how we suffer our judgment of, and our strictures upon it, to be warped by tenderness for his motives, or be extenuated by results. No nation has a right to land an expedition, for any purpose, upon the shores of a friendly neutral Power, without its consent. Such landing would be cause of war. To sanction a violation of such right, in any military man, would be to transfer the war-making power from the Halls of Congress to the quarter decks of your armed vessels. The fact that Nicaragua has not complained, but, in truth, has assented, does not vary the question in the slightest degree; for those who urge such assent in defense of Commodore Paulding, admit, by the argument, that whether the act of Paulding was an invasion of the sovereignty of Nicaragua and cause of war, depended upon the subsequent action of Nicaragua. If she acquiesced, then her ratification of the act was equivalent to a precedent permission, and justified what was done.

But how, if such acquiescence and ratification were withheld? The act, by the argument, would be cause of war, as having been done against the will of Nicaragua. The act of Commodore Paulding would then be cause of war, or not, according as Nicaragua would determine. To allow our judgment of the acts of our naval officers to be dependent on the will of a foreign nation, would be a precedent fraught with extreme danger and productive of great evil. It has not been heretofore so considered. Commodore Porter was brought to trial and punished by temporary dismissal from the service for a violation of the sovereignty of Spain, in forcibly landing at Foxardo. He was in charge of the squadron engaged in suppressing piracy in the waters of the Gulf of Mexico. He did there gallant service. In the course of his cruise an officer of one of the vessels under his command was forcibly arrested and maltreated by the authorities of Foxardo. There were strong reasons to suspect a complicity between those authorities and the pirates. The act of the people of Foxardo was an insult to our flag and an invasion of our rights, and a legitimate subject, at our hands, for a demand upon Spain for ample redress. Commodore Porter, however, with the best and purest motives, took into his own hands the mode and measure of redress. The judgment pronounced upon him by his peers was correct and proper, however harsh may have been the sentence. Yet his case presented features far more extenuating than the acts of Commodore Paulding, now under consideration. Military men owe obedience. The only safe rule is to rebuke sternly their assumption of power, while we generously reward them for their acts of duty.

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Although I condemn these illegal expeditions, as calculated to degrade the American character, and to alienate the affections of the weak Powers of this continent who ought naturally to look to us for countenance and protection; and while I object to adding to the Monroe doctrine, that we will not suffer the interference of the European Powers upon this continent, the additional proposition, that we reserve to ourselves the exclusive right to prey at pleasure upon the fortunes of our neighbors, I cannot sanction, with my voice, the illegal conduct of our officers that good may come, or extenuate their departure from the line of duty because the result is favorable. I much prefer to attain the right end in the right way.

I am not prepared, however, to animadvert with harshness on Commodore Paulding, and am satisfied with the rebuke of the President.

While on this subject, sir, I may be permitted to add, that we owe it to ourselves to suppress these expeditions. If the acquisition of Nicaragua is necessary for our safety and happiness, let us acquire it in a manly and open warfare; do not let us "set the dogs" upon her. I am far from thinking nations ought to be governed by the strict rules which obtain among the people of a municipality. No people have a right to resist the progress of the whole race, nor to impede the course of civilization. We have a mission to perform. In its performance it is, perhaps, it certainly will be, our interest to command one or more transits across the isthmus. I shall be found ready to support such acquisition, when the occasion demands it, in every honorable mode. I protest against buccaneering enterprises. If it become necessary to use force to acquire those transits, let us send thither the force under the standard of the Republic, and not under the flag of the freebooter.

The northern part of the American continent is destined, sooner or later, to come under our jurisdiction. I am not one of those who think this Union is endangered by extension. I think, on the contrary, it is thus strengthened. I feel a just pride in the contemplation of the future power and grandeur of the Republic, in contrasting its small beginnings with its present greatness. What American heart does not beat with pride at its advancement? But a few years, not a century ago, it comprised thirteen feeble colonies, now, thirty-two stars twinkle in the Federal constellation; while afar off, in the nebulous matter, the unaided vision may detect the glitter of incipient others amid the star-dust which, on every side, surrounds them.

I hail the glorious destiny which opens for my country; not that I would invoke for her the mission which the Roman poet pronounced for Rome:

"*Ille tibi erunt artes, * * * * **
Parcere subjectis, et debellare superbis;"

not that I would have her to be the mistress of the world, but the good guide and just directress of nations.

ADMISSION OF NEW STATES.

SPEECH OF HON. W. O. GOODE,
OF VIRGINIA,
IN THE HOUSE OF REPRESENTATIVES,
June 9, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GOODE said:

Mr. CHAIRMAN: Oregon is before us, demanding to be recognized as an independent State, invested with supreme sovereign authority, and to be admitted into the Confederacy of American Republics.

The admission of a new State into the Confederacy, is the exercise of a high attribute of Government, but our authority is undoubted, since it rests on an express provision of the Constitution.

The creation of a Commonwealth, its initiation among the Republics of America, is an event to strike on the imagination, but the frequency of the occurrence has deprived it of interest. It has ceased even to produce a sensation.

It seems to have been adopted as the settled policy of Government to encourage new political organizations, to stimulate their growth, and ad-

mit them into the Union, as soon as circumstances will excuse it. It may be questioned whether the wisdom of this policy has been examined by the statesmen of the present day and generation. The expansion of our populated area, and consequent diffusion of our population, is calculated to impair the aggregate energy of society for the purposes of war and all the great objects of Government. The superior efficiency of concentrated effort, as compared with individualized exertion, seems to be admitted by sages, statesmen, and philosophers. It is the principle which rests at the foundation of the socialists' system, and has failed in their hands from the want of that unity of will and persistency of purpose which are essential to energy and success. It is self-evident, that the diffusion of population is unfriendly to concentration of force.

The great defect in American agriculture is the scarcity of labor. This evil is increased by the expansion of Territory, and bringing new western lands into cultivation.

The establishment of territorial communities, and the application of the complicated machinery of Government to distant and numerous localities, occasions an indefinite and alarming increase of expenditures.

The price of lands in the old States is injuriously affected by the hot-bed policy of creating new States. The emigrants from the East, seeking new lands in the West, would create a demand for lands in the East, and thus add to their market value. But this demand is lost by emigration; and, in addition to this evil, many emigrants force their own eastern lands into market, thus adding to the supply, whilst they have already lessened the demand, and thus greatly reduce the market value of eastern lands. When the lands of the emigrant are sold in the East, the purchasers are toiling through years sending money to the West to pay their debts. If this money could be retained in the East, a part of it would be invested in eastern lands, and thus add to the market value. But, being diverted from its natural channel, and sent off to the West, this advantage is entirely lost. Colonizing new Territories and States creates a spirit of speculation; and eastern capitalists, instead of investing their money in eastern lands, embark in western speculation, thus lessening the demand and reducing the price of our lands; whilst the withdrawal of capital from the natural channel occasions hard times and high interest for money.

Such are the effects of the colonizing policy, on the physical condition, the agricultural and commercial prosperity of the old States. Its political results are analogous. To one unfamiliar with the secret springs to political movements at the seat of Government, it would appear mysterious and incomprehensible, that Representatives from the old States on the Atlantic, should manifest such eagerness to establish new States in the West. It is undoubtedly true that political machinations exert an influence on the subject. It is by no means certain that presidential aspirations are wholly inert and inefficient; whilst it is impossible wholly to exclude the idea that the spirit of speculation occasionally obtrudes into the mind of Congress, inclining members to favor a policy affording a wide field for speculative operations. These and other causes have conspired to give a powerful impulse to the policy of stimulating new political organizations to be hurried into the family of American Republics—a policy which invests a comparatively few pioneer settlers in the West with a political power, exerting a controlling influence on the policy of Government, disastrous in its effect on the material condition, the agricultural and commercial prosperity of the old States.

As an illustration of the effect of this policy, let us contemplate the probable results of the legislation of the present Congress. Minnesota is admitted with a population of about one hundred and fifty thousand souls, wielding a power in the Senate equal to the imperial greatness of New York with a population approaching four millions! Oregon, with a population of fifty thousand, will be admitted, to wield a power in the Senate equal to the great State of Pennsylvania, the keystone of the beautiful arch of the Confederacy, with a population, perhaps, of two millions and a half.

Bleeding Kansas, to weigh down the "unterrified Old Dominion!" Let it be remembered that the Senate shares the whole legislative power with the House of Representatives, and a large portion of executive authority with the President of the United States; thus commanding the action of Government!

Sir, nothing less than a powerful motive could reconcile the northern Atlantic States to the policy of stimulating the admission of new States; and that motive is to be found in their hatred of the institutions of the South. The new States are expected to be free States, sympathizing with the Abolitionists in their rancorous detestation of the South; and the fanatical impatience to establish in the Senate a decided preponderance of Free-Soil influence, reconciles the North to the great sacrifice to which they are subjected by the operation of this destructive policy. That preponderance is already established—fearfully, fatally established. At the opening of the present session of Congress the Senators from the free States were thirty-two; those from the South only thirty, giving to the North a majority of two. The members of the House of Representatives from the North, numbered one hundred and forty-four; those from the South only ninety, giving to the North a majority of fifty-four.

At the last presidential election the members of the electoral college of the North, numbered one hundred and seventy-six; those from the South, one hundred and twenty, giving to the North a majority of fifty-six. The whole strength of the Democratic principle, with the vast energy of the Democratic organization, were barely able to save the South from the effects of an election purely and completely sectional.

At the opening of the next Congress, Senators from the North will probably number thirty-eight, those from the South but thirty, giving to the North a majority of eight; whilst in the House of Representatives the members from the North will probably range one hundred and forty-eight, those from the South only ninety, giving to the North a majority of fifty-eight. At the next presidential election, the electoral college from the North will probably number one hundred and eighty-six; those from the South, one hundred and twenty, giving to the North a majority of sixty-six. After the taking of the next census this condition of things will be incalculably aggravated. Thus it is shown that the ascendancy of the North is completely established in all the elective departments of the Government; and the constitutional rights and equality of the South are held at the mercy of the North. The rights of the South are absolutely dependent on the justice and clemency of those who hold our institutions in detestation, who have already indulged in threats, and who have been unable to repress the mutterings of rage and of revenge.

It has been beautifully and poetically said by Byron that "none are all evil." It may be that objectionable principles, when pushed to their extent, produce favorable results. We of the South may derive some advantage from the policy of stimulating and admitting new States. True, they will probably side with the North on the vital question of slavery; but they will find their interest in the principle of free trade, and may be induced to lend assistance to the South, in reducing the duties on imports, in repealing drawbacks and bounties, and modifying the navigation laws so as to deprive the North of the unjust, oppressive, and ruinous monopoly of the carrying trade. Southern energy will be directed to the accomplishment of this important object.

These suggestions are merely offered—not elaborated. They are designed only to give direction to the current of thought, and especially to the Representatives from the South. In a speech elaborately prepared, and delivered some years since, it was said by Mr. CLINGMAN, that, under the operation of the navigation laws, freight from New Orleans to New York was equal to freight from New York to Canton! I do not discuss this topic now. I hope hereafter to be able to bestow on it greater attention. For the present, I pass on the great highway of thought to the examination of topics which have already engaged attention.

Sir, I have a duty to perform, a solemn duty;

a duty to the South, to Virginia—to John Randolph of Roanoke. Some days since, my honorable colleague [Mr. GARNETT] made allusion to the deed of cession by which Virginia conveyed the Northwestern Territory to the United States, and especially to the clause which stipulates that not more than five States shall be formed of the Territory, and he charged, as a breach of the pact, that a large extent of territory was left without the boundaries of the five northwestern States. A member from Pennsylvania [Mr. Grow] repelled the charge, and represented that part of the Virginia grant as a mere strip of country attached to Minnesota, a magnificent State with ninety thousand square miles of territory, one third greater than the State of Virginia! and with this statement the member seemed to feel his vindication complete. Now, sir, this strip of country, of which he speaks with so much levity, is a tract of twenty-two thousand square miles, being nearly equal to one half the superficial extent of the great State of Pennsylvania or New York, and about equal to all that part of Virginia which lies between the Blue Ridge and the Atlantic, full three times as large as the whole State of Massachusetts! larger than the combined area of New Hampshire, Massachusetts, Rhode Island, and Connecticut!

It may be proper to remark that, in superficial extent, this strip of country is more than equal to one third part of the State of Georgia. The gentleman from Georgia [Mr. STEPHENS] treated the suggestion of my colleague as a reason urged for the rejection of the bill. But that view was waived, and it was adduced as a violation of the terms of the deed of cession. Considered as an objection to the bill, the gentleman from Georgia insists that it was taken too late; that it should have been stated on the passage of the enabling act. But if Congress, in the enabling act, by its own act, set forth a boundary involving a breach of trust, is it competent to Congress to excuse the consummation of that breach of trust in the act for admission, by pleading that the breach was initiated in the enabling act? That is a question which I refer to the enquirers. In any event, my colleague was not concluded to make the objection, because he voted against the enabling act, as I did. But waiving this objection to the admission of Minnesota, I voted for the bill, while I hold that as an unjust and oppressive violation of the terms of the cession, the suggestion of my colleague remains without answer. As such it was brought forward, and as such it was considered by the gentleman from Pennsylvania, [Mr. Grow.] Warning with his subject, and assuming a lofty bearing, this gentleman announced that the charge of breach of faith came with an ill-grace from my colleague, because, he says:

"Your fathers and our fathers made a compact in 1820, by which the Louisiana purchase, west of the then limits of Missouri, and of north 36° 30', was dedicated to freedom; but afterwards you took the Platte counties, now the seven western counties of Missouri, the richest and noblest portion of that State, from under the operation of that ordinance, and dedicated it to slavery. Your fathers did that, and you have justified the act."

I do "justify the act;" I have justified much more than that; and stand ready to vindicate the deed. But, sir, my object is to deny, to surcharge, and falsify the allegation that "your fathers and our fathers made a compact in 1820 by which the Louisiana purchase west of Missouri, and north of 36° 30', was dedicated forever" to what you call freedom. I deny that such a compact was ever made between the North and South; and if there were, then I deny that Virginia was any party to such compact. In other words, I deny that there ever was plighted faith on the part of the South, and especially of Virginia, to invest the act of Congress usually described as the Missouri compromise, with any peculiar degree of sanctity. The charge has been often made. Members of Congress from the North have felt themselves called upon to indulge in strains of bitter denunciation of the perfidious breach of faith involved in the action of southern members in repealing the Missouri compromise. The charge is gratuitous, and unsupported by the truth of history.

Sir, I am at a loss to conceive on what evidence the declaration has been hazarded that the Mis-

souri compromise, as it is termed in common parlance, was invested with the dignity of a compact, or varied in any manner from an ordinary act of Congress. This cannot be inferred from the fact that several southern members voted for the measure; because such a rule would invest every law with the dignity and sanctity of an *unalterable compact*. But, even upon such a rule, it is shown by the record that the Missouri compromise was rejected by Virginia, and repudiated by her Representatives in Congress. It has been conceded, because it could not be denied, that the measure was proposed by a northern Senator. In the session of 1819-20, "A bill for the admission of the State of Maine" had passed the House of Representatives; and, in the Senate, a committee had reported, as an amendment to that bill, a clause for the admission of Missouri on the same terms; that is, without restriction on the subject of slavery. Various propositions were made to amend that amendment, by adding a section to exclude the institution of slavery from the State of Missouri; but all these were successfully resisted by the united South. Defeated in the object of excluding slavery from the State of Missouri, the North, in the person of Mr. Thomas, of Illinois, brought forward the clause to exclude it from the Territories north of 36° 30' north latitude, and not comprehended within the limits of the State. The vote was taken on that proposition on the 17th February, 1820. It was supported by every northern Senator, except the two from Indiana, and carried in the affirmative. The vote was taken by yeas and nays. Both the Senators from Virginia recorded their votes in the negative and against the Missouri compromise, as did also Nathaniel Macon, of North Carolina, and Judge Smith, of South Carolina, both of whom have been claimed as supporters of the compromise. (See Senate Journal, 1819-20, page 166.)

I am aware it has been stated on authority—high indeed with many minds—that the yeas and nays were not taken on the motion "to insert the section constituting the compromise." (See "Benton's Thirty Years View," page 8.) But I exhibit the record. The vote then recurred on the question, "Shall the amendments to the bill be engrossed, and read a third time?" and on this Virginia, and the South generally, did vote in the affirmative. But that was not a clear vote on the single principle of the Missouri compromise. The amendments ordered to be engrossed were the sections providing for the admission of Missouri as an amendment to the Maine bill, and Virginia voted with the South, that if Maine were admitted, Missouri should be admitted also, without the clause excluding slavery, even though Congress usurped the power to exclude it from all territory north of 36° 30' not comprehended within the limits of the State; and the bill passed the Senate in that form, without division. A very different fate awaited it in the House of Representatives, where the amendments were rejected by a very general vote—the North being against them because they admitted slavery in the State of Missouri, whilst the South opposed them because they excluded slavery from the Territory.

The House having thus rejected the amendments, the bill was sent back to the Senate, where a member from Rhode Island (Mr. Burrill) moved to recede from the Senate amendments, and Mr. Macon called for a division of the question, so as to take one vote on admitting Missouri without restriction, and another vote on the section excluding slavery from the Territories. Mr. Smith and Mr. Macon, with both the Virginia Senators, and a majority of the Senate, including all the Senators from the South, voted against receding; namely, they voted to insist on her admission; and so the clause was retained. The question was then taken on receding from the amendment which prohibited slavery north of 36° 30' in the Territories, when Mr. Smith and Mr. Macon, with both the Virginia Senators, voted to recede, which was equivalent to a vote to strike out the section; that is, to reject the Missouri compromise. (See Senate Journal, page 189.) Yet it has been asserted that Nathaniel Macon and Judge Smith and James Barbour and James Pleasants had recorded their plighted faith in favor of this compromise, to be observed as a sacred compact be-

tween the North and South! The Senate then insisted on its several amendments; and no other vote was taken in that body at all involving the principle of the compromise, until after the report of the committee of conference. Heaven save the country from all future committees of conference! It recommended that the Senate recede from all their amendments to the bill for the admission of Maine, and that the bill of the House of Representatives to enable the people of Missouri to form a State government, &c., should be so amended as to strike out the clause prohibiting slavery within the State to be formed, and to insert a new section prohibiting slavery in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30' north latitude, not included within the limits of the State of Missouri.

The country is familiar with the report of that committee. On the question to strike out the clause prohibiting slavery in Missouri, Virginia, and the whole South, with a large majority of the Senate, voted in the affirmative, thus admitting slavery into Missouri. The question to insert the compromise clause was carried without a division. But that does not justify the inference that the Virginia Senators assented to the principle of the Missouri compromise. They had already voted against its insertion in the first instance. They had voted to strike it out, when an opportunity was presented. They had sufficiently evinced their opposition to the principle, and as a small and helpless minority, it was unnecessary to consume the time of the Senate with an unavailing vote by yeas and nays.

It has been alleged in the "Thirty Year's View," (page 8,) that—

"The unanimity of the slave States in the Senate, where the measure originated, is shown by its Journal, not on the motion to insert the section constituting the compromise (for on that motion the yeas and nays were not taken) but on the motion to strike it out, when they were taken, and showed thirty votes for the compromise and fifteen against it—every one of the latter from non-slaveholding States—the former comprehending every slave State vote present, and a few from the North."

The author then furnishes a list of the Senators who are claimed to have voted for the compromise, and among them are Governor Barbour and Governor Pleasants of Virginia, Judge William Smith of South Carolina, and Nathaniel Macon of North Carolina, and, indeed, all the Senators from the South, with several distinguished names from the northern States, and declares that "this array of names shows the Missouri compromise to have been a southern measure."

I have to say that after diligent search, I have not been able to discover the record of such a vote. I do find that after the adoption of the clause excluding slavery from the Territories, north of 36° 30', Mr. Trimble, of Ohio, did move to strike out that clause and insert another, extending the operation of the principle of the compromise so as to apply it to all territory north of 36° 30' and all south of that line not embraced within the boundaries of the State of Louisiana and the Territory of Arkansas east 94° of longitude—agreeably to Melish's map. On this question, James Barbour, James Pleasants, Nathaniel Macon, William Smith, and every southern Senator, did vote in the negative; but that was a vote refusing to extend the principle of the compromise; a vote refusing to give it application to territory south of 36° 30'; and cannot be tortured into an approval of the compromise. Yet that was the only vote on the subject, in the Senate, of which I can find a record, taken after the carrying into effect the recommendation of the committee of conference. (Senate Journal 1819-20, page 202.)

Sir, I deny that there is evidence on record—I deny that there is evidence in being to establish the proposition that the Senators from Virginia, or Nathaniel Macon, or William Smith, of South Carolina, ever gave the sanction of their names to the principles of the Missouri compromise, to be observed as a compact between the North and South—binding in plighted faith—sacred and immutable.

Passing from the Senate to the House of Representatives, we shall find the South resolutely and persistently resisting the principle of exclu-

ding slavery, as well from the State as from the Territory, from the day of its introduction in the bill of February, 1819, down to the final voting on the Maine bill on the 28th of February, 1820, when the amendment of the Senate having for its object the admission of Missouri with slavery, and the amendment having for its object the exclusion of slavery from the Territories, were expressly disagreed to and rejected by the House.

In the House of Representatives, February 28, 1820, the amendment for the admission of Missouri with slavery, was supported by every member from the South except one. It was opposed by every member from the North except five. Seventy-six members voted to admit the State with slavery, seventy-one coming from the South. Ninety-seven members voted against admitting the State with slavery, ninety-six coming from the North.

The amendment to exclude slavery from the territory north of 36° 30' was resisted by every member from the South, except five. Sixty-seven members from the South recorded their votes against that principle, and but five in its favor. (See House Journal 1820, pages 255, 256, 257.) Thus it is shown, that the South was united against the principles of the compromise down to the close of the voting on the 28th February, 1820; and I feel that I should do injustice to my native State—my own beloved Virginia—if I should fail to direct attention to the fact that on that day she cast twenty-two votes to admit Missouri with slavery, and twenty-two votes against excluding slavery from the Territories—one member from Virginia only voting against the body of his colleagues!

It was, then, on the 28th February, 1820, that a northern Senator moved, in the Senate, for a conference. Ominous and boding proposition! Sir, I always experience a sensation of uneasiness at the slightest allusion to that cunning device—that powerful, that dangerous and mischievous agency, known as a committee of conference. The resolution for a conference was adopted; and Mr. Thomas, of Illinois, (author of the compromise,) Mr. Pinckney, of Maryland, who had supported the compromise, and Mr. Barbour, of Virginia, were appointed managers on the part of the Senate. The House of Representatives concurred, and Mr. Holmes, of Massachusetts, Mr. Taylor, of New York, Mr. Lowndes, of South Carolina, Mr. Parker, of Massachusetts, and Mr. Kinsey, of New Jersey, were appointed managers on the part of the House of Representatives. Four members from the North and one from the South.

I have already stated the character of the report of the committee. It recommended that the clause excluding slavery from Missouri should be stricken from the Missouri bill, and a new section inserted excluding slavery from the Territories north of 36° 30'. And as the votes of members on these two propositions are relied upon to decide the character of the transaction, I ask for the subject the particular attention of this body. It was on the 2d of March, 1820, when the House was called to act. It was a moment of intense interest. It was known that the fate of the measure depended on the vote to strike out the clause excluding slavery from Missouri, because it had been ascertained by repeated tests that no bill could pass the Senate which excluded slavery from the State. It was known to be extremely doubtful whether the motion to strike out could prevail. By voting with those from the North who were opposed to the motion, the South could retain the clause in the bill, and secure the ultimate defeat of the measure. But such a vote was inconsistent with their principles; and the result was doubtful to the last. But they did act upon their principles, cast their votes for the motion, and the clause was stricken from the bill—yeas 90, nays 87. I shall have occasion, in a few moments, to recur to this vote.

The clause excluding slavery from Missouri having been stricken from the bill, the question recurred on inserting the section which excluded slavery from the Territories; which prevailed by a large majority—yeas 134, nays 42. (House Journal 1819-20, page 277.) Of the one hundred and thirty-four yeas, ninety-five came from the North, thirty-nine from the South. Of the forty-

two nays, five came from the North, and thirty-seven from the South. It will be observed that the North cast one hundred votes, of which ninety-five supported the compromise, and five opposed it. The South cast seventy-six votes, of which thirty-nine were cast in the affirmative, and thirty-seven against the compromise. With the irresistible power of a conference committee exerted in favor of the compromise, the South was divided as thirty-nine to thirty-seven, whilst ninety-five of one hundred from the North voted in a body for the bill. Yet have northern members stood up here to treat the Missouri compromise as a measure of the South forced upon the North, ranting and declaiming and denouncing the South for a perfidious breach of plighted faith pledged between "your fathers and our fathers!" Sir, in the presence of the American Congress, I denounce the Missouri compromise as a measure of the North forced upon the South. Like all other compromises, as a measure of the strong forced upon the weak.

Again, sir, I say, I feel that I should fail in my duty to my own, my native land—my own beloved Virginia, if I did not direct attention to the fact, that, even by the anaconda coil of a conference committee, she could not be constrained to assent to the hateful principle of the Missouri compromise; but on this final test she cast eighteen votes against the compromise, and only four in its favor; and that, too, when her own son, James Monroe, as President of the United States, was known to feel the deepest interest in the success of the measure.

I said I should revert to the vote to strike out the clause excluding slavery from Missouri. The defeat of that proposition would have secured the defeat of the Missouri compromise, because the Senate would have rejected it; but the body of southern members voted to strike it out, because they held it to be a paramount duty to admit Missouri without the restriction. The motion prevailed by a majority of three votes—yeas 90, nays 87. It was observed that, during the voting, several northern members, who were opposed to the motion on principle, because it would admit slavery into Missouri, retired from the House withholding their votes, and thus securing the success of the motion, and, eventually, the success of the compromise. This fact is stated on the authority of Hon. Charles Fenton Mercer, then a member of Congress from Virginia, and one who voted for the Missouri compromise. I give extracts from a letter, dated Berlin, Prussia, September 12, 1854, directed to Hon. William S. Archer, of Virginia, also a member of Congress from Virginia, in 1820. Mr. Mercer says:

"After I arose, a former class-mate of mine at Princeton, Henry Edwards, of Connecticut, left it, (the House,) and did not return till the vote had been taken." * *

"The question was thus delayed till the night was far advanced. As soon as I recovered, and the members regained their seats, the question was taken, by yeas and noes; and the first amendment adopted by a majority of three votes only, in the absence of Edwards and several others of his opponents. Its friends were all present, and numbered among them Randolph and yourself." * *

"The second resolution was then put, and passed by a large majority, of which I was one, you and Randolph voting against it. As soon as he perceived that many members from the South had voted for it, he sprang up from his seat, in great indignation; and exclaiming as he addressed the Speaker, 'the cards are packed; I will not play the game,' moved a reconsideration of the first amendment, which motion you seconded. Dedicating your vote and Randolph's from the majority, it was obvious that the first amendment would be lost, even though the opponents of it, who had gone out, and whom Randolph styled doughfaces, had not returned, as some of them obviously had. It was now late at night. The Senate had adjourned: and a member friendly to the second resolution, as well as the first, perceiving that if the vote were taken the amendment would be lost, requested Mr. Randolph to withdraw his motion till the ensuing day; stating that, as the Senate had adjourned, the resolution could not pass that night, and that the rules of the House allowed a day after the passage of any act for its reconsideration." * *

"I was seated by Mr. Randolph." * * "Accordingly, he waved his motion for the present, announcing his intention to renew it the ensuing morning; and the House immediately adjourned."

"The morning came; the House met, and Randolph was in his place; he rose and renewed his motion, which the Speaker pronounced out of order, as the reports of committees had precedence, after the reading of the Journal, to all other business."

"In the mean time, the Clerk, having read the Journal, was seen walking towards the door leading to the Senate, with the resolution and the amendment in his hand, when Randolph's attention being called to the fact, he audibly ordered him to stop. Instantly Lewis McLane commanded him to 'proceed at his peril,' in a voice still louder than

Randolph's. The Clerk did so; and so the Senators, as I personally know, being prepared by Thomas, of Illinois, took up the amendments as soon as the resolution reached their table, and finally passed them, and consequently thereby closed all further proceedings in regard to it."

"The reports of committees having been ended in the House, Mr. Randolph again rose to renew his motion for reconsideration, when he was officially told by the Speaker that the bill had gone to the Senate."

Such is the statement of the honorable Charles Fenton Mercer, sustained in its essential points by the Journal of the House of Representatives. (See Journal March 3, 1820, page 275, *et seq.*)

It appears from the Journal (page 279) that Mr. Randolph submitted the motion to reconsider the vote, and that it was ruled by the Speaker to be out of order; from which decision Mr. Randolph appealed, and the decision of the Speaker was sustained by the House.

When the committees had been called, the Speaker announced that "petitions are in order from the States;" and when Virginia was called, Mr. Randolph moved the House to retain in their possession the act for the admission of Missouri until it should be in order to move to reconsider the vote of the preceding day. The Speaker ruled that motion out of order, for the reasons stated on the previous motion made by Mr. Randolph "to reconsider the vote of yesterday." (House Journal, page 280.)

When the States had been called for petitions, and reports had been received from the several committees, and a message had been received from the Senate, Mr. Randolph moved the House to reconsider the vote of the preceding day on the first amendment to the bill for the admission of Missouri; and then the Speaker, having ascertained the fact, informed the House that the proceedings of yesterday on that bill had been officially communicated to the Senate by the Clerk; whereupon Mr. Randolph moved a resolution declaring that in carrying the bill to the Senate, after he had given notice of his purpose to move a reconsideration of a vote of yesterday, on which he voted with the majority, "the Clerk is guilty of a breach of the privileges of a member of this House, under the rules thereof." The Speaker put the question: "Will the House now proceed to consider the said resolution?" and it was determined in the negative.

Mr. Randolph then submitted the following proposition:

"That so much of the 37th rule as allows a reconsideration of any question, by motion of a member of the majority on such question, on the day succeeding that on which such question be taken, be expunged."

The said proposition was read, and ordered to be tabled for one day; and then, immediately, it was ordered, on motion of Mr. Gross, of New York, that when the House adjourns it adjourn to meet on Monday next. (See Journal House, page 281.) And on Monday, a message was received from the President of the United States that he had signed "An act to authorize the people of the Territory of Missouri to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories." (See House Journal, March 6, 1820, page 287.)

And now, sir, with this unvarnished narrative of facts, attested by indisputable evidence, I submit to the judgment of the candid, whether my illustrious predecessor was not visited with a degree of rigor in the application of the rules which amounted to practical tyranny? And, sir, it was this rigor of rule, this tyranny of practice, which carried through the forms of legislation this detestable Missouri compromise. A compact between "your fathers and our fathers!" No, sir. It was an iron edict forced upon the South by the North—forced upon the weak by the strong.

Sir, John Randolph of Roanoke moved a reconsideration of a vote on a vital question; and, by the rigid ruling of the Speaker, his repeated efforts to secure a vote on his motion were all defeated; and the vote on his motion and several resolutions was never taken, until the question involving the fate of the compromise had been taken from the House to the Senate, had been acted on by the Senate, and sent to the President, and approved by the President and returned to the House!

And now, sir, I have shown that the compro-

35TH CONG....1ST SESS.

Admission of New States—Mr. Goode.

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mise originated with the North, and was introduced into the Senate by Mr. Thomas, of Illinois. When originally inserted as an amendment to the Missouri bill, it was supported by every Senator present from the North, except the two from Indiana, (Mr. Noble and Mr. Taylor.) The strength of the opposition to the amendment came from the South: Virginia, South Carolina, and Georgia voted against it; North Carolina was divided—Mr. Macon against, and Mr. Stokes in the affirmative. The body of the slaves at that time was to be found in those States. The South was divided on that amendment as twelve yeas to eight nays; but a majority of the slave interest was represented by the eight Senators. The Senators from Delaware were of the twelve; and that State, on the border of Pennsylvania, is conceded to have but small interest in the subject. The southern Senators who supported the amendment represented new States, asking favors daily from this Government, at a time when it was notorious that the President of the United States was extremely anxious the measure should prevail.

I have shown that in the House of Representatives the compromise was resolutely and persistently resisted, until the report from the committee of conference; and, even with the irresistible force of that agent, seconded by the influence of a southern President, the South was divided into parts of almost exact equality, whilst *ninety-five* of one hundred northern members voted in a body for the Missouri compromise. Yet has it been paraded as a measure of the South, forced upon the North!

But, sir, I confess that the fact to which I point with peculiar emphasis, and with a feeling of personal pride, is the position of my native State—resisting the fatal principle of the compromise, regardless alike of all considerations of a delusive State policy and the seductive blandishments and allurements of executive influence.

And now, sir, I demand justice at the hands of the northern Representatives. I exact it as an obligation of honor, from every member from the North, whenever he finds himself declaiming before his constituents on the perfidious infamy of the South in violating her plighted faith by the repeal of the Missouri compromise, to exempt Virginia from the force of his denunciation, or to feel, in his own heart, that he is meanly attempting to impose on the ignorance of his own constituents in attempting to produce a false impression by a representation of facts which, as to Virginia, he knows to be false.

Sir, in the order of Providence and the workings of fortune, it devolves on me, all unworthy as I am, to represent the grave, the ashes, the memory, of John Randolph of Roanoke. It is a perilous privilege to stand here to-day as the humble defender, if not the champion, of his brilliant fame; but, sir, I proudly present for the admiration of his country this bright example of his sagacity, this striking proof of his devoted fidelity to his native State. Sir, if he were not the most fervid and impassioned orator of that Augustan age in which he lived, he possessed a power of language amounting to a fascination—a mysterious charm—exerting an influence over the will and conduct of men which I never witnessed in another.

And now, sir, I feel myself fully authorized to commend the poisoned chalice to the lips of the honorable gentleman from Pennsylvania, and to say to him that the charge of broken faith comes with an ill grace from that side of the House. I might challenge the honorable gentleman to point to a single instance of plighted faith, faithfully executed on the part of the North towards the South. If, for the sake of the argument, but against the truth of the case, we assume that the act for the admission of Missouri was founded in pact, involving honor and plighted faith—it can be readily shown that the compact has been disregarded by the North. If it were a compromise at all, it rested on the principle of a partition of territory between parties contending for political power, settling their dispute by dividing the subject of controversy on a geographical line. This is the construction now sought to be established by the North, and by the gentleman from Pennsylvania as a Representative from the North. The contest for political power was settled on the prin-

ciple of a division of territory on 36°30' north latitude. In the case of the Louisiana purchase, the South made the sacrifice and abided by the principle. As the law of the province of Louisiana was supposed to extend the institutions of the South throughout its borders, the principle operated in favor of the North. They availed themselves of it, and secured from the South the whole territory north of that line, being nine hundred and sixty-four thousand square miles; leaving to the South only two hundred and twenty-four thousand four hundred and forty-five square miles. Again, when Texas was annexed, the laws of that State established the institutions of the South throughout her borders; but a large part of her territory extended north of 36°30' north latitude, and the application of the alleged principle of the Missouri compromise would operate an advantage to the North. They accordingly claimed it and received it, and secured from the South all that part of Texas lying north of 36°30' north latitude, being forty-three thousand five hundred and thirty-seven square miles. In both these instances the North eagerly appropriated the advantages of the principle of the alleged Missouri compromise, and the South submitted to the operation of a bad principle and hard bargain.

In the running of time it came to pass that acquisitions were made from Florida. Here, too, the *lex loci* established the institutions of the South; and far the larger portion of the acquisition was north of 36°30', being the Territory of Oregon, with three hundred and forty-one thousand four hundred and sixty-three square miles; whilst in Florida proper, south of 36°30', there were no more than fifty-nine thousand square miles. The North again availed themselves of the operation of the principle of the Missouri compromise, and appropriated to themselves all of Oregon.

Time rolled on, and it came to pass that acquisitions were made from Mexico, where slavery was prohibited. Here was a new phase in the operation of the principle of the pretended compromise. Its action would be injurious to the interest of the North, and offensive to northern prejudices. The South would acquire an extensive area where our institutions had been excluded by the law of Mexico. On three different occasions the principle had operated against the South. The North had insisted on the advantage; the South had acquiesced; and the North had secured the advantage; but on this first occasion when the principle secured an advantage to the South, it was repudiated by the North, and they claimed the whole extent of the Mexican grant. In vain did the South point to Louisiana. In vain did we point to Florida. In vain did we point to Texas. These examples were utterly disregarded; the principle of the Missouri compromise was repudiated; the South was excluded from all participation in the vast territory acquired from Mexico; and the North appropriated all to themselves!

They did even more than this. They took all, and more than all. They raised a claim to territory in Texas, and with \$10,000,000, taken from the Treasury, they compromised with Texas and settled the boundary between Texas and New Mexico, so as to take from the South eighty-two thousand square miles of Texan territory south of 36°30', and subject it to the authority of free soil North. Texas claimed the boundary of the Rio Grande. Mexico invaded that territory. It was resented by the United States as an invasion of the sacred soil of America. Mexico was repulsed. The *Texan title* was supported by the United States, and conquered from Mexico by the power of the sword. As an indemnity for the expenses of the war, a large cession of territory was made by Mexico to this country, and the United States succeeded to whatever title Mexico might have in the lands granted. New Mexico was comprehended in the grant; and, as an American settlement, asserted against Texas the very title which had been asserted by Mexico against Texas, and which had occasioned the war; and which title had been conquered from Mexico by American arms, and conquered from her as the rightful dominion of Texas. Yet the Government of the United States supported the claim of New Mexico to the very land which had been conquered from Mexico as part of Texas, and made that

claim the basis of a compromise with Texas, by which \$10,000,000 were taken from the Treasury to purchase out the claim of Texas, so as to add to New Mexico eighty-two thousand square miles, from which the institutions of the South are excluded, and which is subjected to the jurisdiction of Free-Soilers and Abolitionists of the North.

I shall be pardoned in reviving a few other reminiscences of Punic faith. In 1833 the country was convulsed with the tariff agitation. Northern oppression had goaded the South into open and frantic hostility to the policy of Government, and there was imminent peril of collision of arms. The South was pacified and appeased by a compromise, which stipulated that at the close of ten years duties should be collected by a horizontal tariff of twenty per cent. *ad valorem*. The South, in a true and lofty spirit of patriotism, consented to a very gradual reduction, so as to enable the North to prepare for the contemplated change. For seven years the reduction was so slight as to be scarcely felt in the practical operations of the country. In 1841 the reduction was considerable; and though the North had been allowed seven years to accommodate themselves to the proposed change, they filled the country with loud and frantic complaints; they repudiated the principle of the compromise; they denounced the act of 1833, and declared that by its own terms it expired in 1843—the very time when, by the terms of the compromise, the horizontal duty of twenty per cent. was to be established as the permanent policy of Government. And in the stead of a faithful execution of the terms of the compact, they enacted the unjust, unconstitutional, odious, and oppressive tariff of 1842.

And thus has it been throughout our history. In 1784, Virginia executed her deed of cession, for which she has received declamatory laudations and nothing—nothing more. Instantly machinations were set on foot to apply to the vast territory the ordinance of 1787, and thus to exclude the generous donor from all participation in the settlement of that territory, of which she had made a munificent and magnificent contribution to the United States. Northern politicians have been content to refer this movement to Thomas Jefferson, as a justification to them for its enactment. But Jefferson was not infallible, and he was the only friend of the measure, and the solitary representative of that sentiment from Virginia in 1784. His State, with the entire South, voted against the ordinance in the Continental Congress, and it was successfully resisted by the unanimous South until 1787, when it is supposed to have passed, in consequence of a compromise entered into between the North and South, as I shall now proceed to relate.

The Federal convention, which adopted the Constitution of the United States, was in session in Philadelphia. The Continental Congress was also holding its session in New York. In adjusting the principles of the Federal Constitution the convention had adopted a provision requiring a vote of two thirds to pass laws on the subject of commerce and navigation, which was very unacceptable to the North. It was also fiercely contested whether slaves should be regarded as persons or property; whether they should be held as entitled to representation, or treated as mere property subject to taxation. It was also a question discussed whether an obligation rested on the northern States to return fugitive slaves to their owners; and on these several topics the heats and dissensions became so great as to justify the apprehension that the convention would dissolve without framing a Constitution at all. In this state of things it seems to have been understood between the members of the convention that the South would agree to surrender the two-thirds vote on the subject of commerce, and subject it to the action of a mere majority; and that they should recommend to the Continental Congress to adopt the ordinance of 1787, excluding slavery from the Northwestern Territory, on condition that the North would insert in the Constitution a clause for the rendition of fugitive slaves, and allow a representation for three fifths of the slaves, at the same time imposing a tax on three fifths, and exempting two fifths from taxation.

Sir, the South has faithfully executed this con-

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Kansas Conference Committee Bill—Mr. Bonham.

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tract. They surrendered the two-thirds vote on the subject of commerce, and subjected it to the action of a mere majority, by which they enabled a northern majority to initiate and establish a commercial system destructive to the South, and eminently advantageous to the North; a system which has secured to the North great cities, marble palaces, and gorgeous equipages, resulting from profits on the labor of the oppressed South—that South ground into the dust under the operation of this odious commercial system. And again the South did consent to the ordinance of 1787, and thereby established forever the oppressive ascendancy of the North; bringing into the present House of Representatives the all-controlling force of fifty members. How has the North performed her part of the contract? How has she redeemed her plighted faith?

As to representation, it is true we have about twenty members to represent our interest derived from slaves; but as a counterpoise you have forty-eight from the Virginia grant, exclusive of the members from Minnesota. As to taxation, it was intended to establish, in the Constitution, an equitable rule, apportioning the burdens of Government justly and ratably among the several States. But discarding the policy of direct taxes, you levy taxes by duties on imports—regulated by the vote of the numerical northern majority—and you have infused into the system, as a governing principle, high duties on commodities consumed by slaves and the owners of slaves, and low duties on the commodities consumed by the inhabitants of what you call *free States*; thus defeating the object of the Constitution, and inflicting on the South a grievous practical oppression.

How have you redeemed your plighted faith on the subject of the fugitive slave? The provision of the Constitution is mandatory; its language explicit: he "shall be delivered up on claim of the party to whom such service or labor may be due." Have you obeyed this mandate? Have you executed this provision of the Constitution? Have you redeemed your plighted faith, thus solemnly pledged in the fundamental, sacred compact of union? It is notorious that you have resisted and defeated it. The provision is worth nothing to the South, nothing to any one citizen of the South. You have resisted it individually and collectively, socially and politically. You have resisted it as men and as citizens; you resisted it in county meetings, in primary popular assemblies, in political clubs, by party organizations, and by solemn legislative enactments. You have resisted it by violence, by organized force, by mobs, even unto battle, death, and murder. The citizen of the South, engaged in the lawful effort to recover his own property, has been publicly and barbarously put to death, and the murderer has found safety and security in the public sentiment of the North, and in lawless combinations of Abolitionists, Free-Soilers, bullies, and blackguards.

All this was true, even before the mockery of compromise to which the South was called upon to submit in 1850, when the North took all, and more than all, acquired from Mexico, with the eighty-two thousand square miles purchased from Texas; when the North wrested from the southern citizen the right to sell his own property in the city of Washington, and slavery itself was virtually abolished in the District of Columbia. For all this, the North condescended to vouchsafe to the South the reenactment of the fugitive slave law, and the recognition of the doctrine of congressional non-intervention; the latter of which has been metamorphosed into the absurd and mischievous doctrine of squatter sovereignty by one political party of the North, and utterly repudiated by the other, or Black Republican party. The reenactment of the fugitive slave law only served to afford to the North an opportunity to reenact the insulting violation of plighted faith, and to outrage the rights of the South by an utter disregard of all social, moral, religious, legal, and constitutional obligation. I salute the honorable gentleman from Pennsylvania. Once more I commend the poisoned chalice to his lip. Sir, the charge of breach of plighted faith comes with ill grace from that side of the House.

KANSAS CONFERENCE COMMITTEE BILL.

SPEECH OF HON. M. L. BONHAM,
OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

June 9, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. BONHAM said:

Mr. CHAIRMAN: I did not, for various reasons, participate in the debate on the Kansas Senate bill; nor did I expect to take part in the discussion of any branch of that question. On the passage of the conference bill I moved the previous question, but forbore to occupy the time of the House to give my reasons for my vote. Perhaps I should not have troubled this House at all with these reasons. But a few days after the passage of the bill, my honorable colleague [Mr. BOYCE] delivered a speech in reply to the honorable member from Mississippi, [Mr. QUITMAN,] in whose view I concurred, and who and myself alone of all the southern Democrats stood with the Opposition on that question. I do not complain of the course my colleague thought proper to pursue; but that, with other subsequent events, makes it due to my constituents as well as to myself, in my own judgment, that I should ask the indulgence of the House whilst I now briefly state those reasons.

The argument for and against the Senate bill had been exhausted in a discussion exhibiting a degree of ability seldom surpassed in these deliberative bodies. And I think an impartial posterity will bear me out when I say that the preponderance of the argument was largely in favor of the advocates of the bill. To my mind it was conclusively proved that the constitution of Kansas had come up to us with all the sanctions requisite to a valid constitution. The entire Democratic party, with the President at its head, (the Douglas Democrats excepted,) indorsed it. It was clearly shown, by precedents and sound argument, that the convention had the right to submit that constitution to the people for ratification or rejection, in part, in the whole, or not at all; and in either event it would be binding on Kansas and acceptable to us. That she had not the requisite Federal population, and was presenting herself without a formal enabling act, might, and ought, under all the circumstances, to be waived, was conceded by all—denied by none. It was not questioned that she would agree to abstain from the exercise of all right of taxation, and that the extraordinary claim of seventeen million acres of land over and above what other States similarly situated had received, would be abandoned, and the four millions gladly accepted. The Senate bill was the embodiment, as was supposed by its advocates, of all that was useful and needful for her admission. The Green-Pugh amendment was distasteful to many of us; but to secure unity of action among the friends of Kansas, it was acquiesced in, after some modifications. This amendment was, however, a concession which brought no strength to the bill; but, on the contrary, weakened it; for it led the opponents of the bill to hope for further concessions on a conference upon the disagreeing votes of the two Houses. It was, however, considered by many, that although we might, in the language of the late lamented Evans, be "fighting for a shadow, so far as any ultimate good could come to the South;" nevertheless, we were contending for "a principle of vital importance," namely: the admission of a State with a pro-slavery constitution; the importance of which principle was enhanced by the fact that such admission might prove—though I do not myself think such would have been necessarily the case—a barren victory to the South; and that in proportion as she would gain but little by it, so much the greater the wrong to the South of refusing Kansas admission with the Lecompton constitution.

The passage of the bill was opposed by the Republicans, on the ground of the slavery feature of the constitution. The Douglas Democrats opposed it, mainly, as they alleged, on the ground that the whole constitution was not submitted.

But I think they deceive themselves. I say it with respect, as I do not mean to assail the motives of gentlemen, the force and power of abolition feeling at home unconsciously and imperceptibly operated upon their judgments. The precedents of the ratification of the Federal Constitution by the thirteen original States, by their respective conventions alone, without submission by the people, and the adoption of their State constitutions, by more than half of the States of this Union, in the same manner, it would seem, ought to have been sufficient to have determined this question in the mind of any unbiased person. The Democratic party, however, with a portion of southern Americans, were satisfied with the constitution upon both the slavery clause and the question of submission, and should, therefore, have insisted upon the adoption of the Senate bill. They would ultimately have succeeded. But if they had failed, then, on the defeated Senate bill, they would have gone to the country with a better issue than on the victorious conference bill.

But, sir, the Senate bill was defeated, and a conference committee, at the request of the Senate, was appointed. After many meetings and much disagreement, they reported the bill, the merits of which I now propose to consider.

The first objection to the bill is, that it submits the whole Lecompton constitution back to the people of Kansas for adoption or rejection, in despite of the declaration of the people, in convention assembled, that they desired admission, at once, under that constitution. The first section of the bill provides that the admission of Kansas shall be dependent on "the fundamental condition precedent," that the people of Kansas shall accept a specific proposition contained in six clauses of the bill respecting lands, taxes, &c. The bill provides further, that on a majority voting "proposition accepted," at an election to be held, "the President of the United States shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States, in all respects whatever, shall be complete and absolute." Whilst, on the other hand, if "a majority of the votes cast be for proposition rejected, it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution, under the condition set forth in said proposition." And then, regarding the adoption by Kansas of this last alternative as a rejection of the constitution, the bill goes on to authorize the people to form a new constitution. Does this statement alone not make it palpable to the plainest understanding that, though not in so many words, this is virtually a submission of the constitution? It does not matter whether the voting be on the land grant, the taxing power, &c., or on some totally indifferent question; still, if the result be that Kansas, with the Lecompton constitution, would, on the one hand, be admitted, and on the other rejected, by reason of that vote, unquestionably the constitution is virtually submitted back to the people for ratification or rejection.

Besides, if it were intended to submit the propositions growing out of the ordinance alone, why introduce into the bill the words "admission of the State of Kansas into the Union," &c., at all?

Again, the Douglas Democrats, as before stated, based their opposition to the Senate bill mainly upon the ground of the non-submission of the whole constitution to the people. What other feature, then, I ask, is in the conference bill that commended that bill, rather than the Senate bill, to the support of the English branch of the Douglas Democrats? Surely not that feature which proposes to admit Kansas under the Lecompton constitution, upon the people, at the approaching August election, giving a majority for "proposition accepted;" but if, on the contrary, they should give a majority for "proposition rejected," proposes to keep them out indefinitely.

But, sir, as to the construction which the English branch of the Douglas Democrats place on this bill, we are not left to inference alone. "The naked and unqualified admission of Kansas under the Lecompton constitution," said Mr. ENGLISH,

in presenting the conference report to the House, "he could not vote for;" that, "before Kansas is admitted, her people ought to ratify, or, at least, have a fair opportunity to vote upon, the constitution under which it is proposed to admit her;" that "he would make reasonable concessions provided the substance be secured; which is, the making of the constitution, at an early day, conform to the public will, or, at least, that the privilege of so making it be secured to the people beyond all question." It would puzzle human ingenuity to discover any other meaning in these words, than that Mr. ENGLISH considered the conference bill as, in effect, submitting the whole constitution to the people for acceptance or rejection. Would Mr. ENGLISH, or any other advocate of the bill, have voted for an amendment declaring it was not a submission? I apprehend not. Mr. GROESBECK and Mr. Cox, of the same wing of the Douglas party, and Mr. GILMER, of the southern Americans, said they regarded it in effect a submission. All the Opposition say that it is a virtual submission. Other distinguished members of the committee, it is true, say that there is no submission of the constitution to a vote of the people. The members of the committee disagree. We are, therefore, free to place our own construction upon the bill. To my mind, it is a virtual submission of the constitution back to the people for acceptance or rejection, which view I think I have shown to be correct.

The most plausible argument in favor of the conference bill, which I have heard or seen, is, that if Kansas, by rejecting the proposition in the conference bill, should be kept out of the Union, still, if she had been unwilling to accept our proposition in the Senate bill, she would, in that event, also have been out of the Union; and that we could not compel her to come in. That is true. But it was admitted on this side of the House—denied by no Democrat, so far as my knowledge or information goes—that Kansas would have assented to our proposition contained in the Senate bill. It was reasonable—the same that was made to Minnesota—and Kansas could ask no more. Her proposition was unreasonable; and such as no State ever laid claim to before. It was never questioned that, on the passage of the Senate bill, the Legislature of Kansas would be convened; that her Senators would be elected; and that they and the member elect, would, as soon thereafter as practicable, take their seats. Now, the instant that these delegates should have taken their seats, Kansas would, I submit, with confidence in the view, have been in the Union with the Lecompton constitution; there would have been an acceptance of our proposition, and an unconditional assent to the terms of the Senate bill by such sending of delegates; a waiver, to all intents and purposes, of all right to tax the public lands; and an abandonment of any claim to land itself beyond the four million acres. No one, up to the failure of the Senate bill, saw any difficulty as to the ordinance, which was, in fact, no part of the constitution; and there was no reason to suppose that there could be any, for Kansas had herself proposed to come in with the Lecompton constitution, and would have been in, and been received by Congress as a member of the Confederacy by the act of sending her Senators and member here to take their seats; and need never again (and probably would not) have alluded to her ordinance. No vote by her people, in such case, would have been necessary to admission. Or, she might, if she had preferred so to do, through her State Legislature, have assembled a convention, and through that have abandoned her ordinance, and have accepted our proposition. In the other case, by the conference bill, the people of Kansas must vote again before they can get into the Union under the Lecompton constitution. Her remaining out under the Senate bill would have been voluntary on her own part; but her remaining out under the conference bill is compulsory on ours.

But suppose Kansas had said we will come into the Union, and will send our delegates to take their seats, but will negotiate as to the questions of taxation, the land grants, &c. She would unquestionably have thus been in the Union. You could not have refused her admission. If, then, the terms of adjustment could not have been agreed

upon between the parties, who would have been the arbiter? The United States courts; who could have done nothing more nor less than have decided that Kansas had acquiesced in our proposition. If Kansas had been content with the decision, that would have been the end of the matter. If she had insisted upon her proposition, she would thereby have placed herself out of the Union, and would have had to forego the benefits thereof.

But suppose she had said, upon the passage of the Senate bill, she preferred staying out of the Union to accepting the terms of that bill? The South would have lost nothing, as it turns out, and Congress could then, with much better grace than by applying such rule to Kansas in the conference bill, have passed a general law to exclude all new States till they should have the Federal ratio to entitle them to admission.

It is supposed that the right to tax the public lands is an attribute of sovereignty of which Kansas could not be deprived, or deprive herself, and yet be "admitted into the Union on an equal footing with the original thirteen States in all respects whatever." It must be borne in mind that the difference between the original thirteen States and the Territories is very marked. Those States were independent sovereignties, possessed of the right of eminent domain outside of the Union, and anterior to the adoption of the Federal Constitution. The sovereignty of the Territories, on the contrary, is in the States of this Union—the right of taxing the public lands along with it. Now it seems, as has been done again and again, that Congress may reserve this sovereign right of taxation in the enabling act, or in the act admitting a State, carved out of these Territories. But if we grant the position to be true, that the withdrawal of the sovereignty of the United States confers upon a new State, at once, this sovereign right of taxation, still Kansas, as many of the other States have done, might waive the exercise of it in consideration of the land grants and other advantages arising from incorporation into the Union.

It is further said for the conference bill that its first clause admits Kansas into the Union. That clause is: "That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever." The Crittenden-Montgomery amendment does the same thing in the same words. But what is such admission in the conference bill worth when the bill goes on to prescribe a condition precedent which must be fulfilled before she is admitted, and failing to fulfill which, she will not be admitted, and will never have been admitted? There is a condition to be performed, precedent to admission. How can the State be said to be now admitted into the Union when she is told in the bill, your people must vote again, and if they do not vote "proposition accepted" you must stay out of the Union till you have the Federal ratio, after which you may form a new constitution, and then "be entitled to admission into the Union as a State under such constitution?" Does any one pretend that Kansas is now actually in the Union? This bill, in truth, subjects the constitution to a vote of rejection. Indeed, its adoption by Congress was the adoption of a measure of exclusion, for the result of the vote of the people of Kansas under the conference bill, in August next, is scarcely now problematical. No, sir; so far from Kansas being admitted, we are no nearer the end of our difficulties now than we were before the passage of the conference bill. Kansas will send up to us next winter, in all probability, a free-State constitution, formed by a convention called by the Territorial Legislature, having the other sanctions of the Lecompton constitution, (except so far as it will be restricted by the conference bill as to the Federal ratio,) with the addition of having been submitted, entire, to the people for their approval. And I now ask gentlemen, will that constitution be rejected by Congress? I think not. This conference bill will thus secure to the Opposition within one short year, and if not so soon, at some day not very distant, the victory for which they have from the first contended, and the South be shorn of the triumph of principle in having a slave State admitted.

It is claimed, moreover, that the conference bill recognizes the right of a slave State to admission. The Crittenden-Montgomery amendment can lay claim to equal merit; for that bill provides for the admission of Kansas under the Lecompton constitution, if upon "that constitutional instrument" being first submitted to a vote of the people, a majority shall assent thereto. But to what end is this recognition in either bill? What Republican would ever have supported the Crittenden-Montgomery amendment but for a certainty that the Lecompton constitution would never again have seen Congress? And what Douglas Democrat would ever have supported the conference bill but for its securing virtually to the people of Kansas the opportunity of voting down the Lecompton constitution?

This bill is further objectionable as not being a manly, straightforward measure. It is to be construed one way in one section of the Union, and a different way in the opposite section. This double construction prevails here, already, as I have shown. It is a mode of legislation I cannot admire—one which can never result favorably to the establishment of sound principles, or in benefit to the weaker section. To preserve the constitutional rights of the South in this Union, the legislation should be plain—unmistakable.

I further object to this bill, because, in accepting that, instead of making our stand upon the defeated Senate bill, we abandoned the question, in this case, of the admission of a slave State north of 36° 30'—a concession which, it strikes me, the South should have avoided even the appearance of making. It is no answer to say that the southern States, which were committed to secession in the event of the rejection of a slave State, would have receded from their position because of the fact that the anti-slavery party in Kansas so greatly outnumbered the pro-slavery party. Those States would have been then in no worse condition than they are now. The people of the whole South would have felt indignant at the rejection of the Senate bill; for it had been made plain to them that, if rejected, it would be owing to the slavery clause contained in the constitution. The conference bill faintly purports to recognize the principle that a slave State may be admitted, and thus furnishes the ground, though such was not the purpose of its advocates, upon which the tone of the South will, I fear, be let down from its former elevation.

But gentlemen say the conference bill is a better bill than the Senate bill. Had it been submitted as an amendment to the Senate bill at the time we expected to pass the Senate bill, by a Republican or even a Democrat, I doubt if it would have received the support of ten southern Democrats. It would have been regarded as involving the abandonment of the position taken in the Senate bill. What makes it a better bill? Is there anything in the bill itself, or in its passage, from which the most sanguine can augur the future admission of a slave State from the Territories north of 36° 30'—or even south? Rather the contrary.

As for myself, Mr. Chairman, I see no reason to doubt the correctness of my convictions, but much to confirm it. I voted against the measure with regret at separating from my colleagues and so many other true southern men; but, with my views, I should do the same thing again, under the same circumstances. The bill commands no more my approbation now than it did at the time of its passage. I voted, it is true, with my honorable friend from Mississippi, for the motion to lay upon the table a motion to reconsider the vote by which the bill was passed; thus indicating our indisposition to protract a contest in which we differed from so many of our friends. But if any practicable good could have been attained by the amendment of the conference bill, or by the substitution of the Senate bill, or something more desirable, of course we would have voted for the reconsideration. I no not recognize mere party success and party supremacy as paramount to all considerations of principle. I would concede much for the harmony of the party I am acting with—a great deal for the harmony of the party of the South—but what I would concede must fall short of the concession of principle involved, in my conception, in the conference bill.

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I think these measures should be fairly canvassed, in order that the South shall clearly comprehend them, and realize the complexion of her probable future. But she can now make no issue upon them with the North, nor can the making of such issues at the South be productive of any good there. Moreover, much as I dislike the measure, I have no words of complaint against those who felt it their duty to support the conference bill. They are as deeply interested in, and as true to, the interests of the South as I; and probably better judges of her best policy. This whole Kansas controversy but exhibits the difference of opinion which will exist among gentlemen who look with equal solicitude to the welfare of their section.

The conference bill is now the law of the land. The South is in the Union with no issue before the country tending to its immediate dissolution. Her policy should be to keep steadily in view the taking of her destiny into her own hands when the occasion which requires it shall present itself, and, in the mean time, to gird her loins for the race which is set before her by the high priest of Republicanism; and to coöperate with that party which alone, of the two great parties of the country, profess to abide by the Constitution, as our fathers left it to us, so long as that party is true to the constitutional rights of the South. The next two years will decide the fate of this Union. The Democratic party, somewhat crippled by its division on the Senate bill, though perhaps not to be subjected to a Waterloo defeat, is the last hope of those who think the rights of the South can be preserved in the Union. The battle of preponderance in numbers of the free over the slave States, it is true, "has been fought and won." But the battle of preponderance in the two Houses in Congress, between the friends and enemies of the Constitution, is now upon the country. If the Republicans shall win the day, the greatest battle of them all—the battle in defense of the institutions of the South will have to be fought—should the Republicans make good their threats—on another and a different field. The discussion of principles is always healthful; but a division of the South, at this juncture, into bitter parties on these questions, would be deeply to be deplored, and should earnestly be avoided. It is the part of wisdom in her people to profit by the knowledge of the past, and to prepare for the worst in the future. Mr. Calhoun, in his last great speech delivered in the Senate, begun by saying: "I have, Senators, believed from the first that the agitation of the subject of slavery would, if not prevented by some timely and effective measure, end in disunion." And in speaking of Washington's example in deciding to resist British oppression, he says: "We find much in his example to encourage us, should we be forced to the extremity of deciding between submission and disunion." That great statesman and pure patriot was then fast approaching his final dissolution. With the vision of a seer, he predicted the existing state of affairs. And could he have survived, and have heard the announcements which have been made in this, and in the other end of the Capitol, during the present session of Congress, as to the future policy of the Government under Black Republican rule, he would have said to his countrymen, the period is now near at hand when you must decide between "submission and disunion."

ADMISSION OF KANSAS.

SPEECH OF HON. G. H. PENDLETON,
OF OHIO,
IN THE HOUSE OF REPRESENTATIVES,
June 9, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. PENDLETON said:

Mr. CHAIRMAN: I desire to reply briefly to the speech of the gentleman from New York, [Mr. BENNETT.] I would not have felt justified in doing so, at this late day in the session, if the gentleman had not seen proper, in the course of his remarks, to allude to myself and other members by name, and to comment with some severity on our course on the Kansas bill.

Before, however, I notice the speech itself, I

desire that the House and the country should know that this speech, if ever delivered at all, was delivered at a night session, when, by common agreement, nobody was expected to be present except those who desired to rehearse their written speeches; that its elaborate statements and rounded periods, its bitter denunciations, its vivid descriptions, were declaimed to empty seats and tired reporters. It bears the appearance of having been delivered in a full House, in the presence of a quorum, and as such will go before the country in the Globe and the pamphlet copies; while, in fact, not ten members were present, and not ten others will ever know of its existence, except by reason of its publication.

The speech is on Kansas affairs, and especially on the conference bill. It follows the usual course. It passes over well-trodden ground. It denounces the bill in no measured terms. It imputes to it falsification of facts, and fraudulent designs, in the following emphatic language:

"All that is important in the pretended facts set forth in the preamble are notoriously false! and every material provision of the act covers a fraud!"

"I. The preamble states in substance that the people of Kansas did, by a convention, form for themselves the Lecompton constitution! The people of Kansas never made or adopted that instrument. It was the work of a faction, accomplished by fraud. The convention that made it was illegally called by an unauthorized Legislature; was illegally chosen and constituted; and did not, in any sense, represent the people of Kansas."

And after stating that the Lecompton constitution had been rejected by the House of Representatives because it had not been made or ratified by the people of Kansas, the gentleman says:

"Amongst those voting, and, as they declared, for that especial reason, were the two members from Indiana, [Mr. ENGLISH and Mr. FOLEY]; the six members from Ohio, [Mr. COX, Mr. COCKERILL, Mr. GROESBECK, Mr. HALL, Mr. LAWRENCE, and Mr. PENDLETON]; and the member from Pennsylvania, [Mr. OWEN JONES]; they first voted for the Crittenden amendment! and afterwards voted for this act! and without their votes it could not have passed! How could these men sanction this falsehood against all their previous declarations, letters, and speeches, and against their recorded votes?"

I will not stop to criticise the elegance of the language used, nor to controvert the accuracy of the views taken, or the truth of the assertions made. I will not defend myself or my colleagues from the gentleman's denunciations. I charge that he has done exactly what he charges upon us; that he has solemnly and by recorded vote affirmed the truth of this very preamble; that he has voted for it word for word, letter for letter. I hold in my hand the Montgomery-Crittenden amendment, which passed this House. The gentleman from New York voted for it. The record shows that he did. The preamble of that amendment is in these words:

"Whereas, The people of the Territory of Kansas did, by a convention of delegates assembled at Lecompton, on the 7th day of November, 1857, for that purpose, form for themselves a constitution and State government, which constitution is republican."

Will the gentleman point out the difference between this preamble for which he voted, and the preamble of the conference bill, for voting for which he condemns us so freely? They are identical: they vary not a word in all that portion of which he complains. Now, let me ask the gentleman from New York what new light has suddenly broken in upon him? How comes it that what he said was so true on the 1st day of April became so false on the 30th day of that month? What change in the question, or in the facts, or in the man himself, has made that which was so orthodox in him so "damnable a heresy" in us? Or, if no change in either or any has taken place, how comes it that he then affirmed so solemnly to be true that which he now says he always knew was so false? that which, he says, he has such overwhelming evidence to prove to be false?

Again, sir, in another part of this speech, I find this paragraph following a calculation of the value of land mentioned in the proposition tendered to Kansas:

"Estimating the population of Kansas at forty thousand, (a fair estimate,) here is a bribe offered out of the public property of more than six hundred dollars each, to every man, woman, and child, in the Territory, to induce the people to change their votes, and make Kansas a slave State! A bribe in case the people surrender their right of adopting such a constitution as they approve, and accept the one dictated to them by the slave power, which they have once rejected, by a vote almost unanimous! To be

paid, if they accept the price and change their votes, otherwise to be withheld! If an individual had offered a voter five dollars to change his vote on the same subject, he would justly be subjected to criminal and infamous punishment! Yet this act proposes a wholesale system of bribery, for the purchase and sale of a majority of all voters in the Territory! And that, too, without any regard to the ordinary rules of economy."

This is another effect of a night session for set speeches. The gentleman could hardly have made such a statement in a full House, and in daylight. It needed a thin House, and gas-lights, and sleepy reporters, and impatient speakers to lead him into such a mistake. No land, no money, is offered to any person; no voter will receive a cent; no voter will receive an acre, no matter how he votes, or whether he votes at all. The grant is to the State, not to the voters; to the Government, not to the individuals. No man will be the richer; no man will be the poorer. The gentleman must have known it; he can read; he can understand language; he knew that no private advantage would ensue upon a vote either way. I defy him to point out a single line, or word, or letter, in the bill which countenances such an opinion! It is not there; and yet he says:

"Estimating the population of Kansas at forty thousand, (a fair estimate,) here is a bribe offered out of the public property of more than six hundred dollars to each and every man, woman, and child in the Territory, to induce the people to change their votes, and make Kansas a slave State."

Again, in describing the mode in which the elections are to be conducted. The gentleman waxes warm in his indignation, and says:

"V. Section second is a master-piece of ingenuity, in devising ways and means to render certain the success of the Lecompton constitution and of slavery, at the election provided for; if not by the votes of the people, at least by the returns of the officers, who are to be put in charge, with full power to accomplish that purpose."

"It provides that the Governor, Secretary, and district attorney—all appointed by the President—and the Speaker of the House, and President of the Council, shall be a board of commissioners under the act; any three of whom shall constitute a board; and that this partisan pro-slavery board, appointed by the President, shall have power—

- "1. To establish new precincts for voting.
 - "2. To cause polls to be opened at such places as it may deem proper, in the counties and election precincts.
 - "3. To appoint three judges of election at each place of voting, any two of whom may act.
 - "4. To appoint such persons as they may deem proper, in the place of the sheriffs and their deputies, to preserve peace and good order.
 - "5. To appoint the day of holding said election.
 - "6. To prescribe the time of said election.
 - "7. To prescribe the manner of said election.
 - "8. To prescribe the places of said election.
 - "9. To direct the time within which returns must be made.
 - "10. To declare the result of said election.
- "Unlimited powers, without any appeal or review. By the organic act, the people were to be left perfectly free to form their own constitution in their own way. There was to be no intervention by Congress or by the President. The President has no right to appoint any of the officers of election in any organized State or Territory, or any board to appoint them, and never should be allowed to do so. It is intervention, and most improper intervention. These are local officers, chosen and qualified according to law, and with whom the President has no right to interfere. Why are these officers all removed, and this power to appoint them taken out of the hands of the people and given to the President? Is it that he may fill their places with such men as Calhoun? Can any other reason be rendered? The people have a right to appoint these officers. And no law giving this authority to the President, was ever before devised or enacted."

"Never before devised or enacted," forsooth! I charge that the gentleman within ten days before that bill passed, had voted for the organization of a board to conduct an election in Kansas, clothed with exactly similar powers. The Montgomery amendment is to these gentlemen worse than Banquo's ghost. It haunts their every footstep. I read its third section thus:

"That, for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor and Secretary of the Territory of Kansas, and the presiding officers of the two branches of its Legislature, namely, the President of the Council and Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end. Any three of them shall constitute a board; and the board shall have power and authority, in respect to each and all of the elections hereby authorized or provided for, to designate and establish precincts for voting, or to adopt those already established; to cause polls to be opened at such places as it may deem proper in the respective counties and election precincts of said Territory; to appoint, as judges of election, at each of the several places of voting, three discreet and respectable persons, any two of whom shall be competent to act; to require the sheriffs of the several counties, by themselves or deputies, to attend the judges at each of the places of voting, for the purpose of preserving peace and good order; or the said board may,

instead of said sheriffs and their deputies, appoint, at their discretion, and in such instances as they may choose, other fit persons for the same purpose; and when the purpose of the election is to elect delegates to a convention to form a constitution, as hereinbefore provided for, the number of delegates shall be sixty, and they shall be apportioned by said board among the several counties of said Territory, according to the number of voters; and in making this apportionment, the board may join two or more counties together to make an election or representative district, where neither of the said counties has the requisite number of votes to entitle it to a delegate, or to join a smaller to a larger county having a surplus population, where it may serve to equalize the representation. The elections hereby authorized shall continue one day only, and shall not be continued later than sundown on that day. The said board shall appoint the day of election for each of the elections hereby authorized, as the same may become necessary. The said Governor shall announce, by proclamation, the day appointed for any one of said elections, and the day shall be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act. The said board shall have full power to prescribe the time, manner, and places of each of said elections, and to direct the time and manner of the returns thereof, which returns shall be made to the said board, whose duty it shall be to announce the result by proclamation."

Its provisions are the same; its language is almost the same. The same powers are granted to the board by each. The only difference is, that in the one case the board consists of four, and in the other, of five members; that in the one case provision is made for an election of delegates, which is omitted in the other. "Never devised!" Why, sir, it had been devised by both Montgomery and Crittenden, and had been voted for by the gentleman himself before the conference committee copied it into their bill—yes, long before the committee was organized. Again, the gentleman says:

"VI. By the third section, all white male inhabitants who could vote under the law for the election of the Legislature in October last, and no others, are allowed to vote. By this law, no person who had not been for six months previous an actual resident, could vote at that election. This law only added an additional disqualification of six months' residence, and in no other respect altered or repealed the general law."

"1. Under this act of Congress, and the laws of Kansas, a citizen, to be entitled to vote, must have resided six months in the Territory. This will exclude thousands of bona fide citizens; all who have gone there this season, although actual and permanent residents of Kansas, and as much entitled to a voice in framing its organic law, under which they are to live, as any other citizens. Emigration is greatly in favor of the free State party, and therefore this six months' disqualification and this exclusion!"

"2. Must have paid a territorial tax. This, if enforced, will exclude thousands more, in fact a great majority of the free State party."

I might show the gross inaccuracy of this statement—that it is the merest perversion of the law. I will not stop to do it. I take the charge exactly as the gentleman states it, and I affirm that he voted to require the same qualifications for voters. The conference bill provides:

"Sec. 3. And he it further enacted, That, in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who possess the qualifications which were required by the laws of said Territory for a legal voter at the last general election for members of the Territorial Legislature, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the citizens to the right of suffrage in said election."

The Montgomery amendment, the special pet of the New York gentleman, provides:

"Sec. 4. And be it further enacted, That in the elections hereby authorized, all white male inhabitants of said Territory over the age of twenty-one years, who are legal voters under the laws of the Territory of Kansas, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said election."

The qualifications of voters in Kansas on the 1st of April, 1858, the day of the passage of the Montgomery amendment, were exactly the same as at the last election for members of the Legislature in October, 1857. The free-State Legislature met in January, 1858, and was to have repealed every act of the "bogus Legislature," but it did not change the qualifications of voters. They remain exactly as they have been for more than a year past.

Again, and worse than all, the gentleman says:

"When voters are challenged, these party judges of election can swear the voter, if he is of their party; and, if he thinks or claims to be a voter, his evidence is conclusive and cannot be contradicted; but if he is a free State voter, the judges can 'receive other evidence'; and then, if the voter is sworn, his evidence is not conclusive. It is, then, a question of evidence, for the judges to decide. In one case, the vote must be admitted; in the other, it can and will be rejected! Is not this law as fair and as impartial as the party board of commissioners, or as the judges they will appoint to administer it?"

This statement is his interpretation of a section of the Kansas election law, which the gentleman quotes in another portion of his speech. He will not dispute the authority. It runs thus:

"The general law also provides that when a voter is challenged the judges of the election may examine him touching his right to vote, and, if so examined, no evidence to contradict him shall be received; or the judges may, in the first instance, receive other evidence, in which event, the applicant may, if he desire it, demand to be sworn; but his testimony shall not then be conclusive."

I leave without comment the text and the interpretation. I am satisfied that it will require more than an ordinary amount of that charity which "thinketh no evil" to believe that the gentleman was diligently and laboriously seeking its true meaning. But I forbear to trespass longer. When the gentleman shall have established the fairness of his criticisms, and the accuracy of his statements in these particulars, to which I have called attention; when he shall have reconciled the consistency of his vote on the Montgomery amendment with the speech which he has made, I shall be prepared to call his attention to other interesting portions of his remarks.

In the mean time, I would suggest to the gentleman, and all others interested, that when they voted for the Montgomery amendment they took up their residence in a glass house, out of which it is very dangerous to throw stones at those who voted for the conference bill.

INCREASE OF THE NAVY.

SPEECH OF HON. W. L. UNDERWOOD, OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

June 10, 1858.

The House being in the Committee of the Whole on the state of the Union on the bill making appropriations for the support of the Navy, and particularly having under consideration the amendment of Mr. Bockock, providing for the construction of ten sloops-of-war—

MR. UNDERWOOD said:

MR. CHAIRMAN: It will afford me pleasure to vote for the increase of the Navy provided for in the amendment of my friend from Virginia, [Mr. Bockock.] I think it proper, however, to observe that I shall do so without any special reference to our relations with Great Britain. However unpleasant these relations are, and however unwarrantable has been the conduct of her ships of war in the Gulf of Mexico, I am yet of the opinion that no war will grow out of it. I am gratified to have afforded me, in the reputed action of her Britannic Majesty's Minister in this country, and in that of her admiral in command of her American squadron, unmistakable proofs that the conduct of those of her naval officers in the Gulf of Mexico who have violated the sacred immunities of the American flag upon the high seas, and in the harbor of Sagua le Grande, will be disavowed, and perhaps punished. I trust that this will be the case, for it would seem to me passing strange that Great Britain should desire to involve herself at this or at any time in war with this country. She cannot be ignorant that at no time and under no circumstances will the United States submit to the degradation of having her vessels stopped upon the high seas and subjected to the humiliation of search—no less offensive to her when called by the plain Anglo-Saxon word SEARCH, than the more euphonious word visitation, with which it is attempted to be glossed; but that, by whatever name called and under whatever pretext exercised, the United States will resist it to the utmost of her power, to the latest moment, and the last extremity. Her past history has afforded some evidence of this, and her future action will confirm it.

I will not, however, in this connection, do Great Britain injustice, or pander, in the least degree, to the prejudices of our people, perhaps, from the recollections of the past, too easily excited against her. The people of America, its only sovereigns, have the right to know the facts; and that public servant who dares to deceive or mislead them, deserves the severest condemnation. I do not understand that in the recent interferences with American vessels in the Gulf of Mexico, to which

I am referring, the British authorities claim either the right of visitation or search of American vessels on the high seas. Did they do so, I am free to say I should regard their conduct as little less than acts of war, to be resisted and punished by the utmost power of this Government, at every hazard. And such I am sure would be the spontaneous voice of the whole people, outbursting from every part of our entire country. I rejoice, then, that they place those interferences upon no such ground. The ground I understand them to assume is this: that the Government of the United States, claiming, as a fundamental proposition, that her flag covers and protects all that sail under it from visitation and search, has been prostituted, as Great Britain says, by vessels of other nations, who perfidiously hoist and sail under it, to carry on the nefarious slave trade, which the United States was the first to declare to be piracy; that the lofty humanity of her early statesmen, Jefferson, Madison, and Monroe, Clay, Calhoun, and Adams, appealing to the humanity of Great Britain herself, and to the other leading nations of Europe, induced her and most of them to unite with the United States in the denunciation, as piracy, of this most cruel and indefensible traffic; that, accepting these denunciations in spirit and in truth, believing it to be the inclination and the true intent of the United States to suppress it, and, most of all, believing that the United States would be the first to resist the unauthorized use of her flag by vessels of other nations, fraudulently to carry on said trade, as Great Britain asserts is being done, to a very great extent, at this time, in the Gulf of Mexico, she has stopped such vessels in that Gulf as her cruisers suspected to be engaged in the slave trade, to see merely whether they are in fact American, or whether they have not falsely and perversely assumed the American flag, whilst they in truth were vessels of some other nation, which, under treaties with such other nation, they had the right to visit, disclaiming the right to visit such vessels if, in truth, they are American, or to seize or arrest them if found to be American, though loaded with a cargo of slaves fresh from Africa.

I will not now stop to criticise the sufficiency of this explanation. I must be permitted to say that there are difficulties in it resulting from the nature of the delicate rights involved. That to admit it, as a general principle of action, would be to place the right of visitation or of search of our vessels at the caprice or upon the irresponsible judgment or suspicion of every British cruiser; whilst to demand that the assumption of the American flag by a known pirate marauding the seas should in all cases exempt her from visitation, to ascertain her true character, and from capture, would be to assert the immunity of the worst of criminals in the perpetration of the blackest crimes that disgrace the world. But it is no part of my present purpose to discuss the right of visitation or search. I shall rejoice if the recent untoward circumstances in the Gulf shall result in a wise adjustment of these delicate and intricate questions of international law, and shall indulge the hope that the two greatest and first nations of the earth, approaching their consideration with a dignified forbearance, whilst uniting to suppress the perpetration of crime upon the seas, may consolidate their permanent peace, on which so much depend the best interests of mankind. I shall be content, therefore, to leave these great questions with the President and his constitutional advisers in the treaty-making power, for such negotiations as the occasion may warrant, yet confidently expressing the opinion that he will fall far below the just expectation of his countrymen, if he permits them to lapse in the lazy, laggard stream of listless and interminable negotiation. This is a practical age; we are a practical people; and it is necessary that these questions come to a speedy and practical end.

It is not, therefore, in reference specially to those questions with Great Britain that I shall vote for the small increase of our naval strength contemplated in the amendment before us. There are general considerations of vast interest, growing out of the unparalleled extension of our commerce, now whitening with its sails, and darkening with its smoke, the remotest waters of the world, why our naval force should be enlarged to

guard and protect it. But it is not my purpose to enlarge upon these obvious considerations.

My chief object, Mr. Chairman, in addressing the committee, was to bring to its knowledge, and to that of the country, an outrage of unprecedented atrocity committed upon our citizens, by another Power than Great Britain, and which, for want of the slightest naval force in the contiguous seas, remains "unwhipped of justice."

Mr. Chairman, in the early part of the session, in a few brief remarks, I called the attention of the House to the butchery of Colonel Crabb and his men—and of other American citizens, in no wise connected with him, or participants in his enterprise—in the province of Sonora, one of the States of the Mexican Republic. The House aided me on that occasion, in calling on the President for such information as was in the Executive Departments of the Government, in relation to these most tragical and terrible events. In due time that information was furnished, and on my motion it was referred to the Committee on Foreign Affairs. I regret that that committee has not thought proper to give to the House the benefit of their wisdom and suggestions upon this certainly very important subject. I have, however, no complaints to make against them, and only regret that their estimate of its importance must have fallen very far below my own. Having waited until near the close of our session, I shall be pardoned, in the absence of any report from them, in giving briefly to the country the facts disclosed by the report from the Secretary of State in answer to the call for information introduced by me as just stated, and such other information as I have been able to collect from reliable sources in regard to these most tragic and painful events. These facts are so well embodied and forcibly stated in the note of our Minister, Mr. John Forsyth, to the Mexican Minister of Foreign Relations, Senor Don Juan Antonio de la Fuente, dated May 30, 1857, that I present them in his language:

"It appears that, in the latter part of the year last past and in the beginning of the present year, in the State of California, certain persons formed themselves gradually into a party for the purpose of engraving thence, either into the territory known as the 'Gadsden Purchase' of the United States, or into the State or department of Sonora, Mexico. That both of these points of destination were frequently mentioned by the public press of California, accompanied by intimations, more or less broad, as to the possible unlawful ulterior designs of the party in question. That the general management and leadership of this party was intrusted to Henry A. Crabb, Esq., a well known and influential citizen of California, allied by marriage with wealthy Mexican families, natives of Sonora, and possessing there large interests and influence. That the formation of this party was known and spoken of, and its probable movements and motives freely discussed by the press of California and of this country for a considerable period of time previous to its appearance on Mexican soil. That ample time was had by the Mexican Government, in case of suspicion or doubt as to the real objects in view of this party, to prepare for and meet it whenever and wherever it should enter, if at all, in Mexican territory, and then and there, in the manly spirit of a civilized and honorable nation at peace with the Government of the members of this party, examine promptly, fairly, and legally, into the character and designs of the intruders, and acquit and free, or condemn and punish, according as the accused might have been found innocent or guilty of the charges preferred. That in the month of March last, Mr. Crabb, with some one hundred of his companions, entered the State of Sonora. That he, with his followers, were at Sonora on the 25th of that month. That on that day he addressed a communication to the prefect of Altar, in which he clearly stated that he and his companions had come to Sonora in obedience to the positive invitations of the most influential citizens of that State, and for the purpose of settlement and residence therein, in conformity with the provisions of the colonization laws of the country. That there was no intention, on the part of the immigrant party, of committing any offense whatever, and that it was not connected in any way with intrigues, either public or private. That the party were armed, it is true, but only in the manner necessary for self-protection, when passing through a region of country constantly subject to the depredations of the Apache savages. That subsequently Mr. Crabb and his companions proceeded to the town of Caborca, where, without parley, without inquiry as to their purposes, without opportunity for explanation, they were surrounded and assaulted by several hundred Mexican troops. That, after a severe engagement, Mr. Crabb and his surviving companions surrendered and were taken prisoners. That almost immediately thereafter these prisoners, some of them severely wounded, were, with the exception of a lad of tender age, summarily and mercilessly put to death. That some days after this terrible tragedy, another party of sixteen Americans, traveling with a loaded wagon through the country, were, on the suspicion, as is alleged in excuse, of belonging in some way to the party of Mr. Crabb, and of having military stores, suddenly seized, and were, without contest, offense, open provocation, or subsequent trial, also summarily and mercilessly put to death; and finally, that the Government of Mexico has thus

far, and so far as the knowledge of the undersigned extends, neglected to institute an examination into these occurrences so terrible in themselves, and fraught, it may be, with the most serious and untoward consequences.

"The foregoing is an epitome of the history of this horrible affair, as some time foreshadowed by the public press, and as given by the authorities of Sonora to the supreme Government; and it is with this state of the facts that the undersigned has now to deal, although he is prepared to read a more extenuating version of them when the history of the unfortunate expedition comes to be written, not by its own side, for alas! Sonora vengeance has spared not one to tell the tale, but by its friends in the United States."

Not satisfied with this work of blood and murder, which they had perfidiously accomplished on their own soil, on the night of the 18th of April, 1857, these Mexicans invaded the soil of the United States, and then and there, in cold blood, took from their beds four sick American citizens at the house of Mr. Dunbar, and deliberately murdered them, leaving their bodies unburied to be devoured by the beasts of the field. Another party of Americans headed by Mr. Hughes, twenty-six in number, were attacked by three hundred Mexicans, but fought their way to the levee, losing only four men, one of whom was Hughes himself, whose heart, and hands, and ears, were brought into Altar on a spear. A blacksmith, an American, living a few miles from Caborca, who had been only guilty of shoeing some mules for Mr. Crabb, although for many years a peaceful resident of that country, was also by the Mexicans cruelly murdered. The following is given by Mr. Charles B. Smith, United States vice consul at Mazatlan, as a correct *resumé* of the murders committed: Sixty-nine of Crabb's party surrendered, of whom sixty-eight were shot; the party with the wagons, sixteen; Hughes's party, four; at Sonora, on United States soil, four; blacksmith near Caborca, one; Dr. H. L. Evans, of whom I will speak hereafter, one; total ninety-four.

It is seen above that only one of Crabb's party was spared. He was a boy named Charles Edward Evans, aged fifteen years. I will let him narrate, in his own simple language, the story of the most horrible deed ever perpetrated anywhere or under any circumstances before, upon American citizens:

Personally appeared before me, Charles B. Smith, United States vice consul for the port of Mazatlan, Charles Edward Evans, who, being by me duly sworn, deposed and set forth as follows:

"That he was born in the city of New Orleans, on the 25th day of December, 1842, and that he removed to the State of California in the year 1849, in company with his mother and step-father, where deponent constantly resided until the year 1857.

"And deponent further declares that, on the 19th day of January, 1857, he being then at the town of Sonora, Tuolumne county, State of California, he on that day joined an expedition at that time organizing in the town of Sonora, and known as an expedition bound to Sonora, Mexico, for the purpose of mining, and, in company with about thirty men of said county, this deponent left Sonora on the following day *en route* for San Francisco, where they arrived on the 21st day of the same month, and on the same day embarked on board the steamer Sea Bird, for San Pedro, accompanied by the Sonora members of the expedition, and thirty or forty more members of the same expedition that had joined at San Francisco.

"Deponent further declares that, on the 24th day of January, they arrived at San Pedro, and after disembarking from the steamer, took up their line of march for El Monte, Los Angeles county, where they arrived on the following day, and after remaining there for one week for the purpose of purchasing horses, mules, wagons, and provisions, took up their route for Fort Yuma, on the Colorado river, where they arrived on the 27th day of February, stopping one week on the way at Warner's ranch, the company then consisting of ninety men and two wagons, containing provisions; part of the men being mounted, and part on foot; Mr. Crabb acting in command of the expedition, assisted by Mr. McCoun, Mr. N. B. Wood, and Mr. David S. McDowell.

"And deponent further declares, that the expedition remained at Fort Yuma one week, during which time one Doctor Evans left the expedition and proceeded on to Sonora alone; and that after recruiting the animals at Fort Yuma, the expedition started for Sonora about the 4th of March, and arrived at the pueblo of Sonoyta on the 25th day of the same month, where it remained for two days, when Mr. Crabb, accompanied by sixty-eight (68) men, among whom was deponent, left Sonoyta for Caborca on the 27th day of March, leaving twenty (20) men and one wagon behind at Cabeza Prieta, under command of Mr. McKinney. And deponent further declares that, on the morning of the 1st of April, they being then distant about half a mile from the town of Caborca, and when quietly pursuing their way on the road, between wheat fields, and being in no kind of military array, and riding in careless order, without scouts in advance, and they not being, or ever having been, under any military discipline or organization, nor anticipating fighting or expecting any resistance to their entrance into the Mexican territory, they were suddenly fired upon, at eight o'clock, a. m., by about one hundred and fifty men, lying in ambush; and deponent declares that the Americans continued their way towards Caborca, being constantly fired

upon by the men in ambush, and that the Americans returned the fire whenever an enemy could be seen.

"Deponent says, that about four hundred yards from the houses comprising the town, the lane they had up to that time been marching through, opened into a clear open space, which had to be crossed by the Americans before they could gain the shelter of the houses, and that while the Americans were crossing that space they were fired upon in every direction by Mexican soldiers from behind houses, and fences, and any other shelter that could conceal an enemy; and deponent declares, that the Americans immediately proceeded to a row of adobe houses, fighting on the principal street, and that the Mexican troops proceeded to take possession of the church opposite, and that upon gaining the shelter of the houses they were protected from the fire of their opponents, but found that two more had been killed belonging to their party, and three mortally wounded, who died the same night; deponent says the names of the killed were Clark Small, [for Smole,] and a man nicknamed Shorty; and the names of the mortally wounded were John George, Clark, a lawyer of Livingston, El Monte, and William Cheney.

"Deponent further declares, that fifteen others, Americans, were wounded before reaching the shelter of the houses, and which they did reach at nine o'clock, a. m., on the 1st of April, after about one hour's hard fighting, and where they remained in comparative security, although constantly exposed to shots from the church, until two o'clock, p. m., when an attack was planned and made upon the church, composed of fifteen persons, and commanded by Mr. Crabb, who took with them a keg of powder for the purpose of blowing open the doors of the church; deponent declares that Mr. Crabb and the fifteen men aforesaid sallied out from the house and crossed the street to the church, exposed to a very heavy fire from all quarters, and after five men had been killed of the said fifteen, and seven more wounded, among which was Mr. Crabb, wounded in the arm, above the elbow, they were satisfied that they could not attain their object to blow open the door of the church, and returned to their quarters, where they remained closely besieged until the coming of the 6th day of April, when the roof of their quarters was set on fire; deponent further declares that a keg of gunpowder was then set off in the room over which the fire was burning, to extinguish the flames, but which did not succeed, and overtures were then made to the besiegers by the Americans to surrender, to which the Mexican authorities in command replied that the Americans should be treated as prisoners of war.

"Deponent further declares that, upon this information being received, Mr. Crabb sent a Mr. Hines with a flag of truce to arrange definitely the terms of capitulation. The Mexican commander would not permit the said Hines to return to the American party; but Hines called out to the Americans that the Mexican commander promised to send the Americans to Altar, and give them a fair and impartial trial, on condition that they would march out of the house, one by one, leaving their arms behind them.

"Deponent further declares, that Mr. Crabb requested his brother-in-law, Mr. Cortezon, to inquire again of the Mexican commander how he would treat the Americans upon surrendering themselves; to which the said commander, Gabilondo, replied that they all should have a fair trial, and Mr. Crabb then directed Mr. Cortezon to inquire how the Americans wounded would be provided for; to which the said Gabilondo replied that he had a good physician, and that they would be all well cared for; and deponent declares that he heard Gabilondo say that he kept his word, for he did have a good physician for them.

"Deponent says that Mr. Cortezon, while holding the before mentioned conversation with the said Gabilondo, was standing in the door of the American quarters, and Gabilondo was posted in the belfry of the church; and some of the Americans were still unwilling to surrender; but upon being told by Mr. Crabb that he believed they might rely upon the promises of the Mexicans, they finally consented to lay down their arms, and marched over to the convent one by one, deponent among their number, and had their hands crossed together and tied, and were then marched to the barracks, where they arrived at eleven o'clock, p. m.

"Deponent says that shortly afterwards Mr. Crabb was separated from the rest of the Americans, and had an interview with the Mexican commanding officer, and that when he returned the sentries would not allow him to hold any conversation with the rest of the Americans, and that about one hour after midnight a sergeant came in and read the sentence in Spanish, that all were to be shot at sunrise the next morning, which sentence was interpreted to the Americans by the said Mr. Cortezon, and the names of all the men present were written down by Colonel N. B. Wood, and the list was handed to Gabilondo.

"And deponent further declares that about two o'clock, a. m., he was awake out of his sleep, and his hands were unbound, and he was taken out from his companions, and at daylight he started for Altar in company with the aforesaid Gabilondo, and arrived at Altar at eight o'clock, a. m., the same day, where he remained, by the directions of Gabilondo, and two days afterwards returned to Caborca in company of Gabilondo, and there saw the bodies of the murdered Americans scattered over the burying ground; and deponent says that the bodies were stripped bare of every particle of clothing, and lay exposed without burial; and deponent saw that the remains of the bodies had been very much mutilated by coyotes and hogs; and deponent furthermore declares that he heard some Mexicans say that their hogs would fatten on the carcasses of Yankees; and that the stink arising from the dead bodies was nauseating in town; and that the presence of the hogs was unbearable from their contact with carrion; and that he was shown the gold taken from the teeth of some of the Americans, and that he was also taken to see the head of Mr. Crabb, which was lifted from an earthen jar filled with vinegar, by the hair, and shown to deponent, and deponent declares that he knew it to be the head of Mr. Crabb; and that he heard Gabilondo dispatch an officer and sixty or seventy men to Sonoyta."

There is one more unfortunate, whom I have not named, except to list him in the number of the dead. But for him, perhaps my attention had never been called to this awful tragedy. He is Doctor Henry L. Evans, a native of my State and district. Three of his brothers are amongst the most estimable of my constituents; and their fraternal devotion to him, thank God, has not permitted one of the most direful tragedies, by which our countrymen have been murdered and our country disgraced, to fade, as yet, from the memories of men. They alone have attempted to call the attention of the executive department of the Government to the enormities under which their brother fell; and it is melancholy to have to acknowledge upon what *cold ears* their murmurs have fallen. Doctor Evans's story is briefly told. Before crossing the line which separated the United States from Sonora, he took Mr. Crabb aside, and, pointing to the flag of his country floating over Fort Yuma, said to him: "General Crabb, before I leave the protection of that flag, I wish to know where I am going, and what I am going to do;" to which the General replied: "If you do not know by this time, I cannot enlighten you any more." "This," replied the Doctor, "is too vague; I must have something more clear and explicit, General, or I must leave you." "If you leave, Doctor," replied General Crabb, "you had better do so now; for if you leave after crossing the Colorado, you will be considered a deserter, and looked after accordingly." The Doctor immediately left, and henceforth was in no way identified or associated with Colonel Crabb or his enterprise, whether it was good or whether it was evil. He proceeded alone to Altar. There he was taken prisoner on suspicion, because he was an American. He was released on parole. So soon as Colonel Crabb and his men were shot, he was rearrested, and, without trial, murdered by the authorities in cold blood. This was the last act in this drama of blood. The recital of these outrages—wholesale murders of our people and invasions of our soil—is enough to make the blood rush freezing to the heart.

But should it not rather mantle the cheek of every American citizen with profound mortification and shame that they have been suffered and endured without the first step being taken by our Government to prevent or redress them? In one of the letters of my friend, Colonel W. J. Evans, a brother of the doctor, to Secretary Cass, dated December 11, 1857, with the modesty of true merit almost abashed when venturing to address the *quasi* royalty of an American Minister, he observes:

"I had hoped to see some allusion to this subject in the President's annual message; but he has said nothing about it. Will you be kind enough, if not incompatible with the duties of your official position, to tell me whether the matter will be laid before Congress? I know of no course which I could pursue upon the subject except through our Government."

Deluded man! how "could you have hoped to see some allusion" to the murder of ninety-four of your countrymen in cold blood, without trial, and without offense, by a foreign nation, in the President's annual message, when that distinguished functionary was at that time so much engaged in seeing how well he could suppress the will of the people at home, in Kansas? The voice of the dead crying for vengeance was not heard or heeded by him then, in his efforts to stifle the voice of the living crying for freedom, and demanding the right to form their domestic institutions in their own way. True, his attention had been called to these assassinations as early as May or June previous, by the masterly note of our Minister, Mr. John Forsyth, and by Colonel W. F. Evans, on the 28th of August; and true, that the newspaper press, from one end of the Republic to the other, was teeming with expressions of burning indignation and shame on account of these enormities; but no matter, the President was otherwise engaged, and could give it no place in his message, because he gave it, I suppose, but little in his thought. On the 27th November, 1857, Mr. L. W. Evans, of De Soto county, Mississippi, a brother of the unfortunate Dr. H. L. Evans, struggling with his sorrow, and a just sense that it became his Government to do something in regard to his murder, "with reluct-

ance," as he says, addressed a letter to the President himself, in which he said:

"My object in writing to you is, to know if our Government will take notice of this transaction, or shall his brother, and other relatives, as private citizens of the United States, make an effort to obtain satisfaction from the citizens of Mexico who were engaged in the murder of Dr. Evans?"

The President did not deem it necessary to answer this letter, written to him personally, and narrating, with modest dignity, the sad story of his brother's murder. I should have been glad to have seen an American President sufficiently touched with human sympathy, and by a brother's sorrow, and less enveloped in robes of official dignity and power of presidential etiquette, to have answered this letter with his own hand. Not so, however. It was passed over, officially and formally, to the Secretary of State, and answered some time thereafter by him; and for all that the President has done, "his brother, and other relatives, as private citizens of the United States, must make an effort to obtain satisfaction from the citizens of Mexico who were engaged in the murder of Dr. Evans."

Nor are these murders and assassinations all that our imbecile Administration is tamely and sleepily submitting to in Sonora. At this day, and ever since the murder of Crabb and his men, they have had an American citizen, J. M. Ainsa, incarcerated in their jails and dungeons. For a while they had also imprisoned a brother of his, Jesus Ainsa, and Rasey Beven, whose only supposed offense was their knowledge of the invitations under which Colonel Crabb had emigrated to Sonora, and the damning perfidy with which he had been received. The imprisonment of J. M. Ainsa has been so heartless, unjustified, and protracted, and the conduct of our General Government so callous in regard to it, that the State of California has thought it necessary to make it the subject of special resolution, which I here append:

"Whereas, J. M. Ainsa, an American citizen, pursuing a peaceful occupation on American soil, was, on the night of the 10th or 11th of April, 1857, arrested by an armed band of Mexicans, at the store of Messrs. Belknap & Dunbar, in the Gadsden Purchase, and conducted thence, a prisoner in chains, to Hermosillo, and thence to the port of Guaymas, in Sonora, where he has since been detained a captive; and whereas, it is the duty of the American Government, at all times, and under all circumstances, to protect the lives and property of its citizens: Therefore,

"Resolved, That the Governor of California be instructed, and he is hereby authorized, to communicate with the President of the United States, setting forth these facts, and such other testimony as may be furnished him in the premises, and requesting that officer to use the power of the General Government, so far as he is enabled, to effect the release of the said Ainsa, and his restoration to all the rights and immunities of which he was possessed before said arrest and imprisonment.

"Resolved, That the Governor be requested to forward copies of these resolutions to the President of the United States and each of our Senators and Representatives in Congress."

In addition to all these, Evans was robbed; Crabb and his men were all stripped and robbed; even the gold used in dental operations in their mouths was taken; and Dunbar's store, on American soil, "was broken open, and everything of value taken therefrom; books, papers, &c., scattered in confusion." It was at this place he four sick men were shot. Dunbar, in a few words, tells their fate. He was from home at the time, but says: "From the traces on the bank, the feeble men appeared to have slid and rolled down the bank, and all scattered to different points, and thus shot. Thus their bodies lay with gun-shot wounds. Some Papago Indians soon came up and burned their bodies near the well." Notwithstanding all these mighty appeals, by cruel murder, robbery and imprisonment; by tender affection, and by State intervention, President Buchanan remains quiet, unconcerned and inactive. He is very industriously engaged, it is said, (and truly, I believe), in punishing his friends who opposed his Kansas policy, commonly called "the Lecompton swindle;" but he has no time to take the first step towards punishing the enemies of his country, who have perpetrated these damning enormities. Why, sir, will you believe me, that notwithstanding our Minister in Mexico, immediately on their occurrence in April, 1857, had fully informed our Government of the facts in these cases, and then asked its instructions, he had again, on the 20th of September, to beg instructions which

up to that time had not been given him? And so far as appears from the papers communicated to Congress under my call for official information and correspondence in relation to the execution of Colonel Crabb and his associates, and which purport to be all the correspondence on the subject, no instructions have been given to him since upon the subject.

In his dispatch of the 20th of September, our gallant minister uses this just and strong language:

"I implore the Government, for the honor of the American name, and for the sake of an outraged humanity, which cries for justice in American accents, from so many dungeons on the Pacific coast, not to let pass these two ripe occasions to dissipate the dishonoring and fatal belief which has strong hold in all that region, that the United States lack either the will or the power to protect her children and their flag abroad."

This appeal, one would have hoped, should have aroused the American President from his palsied lethargy. But this was not enough. Anxious friends of the murdered looked in vain "to see some allusion to this subject in the President's annual message;" but he has said nothing about it.

Thus have I briefly given the miserable fate which befell Colonel Crabb and his men, and our Government's as miserable apathy concerning them. One word concerning him and the object of his mission to Sonora. He was a man of no ordinary merit. Bold, chivalrous, talented, and true, he had the genius to conceive and the courage to undertake the most romantic enterprises. He had held high offices in California, and was esteemed and loved as widely as he was known. Efforts have been made to produce the impression that his enterprise to Sonora was an enterprise of filibusterism, with a view to overturn its Government and take possession of its territory. And I will do the people—not her officers or leaders—the justice to say that they no doubt believed this. Yet I take it on myself, from all the evidences before me, to declare, that such a purpose or intent is totally without proof, and, in every objectionable sense, totally without foundation. That Colonel Crabb, being the man I have described, may have entertained ulterior hopes in regard to Sonora, I will neither undertake to affirm or deny, leaving them to the conjectures which so naturally suggest themselves, that he anticipated to advance both his pecuniary and political fortunes in that province. But the fact is that he was invited to Sonora by some of its most influential citizens, with many of whom he was related by marriage. "That he entered its limits," according to his open, published declaration, promulgated and proclaimed at the time, "with one hundred followers, conformably to the colonization laws of Mexico, and with the intention of finding most happy firesides with and among her people. That he came with the intention of offending no one, and without public or private intrigue." And to this Government of ours there is not one solitary word or fact to contradict this manly and open declaration. His conduct after entering Sonora was consistent with his declarations. He had arms, as all Americans have arms when emigrating to new homes, and passing, as they had to do, through Indian tribes. They never used them in any offensive demonstration. They preserved no military discipline or order; and I have the authority of the warden of Sonoyta Rafael Valasio for saying "they arrived very scatteringly," and that their arms were all fired off on the road; and of the boy Evans, who says, when they were attacked at Caborca, "they were quietly pursuing their way on the road between wheat fields, and being in no kind of military array, and riding in careless order, without scouts in advance," &c. As to the four men killed at Dunbar's, the blacksmith and Dr. Evans, this pretext of filibusterism cannot be raised, and is not pretended.

From all these facts, it results that the constituted authorities of Sonora, regardless of the lowest dictates of humanity, prompted by no personal or political necessity resulting from the presence of immediate or imminent danger, violative of every principle of good neighborhood and hospitality, have basely and cowardly murdered ninety-four peaceful American citizens, pursuing in their midst the quiet paths of industry, or coming amongst them "with the intention of finding

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Western Advancement, etc.—Mr. Cox.

Ho. OF REPS.

most happy firesides." That all the resistance given by Crabb and his men was given pursuant to the first great law of nature—the right of self-defense and the instincts of self-preservation—when fired upon from ambuscades whilst "quietly pursuing their way on the road between wheat fields, and in no kind of military array," without notice, or parley, or call to surrender. That, after Crabb and his men had surrendered, whether they had been promised a fair trial or not, and no matter how unconditionally, then to rob them, strip them, tie them, and shoot them, were deeds of such unmitigated barbarism and atrocity as demands the execration of mankind. That this outrage and enormity, perpetrated on our countrymen who had not ceased to be citizens, because within the territory of Sonora, together with the unmitigated and inexcusable murder of four of our countrymen on our own soil, demanded the instant intervention of our Government and punishment of the offenders; and that our Government is recreant to the highest and holiest obligations to its citizens and to its honor, or even decency, if it permits such deeds as these without the sternest reprobation and the severest punishment. Let me quote, in this connection, the indignant and manly language of our Minister, Mr. Forsyth, in his masterly protest to the Mexican Government:

"The undersigned has read the cool official account of this slaughter by fusillade with those feelings of indignation and horror which will thrill through every manly bosom in the civilized world which its recital shall reach. Shooting unarmed prisoners without trial, and in cold blood! and this a deed done in the nineteenth century—a deed done by a Christian people, taught by a Christian priesthood in ten thousand temples of worship devoted to the inculcation of the benignant precepts of the mild Savior of mankind! The world had a right to hope that time and enlightened reason had banished from the war code of Christian nations of the Spanish tongue the principle and the practice of sacrificing in cold blood prisoners who had been spared by the fortune of war from the storm of battle, and that that great crime against humanity was henceforth only to be known to the wild savages of the forests and plains. Apart from its barbarity, it was to have been hoped that the horrid impolicy of the custom, and the retributive vengeance which, by Almighty fiat, is certain to follow, had been illuminated in letters of blood at Alamo and Goliad—blood which germinated a harvest of painful events in the history of Mexico.

"Taking the worst aspect of this case for Crabb and his men, admitting that they were outlaws and pirates, the undersigned charges that they have not had meted to them that even-handed justice which the laws of nations accord to the worst class of criminals against the human family. The pirate who roams the ocean with the black emblem of death at his mast-head; who robs and murders the people of all nations indiscriminately; who respects no flag, no nationality, no sex or tender age; who sets at defiance the laws of God and man; who is outlawed by the common consent of mankind, as *hostis humani generis*; even this monster of vice, when overcome in battle by the cruiser of a civilized State, is *not put to death on the spot*. By every law, human and Divine, the commander who should so deal with him would be accounted a murderer. Even this monster is entitled to a trial; and it is the duty of the naval officer who captures him to send him to a constituted tribunal on shore having jurisdiction of his crime.

"It is perfectly clear to the mind of the undersigned that, whether Crabb and his men were prisoners of war, and as such entitled to their lives, or pirates, and as such entitled to a trial—in either event, they have been unlawfully put to death."

One or two words more, Mr. Chairman, and I have done. In whatever view you regard the conduct of Colonel Crabb, whether as a peaceful emigration or a warlike invasion, and however you may regard the conduct of the officers and people of Sonora in the butcheries of which I have complained, this, at least, is certain: that it is the duty of this Government to prevent in future the recurrence of such horrible atrocities. The only peaceful method of doing this is to show ourselves ready and able to protect our citizens along the coast and within the limits of Sonora and the adjacent Mexican States, and, at the same time, to restrain every violation by our people of their rights in those tempting fields of enterprise and adventure. This can alone be done by a display of our naval force in the Gulf of California, which washes, for five hundred miles, its western border, with innumerable inlets and bays jutting into its interior; and the appointment of one or more consular agents to reside at convenient and appropriate localities. Let me read what our Minister to Mexico, Mr. Forsyth, says on this subject:

"I beg to urge again upon the Department the importance to the protection of American interests of the occasional display of the American flag in the ports of Mexico and on both coasts. It is nearly or quite two years since one of our cruisers has been seen in Mexican waters. Their occasional presence is absolutely necessary to protect our citizens, especially our seamen, from the abuse of power by rapacious

local officials. Nearly all the cases of complaints made by our people to this legation spring from this source, and such is the state of the country, that the supreme Government, with the best intentions, (for it is the cause of immense trouble to, and endless reclamations against its treasury,) is not able to prevent it. An occasional visit by a naval commander, with instructions to inquire into personal American grievances, would produce a most happy effect, and save a great deal of loss and suffering. Their absence is attributed to weakness; and Mexican local officials, while having unbounded respect for the strong, are sure to prey upon the unprotected. This is a topic of constant communications to this legation from Americans in all parts of the country, and they complain bitterly and justly of their unprotected condition, especially in contrast to that of British and French subjects."

This extract leaves nothing to be added. It is itself a demonstration. The light draught sloops proposed are precisely adapted to visit and enter the various ports along the entire Mexican coast, and to excite the respect and to afford the protection, so essential to the interests of American commerce, the safety of our people, and the honor of our country. Whilst, at the same time, they would no less secure the provinces of Mexico against lawless invasions of our own people; guaranteeing, in this double influence, the best interests of both nations, by the economy which follows peace, and the peace which follows prudence.

WESTERN ADVANCEMENT—FEDERAL REVENUE, LOANS AND EXPENSES.

SPEECH OF HON. S. S. COX,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 12, 1858.

The House being in Committee of the Whole on House bill (No. 550) making appropriations for light-houses, &c.—

Mr. COX said:

Mr. CHAIRMAN: I made the motion to strike out of the bill the lines from sixty-seven to seventy-four from no special hostility to the appropriation included between those lines. That portion of the bill appropriates \$69,900 for the commencement and completion of an iron screw-pile light-house at or near the entrance to the channel of the Mississippi river.

Mr. PENDLETON. What is an iron screw-pile light-house?

Mr. COX. That is what I would like to know. But this bill is for new structures, and it is rushed through with such speed as to defy investigation. The Clerk at the desk has read it with locomotive rapidity. There has scarcely been a crevice in which to slip in an amendment, or to ask an explanation.

I have no special hostility to New Orleans or Louisiana interests. I shall withdraw my amendment after I make my objections, because I see there is no use in stopping the progress of the bill. My objection is not to the bill as a part, but as a whole. It is sectional. It ignores the West. It is got up on salt-water principles. It is intended to help the Atlantic sea-board, with enough thrown in to obtain some western votes. The original bill reported calls for the sum of \$290,000. Amendments are moved which will run it up to \$330,000. Of this large sum, how much does the West get by the generosity of the reporting committee?

Wisconsin.....	\$18,000 00
Michigan.....	11,000 00
Minnesota.....	5,000 00
	<hr/> \$34,000 00

The balance of the appropriation of near three hundred thousand dollars is distributed along the Atlantic, from New Hampshire to Texas. The gentleman from Massachusetts, who reports the bill, gives to his own State \$81,417 60. Florida and Texas wind up the line of "new lights" with the modest sum of \$160,351 10. This, for a slim Treasury, would seem to be sufficiently modest.

I do not object to these sums for these points so much as I do to the discriminating policy of these bills. It is a policy which taxes the great West for improvements, which, while they are needed on the coast, are equally demanded on the western lakes and rivers.

It is the policy of a good government to foster such improvements. I have no prejudice against

commerce. I have loved to contemplate, and shall always vote to foster, its benignant interchanges. For this great end, I would reciprocate the conduct of other maritime Powers for our and their benefit, and let the light shine abundantly at all the perilous points on our coast.

But there is a good and a bad mode of legislation on these bills of local improvement. These bills grow sectional under the managing hand of our committees. Our committees regulate these matters. As they report, so the House acts generally. And it is in view of the marked inequality of the distribution of these improvements that I oppose the bill.

Gentlemen cannot complain of our withholding protection to ocean commerce. The West has been generous in this regard. If she were more niggardly, she might have had more consideration. She does not "calculate" so much as our Atlantic States. It is high time she began it. Her own commerce, on river and lake, far exceeds that of the sea-board States. Her commerce is not so much endangered from the hostility of other nations; but it is in equal danger from the elements; from snag and rock, from storm and fire. I voted your ten sloops—not so much because I feared a war as because I wanted the peace kept, and your commerce protected from outrage by search and seizure. I will take the responsibility of that vote; but I will not of voting this bill.

This bill provides for new buildings. It is not a bill to supply old light-houses. When gentlemen wish new erections for their localities, they should be generous to others. Ohio pays one tenth of this expenditure. She is willing to pay it; but the snags remain in her beautiful river; and the lake which washes her northern boundary, and which bears a tonnage equal to that of Massachusetts, Florida, and Texas combined, is neglected. Her representative is compelled to come in by way of amendment to get enough to rebuild a light-house at Vermillion, which the storm has swept away.

A Senator from my State [Mr. PUGH] introduces a bill calling for \$500,000 for the rivers and harbors of the West. The highest considerations of a great interest, constantly suffering, and ever urgent for relief, which he urges, are met by the cry, "Thin Treasury! We cannot do it now! Wait till our imports increase, and our revenues return as they were! Wait till trade revives and loans are paid! Wait till the embarrassments of individuals stop those of the Government, and a full Treasury comes again!" And on this almost unanswerable plea his bill for rivers and harbors is voted down; but bring in your Washington water-works and ask millions, and your Capitol extension in this city, and ask \$1,000,000; and your city police, and your Washington gas, and your paving Pennsylvania avenue, and your city court and Patent Office extensions; and lo! the lamp of Aladdin, by some magic, makes the Treasury run, like the Pegasus, with gold! There is nothing too extravagant for this city and the sea-board for which the Treasury is not adequate! The country knows how we were compelled to fight a bill which gave \$100,000 for a police in this city. I voted against it, as I did against the aqueduct and Capitol extension, and Georgetown bridges, and all that; because this city has no right to ask the people of Ohio to pay one tenth of any municipal tax. The Federal Government have paid out over a hundred millions in erecting buildings of palatial splendor here; and this very lavish extravagance is made the plea for granting more; for the complaint goes up, "Oh! we cannot tax your Government property, and therefore we must beg you for help out of the Federal Treasury to pay for policemen, gas, pavements, and tree planting." After the property of this city is yearly enhanced by millions in building Government structures, this very liberality is made the occasion of new demands for other largesses. After a while, as was said, they will want us to pay for the gold hat bands which are worn by the flunkies who drive their carriages, in their silly aping of the modes of the European aristocracy.

Mr. Chairman, I am one of those who believe that the splendor of a nation does not lie in the wealth and extravagance of its pampered metropolis. The true glory of this nation is to be found

elsewhere. Her new States, made up of men of simple habits, without artificial wants: these are the blossoms and fruits of our "secular majesty and magnificent strength." I am opposed to all these extravagant expenditures for the benefit of one section and of this metropolis. Let our appropriations take a wider scope and a more useful object.

But is it said that the officers of the Government are here; and that they are chosen equally from all parts of the Union? That will not do. Ohio has only fifty-three Federal employes in the Departments here. They receive, in all, \$76,300. Ohio is entitled, by her relative strength, to one hundred and five employes, whose salaries would amount to \$112,472 01. The District of Columbia is entitled to five in proportion to her population; but has three hundred and eighty-two employes, with salaries amounting to \$425,613. Maryland has eighty-three; is entitled only to thirty; receives \$118,780 in salaries; and is proportionately entitled to but \$42,598 96. Virginia is entitled to sixty-five employes, with salaries amounting to \$79,873 05; but there are one hundred and seventeen of her patriotic sons who consent to serve their country here, at salaries of \$166,880! These facts are beginning to attract attention. They show the monopoly which is sought to be exercised over the Federal honors, offices, and emoluments, by those States and sections which pay less tax, and add less to the producing strength of the land. There is a power arising in the West which will one day—not far ahead, either—after the next census, in 1860, perhaps—correct these evils, while it looks after its own interests, so shamelessly neglected.

A few admonitory facts in this connection may not be amiss. The present rate of increase of the population of western States, particularly of the northwestern, indicates that by 1863, when the new congressional apportionment will be in operation, there will be on this floor, representing what may be called western interests, one hundred and twenty-five members out of two hundred and forty-one, if such should be the number of the House. Whatever the number, those States which have a common interest in western agriculture and commerce will have a preponderance. The Northwest alone will outnumber New York and New England. Where it now has fifty-three, it will have, under the next census, eighty—nearly one third of the whole number of Representatives. This will command a controlling influence. It will be sufficient to stop the suicidal cry of North and South. It will effectually estop this exclusive Atlantic predominance. Let the West repose in its might. It can afford to wait. The lines of empire are on the face of the cradled Hercules.

Thirty-eight years ago General Cass visited a village of ten or twelve houses, containing sixty people, by means of a bark canoe, by way of the Wisconsin river and Green bay. That village of 1820 is the Chicago of 1858, with one hundred and fifty thousand people. It is the terminus of more railroads than any other city of the Union, and has become the great grain depot of the world! This marvelous increase of one city is but the little forefinger, as it were, pointing out to the greater West; of a greater future than has yet been dreamed, when there shall be opened up to emigration and production the great plains of America, which lie between the meridian line which terminates the States of Louisiana, Arkansas, Missouri, and Iowa, on the west, and the Rocky Mountains, out of which twenty-four new States will arise,—with the same abundance of resources which marks the States of the Mississippi valley!

These great interests will be cared for in time. But it would be well enough to look the future in the face, when justice is demanded of the Federal Government, and demanded only to be denied!

Again, I protest against gentlemen of the opposite party, who steadily vote these expenses for the sea-board and Washington city, placing all the responsibility for them on the Democratic side of the House. On every division on this light-house bill, most of those voting for it are of the other side. Let them take the responsibility, or, at least, share it. I will not shrink from my proper share. But so long as gentlemen meet our demands for western improvements with the an-

swer of a slim Treasury, I want the same argument retorted on them when they come with their demands. I have voted against nearly all the large appropriations in committee, because I wanted to see the expenditures equalized, by giving equal shares where the interests were equal; and because I wanted to cut down expenses to the condition of the decreased importations and revenue.

I have shown that the demands of the West are imperative and just. I now wish to answer that demagogical clap-trap just now in vogue as to the condition of the Treasury. The opponents of the Democratic party are industriously active in creating the impression that the depression in the Treasury has a political cause. They attribute it, by innuendo, if not by expression, to the head of the Treasury, or of the Government, or to some official mismanagement somewhere, which they do not localize. It has no political cause. It has an economical cause. That cause is found in the financial revulsion of the past year. It is not necessary for my object now to enumerate the various causes which produced that revulsion. It may be found in the inherent badness of our paper-money system. It may be traced to speculation and extravagance; to excessive credits and ruinous railroad investments. It may have its origin in the exaggerated values affixed to property. It may be attributed to the vast increase of our foreign imports. All these causes are interdependent, more or less. They doubtless all had something to do with the revulsion. It is enough for my purpose to know that what so disastrously affected our trade proportionately affected our revenue. From one little fact learn all. The Journal of Commerce informs us that, at the port of New York, the total foreign imports for the month of May, 1858, were \$7,250,552 less than for May, 1857, and \$6,956,409 less than for May, 1856. Our imports at New York city, for the first five months of this year, are only \$51,668,199; while for the first five months of last year they were \$105,590,301. New York city is a criterion for the Union. Two thirds of all imports come in there. At that port, in five months, we have a falling off of imports amounting to \$54,000,000. We are authorized to calculate, therefore, a decrease in our imports, for the past five months, for the whole country, of between seventy-five and eighty million dollars. It will, if continued, amount to \$120,000,000 at the end of the year. This importation is the source of Federal taxation. From it we derive our revenue. Of course, the decrease of the revenue is proportionate. The revenue at New York, in May, 1858, is \$1,748,227; while in May, 1856, it was \$3,457,153. So that, while our Treasury is falling off in revenue, and our expenditures are kept up to the full standard of 1856-57—inaugurated by Republican prodigality—there is a necessary consequence that we should do one of three things:

1. Either modify the tariff so as to increase the revenue, and thus tax the people on articles of consumption now; or
2. Cut down the expenses to suit the revenue; or
3. Borrow money for the present to meet the deficiency.

The Democrats of the present Congress are averse to taxing the people just now, by modifying the tariff. It is not a time when they can bear such an increase. Mr. Cobb, in his report of the 19th of May, in asking for a loan to carry on the Government, says very truly:

"I do not recommend any measure for increased taxation. It would be unwise at this time to attempt a modification of the tariff act of March 3, 1857, for the reasons given in my annual report to Congress. Sufficient time has not elapsed to test the effects of that act upon the revenue, considering the condition of the country during the period of its operation. In addition to this consideration, neither the receipts nor the expenditures of the Government should be estimated for in the future, upon the basis of its present receipts and expenditures. The former have been, and still are, too seriously affected by the late revulsion to justify a policy of legislation based upon a probable continuance of this state of things for any considerable period of time."

As to the second alternative, a decrease of our expenses. That is always in order. It will be hard to err in that direction. Yet when Democrats are called on to vote to pay the obligations of the last Republican Congress, presided over by Speaker Banks, it is mean and dastardly to

cipher them up as chargeable on the present Democratic House or Democratic Administration. Congress is responsible for these appropriations; not the Executive. The deficiency bill for printing alone, ordered by the last Congress, already passed, is \$341,188. It is estimated that some three hundred thousand dollars more will be necessary. The present Congress has not ordered one half of the printing ordered by the last House. It is not probable, that, with all our Utah expenses, made necessary by the resistance to our authority there, that our expenses this year will overrun the expenses of last year, which were \$65,032,559 76, after bringing over to the account of 1858 the balance in the Treasury at the end of the fiscal year of 1857. The analysis of these expenses is not now my object. That has been done by the able gentleman from Virginia, [Mr. LETCHER,] whose argument convicts my colleague [Mr. SHERMAN] of blunders, running up as high as forty millions! I wish simply to call attention to the fact, that the record will show that the great burden of the dispensable expenses of the last and this year, is chargeable to the Republican side of the House. Well might the Tribune call my colleague's speech partisan. Well might my colleague, when driven close to the wall, beg the able Virginian economist to press the subject home to the Republican side of the House; displaying, by his reluctant candor, the truth which his speech did not convey, that the Opposition were sadly in need of a better practice and a purer principle in economy.

We have been compelled to meet the expenses incurred by the orders of the last Congress, perhaps the most vicious Congress ever assembled in America. We are not, therefore, chargeable with them. While I will not withhold my vote for any necessary expenses, yet, wherever I can, I will dispense with all except those demanded by actual urgency; hence I shall vote against light-house bills like this, which require large expense and new buildings; hence, I vote against these Washington city gouges; for, if we are to be refused expenditure in the West on the ground of economy, now, why not apply the knife just here, in this very Hall! Let us begin it on ourselves. I think a great reform could be had, to the amount of five millions per year, in the franking privilege alone. I would vote to cut it off, provided it were done now. I dislike the mode proposed, of cutting it off a year hence, for the benefit of new members, and when there may not be such pressing need. Five millions, I say, would thus be saved; first, in the transportation of franked matter; and next, in cutting down the printing of books, which is encouraged by the frank.

It is a common practice, in discussions of this character, to show the expenses of our Government when we were young, and, by contrast with the present, to decry the present lack of economy. One of my colleagues, [Mr. SHERMAN,] in an able speech this session, after giving table after table of figures showing our expenses in the past, and comparing them with the present, did not give sufficient heed, in my humble judgment, to the great increase in all the departments of industry, and in all the resources of our fast-growing commonwealths. Here is a sample of this sort of fallacy, taken from his speech:

"The expenses of this year, the first under Mr. Buchanan's administration, will be \$5,000,000 more than the entire expenses of the Government from its foundation to the close of Jefferson's administration. The aggregate expenses for the first twenty years of our Government were \$78,363,762; and I have already shown that, this year, the expenses exceed \$83,000,000."

Such statements prejudice, without convincing. There is no comparison to be drawn between such a remote era as the first twenty years of our Government and the present time. Since then we have had steam, steamships, steamboats, steam sea vessels of war, steam sea mail service. We have added since then to our area five-fold. We have more than doubled the States, and we have now six Territories. Within a half century what have we done? Moved the Indians west and further west of the Mississippi. We have given them missionaries and whisky, money and schools; and our Interior Department are trying to civilize all the War Department do not murder. We have made our land the principal cotton and the

35TH CONG....1ST SESS.

Fifteen Million Loan—Mr. Granger.

HO. OF REPS.

great grain-growing country of the world. Our marine now exceeds that of England in tonnage. Our manufacturers now compete with Europe in South America and in the Orient. We have increased our numbers within the half century nearly six-fold; for in 1808 our population was about six millions; we have increased our Federal expenses about twelve-fold, but our *annual private income fifteen-fold!*

There is no fairness in tables like those of my colleague, [Mr. SHERMAN,] which institute comparisons between different years, and which take the increase of population only as the test of a true ratio of increase in expenses. Conclusions from such premises may well be called "monsters of the imagination begotten upon a cloud of statistics." Why, it would be hardly fair to compare the expenses of ten or five years ago with those of the present. Last year our expenses were over sixty-five millions. In 1850 they were only \$37,000,000. "What prodigality!" says the sophist. He ought not to say it till he remembers what empires we have opened since 1850, what new and great calls are made on our Treasury for the proper protection of added interests. In 1830 we had an expenditure of over thirteen millions. "Now," says the sophist, "it is nearly six times as much." Think of one fact in this connection, and you will not hastily conclude on such premises. In 1830 a writer in Philadelphia glories over the wonderful fact that whereas, in 1824, only about three thousand dollars in gold from domestic sources was sent to the Mint, then, in 1830, it had increased to \$130,000. But, let me add, what a change since 1830! Now, our domestic yield of gold exceeds fifty millions per annum! There is but one criterion for the increase of our expenses. It is not the increase of our population. Such a ratio is an unfair test of true economy; but it is in the increase of all the interests in view of our increased national wealth, area, and importance. Whenever these interests and the honor of the nation do not demand it, our expenses must be kept down with rigid firmness.

As to the *third* mode of meeting the deficient revenue, by loan: that is a necessity which every patriot must meet. The credit of the Government must be preserved. The expectations of the Government from the last tariff have been foiled by the financial troubles. The expenses of the Government for this year have been somewhat increased by the Utah troubles, as well as by the naturally growing demands of our growing nation. It becomes us to meet these expenses in a patriotic spirit; to furnish means to preserve untarnished our national honor. Compared to the Governments of the Old World, loaded as they are with debts, our condition, at the worst, is happy. A hundred millions is no debt to a nation like ours, with its resources and its energies. We throw off such debts as lightly as a summer garment.

Far be it from me to encourage a system of national debt. If we need just now money in our exchequer, let us borrow it; trusting, as we may do, with reason, on the revival of business already begun, which will insure before long a revenue sufficient for expenses. Far better borrow than fill a Treasury to overflowing by a high tariff. Let the present tariff be first fully tested; and if it fail, in a *fair season*, to give us sufficient revenue, then let it be modified to suit the exigency. The reverses of 1837 were terrible. The country staggered under them for years. The reverses of 1857 are comparatively easy to be borne. We have now a better banking system, a more healthful curtailment of private expenditure, a better system of public finance—the sub-Treasury. We had not these twenty years ago. Already the disease of last year is wearing out. It is found not to be chronic. Individuals have economized manfully. Our decreased imports—which are the very cause of our loan bills and lank Treasury—show a recovery going on at once healthful and invigorating. So that our seeming disaster of an empty Treasury is the index of a restorative process which will bring prosperity.

In this light, who should complain of the ordeal? Who so unwise as to fret at the adversity we cannot help, but which is our best helper? Who so mean as to coin it into political counterfeits, to "bribe" (that is the word now) the people to sus-

tain a false system of economy and a set of political quacks, who cry out against a bankrupt Treasury without inquiring into the true cause? The truth is, we are selling more while we are buying less abroad than formerly—selling much more in proportion to our purchases. Consequently, we are gathering up our energies for another period of prosperity—making another and higher grade of social advancement. At the end of the last Congress, the people bemoaned a heavy tax and a plethoric Treasury. The tax was easily borne, because indirect; the other became intolerable, because of its tendency to corrupt our political system. We have got rid of the full Treasury. We have only to correct the evils of the last Congress, frown down the schemes it encouraged, and inaugurate a more economical system of expenditure. Then we may bless our disaster at least as a political windfall.

I hope, Mr. Chairman, that the economy which the people are now practicing in their own troubles, may be practiced by our Government in its embarrassments. We need to be reminded by misfortune of the evils of extravagance. This is an age of luxury. Could the people who have sent us here glance at this Hall, ornamented with all the bedizement of gilt and paint; could they but hear one discussion on the monster schemes and inordinate extravagance of the last Congress; and believe half their eye saw and ear heard, there would be more excitement on economical than territorial affairs. Their surprise would but indicate a fact, that our Government and its rulers are far in advance of the people in the vices, and far behind them in the virtues, of republican life. That simplicity which obtains among the masses in New England, in New York, in the West, and South, has but little reflection either in the social life or political legislation of the metropolis.

In saying this much, I am not indifferent to the proud fact that our governments, Federal and State, are yet the models, in an economical view, to which the reformers of England and the continents point for the guidance of their own Governments. No man can read without patriotic emotion the plaudits of De Tocqueville as he discourses of the simplicity and economy of our system. Again and again have Cobden, Hume, and Roebuck, from the English hustings and in Parliament, referred to these United States for lessons in an economy which is liberal, without being parsimonious, and which has striven to be discriminating without being mean. It was only a few weeks ago that Mr. Bright bemoaned, in a letter to Birmingham, the suffering consequent upon the increasing taxes of England. He could find no remedy save in the diminution of their augmenting expenditure. He startled the English people by showing that their Government was now spending £20,000,000 sterling more than they were spending a few years back, and that since 1835, when Wellington and Peel had charge of the Government, their military expenses alone had doubled; and then, pointing to this nation, he said:

"This year we shall raise at least £50,000,000 sterling more than will be required to be raised by an equal population living not in England, but in the United States of America!"

Two hundred and fifty million dollars is the burden which twenty-seven million people pay in Great Britain, *over and above* what the same number would pay in America, under our Government. Can we wonder, then, that where the burdens are so heavy, and the political privileges so few, so many are now considering the propriety and advantage of emigration; and that at this moment, the unemployed of the manufacturing districts of England are appealing to the Queen for an extensive system of free emigration?

If such be the attractive force of our economy, how carefully should we guard it! We should not be content with the flattering contrasts we can draw with the Old World. If we find in our expenditure a dangerous augmentation, let us apply the canons of our party platforms to practical legislation, and lop off the excrescences where we can. At least let us protest where we cannot lop off, and so guard our future against deficiency bills, and loan bills, as to secure the greatest economy with the least government possible, consistent with security.

FIFTEEN MILLION LOAN.

SPEECH OF HON. A. P. GRANGER,
OF NEW YORK,IN THE HOUSE OF REPRESENTATIVES,
June 12, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. GRANGER said:

Mr. CHAIRMAN: The bill now under consideration comes from the honorable chairman of the Committee of Ways and Means, with a request that it do pass. It is to empower the President to borrow \$15,000,000 on the credit of the United States to defray the ordinary expenses of Government. Ordinary as the expenses of Government may be, the call for this loan is surrounded by circumstances very extraordinary. I propose, sir, very briefly, to present before this House and the country some of those extraordinary circumstances.

Mr. Chairman, one year ago we had \$18,000,000 surplus money in the Treasury.

Since that time we have collected of revenue \$44,000,000, and issued \$20,000,000 of Government paper, at the pressing solicitation of the President; in all, \$22,000,000.

And now, as Congress is about to take leave of the President for a few months, we are respectfully asked to allow him to run the nation in debt \$15,000,000 more, to last till we meet again.

Besides, sir, by what we know of the course of the Administration, it is rational to expect that when the year comes round at least \$10,000,000 in addition will be called for under the head of deficiencies, footing up the enormous amount of \$107,000,000. One hundred and seven million dollars, and not the least effort is made, nor is a whisper of recommendation heard in favor of providing for the impending emergency by reducing the expenditures or increasing the revenue, so as to meet the payment of principal or interest of the debts we are incurring.

Millions of dollars have been spent since the present Administration came into power, to crowd slavery north of the line of 36° 30', the ancient and extreme limit of slavery on the North—a line made sacred by the universal pledge of the South—a line that to invade and violate has left a stain and a sting that will not soon be forgotten.

Millions of dollars have been wasted in a fruitless attempt to get up a Mormon war, so as to renew the expiring contracts of the late disgraceful fifteen years' quarrel with a few miserable Indians in Florida, a quarrel which cost this nation \$40,000,000. Sir, are such needless wars and reckless contracts, to be our everlasting inheritance?

A million dollars is given away this year to the city of Washington to furnish it with water.

There is this year to be paid full ten per cent. of all the money collected through the custom-house, as the cost of collection, when one half that would be ample compensation.

A regiment of troops is voted to protect Texas against a few ragged, straggling Indians—a State that assumes the right and power to oust the Union, and is hardly at home in it at best; a proud, powerful State, asking a regiment of regulars to keep off the Indians. Why, sir, one ration in ten that the regiment would want to subsist on, to give these starving Indians, would make them harmless as kittens.

For this reckless squandering of public money there is no excuse whatever. More than one hundred million dollars will be used up this year by the party in power, while \$53,000,000 carried us through any one year of the Mexican war.

Sir, what does all this mean? It means this: it means that the conduct and character of the present Administration, and the party that sustains and controls it, are inconceivably worse than was predicted by any one previous to the last presidential election.

Sir, the Government of this country, as now administered by the President, and the remains of what was once a Democratic party, to say the least, has become a prodigious national evil.

I am aware, sir, and I say it with pleasure, that the ruling party contains many—very many—men of honest worth, and for many of whom I

have great personal regard; yet, as a party, I feel bound to say it is *degenerate*, and past redemption, and has proved itself untrustworthy, incompetent, and unfit to direct the destinies of this great nation.

It disregards its obligations to the country, and seeks only its gratification and perpetuity at the expense of the best interests of the country.

Its reckless extravagance and favoritism will soon run the country under, and saddle the nation with a debt that will require its whole revenue to pay the interest, and leave us to the tender mercy of the lender for means to support the Government, or draw it in specie, by direct taxation, from the pockets of the people.

Sir, this party cannot be reformed.

It is too far gone.

It misrules by habit.

It must be rendered powerless by the people, who are the sufferers, and who have the right and power to do it.

Sir, I believe it is absolutely necessary for the integrity of the Constitution and the prosperity of the country, that the people should take this matter in hand as a business transaction, and deprive this misguided, miscalled Democratic party, of all political power, and render it incompetent of further mischief.

Sir, it must be done, or this Government will sink under the accumulating weight of extravagance, dishonesty, and *misrule*.

Unless there is a change of men and measures, this republican Government is in danger of being ruined, and our glorious Constitution bereft of its power to fulfill its obligations to secure personal liberty to all the people.

It has promised the *privilege* of the writ of *habeas corpus*, to guard the freedom of every innocent human being in this broad land, without partiality or distinction, no matter what the age, the sex, the color, or nativity.

This promise is violated and this privilege withheld, at the instance and on the authority of the President, the Federal court, and the party; and the Constitution is yielding to the force of their united efforts.

As affairs are now conducted, the Government is scarce worth having.

It has been said: "That Government is best that is best administered."

If, then, that Government is worst that is worst administered, ours is of all the most miserable.

Sir, the party does not pretend to administer it for the benefit of the governed, but only to raise money out of the people to provide for itself, and is even *bankrupt at that*. Is it possible that we have an administration of Government that, in time of peace, for its *ordinary* expenses, uses up \$100,000,000 a year, running the country in debt \$50,000,000 a year, with no provision for its payment, and which, without a radical change of administration, never will be paid?

The Administration assumed the reins of Government on the 4th of March, 1857, with an overflowing Treasury. It had more than twenty millions of surplus cash on hand.

In the autumn of that year, it was buying up Government paper due some ten years hence, paying a premium of sixteen per cent., and before Christmas was calling on Congress for permission to issue twenty millions of paper circulation to live on through the winter.

And now, sir, the honorable chairman of the Committee of Ways and Means, who knows whereof he speaks, tells us we must indorse for this Administration to the amount of \$15,000,000, or, I suppose, he thinks there will be an utter inability to meet the demands upon the Treasury long before another Christmas. Sir, if that is the condition of things; if the Administration is in the "lost channel," and rapidly drifting to a hopeless fate; and if nothing but a continual increase of the national debt will prevent repudiation, then, perhaps, it may as well come first as last. The sooner the crisis comes the sooner the country will rally and set things to rights again.

Now, sir, what do you think of this state of things? Was the like ever heard of before? *Never, never!* And there is no reasonable hope of any improvement till after another presidential election. There will be a deficit the present year of fifty or sixty million dollars.

Our revenue from all sources (loans excepted) will not exceed forty or fifty millions; thus increasing a permanent national debt some fifty-five million dollars.

The President will retire, at the close of his present term, leaving us incumbered with a Government debt of one hundred and fifty or two hundred million dollars, all of which, with ordinary foresight, skill, and economy, might have been avoided.

This, sir, might be *tolerable*, but for the more distressing fact that the false maxims of public policy inculcated and obstinately adhered to by this model party by which encouragement and protection to American labor and home industry have been ridiculed and discarded, and a policy inaugurated that has brought up with a foreign debt on the business community of this country amounting to \$500,000,000.

Yes, sir; a debt to Europe from this country of \$500,000,000; while, at the same time, the great leading interests of agriculture, commerce, and manufactures, are almost prostrate, carrying perplexity and dismay to the homes and firesides of the people in all directions, and in all quarters.

Sir, this is a gloomy but truthful picture.

Now, sir, is it saying too much to say that this abused and misgoverned people must change their rulers, or do worse?

Sir, I must go against this bill.

I cannot vote to empower this Administration to make large and oft-repeated loans at discretion.

The bill, I fear, will pass.

It will be strange if it does not.

It is an Administration measure, and they have the numbers to pass it; and there is a party pressure to do it.

Like the case of the gambler, who has lost his money, they borrow to keep up appearances, and try another chance.

The Administration must have it, or its hungry cormorants, who fatten on the Treasury, must starve; and hunger will break through a stone wall.

Sir, if it must be had, let the supporters of the Administration reach and take it, and with it take the responsibility.

KANSAS—LECOMPTON CONSTITUTION.

SPEECH OF HON. J. J. CRITTENDEN, OF KENTUCKY,

IN THE SENATE, March 17, 1858.

[REVISED BY HIMSELF*.]

The Senate having under consideration the bill to admit Kansas into the Union as a State—

Mr. CRITTENDEN said:

Mr. PRESIDENT: I feel how inadequate I am to add anything to the various arguments that have been employed on this subject during the long discussion through which we have passed; and yet I should not perform my duty according to my views, if I omitted to express my sentiments and feelings on the subject before the Senate. I do not intend to occupy your time with exordiums, sir. *The right of the people to govern themselves is the great principle upon which our Government and our institutions all depend.* It seems to me that this great principle is involved in the present subject.

The President of the United States communicated to us an instrument called the constitution of the people of the Territory of Kansas, and he has, with unusual earnestness, advised and recommended to us to admit Kansas under that constitution, as a State into this Union. The question, as it has presented itself to my mind, involves an inquiry as to the matters of fact bearing upon this instrument of writing, and whether these authorize us to regard this instrument as the constitution of the people of Kansas? Is it their constitution? Does it embody their will? Does it come here under such sanctions that we are obliged to regard it, or ought to regard it, as the permanent, fundamental law and constitution of this new State? I do not think it comes with such a sanction, or ought to be regarded as the constitution of the people of Kansas. Sir, I shall not occupy your time long on this point.

What are the evidences that it is so? It is made by a convention, to be sure, called under the authority of an act of the Legislature of Kansas. It is made by delegates regularly elected by this people, and *prima facie* it would appear that it had the sanction of the people of Kansas; but I think there are evidences of a higher character to show that it is not so, that it is but in appearance a constitution, and not in reality.

In the first place, the fact is established beyond all controversy that an overwhelming majority of the people of Kansas are opposed to this instrument as their constitution. The two highest officers of the Federal Government lately there under appointment from the President of the United States, Governor Walker and Secretary Stanton, both assure us of that fact upon their personal knowledge. That is high evidence to establish the fact that it is against the will of an overwhelming majority of the people upon whom it is to be imposed as a constitution.

That constitution in part was submitted to the people. I shall not stop now to inquire how it was submitted, whether fairly or not. A part of it was submitted, however, and, upon a vote taken by the people on the clause thus submitted, it received six thousand votes, and a little more. These are the sanctions with which it comes to us. To this extent, it would seem to have the popular approbation. But, sir, when you come to look a little further into the investigations which have taken place in that Territory, it appears that of those six thousand votes, about three thousand were fictitious and fraudulent. That is reported to us by the minority reports of our Committee on Territories; that is verified to us by the proclamation issued by the President of the Council and the Speaker of the House of Representatives of the Territorial Legislature of Kansas. These high officials, who were invited by Mr. Calhoun to witness the counting of the votes which were returned to him, certify from their personal knowledge that more than two thousand of the three thousand votes which were given at three precincts in the counties of Johnson and Leavenworth were fictitious votes. I only call your attention to this in order that it may appear truthfully who it was that approved of this constitution.

That vote was taken on the 21st of December. Before that vote was taken, however, a Legislature, which was elected in October last, and which met, on the call of the acting Governor, Mr. Stanton, in December, passed an act postponing that vote from the 21st of December to the 4th of January. On the 4th of January, under the provisions of that act, a question was taken upon the constitution itself broadly. It provided that the question should be taken upon the Lecompton constitution with slavery, upon the Lecompton constitution without slavery, and generally upon the constitution itself. Upon that occasion, over ten thousand voted against the constitution; and the Legislature of the Territory of Kansas have passed resolutions unanimously protesting against the reception by Congress of this instrument as the constitution of the State, declaring that it was obtained by fraud, and that it has not the sanction or concurrence of any, except a small minority of the people. This is the substance of their resolutions.

Now, I ask you, sir, upon this evidence, as a judge, to say whether this is the constitution of the people of Kansas or not? whether the evidence before you is, that it is an instrument signifying their will, and declaring that general and permanent law upon which they wish their government to be founded? Unless you shut your eyes to the vote taken on the 4th of January, here is a direct popular evidence and protest against the constitution; and, even supposing the whole of the six thousand votes which were given for it on the 21st of December to be true and real votes, fairly expressed, it shows that there were ten thousand other people in the Territory of Kansas who are opposed to this instrument, and who have legitimately declared their opposition. Here is the solemn act of the Legislature of the Territory protesting against it. These are recorded evidences, as much so as the constitution itself is a record, having the same legal sanctions and the same legal title to our faith and our confidence.

* For the original report, see page 1153 Cong. Globe.

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How are you, in law, to make any difference between these testimonials; to say that you will give effect to one, and will reject the other; that you will give effect to that which testifies for the minority of the people, and will reject that which testifies for the majority of the people; that you will accept that which was first given, and reject the last expressions of the popular will?

It is these last expressions of the popular will that ought to govern on every principle, just as much as that a former law must yield to a subsequent law in any point of conflict between them. The last evidence, then, is the vote of the people on the 4th of January, of ten thousand against it; and the evidence nearly cotemporaneous with that are the resolutions of the Legislature of Kansas, protesting and imploring you not to accept this instrument, that it is a fraud and an imposition upon them. I want to know why it is that this evidence is not entitled to our consideration and to have effect? The President, it seems to me, has given us a most unsatisfactory reason. The President says that in recommending the adoption of this constitution to us, as implied in the admission of the State, he has not overlooked the vote of ten thousand against the constitution given upon the 4th of January; he has considered it; but he holds it, and he holds the law of the Territorial Legislature under which that vote was taken, to be mere nullities? Why? The law was passed by the regularly-elected Legislature of the Territory, providing that a vote should be taken on that day; and why not? Is there anything in an organic law, is there anything anywhere that forbids it? No, nothing.

The President had anticipated that the constitution itself, in whole, and not in part, was to be submitted to the people. The Governor had so contemplated, and had so assured and promised the people. The President regrets that it was only submitted in part. He regrets that the entire constitution was not submitted. Though he accepts at an equivalent the partial submission, he regrets that it was not submitted as a whole.

The Territorial Legislature, after this constitution was published, immediately passed a law to have a vote taken upon the entire constitution—the very course the President had preferred, and to which Mr. Walker pledged himself. What do they do but carry out, and act in perfect accordance with, the wishes and opinions of the President and Governor? And yet the President, who was for a general submission, and would have preferred it, says the act of the Legislature, in accordance with his opinion, is a mere nullity. Why? Because, he says, by the previous acts of the people, and of the territorial government, the Territory was so far prepared for admission into the Union as a State. That is the reason. He gives no application of it, but announces, as a reason, that it was so far prepared, because the constitution had been made, ready to be offered to Congress, though that constitution had not yet been submitted to the people when this law was passed. That was her condition; that was the preparation she had made. The only preparation was, that under the authority of a previous Territorial Legislature, a convention had been held, and a constitution made and published.

That was the condition of her preparation; and because of that preparation, the President says that the Territorial Legislature had no power whatever to pass a law to take a popular vote upon the adoption of that constitution, to see what the people thought of it; to collect the evidence of the public will! What could the Territorial Legislature do to satisfy themselves, to satisfy the country, to satisfy the just rights of the people, but to say a vote shall be taken on the 4th of January next, in which all the people shall declare their assent to, or disapprobation of, this constitution as an entire instrument? What is there in the preparation above referred to to prevent it? What force had the constitution? Could the constitution, unaccepted by you, unauthorized by you, paralyze and annihilate the legislative power which your act of Congress had conferred upon the territorial government? Does not that power, and all that power, remain as perfect as when you granted it? And could that power which your act gave be diminished or lessened by any act of mere territorial authority? It is palpable that it

could not. No matter what act might be done by the people of Kansas, call it by what name you please—law of the Territorial Legislature, constitution made by the people; no matter by what name you call it—the supremacy of the Government of the United States remains untouched and unimpaired, and all the power of territorial legislation which it gave may be exercised by the Legislature.

Of what avail is this constitution until accepted by Congress, and the State admitted upon it? Whom does it bind? Is it anything more than a proposition by the people of Kansas that “we shall be admitted with this instrument, which we offer as our constitution?” What more is it? Does it bind anybody? Where does it derive its authority? The organic law authorized no legislation by a convention. The convention could exercise no legislative power which Congress had given, because Congress gave its power to a Territorial Legislature, to be elected in a certain manner, and to be exercised in a certain manner. The convention could exercise no legislative power. It bound no one. It did not bind the future State; for, until you accepted it, what prevented the people from calling a convention the next day, and altering or modifying it according to their own views? Is there anything of reason, of argument, or of law, to support such a proposition as that the people are restrained from making another constitution because they have proposed one not yet accepted and acted upon by Congress? I think not.

In my judgment, we have a precedent which shows I am right in this view of the subject. The case is this: Wisconsin, then under a territorial government, presented herself here with a State constitution, and asked for admission into the Union as a State. Congress admitted her, but on the condition that her constitution should be submitted to a vote of the qualified electors of the Territory; and, if assented to by the people, that the President should announce that fact by proclamation, and that thereupon, and without any further proceedings on the part of Congress, her admission should be complete and absolute. This was the case of Wisconsin; this her state of preparation. What, under these circumstances, did the people of Wisconsin do? Did they proceed according to this act of Congress, and submit their constitution again to the people, as required by said act? No, sir; they passed that act by, called another convention, applied to Congress at a subsequent session, and were admitted into the Union as a State.

Was not their state of preparation greater than the preparation of the Territory of Kansas? Here Wisconsin was not only in a state of preparation, by having made a constitution, but that constitution had received the approbation of Congress, and she had been conditionally admitted into the Union as a State. Yet she considered that even under these circumstances, she was at full liberty to avail herself, or not to avail herself, of that conditional admission—and concluding not to decline it, she made another constitution, and was thereupon admitted by Congress.

If they could do that, if, prepared as they were, that preparation did not preclude them from making another constitution, how is this less state of preparation, on the part of Kansas, to preclude the Territorial Legislature, not from performing the high act of calling a convention, but simply of taking another vote on a constitution which was yet to be proposed to Congress? Can any reason be shown? No, sir, none. That constitution was, in my judgment, inoperative; and of gentlemen who think differently I would ask, how long would it have operated as binding on the people of Kansas? Suppose circumstances had occurred which had prevented any application to Congress for years, how long would this instrument have retained its vitality, and retained its vigor and authority? One year? Two years? Three years? Four years? How long? Suppose the president, Calhoun, had put this instrument in his pocket, and kept it there all the days of his life, would it all the days of his life have restrained the people of Kansas from taking other steps, and calling other conventions, and making other constitutions?

If its authority would not have continued a life-

time, how long could it continue? No man can set a limit; and the conclusion, therefore, is, that it never had any binding influence; at any rate, never such binding influence (and this is all I am required to show) as to have prevented the people, if they had changed their minds after making the first constitution, from calling another convention, and resorting to all means necessary for the establishment of another constitution, and then to offer it to you. It is theirs to offer, and ours to dispose of; and they are free up to the last moment to make known to Congress what is their will and what is their determination in relation to the fundamental law of the State which they are about to establish.

Is not this all perfectly clear to our reason? Are there any fictions of law; are there any technicalities springing out of these instruments, governing their force and effect, to prevent this conclusion? Is this constitution to be made up into a little plea of estoppel against the people? Are the little rules which we are to gather from Westminster Hall, the little saws in action at law that do well enough to decide little questions of *meum* and *tuum* among A, B, and C, to be applied as the measure to those great and sovereign principles on which States and peoples rest for their rights and their liberties? No, sir. This is a great political question, open, free to be judged of according to God's truth and the rights of the people, unrestrained, unincumbered, unimpaired by any fiction or by any technicality which could prevent the full scope of your justice and your reason over the whole subject.

Therefore, sir, this state of preparation of the Territory of Kansas for admission into the Union has no effect. The argument is not applied; the fact is merely stated that there is a state of preparation, and there it would be necessary to stop on any doctrine; for, in my own judgment, no argument can be made even of any ordinary plausibility to show that the state of preparation restrains the people of their natural and inalienable right and their legal right as proclaimed by you, to form with perfect freedom their own institutions before they come into the Union. There is no technicality about it.

Here, it seems to me, applies that great principle to which I adverted at first, that *the people have a right to govern themselves*. I mean, of course, in subordination to constitution and law. This people had no constitution, could have no constitution, while they remained in territorial dependence; and when the act of the Territorial Legislature was passed, requiring a vote to be taken on this proposed constitution, they had full authority to pass that law. Their hands were not bound. Here was a great act about to be done; an act to bind the State, to give it a new character, to give it new institutions, to put upon it a constitution—that panoply of the rights of all. This was the great act to be done; it is an act which none but the people can do through themselves or their proper representatives. It is in all cases directly or by reference the act of the people. The laws which they establish are not of that transient character which can be made to-day and repealed to-morrow. They are made for permanency. They are the great immutable and eternal truths and principles on which all government must rest. They are expected to be permanent. The people delegate to others the power of passing temporary and repealable laws. They reserve to themselves the great right of passing those which are permanent and can only be repealed by themselves.

Was it not of consequence, was it not of importance to know the will of the people, whether they really did approve of this constitution which was about to be offered to Congress—a law which, when Congress puts its imprimatur on it by admitting the State, is to be permanent? Would it be any harm to take the vote over and over again, so long as doubt remains? Congress has the power. What objection could there be to it? You may say “It is an unnecessary care of the people's rights; you have had their decision once; therefore, it is not necessary to have it again;” but out of abundant care and abundant zeal, you may choose to take it again and again, and ascertain whether there may be change or variation in the public opinion. Who can say aught against

it? Do you object to it because it is taking too great care of public liberty, paying too great respect to popular rights? Nobody will take that ground.

But it may be said you might delay the application to Congress by these repeated elections. You must avoid that as far as you can. In this case it has not delayed it. In this case this vote was taken before this constitution came before you; while yet it slumbered in the hands of President Calhoun. No objection can be made, then, that this was made the cause of, or intended merely for the purpose of, delay. The result shows that it was necessary and proper. The result shows that, notwithstanding the vote of six thousand in favor of it, there were ten thousand who were opposed to it. I say, therefore, this is not the constitution of the people of Kansas. It may, in a certain sense, be a constitution offered by the convention to the people of Kansas, but which the people of Kansas by ten thousand majority have rejected—have as lawfully rejected in the last vote, as it was lawfully approved by the six thousand first voting in the preceding December.

I say, then, Mr. President, upon the record evidence, upon all the evidence, this is not the constitution of the people of Kansas. It is not the constitution under which they desire that you shall admit them into the Union. Now, will you, against their will, force them in the Union under a constitution which they disapprove? That is the question. You know the fact that ten thousand against six thousand are opposed to the constitution. You know that by the act of their Territorial Legislature they entreat you not to admit them with this constitution. They tell you, moreover, as one of their reasons, not only that they disapprove of the whole constitution, but that it is particularly hateful to them because the votes given for it, or apparently given for it, were, to a great extent, fraudulent and fictitious. The Legislature tells you that nine tenths of the people there are opposed to it.

Now, would it not be strange, that under these circumstances, we should, without any motive for it that I know of, as the common arbiters of all Territories and States to the extent of our constitutional power, force her into the Union? What motive can we have, what right motive, with the knowledge of these facts, to force her into the Union, and to enforce upon her this constitution? I cannot feel myself authorized to do such a thing. Of course I do not impugn the motives and the views of others, who, taking a different view, act from impressions different from mine. They act upon one view, and I upon another; but, viewing the subject as I do, it seems to me that to do this is a plain, unmistakable violation of the right of the people to govern themselves.

I have endeavored to show you, sir, that this is not the constitution of the people of Kansas, according to the recorded evidence of their will. It seems to me, furthermore, that this constitution is a fraud. It is not only not their constitution, according to their will, but it is got up and made in fraud, to deprive them of their rights. I believe that, and I think it can be shown.

The President of the United States has furnished us an argument on this subject, and it has been oftentimes repeated here in the debate—of course a plausible and ingenious argument, as all must admit, even those who deny the solidity of the reasoning. What is the argument? The President says that the sense of the people was taken, and proved to be in favor of calling a convention. The convention was called; delegates were elected; those delegates made a constitution; that constitution was submitted to the people in part, and approved by a vote of six thousand, taken according to law. Well, all these, you will observe, constitute a tissue, a long series of little legalities, regularities, and technicalities; and the reasoning of the President is founded on technical points on each of these facts. You must admit all the facts. Yes, sir, the facts are all true; and if they alone constituted the case, the conclusion would be fair and right that this constitution has been regularly made; that this constitution has been sanctioned by the people as well as by the convention. But is there no more in the case than this? There is a great deal more in the case than this.

When frauds have been alleged and charged

against this government of Kansas, gentlemen say, "Ah, but these frauds were in other elections; these frauds do not particularly and specifically touch this constitution, or the proceedings which led to this constitution." But suppose there were frauds in relation to it: is it not something if I show you that, in regard to that part of the constitution which was submitted to the people to be ratified by them, and which was nothing until the people had ratified it, even according to the constitution itself, there was fraud in that election, and abundance of fraud? So glaring, so impudent, and so fearless, had frauds in elections become there, that upon that very poll-list, in one of the precincts, (I forget whether it was in Oxford, or Shawnee, or that other precinct which emulates these in its character for fraud, Kickapoo,) you find that the President of the United States, Colonel Benton, and the gentleman from New York, [Mr. SEWARD,] were there, it seems, or fictitious votes were put in for them by somebody, and a long list of persons of that sort figure on the poll-books at these miserable precincts as actual voters. That was the vote on the constitution on December 21; that was on the part submitted to the people. They were the constitution-making power there; and there I show you the fraud.

What further frauds there were I know not; but this much is apparent—and later developments show greater frauds still—that in one single precinct, where there were only thirty or forty votes to be taken legitimately, there were over twelve hundred; and under the investigation lately made by commissioners in Kansas, that, upon sworn testimony, is stated to be the fact. In one precinct there were twelve hundred fraudulent and fictitious votes out of twelve hundred and sixty; seven hundred in another, and over six hundred in another; making in the aggregate twenty-six hundred votes in three precincts, entirely fraudulent and fictitious, written out by hundreds on the poll-book after the election was over, put on without scruple upon the poll-book, upon the election return, put down without scruple during the election, of those who were qualified, and those who were not qualified; and that is the way this constitution in part has received its sanction.

But, sir, I think that we should take a very partial view of this subject, one very unsatisfactory to our judgment, if we were to isolate these facts which have direct relation only to the formation of this constitution, and leave out all the surrounding circumstances. It seems to me that the proper and the just mode of regarding this constitution is to consider it as one of a series of acts, and see if we can find that the whole action and operation of all those acts were to lead to one general purpose—that of maintaining by fraud and by falsehood the power and the government of the minority, and their offices to them against the will of the great majority of the voters. I say it is an act connected with all the other acts. The whole case is to be taken, and every part of it judged of in this connection.

Now, what was the first act? That is historical. We may all speak of it now, though we disputed it at the time. The first Legislature that was elected in Kansas under the organic act, was not elected by the people of Kansas. It was elected by persons who were intruders from abroad—who intruded themselves with arms in their hands, seized upon the ballot-boxes, put in their own ballots, driving away the legitimate voters, and elected the members to the Legislature. That is the way the government of Kansas was inaugurated. Those who had been driven from the polls, those who were opposed to the party that was installed in power by these means, conceived such indignation and such disgust that they proclaimed aloud, whether wisely or unwisely, that they renounced all obedience to this spurious government, as they called it. It is not material to me whether their complaints are well founded and true, or not. I am endeavoring to depict the course of things, to show their motives, and the motives of the persons who were thus installed into the territorial government. They came to their power by violence; they came to their power by fraud. That was the complaint of the opposing party in Kansas. They renounced their rule; they renounced their laws; they refused to commit

themselves in any way to their support—refused to go to any election afterwards. They said: "What is the use? This corrupt minority who have got into power, who have in their hands the means of controlling the election, who are not too good to do it, and who will do it, who have done it, will practice the same means; we shall be again driven from the polls; or, if not, they, having the control of the elections, and of all the officers who conduct and manage them, will have what returns made they please. We will subject ourselves no more to the humiliation of attempting to execute a right which we know will be frustrated and defeated by fraud or by force." Under these impressions, and with these feelings, which it is not my part here either to justify or rebuke, but simply to state the fact, they withdrew from the elections, lest, by voting according to the laws passed by this corrupt Legislature, as they considered it, they should seem to acknowledge its authority and their allegiance to it.

Now, what would be the condition of the men who had been installed into power in this way? They would be pleased that their opponents had thus withdrawn themselves from the polls. In all the elections to be held afterwards, this power of the minority, however small, would be continued; as their enemies would not come up to vote, they would be reelected and would retain and perpetuate their power. So they went on—the field abandoned by the majority—and the minority ruling everything in this way. Look at the evidences that are before you from those high officers lately returned from Kansas—Stanton and Walker. They tell you of frauds regularly perpetrated there; and, although they had thought before that the people were acting factiously, that they were acting seditiously, that they were acting rebelliously in attempting to withdraw themselves from this government altogether and to act for themselves, and that their complaints of fraud and imposition upon them in elections were rather affected for the purpose of giving color to their conduct than otherwise, yet when they went among the people and heard them, and learned all about the dealings that had been practiced, they could not doubt their truth and their sincerity in the resentment which they felt and in the conduct which they pursued. However unwise, it was sincere on their part. They had been defrauded; they had wrongs enough to sing and humiliate them. This is what these officers say. I know nothing about it; we know nothing about it, except on the testimony. That the ruling minority party were capable of committing fraud, we know. They began in fraud. Has any gentleman here denied, is there any gentleman who discredits the history which we all have of the frauds practiced in the first election that was held in Kansas? However we might doubt this, however we might have disagreed, however we might have believed or disbelieved heretofore, have not every mist and doubt been cleared away from around this fact, and is there one here now to say that the right of election was not trodden down in the first election for a Territorial Legislature in Kansas, and that a minority government was not elected? That they have continued that government by fraud since, is shown at every step of their progress.

It was in the midst of this self-suspension of the right of suffrage on the part of their opponents, that they called the convention by which this constitution was made. Look at the constitution itself. On its own face, does it not contain the amplest preparation for fraud, visible and apparent? Look at the internal evidence marked on its face. They pass by all the sworn officials of the territorial government who had before conducted elections; they authorized, by the schedule to the constitution, President Calhoun to take this whole matter into his hands, to appoint the officers to conduct the elections, giving him control over that official body, and the appointment of them all; and the returns were not to be made to any permanent officer of the Government, not to the Governor, but to this same Mr. Calhoun. He was to appoint the officers to conduct the election, receive the returns, count the ballots, and declare the result. Well, Mr. Calhoun has performed all this business!

Another thing: every human being, in respect to that part of the constitution which was sub-

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mitted to the people, before he could vote for or against it, was required to swear that he would support that constitution when it was adopted. In that constitution, those who framed it well knew were provisions intolerable to all the free-State men in the Territory, and they would not swear to support it. They so believed and hoped and expected. This was under the show of a fair election. Not only have they secured all the advantages resulting from the appointment of the officers to conduct it, but, to leave their consciences more easy, these officers were not even sworn. There was no provision for that. But every man voting for the constitution, or that part of it submitted to him to vote upon, was required to be sworn beforehand that he would support that constitution. This, it was supposed, if nothing else, would keep off the free-State men.

It is said, in this testimony, that Governor Walker, from the time he went there, had been diligently persuading all the people of the Territory to throw aside this inaction of theirs, come into the elections, and participate in the government. For this, Mr. Stanton says, Governor Walker became the object of utter hostility to Mr. Calhoun's party. They did not want conciliation. They demanded, as the same witness says, repression. They wanted penalty, not persuasion. They did not know what the result of this persuasion might be in the elections afterwards to take place on the constitution. It was necessary, therefore, to make provision against the possible effects of these persuasions and arguments of Governor Walker; it was, therefore, necessary to put in, though nobody opposed them, six thousand votes for the constitution, they believing that that was a majority of the greatest number of votes ever given on any occasion in the Territory, and so it is stated here. They just went beyond the line; and for fear of rendering it more monstrous, and the fraud more visible, they went just so far as the necessity demanded the fraud. They did not choose to use it superfluously. They rather husbanded it, to be used as the occasion might require, and no more than was required. I cannot shut my eyes to this fact. These preparations, then, in the schedule of the constitution, were made in anticipation of the vague dangers that were apprehended. It was greatly important to carry through this constitution; greatly important to preserve their authority under the constitution. There were two Senators of the United States to be elected. All the officers of the State government were to be constituted. These were to be the reward of those who had labored.

These seem to me to be preparations made for fraud; and when I come to compare them with the action which took place afterwards, the design and the act, the purpose and fulfillment of it, make the proof perfect. The means of doing it, the means of facilitating it, are given in the constitution. The actual perpetration of it afterwards at the polls is seen. It is seen in the election upon the constitution. It is seen in the election of the 4th of January, for officers under the new constitution. There is where these frauds, lately developed, were practiced to such an enormous extent. There is where these little precincts distinguished themselves.

Another fact may be noticed, that this convention to make a constitution were to meet, by law, in September, and go to their work. They met then. Did they go to work? No. Why did they not? There was an election of the Territorial Legislature to take place in the October following. They wanted to know the result of that election; to know how the land lay; whether all was safe or not; whether any point was necessary to be guarded in the constitution; whether there were any unexpected majorities rising up; whether there were any obstructions in the way of ordinary frauds. They wanted to see what was the character of the new Legislature, that they might meet the emergency and meet the exigency with any constitutional provision that might be necessary to perpetuate their power. They therefore adjourned to a day after the election. The Legislature was elected; and that Legislature turned out, notwithstanding all the frauds that were practiced, to be against them. What then? The Legislature being against them, now what is the provision they made in the constitution? The officers

of election, and other officers of the government, were, many of them, appointed by the Territorial Legislature. They thought, "Now, here has come in, in October, a Legislature opposed to us." What so likely but that they who have complained of frauds from Government officials, will now change the officers and change the mode of election? What then? They declare in the schedule that all who are in office now, shall hold their offices; that all the laws in existence now, shall continue in existence until repealed by a Legislature which shall meet under the State organization under the constitution. That silences completely the Territorial Legislature, and paralyzes its power. That was a security against them, and left the convention and its party to take the chances at the future election to be held, by their officials, on the 4th day of January last, as provided by them, and then they were to make another final death-struggle for supremacy; and then, indeed, they did. I have seen the report of the commissioners lately appointed by the Territorial Legislature of Kansas to investigate the frauds. There this Government party did make efforts more than worthy of all their former practices in fraud, in order to secure the Legislature, which, under the constitution, would make Senators of the United States. It was here that Oxford, that Shawnee, that Kickapoo, distinguished themselves in the multiplicity of votes, feigned and fraudulent.

When you see such things as these in the constitution; when you see such things as these all around the constitution; when you see the same men who made the constitution rulers in the land during the whole time, do you not see that the frauds have been everywhere, that the imposition upon the people has been everywhere? And how can you exempt from the contagion (if there was nothing more than this general association from which to infer it) this constitution and those who made it? Judging from the positive internal evidence that exists in it, and the facts that surround it, I cannot. I believe that to impose it upon them, violates the right of the people to govern themselves. I believe this constitution is the work of fraud—fraud upon the rights of the people.

I do not undertake to defend the Free-Soilers for their conduct. It is not my part nor my province. I should agree, perhaps, with the President, that much of their conduct has been of a disreputable, disorderly, and seditious character. It may be that it deserves the epithet of "rebellion," which the President applies to it. I have nothing to do with that. I am not their advocate. I have disapproved of their conduct in many instances. There were many bad men among them, as I believe, but for them the law assigns its proper punishment. The majority of the people have their political rights, that remain, notwithstanding their legal offenses. It is in that point of view, it is in their political character as the people of a Territory, that we are now to regard them. Whether they be more or less guilty on one side or the other, is not the question. I fear that neither party could take the chair of impartiality and justice, and be shameless enough to attempt to administer rebuke to the other.

One great objection to their admission at all, is that they have not shown, by their conduct on any side, that they are altogether fit for association with the States of this Union. A little more apprenticeship, a little more practice of honest and fair dealing, a little more spirit of submission and subordination to law and authority, would be well learned by them, and fit and qualify them much better for citizens of the United States. That is my opinion. I have, however, spoken of their political rights as men, and it is not for me to sit in judgment to condemn and deprive them of the right of suffrage on one side or the other, because of frauds committed by one, or violence practiced by another. This is a political question.

It is said, however, that the series of legalities and technicalities, to which I have alluded, of a regular election, of a regular convention, of a submission to the people, and of votes of the people upon all these questions, have been regular; and what then? It is further said, on the other side, that all the people had a right to vote, and those who did not vote forfeited their right to complain; and we are not to inquire whether there were any

people who did not vote, or whether those who did vote voted fairly, and were entitled to vote or not. It is said we are precluded by the forms in which this transaction is enveloped; that the formal election, the formal certificate of election, the formal constitution certified—these formalities are enough for us, and that we are not permitted to look further; that we ought not to look further. Sir, I do not think so. We are applied to now to admit a new State into the Union. The instrument which she presents as her constitution is opposed by the people from the same Territory. They say, "this is not our constitution; it is against our will; it is not only against our will, but it has been imposed upon us by devices and fraud. It is void for fraud. If it is not void for fraud—for that is rather a legal than a political term—we present these frauds and this opposition as a reason why you should not admit our Territory into the Union under this constitution."

That is the state of the question before you. The complainants admit all the regularities just as the President states them. Perhaps they admit the effect these forms would ordinarily have, but they urge other facts in opposition to the apparent evidence of the constitution itself, as I have before adverted to. A majority of the people have protested against it. The present Legislature, by its inquiries, have developed the vast frauds which were practiced in connection with, and in relation to this constitution. They say, "do not accept it; do not admit us under it; send it back; let it be submitted to a fair vote of the people." Sir, upon such a complaint as this, are we not bound, in justice to that people, to examine the whole case? Can any Senator turn away and refuse to look at the testimony that is offered? Can he be justified in so doing by naked legal presumptions against positive truth?

Do not suppose that I would discard all formalities, or the fair presumptions resulting from them. In many cases, and to many of the transactions of society, especially to your courts of justice, they are necessary, and they subserve the purposes of justice. They were not made to sacrifice justice, but to uphold it and maintain it and protect it as an armor. That is the proper business of forms—not to crush down justice, but to promote it. We are not now sitting here governed by any technicalities. This is a grand national political tribunal, to judge according to our sense of policy and our sense of justice. That is our high province—not to be controlled by presumptions of law when we can have the naked truth. It is the truth that ought to guide; and for that we ought to look wherever we can find it; and where you find the truth on one side, and the fiction on the other: which is to be followed, the truth or the fiction? I take the fact; I take the truth; let the fiction return to those tribunals which are by law made subject to it. This is a question above that sort of argument. It is inquirable into. Else how can we judge that it is their constitution? It is the first time, I believe, that such a question has ever come up in the Senate of the United States. In all former applications for admission, there has been one thing about which there has been no question; and that was, the willingness to be admitted, and the constitution under which they desired to be admitted. There has been no question about the authenticity of a constitution, or about its expressing the true will of the people heretofore, that I know of. I am satisfied there has been none; but now that there is, we must inquire into the authenticity of the instrument offered to us; we must inquire whether it is better, on full consideration, to admit this instrument, and the State with it, or not; and, in the exercise of that judgment, we are bound to look abroad for the truth wherever we can find it. I think, therefore, these matters are all fairly subject to our consideration.

Mr. President, convinced as I am from these imperfect views of the evidence in the case, that this instrument is not really the constitution of the people of Kansas, or desired by them to be accepted by you in their admission into the Union; believing that it is not their constitution; and believing moreover, as I verily do, that it is made in fraud and for a fraud; believing that these matters are inquirable into by us, and that the inquiry has led us to abundant light on this subject, I cannot, I

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will not vote for it. Viewing it as I do, with the opinions I entertain, I could not consent to her admission without violating my sense of right and justice; and I would submit to any consequence before I would do that.

Now, sir, what considerations are there, apart from these which I have stated, which could lead me to give, or could compensate me for giving, a vote against my sense of what was right and just? What advantage to our whole country, or to any portion of it, is to result from taking Kansas into the Union now with this constitution? Is anything to be gained? Is the South or the North to gain anything by it? I see nothing to be gained by it. I think there is not a gentleman here who believes that Kansas will be a slave State. Before this territorial government was made, many of the leading men of the South here argued that Kansas and Nebraska never could be slave States. By the law of climate and geography, it was said, they could not. So said my friend from Georgia, [Mr. TOOMBS,] and so said Mr. STEPHENS.

Mr. TOOMBS. Never.

Mr. HALE. Mr. Badger said so.

Mr. CRITTENDEN. Mr. Keitt and Mr. Brooks, of South Carolina, said so. The opinion was expressed by numerous southern gentlemen that Kansas could never be a slave State. It was for the principle that they contended; and the principle, the abstract principle, was a just one; namely, the right of the people of the Territories, when forming a State government, for admission into the Union, to frame for themselves such a republican constitution as they pleased, either excluding or admitting slavery.

Mr. HAMMOND. With the permission of the Senator, I will ask him, Did I understand him to say that Mr. Keitt had declared Kansas never would be a slave State?

Mr. CRITTENDEN. Yes, sir; so it is reported. Mr. Hunter, of Virginia, said: "Does any man believe that you will have a slaveholding State in Kansas or Nebraska?"

Governor Brown, of Mississippi, said:

"That slavery would never find a resting place in those Territories."

Mr. Douglas said:

"I do not believe there is a man in Congress who thinks it could be permanently a slaveholding country."

Mr. Badger, of North Carolina, said:

"I have no more idea of seeing a slave population in either of them than I have of seeing it in Massachusetts."

Mr. Millson, of Virginia, said:

"No one expects it; no one dreams that slavery will be established there."

Mr. Frederick P. Stanton, of Tennessee, said:

"The fears of northern gentlemen are wholly unfounded. Slavery will not be established in Kansas and Nebraska."

The late Mr. Brooks, of South Carolina, said, in his speech of the 15th of March, 1854:

"If the natural laws of climate and of soil exclude us from a Territory of which we are the joint owners, we shall not, and we will not, complain."

Mr. Butler, of South Carolina, said, on the 2d of March, 1854:

"If two States should ever come into the Union from them, [the Territories,] it is very certain that not more than one of them could, in any possible event, be a slaveholding State; and I have not the least idea that even one would be."

Mr. Keitt, of South Carolina, in his speech of the 30th March, 1854, quoted Mr. Pinckney, of his own State, that,

"Practically, he thought slavery would not go above the line of 36° 30' by the laws of physical geography; and therefore the South lost no territory fit for slavery."

This is all the authority I have.

Mr. GREEN. I wish to inquire what book the Senator reads from? What is the title of it?

Mr. CRITTENDEN. It seems to be a book written with the most downright Democratic propensities and purposes. [Laughter.] It is "An Appeal to the Democracy of the South, by a southern State-Rights Democrat." [Laughter.]

Mr. MASON. I suppose the pamphlet is anonymous. No name is given.

Mr. CRITTENDEN. Yes, sir.

Mr. MASON. The name of the writer of the pamphlet is not given.

Mr. CRITTENDEN. Will the gentleman take it? It contains a great deal of good Democratic reading. [Laughter.] The writer of it thought

he was doing great service to the Democratic party.

Mr. HAMMOND. I wish to say that Mr. Keitt quoted that passage from Mr. Pinckney's speech on the Missouri question, which had been quoted on the opposite side of the case previously. His object in quoting it was to show that Mr. Pinckney did not support the Missouri compromise upon principle; but he did not indorse the sentiments expressed by Mr. Pinckney in that extract.

Mr. CRITTENDEN. I accept the explanation. Certainly I had no intention to misrepresent any gentleman by reading the statements expressed in this pamphlet. I say it was not anticipated from the first that Kansas would be a slaveholding State. What is the South to gain now by having it admitted? It may gain a triumph in the admission of this constitution—admitted against the will of the majority of the people. It is a triumph; but is it not a barren one? Is it a triumph worthy of the South? It will produce nothing but increased bitterness and exasperation, perhaps, on the part of those against whose will it is forced, not only in the Territory, but elsewhere. It may give new exasperation to the slavery question; new agitation, which God forbid! It would be a victory without results, without profit, barren, sterile: as to all the ordinary and beneficial fruits, there is none. I do not know how anything is to be gained to the South, supposing, as I verily believe, and as every gentleman here believes, that it cannot be a slave State; that there is a majority there opposed to it, and who will put it down. Pass this, and we may have a few years longer of exasperated struggle and exasperated agitation in the country. That is all the consequence of the barren victory which would be obtained by admitting Kansas with this constitution. That is not a fruit, I think, which any one would wish to gather. Now, if you attempt to enforce it, we are told by Mr. Walker—I know nothing about it, but from all that he and Mr. Stanton tell us, and they are Democratic witnesses—there is danger of resistance, and danger of rebellion.

Where is the necessity, then, for our doing it now? Can we not resort to some other means by which we may avoid all these consequences of exasperation, of danger, of resistance, of tumult, or of agitation, upon this subject; and end this contest in a short time by authorizing the people of Kansas, under the high mandate of this Government, to form for themselves a constitution, if they want to come into this Union—a constitution fairly to be made, and fairly to express the will of the people. It defers the subject but a little while. Is it not better to do that? Is it not better to suffer the evils we have than to fly to others we know not of? I think every prudent consideration is in favor of our forbearing to enforce this constitution on the people of Kansas, and of our affording them an opportunity of making their views fully and perfectly understood. This will be in accordance with the generous principles and policy that the South has pursued heretofore.

The Kansas-Nebraska bill was recommended to the South chiefly by the repeal of the Missouri compromise, and the recognition of the right of the people of a Territory, when framing a constitution of State government for themselves, to be "perfectly free" to frame it as they pleased, admitting or excluding slavery, and regulating their domestic institutions in their own way, subject only to the Constitution of the United States.

Every citizen has an equal interest and right in territories belonging to the people of the United States; and the result of this equal right seems to me to be, that, where there is no positive law to the contrary, any citizen may lawfully carry his slaves into those Territories, and may lawfully hold them. They were his slaves in the State from which he emigrated, and must remain his, till divested of his right, by law; just as an apprentice, under the same circumstances, remains bound to his master.

My opinion is, that the repeal of the Missouri compromise was a blunder; but I concur in the principle that the people of our Territories, when they come to form a constitution for themselves, have a right to form it as they please. I am now acting upon that great principle of popular rights. I feel myself bound to give the benefit of it to the people of Kansas. Let the majority make such

a constitution as they please. That is the great American principle, that rises above all others. Let them govern themselves, and as the majority decide, so let the constitution and so let the laws be. I think we are infracting that great principle—the principle of the South itself, on this very identical subject—by forcing this constitution, at least of doubtful authenticity, upon the people. If there is a majority in favor of it, it is not much trouble for them to ratify it. If there is a majority opposed to it, they are entitled to have their will and their way. They are entitled to that upon principle; they are entitled to it by the express pledges of the Kansas-Nebraska law.

Sir, I feel that I have already occupied a great deal of your time—more than I was entitled or expected to do; and yet there are some general topics upon which I wish to say something, though not so immediately connected with the direct question before us.

Mr. President, I am, according to the denominations now usually employed by parties in this country, a southern man. I have lived all my life in a southern State. I have been accustomed from my childhood to that frame of society of which slavery forms a part. I am, so far as regards the necessary defense of the rights of the South, as prompt and as ready to defend them as any man the wide South contains; but, in the same resolute and determined spirit in which I would defend any invasion of its rights, and for which I would put my foot as far as he who went furthest, I will concede to others their rights, and I will maintain and assert them. He who knows how to value his own rights will respect the rights of others.

When the Missouri compromise was abolished, great fears were excited in the North, and some vague hopes entertained in the South, that slavery might be established in Kansas, and extended in that direction. I did not believe it. I believed that the Missouri compromise line fixed in 1820, was about that territorial line, north of which slavery, if it could exist would not be profitably employed; and our experience since has shown that the wise men who made that compromise judged rightly. I believed that the idea of making Kansas a slave State was a delusion to the South; that her hopes would never be realized, if she entertained such a hope as that. I thought, therefore, it would have been better, without examining scrupulously into its constitutionality, to let the Missouri compromise stand. I regretted its repeal. I did not believe the South would gain anything by it, or that the North would gain by it.

That compromise was a bond and assurance of peace. I would not have disturbed it. It was hallowed in my estimation by the memory of the men who had made it. It was hallowed by the beneficial consequences that resulted from it. It was hailed, at the time it was made, by the South. It produced good, and nothing but good, from that time. Often have you, sir, [addressing Mr. Toombs,] and I, and all of the old Whig party, triumphed in that act as one of the great achievements of our leader, Henry Clay. It was from that, among other things, that he derived the proudest of all his titles—that of the pacificator and peace-maker of his country. We ascribed to him a great instrumentality in the passage of that law; and over and over again have I claimed credit and honor for him for this act. This, for thirty years, has been my steadfast opinion. I have been growing, perhaps, during that time, a little older, and am a little less susceptible of new impressions and novel opinions. I cannot lay aside the idea that the law which made that line of division was a constitutional one. I believed so then. The people since have generally believed it. I must be permitted to retain that opinion still; to go on, at any rate, to my end with the hope that I have not been praising, and have not been claiming credit for others for violating the Constitution of their country.

Sir, the men who passed that measure were great men; they were far-seeing men. Without argument now, I am content to rest my faith upon the authority of those great men—Clay, Pinckney, Lowndes, President Monroe, the last of the patriarchs of the Revolution, with his learned and able Cabinet—and then, what is more than all, thirty-five years of acquiescence in it, and peace

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under it, in these States. Whatever quarrels you may have had about it in Congress, there was always enough to uphold and sustain that law; and never, until 1854, was it repealed, or its constitutionality questioned, that I know of. I regretted its repeal, because I feared that it would lead to new agitations and new dangers. Has it not? What has been our experience?

The authors of the measure which repealed that compromise—honorable and patriotic I know them to be, many of them my personal friends—promised themselves from it greater peace and greater repose, by localizing the slavery question, as it was said. This act was to localize the question of slavery, and all agitation was to be at an end. It was to give peace to the country. The President, in his message at the commencement of this session, or in his special message—I do not know which—imagines the country to have been in great agitation on the subject of slavery, when the Kansas-Nebraska act came and put a stop to it until, some time afterwards, it was revived. Why, sir, exactly the contrary seems to me to be the true history of the transaction. We were becoming tranquilized under the compromises of 1850, in addition to the Missouri compromise; all was subsiding into submission and acquiescence, when to obtain a greater degree of peace, and secure us for the future against all agitation, this bill of 1854, repealing the Missouri compromise, was passed. What has it produced? Has it localized the question of slavery? Has it given us peace? All can answer that question. It has given us anything but a cessation of agitation. It has given us trouble, nothing but trouble. That has been the consequence of it so far.

I am as anxious now as any man here to close up this scene. I would vote for the admission of Kansas upon almost any terms that would give peace and quiet. If I thought this bill would do so, I should vote for it. I would suppress all scruples for the sake of that peace. If I was sure such would be its result, I would vote for it, thinking myself justified by the price that was to be paid—the peace of my country and the restoration of good-will among my fellow-citizens. I do not hope for it. I fear further trouble. We are again told that this will have the effect of localizing the question of slavery, and that we shall be no more troubled with it; that the mischief and clamor and agitation will all be confined to the limits of Kansas. This is the same hope that was disappointed when the Kansas-Nebraska bill was passed. The same hope was indulged in then, and since then there has been nothing here but agitation on the subject, increasing with every day.

Again, we have the idea of localizing it presented. Now, sir, if it is to be debated anywhere, it will be debated here; and, perhaps, if it is to be debated anywhere, it is best that it should be debated here; because we might hope, Mr. President, that in this body it would be debated with a spirit of moderation and conciliation that would deprive it of many mischievous consequences if it were agitated and debated among men without our years, without our responsibilities, and without the restraints which our condition and our knowledge impose upon us. Even here we do not debate it in the right way. We allow ourselves to become too much excited about it. To this great country what is Kansas and this Kansas question, and the two or three hundred slaves who are there, that you and I and all the American Senate should be here day and night, and using such language of vituperation and invective on this subject as we often do? Look at our great country, and the great subjects which claim our attention as her legislators; look at them all in their majesty and their magnitude, and then say how little, pitiful, in comparison, is this question about which we are making so much strife and contention.

On this subject, and on many others, it seems to me that it becomes us, of all the citizens of this great Republic, to set to our fellow-citizens examples of moderation and conciliation. What good does the mutual charge of aggression, often fiercely repeated? What good do these invectives? Especially let me say to my friends of the North, why indulge in invectives of the most reproachful character, upon those who, in fourteen or fifteen

States of this great country, are slaveholders? Does that give you any cause to traduce them? Can you not live content with the institutions which please you better, and leave these fellow-citizens, who have just the same right to adopt slavery that you have your institutions, to enjoy their liberty in peace also? Is there anything in the difference of our institutions which ought to make us inimical to one another? How was it with our fathers? Did not they live together in peace and harmony? Did not they fight together? Did not they legislate together? Did they ever abuse and reproach each other about the question of slavery? Never that I have read of. Why is it that we cannot do as they did? Have we degenerated from those fathers, or have we grown so much better and purer than they were? I doubt whether we are any better; and I do not believe, notwithstanding all that is said about progress, that we are at all more sensible than those fathers who made the Constitution of the United States, and laid the foundation of this great Government. They gave us an example of brotherhood; and, when we look at all that connects us, all that unites and makes us one people, how much more powerful would its influence seem to be to connect us together, than the question of slavery and anti-slavery to divide us? We are united by circumstances of which we cannot divest ourselves. We are united in language, in blood, in country, in all the memories of the past, in all the hopes of the future. This is our connection; leading and pointing to the brightest destiny that ever awaited any people. All the unnumbered blessings of the future are in full prospect; but there is this little, this comparatively small matter of contention, that we seem disposed to nurse up into continual occasion for philippics and for reproaches. This is not the right temper with which to regard the subject. Crimination and recrimination is not the way to strengthen our Union—that Union of brotherhood, of good will, of coöperation for all great national purposes, which our fathers formed.

I was gratified to hear comparisons made of the mighty resources of the different sections of this country. It was a proud exhibition. The honorable Senator from South Carolina [Mr. HAMMOND] gave us, in a very interesting and eloquent manner, the mighty resources of the South. They are beyond estimate—beyond calculation. This is replied to by a gentleman from the North, who gives us the mighty resources and the mighty power of the New England and the non-slaveholding States. Well, sir, if the conclusion which might be drawn from it was true, that each of those sections would, by itself, make a mighty country, and a country that any one of us might be proud of, what a magnificent country is made when we put it all together! What a magnificent abode for man, such as the Almighty never gave to any other people, and never placed on the surface of this earth!

It seems to me the most natural union in the world—the South, with her great and her rich productions, while the North abounds with ingenuity, labor, mechanical skill, navigation, and commerce. The very diversity of our resources is the natural cause of union between us. It would not do for us all to make cotton, nor would it do for us all to work in your manufactories. Nature seems to have organized here this country, adapted to a union of people North and South. Nature has given her sanction to the union. Nature has traced that union, and you alone disturb it. Gentlemen, you alone disturb it by making this subject of slavery the cause of dissension. The dissension has been kept up, though we but seldom come to any practical question that calls upon us to act on the subject. Now, if we were through with this petty Kansas affair, what a summer sea of boundless expanse lies before us, where there is nothing but repose! There is no other Territory that you can dispute about in my lifetime, or the lifetime of any man here. This is the last point on which a controversy can probably be made. We have gone through many difficulties on this subject. Now we have reached the last of it, the least of it. Let us settle this matter in peace; let us settle it in good temper; and I see nothing before us but a long period of repose, and, I hope, of mutual conciliation. Of one thing I am cer-

tain, that crimination and recrimination between the North and the South, the getting up and maintaining of sectional feeling, sectional passion, sectional prejudice, can do no good to any section; and there is not one Senator here who does not recognize and feel all this as much as I do. I am certain of it.

My vote on this subject, sir, has nothing sectional in it. The only difficulty I have in voting is, that this is regarded by some as a sectional question; and I am on one side of that section, and I am voting for the other side of it, if we divide on it as a sectional question. Now, I do not regard it as a sectional question. My allegiance is not to any particular section. I do not want to know any such thing as a section in my conduct here. I want to be governed by a constitutional spirit, and a constitutional and a just principle in all I do, no matter whether it relates to the North or to the South. I do not want to increase the sectionality which exists in the country by placing myself or my vote upon it, so far as regards this question. I want to wipe out that sectionalism. I wish that no one here would vote upon it as a sectional question. I do not. I vote upon it as a Senator of the United States of America. That is my country, and my great country. The Constitution of the United States intended to wipe out all these lines of division and sectionalism. It is we, we, that disturb our own Union. It is we that make sections; it is we that make sectional lines to divide and distract the country, whose Constitution—whose present interest—whose future hopes—all tend to unite us.

There are some doctrines which have been advanced here with which I disagree, and upon which I will briefly express my views. Some gentlemen have argued, and they have the authority of the President to sustain them, that the Kansas-Nebraska act gave all the authority that is usually conferred by what is called an enabling act on the people of a Territory. I never considered it so. I do not believe it is to be considered so. Some gentlemen, on the other hand, maintain that, under the Kansas-Nebraska act, the convention were bound to submit the constitution to the people for the popular suffrage; indeed, that it is the right of the people to have every convention submit every constitution to them. I do not agree to that doctrine. The people are too sovereign to be required to do that. They can confer upon a convention the power to make a constitution that shall be good without reference to any other power. The sovereignty over the Territory is in this Government. It belongs to the people of the United States, one and all. The people of the States own it; and they are the real sovereigns of the Territory, and we, as their representatives. They have no more power in the Territory than we give. They have no government but what we give. It is not in the nature of things that they should have. All squatter sovereignties, and sovereignties of all sorts, vanish before the sovereignty of the people of the United States.

But the President says, in reference to this Kansas constitution, that although it contains a provision that after 1864 a convention may be called to change it, the people can, nevertheless, change it before that time. That is to say, the people, by their "irresistible" power, can at any time, notwithstanding the provisions of their constitution to the contrary, change it as they please. Sir, the President of the United States is very high authority, but it is, in my humble judgment, a very dangerous doctrine and a very untrue one. The people cannot bind themselves by a constitution! I thought that was one of the great virtues and purposes of a constitution. We admit them to be sovereign. Why cannot they make what sort of a constitution they please? The constitution which sovereignty makes, in all its parts and in all its purposes, must be the rule of conduct for all. It cannot be abolished, except in the manner prescribed and pointed out in the constitution itself, if any manner is prescribed.

If the President's doctrine on this subject be true, what becomes of the Constitution of the United States? Instead of following the mode of amendment prescribed in the Constitution, the people, by their "irresistible" power, may, in any other manner, at any time, change the whole frame of our Government. There is not a State

constitution in the Union that does not impose some restraint as to the manner of change. What would a constitution be if it were just as liable to change as any ordinary act of the Legislature? It would lose its character. Those who talk to the people about the unlimited and illimitable power they possess are teaching a dangerous doctrine. That is a sort of sovereignty which the people cannot exercise. It may be made very flattering to their ears, but it is impracticable in the nature of things. It cannot be exercised at all. The people must exercise their sovereignty through agencies. They must exercise it through representatives and governments; they only exercise it safely through constitutions. If they could not make constitutions bind themselves their sovereignty never would be safe. If it were not invested in a constitution, it would be constantly escaping into the hands of some of those gentlemen who could talk most eloquently to the people about their irresistible sovereignty. That would be the end of that sort of sovereignty in the people.

The people must understand that their sovereignty, their practical sovereignty, is to be exercised through representatives and delegates, over whom they are to hold the proper control; and to hold that control, and to fix and make permanent and operative their sovereignty, they must put it in the form of a constitution. That is the only security for popular sovereignty. Therein it exists, and therein alone can it exist practically. It is not true that the people cannot bind themselves, and are not bound, by the restrictions of their constitution. They may rebel against their own constitution; they may violate their own law and constitution, just as they could violate the law or constitution of any other people; but it does not follow that, because they could do that, they have not created a political obligation on themselves by a constitution only to amend that instrument in the guarded, temperate, gradual method which the constitution may have provided for and prescribed.

Sir, I am sorry to have occupied the time of the Senate so long. I can say, with the President of the United States, that on this important occasion I have endeavored to do my duty, with a full sense of my responsibility to my God and to my country. Under the conviction that the best results to be obtained under the present circumstances, unless some material amendment can be made to the bill, will be attained by rejecting this constitution, I shall give my vote against it; but so anxious am I to conclude this subject, that I intend, before it is finally acted upon by the Senate, to propose an amendment. This would be the proper time to offer it; I am not prepared now to offer it; but the effect of it will be to admit Kansas in the Union upon condition that this constitution of hers be submitted to a fair vote of the qualified electors of Kansas, to be ratified by them; and if so ratified, the President, on information of the fact, shall proclaim it a State of the Union without further proceedings; and, if it be not ratified, to have a new constitutional convention convened. My amendment will be an enabling act in effect, but admitting Kansas for the present.

MR. CRITTENDEN'S REJOINDER TO MR. TOOMBS.

MR. CRITTENDEN. I purpose to occupy a few moments to correct a mistake which I believe is rendered necessary by the remarks of my friend from Georgia. I have listened to him with great pleasure, and have cause to thank him for much that he has said.

I knew, sir, that Mr. Clay was not the author of the Missouri compromise; I knew that he did not draw the bill; but I knew from his own declarations in conversation, and in his speeches, that he did approve and concur in its passage. He gave it his sanction. He thought there was nothing unconstitutional in it. I have been brought up in the opinion that it was not only constitutional, but one of the most beneficial acts that had ever been passed by Congress. It produced you, sir, a revenue of peace and good-will among the people of the United States, and that is above all price. Whatever sanction it may have failed to derive from the names of the great men who passed it, it has received abundantly from the people of the United States, who, for the thirty-odd years that it remained on our statute-book,

gave it their approval and support. During all that period it gave peace to the country. It was for that I valued it.

I hailed that compromise when it was first made. I have cherished it ever since. It had become fixed in my mind, as part and parcel of our political system. I regarded Mr. Clay, as did the whole country, as entitled to the credit of that great measure. And it was for this that his countrymen conferred upon him the proudest and noblest of his titles—the pacificator of his country.

Sir, I have not been able to cast away these impressions. I admit the Supreme Court to be the great arbiter, as the gentleman asserts, and while I differ from it, I do not the less admit its constitutional and supreme power in all the matters that come within its jurisdiction, and I am not wanting in confidence and respect for it. But yet we cannot always yield up our long-settled convictions, even to the authority of that high tribunal. I find myself now in that condition, and I must be permitted to retain the opinion long established in my mind, that the Missouri compromise was a constitutional act.

My friend [Mr. Toombs] has said that some gentlemen seemed disposed to give no confidence whatever to the action of any of the Territorial Legislatures of Kansas until they fell into the hands of the Black Republicans. Certainly he cannot intend such an imputation for me. [Mr. Toombs signified by a shake of the head that he did not.] I regard it merely as the Legislature of the Territory—the actual Legislature. How its members may be divided in politics I do not know nor do I care; nor was it at all material for my purpose. It is enough for me that it is the Legislature of the Territory, and that it appointed a vote to be taken upon this constitution on the 4th of January. The vote was taken, and the result was as reported to us. I have heard nothing to impeach that vote, nor any single fact alleged against it. The result of it was a majority of ten thousand against the constitution. Certainly those ten thousand have at least as good a right to be claimed against it as the six thousand returned as having voted on the 21st of December, have to be counted in favor of it. That was my object. It was to show that there was a majority against this instrument, and assuming all this action to be equally legitimate, the members of the convention had no more right to order a vote to be taken by the people on any part of the constitution than the Territorial Legislature had to order an election to be taken on the whole constitution. Both proceeded from organized recognized bodies; one the Legislature, the other the convention. When, therefore, the common appeal is made to us, and the constitution is brought before us, it seems to me that we ought equally to take into consideration both these facts. Furthermore, I adverted to the evidence going to show that from the six thousand in favor of the constitution there were many spurious and fraudulent votes to be deducted.

Mr. President, I acknowledge that forms are not only useful, but, in many cases, necessary. I agree that if at an election two thirds of the people stay away from mere apathy or negligence, the votes of those who do act, and do vote, must be effectual, and must control. I agree, also, that the return is a necessary form, and that the revision of that return is subject only to the particular authority appointed for it, and when that is done, there is an end of the case—because there is no further tribunal to which an appeal can be taken; but I suppose and argued that when this constitution was presented before us, the supreme power, called upon now to recognize the validity of these acts; called upon to recognize what was the will of the people, in respect to them—we have a right to look to all the evidence, as well to that which is furnished in form as to that which impeaches it for fraud.

I have spoken on these conclusions, and I shall act on them in voting against the acceptance of this Lecompton constitution. My friend, [Mr. Toombs,] I have no doubt in perfect sincerity, regrets that my conclusions have forced me to this course; but I have followed my convictions, and I mean to do my duty as I understand it. I confess it is painful to me to differ with such a friend on any occasion so important as the present.

Mr. President, I am not wanting, I think, in those feelings of our nature which connect us with our neighbors. Although we have a common country to look to, and ought to have a common patriotism which would embrace the whole, our natural affections and our natural feelings bind us more closely to those with whom we are more immediately associated, to whom we are more nearly assimilated in manners, customs, and institutions—ay, peculiar institutions. I am not wanting in those sympathies; but what is my duty as one belonging to a particular section, by his nativity and by his residence—what is my duty when a great question of this sort comes up? What is my duty to those neighbors, to whom by natural sympathies and affections I am most bound? Is it not my duty in this house of our common councils to give the best counsel and advice I can, or I am to inquire whether this is to be regarded as a sectional question, and follow whatever course is indicated by a majority of its sectional members? Is it not rather my duty to my friends to give them the best counsel I can? I want to see the South always right. How am I to accomplish that? By advising always what my best judgment thinks is right, and endeavoring to prevail upon her to take that course. Is not that my duty? Is not that my duty to my common country; and more especially is it not my duty to those with whom circumstances more nearly connect me? I have done that. I should have been gratified if the South had taken the same view of this subject that I have. I am sure she would have lost nothing by it. The question of slavery is not in the case. I think there is not one gentleman here who entertains the hope that Kansas can ever be really a slave State. If it be made so, it will continue only for a moment—a little feverish moment, filled up with strife and angry controversy. No gentleman here believes it will really and permanently be a slave State. There is nothing, then, to be gained by the South, as I regard the subject. The element of slavery is only thrown in for the purpose of arousing feeling on the one side or the other. It is no real element in the question before us, because no man has any hope that Kansas will be a slave State. We learn that from every source. The hope of it was disclaimed before the Kansas-Nebraska bill was passed; that view is now turned into conviction by all that has occurred since; and there is nobody who deceives himself so much, or would deceive the South so much, as to tell her that Kansas will be made a slave State by the adoption of this constitution, except it may be for that miserable and feverish period to which I have alluded, and which would be filled up in a struggle that could serve only to exasperate parties, and make the contest there more fierce than it has been.

If the South could have taken the view of the case which I have taken, it seems to me it would have been better for her. Then she would say, "the South scorns to take advantage of the little circumstances that might enable her to press her claims upon a reluctant and unwilling people—press the claim to impose slavery against their will; we snatch at no such accidental advantages; we see that the question is determined partly by climate, and more certainly and decisively by the majority of the people; the determination has been against slavery; we stand up in our justice and in our honor always untarnished, and constituting our great strength as Commonwealths and States; and we say we will make no strife about it." If this element of slavery could be discharged out of the case, put out of our minds, put out of our debates, and we could look at this question as it is presented to us, I think there is no one here who would be willing to give his sanction to an instrument which is so stained with fraud, and so manifestly in violation of the rights of the people of Kansas.

Why need we of the South be impatient and anxious to hasten the admission of Kansas into the Union? Whatever constitution you put upon them now will not last; but you will have two Senators immediately from there. Should the South be in a hurry to have two more such Senators here as you would now get from there? But these are small matters. If the South could view this subject as I do; if they could have looked at this

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constitution and the circumstances from which it had its origin, and those which attend it, as I do; they would have acted the very part which I have indicated; they would take no ignoble advantage; they would occupy no ignoble position of standing upon little points and nice stoppels. No, sir, the South would say—it is in her character, in her spirit to say so—we go upon great principle, and we go for the truth. Occupying that position, she would have stood proudly erect, with justice and honor seated upon her brow. That is her natural and accustomed attitude, and in that attitude I love to contemplate her.

Sir, gentlemen of the South from whom it is my misfortune to differ on this occasion, will do me great injustice to suppose that it was my purpose, in anything I have said, to question or impugn the purity of their motives. They but follow their honest convictions, as I follow mine. I have endeavored to perform my duty as a Senator belonging to the same section; my opinion and advice have been given frankly and independently; but I hope without any presumption. I devoutly hope that whatever measure be adopted, though contrary to my opinion, may turn out to be that which is most beneficial to our country. I choose to be in the wrong, rather than that my country should suffer from my error.

I am neither of the Democratic nor of the Republican party. I wear no party shackles. I am here as the Senator of "Old Kentucky"—brave and noble old Commonwealth. My ambition is to act in her spirit and by her inspiration. I did not come here to act in the character of a partisan. Long service and experience in public affairs have divested me of much of the misconception, the prejudice and passion that belong to the partisan; and upon lately taking my seat here, probably in the last term of my public service, it was my intention and my hope to act rather the part of a patriot than that of a party man.

I am a true son of the South; may prosperity fill all her borders, and sunshine forever rest upon her head! But for all this, I do not love the Union the less. I am a true citizen of the United States; I claim the whole of it as my great country; and for the preservation of that Union which makes it so, I will always be ready to say and to do whatever in me lies. It is in this spirit, sir, that I have endeavored humbly to do my duty—my duty to the South, and my duty to the whole country.

PUBLIC EXPENDITURES.

SPEECH OF HON. J. LETCHER,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

June 12, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. LETCHER said:

Mr. CHAIRMAN: In the discussion which took place some days since between the gentleman from Ohio [Mr. SHERMAN] and myself, I then stated to the committee that I would seek some suitable occasion between that time and the close of this session of Congress to present my views fully on the interesting subject of Government expenditures. His speech exhibited all the evidences of careful preparation, and is interspersed with tables of figures that must have cost him immense labor in their construction. Without a moment's preparation, and without even the advantage of hearing the entire speech, I was called upon by several of my political friends to reply. Under these circumstances, I entered into the debate, and amid constant interruptions from the gentleman himself, and several others, replied briefly to some of the leading positions which he had assumed. The speech, which was doubtless intended for general circulation, as a campaign document, preparatory to the elections that will take place this fall, demands, from its ability and ingenuity, a more elaborate reply than it was in my power then to make.

This speech, and others made in the latter part of this session, gives reason to believe that the questions which divided parties in other days are again to be revived. Since the adjustment of the

Kansas controversy, and its removal from the congressional Halls, gentlemen in this and the other end of the Capitol have directed their attention to subjects of more practical importance and of more immediate interest to the people. In the past two months our discussions have been mainly confined to questions within the range of legitimate congressional action. Questions of a financial character and bearing; the tariff and its revision; the disposition of the public lands and their proceeds; the comprehensive subject of internal improvements; the best mode of raising revenue to defray the expenses of the Government, and the purposes and objects to which it should be applied; and last, but by no means least in importance, our relations with foreign Governments—these now furnish the topics for speeches and claim from us that consideration which has been too long withheld from them, and too often directed to exciting sectional questions, mischievous in their tendency and ruinous to the peace, prosperity, and fraternity of the people who constitute the States and organized Territories of this great nation. These things indicate a return to the policy of the earlier and better days of the Republic—those days in which Representatives of the people legislated practically within the limits of the Constitution; exhibiting that manly patriotism which embraced the whole Union and its interests, and repudiated all attempts to interfere with the rights and institutions of the States. They recognized and acted upon the doctrine—the Union of the States is secure so long as the rights of the States are respected. I trust most sincerely that these indications are not deceptive, and that they presage a calm and happy future, when sectional controversy and strife shall be banished from the national councils.

The bill now under consideration proposes a loan of \$15,000,000, which is absolutely necessary to enable the Government to meet its obligations. The gentleman from Ohio admits the necessity of the measure; admits that the Government must have the amount provided for in this bill, or the obligations incurred cannot be met as they mature. Yet, strange to say, he avows his opposition to the only feasible measure that has been or that can be presented to furnish the means required to sustain the credit of the Government! After voting with a vast majority of his party friends to create this necessity—after a formal complaint that we would not increase the expenditures by voting \$1,500,000 to the improvement of rivers and harbors in the Northwest—he now comes forward to resist the passage of a bill to furnish the means required to meet the appropriations made by the two Houses of Congress. The policy of that side of the House seems to be to vote expenditures, and then refuse the means to meet them—to impose burdens on the Government, and then repudiate all the measures proposed for its relief. I anticipated such a result, and hence it was that I have on several occasions during the session proposed to ingraft upon the bills a section providing for a loan sufficient to cover the expenditures provided for in each. It is my deliberate opinion now that such a section should have been ingrafted upon all the appropriation bills, and then those who voted the expenditure would have been compelled to take the responsibility of providing the means to pay the sums appropriated. The House, however, did not concur in this opinion, and hence it is that many of the most liberal voters for expenditures of money will now refuse to give their support to this bill. If it shall fail, these appropriations must remain unsatisfied, until it shall please Congress to provide the necessary means. Neither the President nor the Secretary of the Treasury has authority or power to furnish the money for that purpose beyond the provision made by the Treasury note bill, and the accruing revenue from customs and lands.

The gentleman charges that on the 1st day of July last there was a surplus of \$17,710,114 in the Treasury, and that Congress has already granted \$20,000,000 of Treasury notes, making an aggregate sum of means of \$37,710,114 in a single year, which, together with the current revenue, has all been expended by this profligate Administration. These facts, in his opinion, make out a clear and undeniable case of extravagance against the party in power. Accompany me in the inves-

tigation of these facts, and we will ascertain the precise weight to be given to the charge.

The Secretary of the Treasury informs us in his annual report that the public debt amounted on the 1st of July last to the sum \$29,060,386 90, and since that time the sum of \$3,895,232 39 of the debt has been redeemed. This sum, then, is to be deducted from the surplus in the Treasury at the date fixed by the gentleman from Ohio. Making this deduction, we have the sum of \$13,814,881 61, instead of the sum with which we are charged in the account as stated by him; or, in other words, an error within a fraction of \$4,000,000. Now add the \$20,000,000 of Treasury notes authorized by the act of this session, and we have the gross sum of \$33,814,881 61, instead of \$37,710,114. Deduct the amount contained in the deficiency bills, stated by the gentleman to be \$11,201,708, and we shall then have a balance of \$22,613,173 61.

Now, Mr. Chairman, I ask whether the present Administration can, with even a show of reason or justice, be held responsible, by its bitter enemy, for the expenditure this year of a dollar beyond the amount of the deficiency bills, which we have passed? The remaining \$22,613,173 61 is the unavoidable result of paying for the legislation of the last Congress, of which the gentleman from Ohio was a leading member. The Speaker of the House in that Congress belonged to the Opposition. An Opposition majority controlled and directed the legislation. A Committee of Ways and Means, Opposition by two to one, reported the appropriation bills, and that Opposition are responsible to the country for the expenditures of the present fiscal year, expiring on the 30th day of this month.

The gentleman then proceeds to give us the items that are embraced in the deficiency bills passed at the present session, and charges that the extravagance of the Administration has rendered the passage of those deficiency bills necessary. He presents the following table of items, to which I invite the attention of the committee:

Sound dues by treaty with Denmark	\$333,011
Printing deficiency already passed	341,188
Balance of printing deficiency for this year (estimated)	600,000
Miscellaneous	373,318
Army deficiency	7,925,000
Post Office deficiency	1,469,173
	\$11,041,690

The first item charged against the present Administration, in the gentleman's table, is \$333,011, for the Sound dues, by treaty with Denmark. This treaty was negotiated by the last Administration, and, as no appropriation was made to meet its stipulations, the duty was devolved upon the present Congress of furnishing the money required to fulfill its provisions. Can it be pretended that this item furnishes evidence to prove the extravagance of the present Administration? Was it not our duty to execute that treaty fully, fairly, and justly, to the letter? There cannot be two opinions on that point. The next item is the printing deficiency of \$341,188. The legislation of the last Congress imposed upon the country the debt for printing, and the duty of paying this debt has been devolved upon us. Will the gentleman pretend that the Administration is in any sense, or to any extent, responsible for this expenditure? They had no agency in contracting the debt; but it came down to them as a burden imposed upon them by the Republican House, over which N. P. Banks presided as Speaker. The next item is an "estimated" printing deficiency for this year of \$600,000, which, if it is to be provided for, is needed to pay the debts entailed upon us mainly by the last House. Why was the printing ordered by the Opposition? Did they not know when it was ordered that it would have to be paid for, and as it was ordered by the Opposition—the gentleman's friends in the House—with what propriety can they now arraign us for providing the means to pay for it, if we shall be compelled to do so? Neither the Administration or its friends in this House can be held responsible for it. But will such a sum have to be paid? I apprehend not, as our action shows that we have only appropriated in the sundry civil bill the sum of \$316,000 for this purpose. Here, then, is an-

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other error of the neat little sum of \$284,000—no great amount, to be sure, yet still worthy of a passing notice. Then we have an item, styled miscellaneous, of \$373,318, which is intended to pay off obligations imposed upon us by the legislation of the last Congress. It is under this head that we find the appropriations for custom-houses, marine hospitals, and other public buildings, which cover the "jobs and contracts" to which he refers. I cannot suppose that the gentleman designs to impute dishonesty to the officers of the Government in connection with the contracts for these buildings ordered by Congress. The contracts which have been made, were made by the Fillmore and Pierce administrations, and not by the present Administration. But for the Opposition these buildings would not have been ordered by Congress, and I would really like to know what the gentleman from Galena [Mr. WASHBURN] and from Detroit [Mr. HOWARD] and from Louisville [Mr. MARSHALL] and from Cleveland [Mr. WADE] think of this assault, coming from so distinguished an Opposition leader. Let the gentleman and his friends shoulder the responsibility which legitimately attaches to them for the necessity which demanded this appropriation. The Administration is in no just sense chargeable with it, and the country will so decide. Then we have the Army deficiency of \$7,925,000, paraded as another evidence of extravagance and profligacy. Was this expenditure necessary? I maintain that it was; that the public sentiment of the people, without distinction of party, demanded that the laws should be enforced in Utah. The President has executed this order of the people, and has brought the Mormons into subjection to the lawful authority of the Government. A prudent forecast, a wise statesmanship, have controlled and directed the entire policy of the President towards these misguided people; and peace, quiet, order, and obedience to the laws have been secured without firing a gun or shedding a drop of human blood. Everywhere this result is hailed with satisfaction, and the sound, conservative men of the nation applauded the prudence, wisdom, firmness, and practical judgment which have been exhibited by the Administration in the happy adjustment of this difficult and dangerous question. Let the gentleman from Ohio and his party friends make the issue that the President has done wrong; that the measures which he has adopted have been unwise and injudicious; let them, if they see fit, charge that he has wasted the public money, and they will find us ready to meet them and try the issue before the people. The respect and affection of the people for law and order, their settled and determined hostility to everything that wears the appearance of open resistance to the authority of a Government to which we owe obedience, leaves no room for doubt as to their verdict whenever such issues shall be presented to them for their decision. We challenge the Opposition to these issues. Will they, dare they, meet us upon them? If they think we have spent more money than is necessary, we call upon them to specify the items of expenditure that are, in their judgment, extravagant. Withhold in future your wholesale charges, and give us the details. In the name of the tax-paying millions, I demand this of you. This sum, however, has been appropriated to support the army in Utah, for the next year, and is therefore an advance—not a deficiency. The last item enumerated is, the deficiency for the Post Office Department, amounting to \$1,469,173. Was not this expenditure required to carry out the legislation of the last Congress? New post routes were established, and mails could not be placed upon them without entailing expense upon the Treasury. To meet this expense we were compelled to provide the means in the deficiency bill, passed at the opening of the session. I imagine the gentleman, and nine tenths of his friends in both Houses, voted for the post-route bill; the execution of which made this expenditure unavoidable.

On this branch of the subject I prove that the gentleman from Ohio has committed several very extraordinary errors—unintentional I doubt not, but yet such errors as clearly demonstrate that implicit reliance should not be placed upon his calculations. The first error consists in charging the Administration with the surplus in the Treas-

ury on the 1st of July last, and withholding from it credit for the amount of the public debt, which it has paid out of it since that date. The second error consists in fixing the Sound dues, by treaty with Denmark, at \$333,011, when the true sum is \$408,731 44. The third error consists in estimating the balance of the printing deficiency for the year ending the 30th of this month at \$600,000, while the civil appropriation bill shows that it is only \$316,000. The fourth error consists in fixing the amount of the deficiency bills passed at this session at \$11,041,690, when it should have been \$9,704,209 89 for the first, and \$341,189 58 for the printing bill, and \$408,731 44 for the treaty with Denmark, making, in the aggregate, \$10,454,130 91. Rather serious errors in a speech which was designed to be used as a text-book by the Opposition in their war upon the Administration!

I now come to his estimate of the expenditures for the fiscal year ending June 30, 1859. He makes a most startling exhibit, and works out an aggregate of expenditures for the next year of \$92,143,202. And how is this monstrous result ascertained? In the first place, he informs us that the Secretary of the Treasury estimates the expenditures for the year named at \$74,064,755, and then he adds the following items, amounting to \$18,089,547:

Three new regiments	\$4,289,547
Probable Post Office deficiencies over amount appropriated	2,500,000
Public buildings	1,700,000
Private bills, (estimated)	1,000,000
Printing deficiency	600,000
Army deficiency, (estimated to be the same as last year)	8,000,000

Not one cent has been appropriated for the three new regiments—the President having ascertained that they would not be needed for the service in Utah. In the regular Post Office appropriation bill we have appropriated for the Post Office Department, for the year 1859, the sum of \$3,500,000, which exceeds the regular appropriation for the present year, by the sum of \$1,000,000. The Post Office Department drew from the Treasury, for the year ending June 30, 1858, \$3,969,173. Suppose the Department should require the same amount for the year 1859, as we have provided in the regular appropriation bill for \$3,500,000, we would only be called upon for the additional sum of \$469,173. This, then, is an error of upwards of \$2,000,000 in his estimate in regard to this single item. The regular appropriation bill contains all the sums necessary for public buildings, amounting to \$3,104,600; and this, therefore, is likewise an erroneous estimate. We have been charged once by the gentleman with the printing deficiency of \$600,000 in the expenditures of 1858; but, for some reason that he has not chosen to assign, he again charges us with it in the expenditures of the year 1859. And, finally, he estimates that the Army deficiency for the year 1859 will amount to the round sum of \$8,000,000. All these are conjectures, and, so far as their accuracy can be tested by existing facts, they are shown to be of the most unreliable character. That the gentleman himself is not satisfied with them is clearly manifest from his declaration that they "may be over-estimated." I submit it to him to say, whether, from the facts now before him, he is not entirely satisfied that they are greatly "over-estimated."

The gentleman then proceeds thus:

"Now, this sum of \$92,000,000 does not include any of the following items of expenditure, and I wish gentlemen to add those, upon their own estimate, to this aggregate: For protecting works commenced on our numerous rivers and harbors, the lowest estimate of which is \$1,500,000; and then there is your Calendar of one thousand private bills demanding your attention. There is the pension bill for the old soldiers of the war of 1812, proposed by the gentleman from Tennessee, [Mr. SAVAGE], requiring \$8,000,000 per annum. There are the ten new war steamers, proposed by my friend from Virginia, [Mr. BOOCOCK], \$2,500,000. The French spoliation bill, urged so forcibly by the gentleman from Massachusetts, [Mr. DAVIS], which, if passed, will require \$5,000,000. The duties to be refunded on goods destroyed by fire—I do not know how much. Commutation to the heirs of revolutionary soldiers—I do not know how much. Claims growing out of Indian wars in Oregon and Washington, urged by the Delegate from Oregon, and certified by an executive officer, \$5,000,000. Then we have the Pacific railroad, a foretaste of the cost of which we have had in \$1,000,000 expended already in the publication of the report of the surveys."

But two of the measures enumerated in this

formidable list by the gentleman from Ohio have received the sanction of Congress—the addition of seven steamers for the Navy, and for that purpose an appropriation of \$1,200,000 has been embraced in the regular naval bill; and the amount necessary to pay the private claims allowed by Congress. What sum will be required for this latter purpose cannot now be determined, but I imagine it will exceed his estimate of \$1,000,000. The bill to refund duties on goods destroyed by fire was defeated in the House before the gentleman's speech was delivered. Bear in mind the fact, that none of these measures have been recommended by the Departments or the President.

Having thus noticed the gentleman's estimate, I now desire to inquire whether he is not in favor of all the measures he has referred to, and whether he is not ready to give each and all his cordial and hearty approval? Are not his political associates, or, at any rate, an overwhelming majority of them, in favor of all these measures, and are they not ready to cast their votes in aid of their passage? Whatever may be the gentleman's individual position, I apprehend there can be little, if any, doubt as to the position of the larger portion of his political friends.

I now come to the estimates of the Secretary of the Treasury, and to the recommendations of the Committee of Ways and Means, made to Congress at the present session:

The Secretary estimates that of the appropriations for 1859, there will be expended during 1859	\$16,586,588 35
Permanent and indefinite appropriations	\$7,165,224 49
Add for collection of revenue from customs	1,150,000 00
	8,315,224 49
Recommendations for the year 1859, as reported by the Committee of Ways and Means	52,295,048 22
All other appropriations (estimated) at the present session	3,000,000 00
	55,295,048 22
Of this sum there will be expended during the year 1860	15,000,000 00
	40,295,048 22
	\$65,196,861 06

When the gentleman from Ohio made his estimate of \$92,000,000 as the expenditures for the year 1859, he was sadly mistaken in his calculations. Against his conjectural estimates I now oppose conjectural estimates of the Secretary of the Treasury; and it is palpable that the gentleman has been mistaken to the extent of only about \$27,000,000. Is it to be wondered at that, with such errors as I have pointed out, the shrewd editor of the New York Tribune, in his issue of the 3d of this month, in noticing the gentleman's speech, should have said: "We should have liked it much better if it had worn *no party aspect*, and had been undeniably *non-partisan* in its scope and bearings?"

I propose to examine into the estimates of the Secretary of the Treasury a little further, to show that he has exhibited sound judgment and practical knowledge of the duties of his office:

The annual estimates of appropriations submitted are	\$30,312,943 13
Other estimates referred to the Committee of Ways and Means at various times during the session	3,909,917 91
	\$34,222,861 04

So much for the estimates of the Secretary. Now, I present the regular appropriations for the service of the year 1859, amounting to the sum of \$53,453,233 22:

Pension	\$769,590 00
Indian, regular	1,338,164 49
" supplemental	959,957 86
" deficiency	339,593 00
Consular and diplomatic	912,120 00
Military Academy	182,804 00
Naval	14,508,354 23
Sundry civil	5,537,148 07
Legislative, executive, and judicial	6,134,093 61
Army	17,145,806 46
Mail steamer	960,700 00
Post Office	3,500,000 00
Collecting revenues from imports permanent, additional	1,150,000 00
	\$53,453,233 22

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To which add:	
Treasury notes.....1858	\$20,000 00
Manufacture of arms. "	360,000 00
Expenses investigating	
committees.....	35,000 00
Treaty with Denmark. "	408,731 09
Deficiency in printing,	
&c.....	341,189 58
Deficiency for the year	9,704,209 89
Deaf, dumb, and blind,	
District of Columbia, "	3,000 00
Expenses investigating	
committees.....	12,000 00
Clerks in Oregon to re-	
gister and receiver. "	7,000 00
Running Texas bound-	
ary line.....1859	80,000 00
Incident to the loan of	
\$20,000,000.....	5,000 00
	10,976,130 91
	\$64,434,364 13
Esimate:	
Other appropriations, bills not printed and	
indefinite, including all private bills.....	3,565,635 87
	\$68,000,000 00

Thus we find that the expenditures for the year ending June 30, 1859, amount to the sum of \$68,000,000, instead of \$52,000,000, as estimated by the gentleman from Ohio. If the wishes of the President and Cabinet, and a large majority of the Democratic members of Congress, could have prevailed, the expenditures would have fallen below this sum. The result, however, demonstrates most conclusively that the conjectural estimates of the gentleman from Ohio were not within millions of the true amount, and should cause the people to distrust all theoretical and imaginative calculations on subjects of so much importance to their welfare.

And, in this connection, permit me to express my cordial approval of the sentiments embodied by the President in his annual message, in which he declares that—

"An overflowing Treasury has led to habits of prodigality and extravagance in our legislation. It has induced Congress to make large appropriations to objects for which they never would have provided had it been necessary to raise the amount of revenue required to meet them by increased taxation or by loans. We are now compelled to pause in our career, and to scrutinize our expenditure with the utmost vigilance; and in performing this duty, I pledge my cooperation to the extent of my constitutional competency.

"It ought to be observed at the same time that true public economy does not consist in withholding the means necessary to accomplish important national objects intrusted to us by the Constitution, and especially such as may be necessary for the common defense. In the present crisis of the country it is our duty to confine our appropriations to objects of this character, unless in cases where justice to individuals may demand a different course. In all cases care ought to be taken that the money granted by Congress shall be faithfully and economically applied.

"Under the Federal Constitution, every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be approved and signed by the President; and, if not approved, he shall return it with his objections to that House in which it originated. In order to perform this high and responsible duty, sufficient time must be allowed the President to read and examine every bill presented to him for approval. Unless this be afforded, the Constitution becomes a dead letter in this particular; and even worse, it becomes a means of deception. Our constituents, seeing the President's approval and signature attached to each act of Congress, are induced to believe that he has actually performed this duty, when, in truth, nothing is, in many cases, more unfounded.

"From the practice of Congress, such an examination of each bill as the Constitution requires has been rendered impossible. The most important business of each session is generally crowded into its last hours, and the alternative presented to the President is either to violate the constitutional duty which he owes to the people, and approve bills which, for want of time, it is impossible he should have examined, or, by his refusal to do this, subject the country and individuals to great loss and inconvenience.

"Besides, a practice has grown up of late years to legislate in appropriation bills at the last hour of the session on new and important subjects. This practice constrains the President either to suffer measures to become laws which he does not approve, or to incur the risk of stopping the wheels of the Government by vetoing an appropriation bill. Formerly, such bills were confined to specific appropriations for carrying into effect existing laws and the well-established policy of the country, and little time was then required by the President for their examination."

Conservative men of all parties have expressed their approbation of these sentiments, and it should be cause of gratulation with all that the President has adhered to them with so much firmness and courage. His course at this session has saved millions of dollars that would have been uselessly expended. It has given to the country cleaner appropriation bills than we have heretofore had during my service in Congress. He has

in this respect inaugurated a policy that will insure results important to sound legislation, and of lasting benefit to the people. It is a practical measure, well calculated to bring about a much-needed economy in public expenditures. For it he deserves the thanks of the people, and they will be gratefully accorded.

So true a friend to economy has the President shown himself, and so anxious is he to secure it in his administration of the Government, that he has again, this day, in a special message, endeavored to impress upon Congress his views on this interesting subject. Who can fail to indorse these sentiments in his special message? Who can hesitate to accord to them his entire approval?

"Adversity teaches useful lessons to nations as well as individuals. The habit of extravagant expenditures, fostered by a large surplus in the Treasury, must now be corrected, or the country will be involved in serious financial difficulties.

"Under any form of government extravagance in expenditure must be the natural consequence when those who authorize the expenditure feel no responsibility in providing the means of payment. Such had been for a number of years our condition previously to the late monetary revulsion in the country. Fortunately, at least for the cause of public economy, the case is now reversed; and to the extent of the appropriations, whatever these may be, ingrafted on the different appropriation bills, as well as those made by private bills, over and above the estimates of the different Departments, it will be necessary for Congress to provide the means of payment before their adjournment. Without this, the Treasury will be exhausted before the 1st of January, and the public credit will be seriously impaired. This disgrace must not fall upon the country."

The gentleman, then, charges that the expenditures now are extravagant beyond all precedent, and that they are wholly inexcusable upon any fair ground. Before proceeding to reply to the views which he presents in this part of his argument, I desire to call attention to some historical facts that are important in this connection, and which are indispensable to a correct judgment upon the issues he has tendered.

And first, as to the number of States and organized Territories, and their area, in 1815; and the number of States and Territories, and their area, in 1858. At the former period we had eighteen States, covering an area of 504,412 square miles, and five organized Territories, (exclusive of the District of Columbia,) covering an area of 254,452 square miles. In 1858 we have thirty-two States, covering an area of 1,602,000 square miles, six organized Territories, (exclusive of the District of Columbia,) covering an area of 1,401,000 square miles. Besides this, we have the Mesilla valley, embracing 78,000 square miles, and Indian Territory, embracing 187,000 square miles. In 1815, therefore, the States and Territories covered 759,864 square miles, while in 1858 they cover 3,268,000 square miles, an area four times and one third larger now than in 1815.

In 1815 the strength of our Army was 10,000 men, while in 1858 its strength is 17,984 men.

In 1815 the Navy comprised 968 officers, of all grades, (including marines.) In 1858 the officers had increased to 1,336. In 1815 the number of men cannot be ascertained, but from the best evidence that can be obtained, the number was about 5,370. Now the number is 8,500. In 1816 we had 52 vessels, carrying 1,119 guns; 25 vessels with no armament; 4 bombs, and 11 gun-boats—making 92. In 1858 we have 10 ships-of-the-line, carrying 872 guns; 10 frigates carrying 500 guns; 21 sloops-of-war, carrying 426 guns; 3 brigs, carrying 16 guns; 1 schooner, carrying 3 guns; 8 screw steamers of the first class, carrying 268 guns; 6 of the second class, carrying 89 guns; 2 of the third class, carrying 11 guns; 3 side-wheel steamers of the first class, carrying 24 guns; 1 of the second class, carrying 6 guns; 2 of the third class, carrying 6 guns—making a total of 2,221 guns. Besides these there are two tenders for the screw-steamers, and one tender for the side-wheel steamers, and five permanent store and receiving ships.

Captain Wright, of the engineer department, to whom I applied for information on the subject of fortifications, says:

"I am not aware of any records in this office giving the number of fortifications in the United States in 1815, and believe it would be a work of much labor and time to ascertain with certainty what the number was. Many of the works bearing the name of forts were merely improvised field works or batteries; while others, like those on Staten Island, for the defense of the entrance to the harbor of New York, were State works."

As to the number of fortifications in 1858, Captain Wright says:

"There are at the present time, under the charge of the engineer department, fifty-six distinct permanent works of fortifications on the Atlantic, Gulf, and Pacific coasts, and on the northern lake frontier, which are either completed or in course of construction. In addition to these, appropriations were made at the last regular session of Congress for ten additional works, on which little or nothing has been done toward the commencement."

The number of light-houses and light vessels prior to 1815 was 49. In 1858 lights of all kinds, including beacon lights and light-vessels, existing and authorized to be built, number 602. About 33 have not been finished, but are in the course of construction.

In 1815 we had 99 collectors of the revenue, and 77 surveyors, and in 1821 we had 631 inferior officers in the revenue service. In 1858 the number of collectors is 116, and the number of surveyors 110—making 226. The number of inferior officers employed in the collection of the revenue is 3,088.

The number of land offices in 1815 was 19. The number in 1858 is 86.

The expenditure for the Indian service in 1815 amounted to \$111,750. The same service now requires an expenditure of \$4,158,430 39.

In 1815 the number of pensioners was estimated at 1,400, and the amount paid to them was \$98,000. At this time the number has increased to 13,186, and \$1,365,717 54 is now required for their payment.

These facts, thus presented, clearly show the condition and extent of our territory, the larger portion of which has been acquired since 1815, the period at which the gentleman sums up the annual expenditures on the third page of his speech. Since that time we have acquired the Floridas, Texas, New Mexico, and California, and the Gadsden purchase. Under these circumstances, no fair or just comparison in regard to the expenditures can be instituted between the years 1815 and 1858. It would be about as fair and wise to institute a comparison between the expenditures of a child and those of the full-grown man.

The gentleman is a recognized leader of his party, and to this position he is fairly entitled by his intelligence and character. He was a member of the last Congress, and I desire, as he is now preaching economy, to call his attention to some of the legislation of that Congress, in which he participated, and for which he and his party, so far as the House is concerned, are responsible, to a great extent at least.

The submarine telegraph bill appropriated \$70,000 per annum to that scheme until the interest on the investment should reach six per cent., and then \$50,000 for twenty-five years. The company had the use of two of our best vessels and their crews. But six Democrats voted for the bill.

On the proposition to pay \$186,765 85 for books for members of Congress, only eleven Democrats voted for it.

The appropriation of \$100,000 for the Capitol dome was voted for by both parties, and therefore each party is responsible to the extent of the support given to it.

The bill creating a Lieutenant General, and increasing the pay of the officers and men in the Army, was passed by the last Congress, and was most cordially supported by the Opposition party in this House.

During the Thirty-Fourth Congress, \$16,022 was appropriated to pay per diem and mileage to Archer, Fouke, Turney, Reeder, Milliken, and Bennett, for contesting the seats of members returned to that Congress; and in all those cases the contests were decided against them. The yeas and nays show that the Opposition are responsible for this expenditure.

During the same Congress river and harbor bills, footing up the sum of \$745,000, were passed by the Opposition and vetoed by President Pierce, greatly to the annoyance of the gentleman and his party. At the first session of the same Congress appropriations amounting to \$3,189,739 were passed for forty-one custom-houses, court-houses, post officers, and marine hospitals. Of this number, only eleven were recommended by the Administration. At the third session of the same Congress, appropriations for the same purpose were made to thirty-one buildings of a like kind,

amounting to \$2,084,000, only four of which had the recommendation of the Administration.

During the same Congress appropriations amounting to the sum of \$2,270,000 were made for the extension of the Capitol, the dome, and works of art. It was out of this appropriation for the Capitol extension, if I am rightly informed, that desks were purchased at ninety dollars each, and chairs at seventy dollars each, for the new hall of the House of Representatives.

The appropriations for the several items of the contingent fund for the House of Representatives for the Thirty-Third Congress amounted to \$903,100 56. The appropriations for the same objects for the Thirty-Fourth Congress ran up, under the action of the Opposition in this House, who had the majority, to the sum of \$1,087,770, showing an increase in this branch of expenditure of \$184,669 44.

At the last session of the Thirty-Fourth Congress the Senate returned to this House the sundry civil bill with one hundred and three amendments, covering appropriations to the amount of \$3,771,816 45. It came to this House on the last night of the session, when we had no opportunity even to read the amendments in the House. On the recommendation of the Committee of Ways and Means, the House rejected all the amendments, and the bill and amendments thus rejected went to a committee of conference, who reported the next morning that the Senate should recede from amendments covering \$713,256 01, and that the House should recede from its disagreement as to the residue. When the reading of the amendments was called for, Speaker Banks decided that they could not be read, and the House was brought to a vote on the adoption of the conference report—and thus, without any knowledge of what they were doing, the members voted away \$3,058,560 44 of the public money, by 87 yeas to 67 nays. Of the eighty-seven yeas, fifty-eight belonged to the Opposition.

If I had the time, I would refer to some of the votes on the Senate's amendments to the sundry civil bill at the present session. For the custom-house and marine hospital amendments; for the amendment directing the payment to the State of Maine of usurious interest on money borrowed to carry on the Aroostook war; for the amendment appropriating to Gales & Seaton, \$340,000 for the publication of the American State Papers; and other amendments that might be enumerated, a decided majority of the yeas came from the Opposition side of the House.

The gentleman complains that our foreign intercourse expenses have run up to an enormous figure. The gentleman evidently does not understand the subject. It will be recollected that awards paid under treaties and other payments of a like character are embraced in this expenditure. By way of illustration, I take the year ending June 30, 1849, when the appropriation for this object was \$6,908,996 72, made under a Democratic Administration, and the year ending June 30, 1853, made under an Opposition Administration, when the appropriation was \$950,871 30. In the former year \$6,565,354 79, was used to fulfill treaty stipulations with the Mexican Republic, the King of the Two Sicilies, and the Republic of Peru, leaving a balance of \$343,641 93. In the latter year only \$297,155 57 was required to pay awards, leaving a balance of \$653,715 73 for foreign intercourse proper—almost double the amount used for this purpose, in 1849. How will the gentleman explain this increase under Opposition rule?

Sweeping charges of extravagance, such as the gentleman has indulged in, do not strike my mind as the most satisfactory mode of discussing this question. If the charges are well founded, it is an exceedingly easy matter for gentlemen to designate the items in the annual appropriations that are not justified by a proper regard for economy. If you are for reform, present your measures, let them be examined, and, if they are wise and just, you can rely upon our support to aid in their passage. If you are in earnest, you will do this; but, until it shall be done, you cannot convince the people of your sincerity. Cease your denunciations, give us the details, bring forward your measures of retrenchment and reform, and thus furnish practical evidence of your disposition to remedy what you consider existing evils in the

Administration of the Government and in our system of legislation.

Another question which has attracted a large share of public attention is the proper disposition to be made of the public lands. It is undeniably true that the Opposition in the North and Northwest, as a party, are committed to the policy of railroad grants. In the Thirty-Fourth Congress, when the Opposition had undisputed control in this House, the House Committee on Public Lands reported seven bills, making grants of alternate sections of land, six sections in width on each side of the respective roads, to the States of Iowa, Florida, Alabama, Louisiana, Wisconsin, Michigan, and Mississippi, covering thirteen million six hundred and eighty-six thousand three hundred and four acres. A like grant was also made to the Territory of Minnesota, which passed the Senate by yeas 32, nays 10. Of the yeas, twenty-one were Democrats, nine Republicans, and two Fillmore-Americans. The ten who voted in the negative were all Democrats. When this bill came to the House, it was amended by a grant for Alabama, and as amended was passed by yeas 87, nays 60. Of the yeas sixty were Republicans, eighteen Democrats, and nine Fillmore-Americans; of the nays, twenty-two were Republicans, twenty-eight Democrats, and ten Fillmore-Americans. If I had time I would refer to the votes on such bills on other occasions to show that the Opposition cannot be relied upon to husband the public lands, and so to manage them that they may be a source of revenue to the Government. In my view, such dispositions of the public lands are wrong in principle, unjust to the old States, and of mischievous policy. Such grants build up monopolies, and monopolies are always prejudicial to individual interests and the equal rights of all.

In 1848, the Opposition raised the cry of extravagance against the Democratic party, and in the then existing condition of the public mind, succeeded in obtaining possession of the Government. Taylor and Fillmore were elected to the Presidency and Vice Presidency of the United States, and entered upon the discharge of their duties on the 4th of March, 1849. They came into power avowing their purpose to retrench expenditures and reform abuses which were alleged to exist under the Administration of their predecessors; and the people were induced to believe that these great results would be attained. During the administration of Mr. Polk, the duty of carrying on the war with Mexico devolved upon him, and, as a necessary consequence, the annual expenditures were much larger than, under other circumstances, they would have been. In the four years his expenditures amounting (exclusive of the public debt) to \$165,381,026 58—being an annual average expenditure of \$41,345,256 59. In the four years of Taylor and Fillmore the expenditures (exclusive of the public debt) amounted to \$165,683,650 48—being an annual average expenditure of \$41,420,912 62. The Whig administration, therefore, of Taylor and Fillmore, cost the people \$75,656 04 a year more, in a time of profound peace, than the Democratic administration of Polk, cost them in a time of war. If such was the result in that instance, may we not reasonably anticipate a like result if the Opposition shall succeed in the next presidential struggle? The same men who elected Taylor and Fillmore now constitute the body of the Opposition arrayed against the present eminently patriotic Administration.

It is known to this committee that during my entire service in this body I have labored zealously to reduce expenditures. So decided has been my public action on this subject that it has subjected me to the fierce denunciations of agents and all others interested in large expenditures of the public money. Indeed, many of my political associates in the House, whose views upon this subjected are more liberal than my own, not unfrequently complain of the course which a sense of duty to those I represent constrains me to pursue. While I have resisted all appropriations for custom-house, marine hospital, court-house, post office, territorial and District buildings which are now dotted over this District, the States, and Territories, and in the construction of which millions of dollars have been most profligately dissipated,

the Opposition in this House at the last session of the last Congress succeeded in appropriating for these objects no less a sum than \$5,445,651 48. The appropriations for these objects alone, during the Thirty-Fourth Congress, amounted to the monstrous sum of \$8,633,390 48!! The country will be astonished to learn that for the Capitol extension, the dome, and a few works of art, \$4,970,000 have been appropriated since 1852. An enormous amount has also been appropriated to the aqueduct, that can only be told in millions. I have resisted all these things to the extent of my feeble ability, but who of the Opposition has come to my aid? Now and then, some one of them has raised his voice in opposition, but it is undeniable that an overwhelming majority of that party has voted for them. The nineteenth amendment of the Senate to the civil bill at this session made appropriations for eleven custom-houses, in different parts of the country, and on agreeing to that amendment the vote was—yeas 50, (Democrats, 18; Opposition, 32;) nays 73, (Democrats, 51; Opposition, 22.) I have resisted the increase of salaries, and the multiplication of officers and Government employés; and have, in all fair and honorable modes, endeavored to reduce the expenditures to the lowest practicable amount consistent with a proper regard to the public interest and an effective administration of the Government.

Such has been my course as a Representative of the people, and I now tender to the gentleman my cordial coöperation in all wise, just, and proper measures which he or his friends may propose for the reformation of abuses or the reduction of expenditures. I think the expenditures may be curtailed without detriment to the public service; that the number of officers may be diminished and many salaries reduced without prejudice or embarrassment to the prompt, intelligent, and faithful disposition of the public business. The gentleman will find this side of the House ready to second all efforts he may make to this end, and all he has to do is to introduce his measures at the earliest practicable moment. He has been rather dilatory heretofore, considering the magnitude and importance of the work before him, but still there is ample time during the next session to accomplish all that may be needed to inaugurate his reign of economy.

There is still another point—the “endless jobs and contracts,” to which the gentleman has referred. What those “jobs and contracts” are I have no means of knowing, and the gentleman has not informed me. For all “jobs and contracts” that were to let, I imagine at least one bidder could have been found among the Republicans in the last Congress. The results of the investigation at the close of the last session showed very conclusively that some of the Republicans kept an eye open to “the main chance,” and that they were the recipients of such plunder as was to be appropriated and enjoyed. Suspicion attached to no member of the Democratic party in that House.

I heard this remark, in regard to “jobs and contracts,” with no small degree of surprise, from the gentleman from Ohio; and I am sure, from my knowledge of him, that, in his moments of calm reflection, he will see the injustice he has done to the officers of the Government.

In this connection, permit me to say that the Democratic party passed the tariff bill of 1857—a measure of vast interest and importance to all sections of the country. At the present session an investigation into the mode of its passage was ordered, and it is a source of pride and pleasure to find that not a member of the Democratic party of either the House or the Senate could be found who was even suspected of being influenced in his action upon this measure by pecuniary or other improper considerations.

I have heard it said often and again in the House, during the present session, vote for expenditures, and thus create the necessity for a revival of the doctrine of protection for “protection's sake.” The Opposition, aided by a fraction of the Democratic party, have acted upon this principle, and have accordingly voted for numerous items of expenditure not recommended, either by the President or the heads of the Departments. Complaint has succeeded complaint that a high protective policy has not been recommended by the Admin-

35TH CONG....1ST SESS.

Fifteen Million Loan—Mr. Bell.

SENATE.

istration. If it had been recommended and successfully carried out by legislation, what practical end could it have accomplished? Our exports have fallen off more than twenty per cent. and our imports have fallen off more than fifty per cent. as compared with last year, as the following facts demonstrate most conclusively.

Exports from the port of New York, from January to May inclusive, in the year 1857, amounted to \$46,460,641; for 1858, \$36,516,465.

Importations of foreign goods, including specie, from January to May inclusive, at the port of New York, for the year 1857, amounted to \$105,590,501; for 1858, \$51,668,192.

Our revenue is mainly derived from imports; and if the importations fall off the receipts of the Government must be reduced in a corresponding ratio. Under the recent revulsion, which prostrated commerce, trade, and business, the importations were necessarily reduced to so great an extent that the revenue from that source fell greatly short of the sum which, under ordinary circumstances, would have flown into the Treasury; and hence the necessity of borrowing an amount of money sufficient to supply the deficiency until the financial storm should blow over, and commerce, trade, and business of all kinds should again resume their wonted activity. That time is coming, and by the month of August or September we shall in all probability have a pretty lively trade, and it will continue to improve to the first of the next year.

But says the gentleman from Ohio and his friend from Rhode Island, [Mr. DUFFEE,] something must be done for the manufacturers. The tariff of last year must be overthrown and substituted by a measure more highly protective—a measure something like that of 1842. The manufacturers of cottons, woollens, and the iron and coal interests of the nation imperatively require a change that will give them greater protection. From the complaints made by the gentleman from Rhode Island we would be naturally brought to the conclusion that the manufacturing interest was the only one that had been affected by the financial storm that has swept over the country. But it is not so. All other interests have suffered and are as greatly depressed. In the South, the East, and the West, all business is seriously depressed, and they could with as much propriety demand from the Federal Government relief from their pecuniary embarrassments. If the tariff of 1857 prostrated the iron and coal interests and the cotton and woollen interests in the North, what has caused the embarrassment and depression in these and all other branches of industry and trade in the other sections of the Union? I do not propose to enter into a general discussion of this subject at the present time. I will content myself with a few facts in regard to the production of iron in our own country, to show that, whatever embarrassment may now attend this interest, it is not justly attributable to our tariff legislation in the last Congress.

In 1809, the production of iron of all kinds in our country was about 50,000 tons. In 1820, owing to the war, it ran down to about 10,000 tons. Between the years 1820 and 1826 it rose steadily until it reached 100,000 tons. In 1828, it rose to 110,000 tons; in 1830, to 190,000 tons; in 1833, to 210,000 tons. In this year the compromise tariff measure was adopted, under the operations of which the duties were regularly reduced each year. Between the years 1833 and 1840 the production steadily increased, until in the latter year it reached 310,000 tons. In 1842 it dropped down to 240,000 tons. Between the years 1842 and 1846, after the railroad fever had broken out in our country, it rose to 775,000 tons. The production continued to increase until, in 1848, it reached 800,000 tons. In 1849, it sunk to 640,000 tons; in 1850, to 560,000 tons; and continued to fall until, in 1852, it had reached 500,000 tons. In 1853 it rose rapidly to 650,000 tons; in 1854, to 800,000 tons; and continued to rise until, in 1855, it reached 1,000,000 tons. If the theory of gentlemen now contended for be true, I call upon them to explain how it was that, under the operation of the tariff of 1846, the production sunk from 800,000 tons in 1848 (two years after the bill was passed) to 500,000 tons in 1852; and, again, I call upon them to explain how (under the oper-

ation of the same tariff) the production rose, in the short space of three years, from 500,000 tons in 1852 to 1,000,000 tons in 1855. These facts are important, and eminently deserve consideration. In my view, they demonstrate conclusively the fallacy of the Opposition theory, which charges depression of the iron interest to the tariff legislation of the last Congress. The revulsion through which we are now passing is justly chargeable to individual imprudence, and not to Governmental action. We live in an age of the world characterized most strongly by individual and social extravagance. Extravagance has its punishment in poverty; and our commercial, mechanical, agricultural, and manufacturing interests, as well as all other interests in the country, are suffering that punishment which imprudence in expenditure has brought upon them. Economy, energy, industry, and a determined spirit will relieve us from our pecuniary trials, and restore to us that prosperity which has been so suddenly lost, and the loss of which has been accompanied by so much physical suffering and anguish of mind.

The Democratic party and the country demand a stable policy on this subject. The Government must raise its revenue mainly by duties on imports, and those duties should be fairly imposed with reference to the amount of revenue which may be needed to carry on its operations, due regard being had to economy in expenditure. All the interests of the nation and all sections should be considered in adjusting the details of the measure, to the end that equal and exact justice may be done. This is all the South asks, and surely it is entitled to it.

The "ultra protectionists" demand more. They demand legislation for specified branches of industry, and would burden all other interests to secure it. This species of legislation we are inflexibly opposed to, because we see and feel its injustice, and know that it must end in the creation of sectional jealousies, prejudicial to that harmony and cordiality which is so greatly to be cherished, and so important to our progress as a nation. The excessively and oppressively protective tariff of 1828 produced results that shook the nation to its center, and at one time seriously imperiled the existence of the Union. Patriotism, however, triumphed, and the measure of 1833 was passed, which gave peace to our distracted country. A high degree of prosperity followed, but the protectionists were not satisfied, and, to carry out their ultra views, passed the tariff of 1842. So much dissatisfaction resulted from it, that it was found necessary to repeal it in 1846. The latter measure remained in full force and effect until, in 1857, it was ascertained that it raised more revenue than was needed for an economical administration of the Government. We thus see that high tariffs, adopted with more reference to protection than revenue, have been short-lived, and eminently mischievous to the public peace in their operations and results.

Give us, then, something fair, just, and equal, and our prosperity and progress as a nation will be secured.

FIFTEEN MILLION LOAN.

SPEECH OF HON. JOHN BELL,
OF TENNESSEE,

IN THE SENATE, May 26, 1858.

The Senate having under consideration the bill to authorize a loan not exceeding the sum of \$15,000,000; the pending question being on the amendment of Mr. SIMMONS to provide for the home valuation of all foreign imports—

Mr. BELL said:

Mr. PRESIDENT: I perceive the anxiety of the honorable Senator from Virginia, [Mr. HUNTER,] and the disposition of the Senate generally, to vote upon this subject without further debate, and it is certainly with great hesitation that I obtrude myself on the attention of Senators by making any remarks on the subject; but it strikes me as one that deserves more consideration than it has yet received, and one that, from its peculiar, and, in some respects, extraordinary character, calls for a scrutiny such as, under ordinary circumstances, a loan bill might not require.

What is this measure, Mr. President? Here is a proposition for a loan of \$15,000,000 within

a little more than four months from the date of a former one of \$20,000,000, both of which being sums declared to be necessary to carry on the Government until the end of the present calendar year, or until the next session of Congress; thus increasing the public debt within a single year to the amount of \$35,000,000; and yet no plan is proposed or provision made for its redemption, and none to increase the receipts of the Treasury from the ordinary sources of revenue; and this, too, in a time of peace. But so little importance appears to be attached to these striking facts by the administrators of the Government, that they scarcely condescend to give an explanation of them. Even the Senator from Virginia himself [Mr. HUNTER] has touched very lightly, and given apparently but little attention to, the important questions which lie back of the present one. I pass by all that, however, for the present. I suppose there may be some considerations of policy or interest connected with the Administration which dictate a course so unusual on such subjects.

But, sir, it is not easy to pass without notice another circumstance connected with the measure now before the Senate. The tables of the trade of the country, and other well-authenticated facts, show that the frauds committed upon the customs revenue, supposing the imports in future to be as large as they have been in the last seven years, will amount annually to a sum equal to the proposed loan, and even exceed that amount, if the Senator from Georgia [Mr. TOOMBS] is right in his estimate. These frauds have been practiced ever since the passage of the tariff of 1846, and chiefly in consequence of the policy of levying the duties under that act on the foreign value. It is estimated by the honorable Senator from Georgia that the custom-house returns do not show the real amount of importations, and that the deficiency last year was not less than one hundred million dollars. Estimating the average duty under the act of 1857, on the whole amount of the imports, at fifteen per cent., it will be seen that a saving could be made of the amount of the proposed loan in one year, by providing a remedy against frauds in the collection of it. But supposing the annual amount of imported merchandise exhibited in the custom-house accounts to be less than the actual value imported, by \$50,000,000, one half the deficiency estimated by the Senator from Georgia, still it will be seen that a saving in the revenues might be effected in two years, under a fair and honest system of collection, to the amount of \$15,000,000—the sum proposed to be borrowed.

Another view of this subject will show results not less striking. Taking \$200,000,000 as the average amount of importations for the last ten years—and that is under the average—and further estimating \$50,000,000 as the difference between the value of the imports taken from the custom-house accounts and the actual value annually imported, it will be seen that \$500,000,000 of foreign goods have been imported into the country, in the last ten years, beyond what appears in the tables reported by the Secretary of the Treasury; and that, in the same period, the frauds upon the public revenue have been upwards of seventy-five million dollars. Under such circumstances, I am surprised that the honorable Senator from Virginia should interpose any formal or technical objection to the amendment offered by the Senator from Rhode Island, [Mr. SIMMONS,] by which many or all the devices by which such extensive frauds have heretofore been practiced upon the revenue may be corrected, and the wants of the Treasury be amply supplied without the slightest change of the duties authorized by the act of 1846. Does not the long continuance of these frauds, and no remedy proposed for their correction, present a most extraordinary state of the public councils and administration of the Government?

That is not all. The international trade of the country has become demoralizing in its tendency; the tone and character of the American merchant is lowered; the honest importer is driven from his employment. I undertake to state that three fourths of the foreign trade of the country is now in the hands of foreigners, their agents, or factors. If I am wrong in my estimate, I would thank my friend from Rhode Island to correct me.

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Mr. SIMMONS. You have not overstated it.

Mr. BELL. These are important considerations of themselves; but the main point is, that at a time when the Treasury is annually defrauded of from ten to fifteen million dollars, by undervaluations and other devices, and when a loan is proposed of \$15,000,000 beyond the current receipts, to carry on the Government until the next session of Congress, in itself a revenue measure, the honorable Senator from Virginia objects to an amendment which proposes no new duties, but simply to enforce the collection of those now authorized by law, on the ground that it is unconstitutional. On the same principle, it would seem to me that exception might be made to the bill as it now stands. What is that bill but a measure to raise revenue? As to the objection of the constitutionality of the amendment offered, I will not say that there is no plausible ground upon which that objection may be urged. It is true that, if the amendment should prevail, the receipts of the Treasury will be increased; and that is the extent of the argument. The objection can only be defended upon narrow and technical principles. There is not a single item of imports upon which the rate of the existing duty is proposed to be raised by the amendment. There are no new articles of commerce enumerated in the amendment on which duties are proposed to be levied. One would suppose that a bill to raise revenue within the meaning of the Constitution, in the clause requiring all such bills to originate in the House of Representatives, should propose to lay a duty upon some article of foreign growth or manufacture not already subject to duty, or to increase the existing rates, or by imposing excise duties or internal taxes in some of the hundred different ways in which revenue may be raised; but there is no such provision in the amendment of the Senator from Rhode Island, as I understand it. It is in effect and substance simply to secure the faithful collection of the amount of duties and revenue contemplated by the act of 1846, according to a fair and just construction of its provisions. No further duties or charges are imposed upon imported merchandise than they would be subject to if the existing laws were executed in good faith. That is substantially the proposition of the Senator from Rhode Island; and yet it is objected to as unconstitutional. Taking these circumstances into view, the case does furnish the test which I said last evening, when I rose to address the Senate, I wanted to see applied and exhibited to the country—a test of the lengths to which this Administration, when upheld by a party majority in both Houses of Congress, is prepared to go in carrying out their favorite dogmas of political economy, and how far it may be expected to go hereafter in opposition to the plainest and saddest experience of their fallacy.

A case like the present, of persistent obstinacy in opposing what appears to me the clearest dictate of public interest and a sound policy, is unparalleled in the history of the legislation of this country, or of any other free Government.

A great deal is said on the subject of the vast expenditures of the Government, and a question is raised as to what department is responsible for them. Sir, here we have the evidence where the responsibility rests, and ought to rest, upon all these questions. It may be said that the party now in power have had the control of the Government for more than a quarter of a century past. The few years of Whig rule scarcely break the uniformity of Democratic domination. They have had the power, as a general proposition, whenever they chose to exercise it, to press a favorite party measure through Congress, or to defeat an obnoxious one, by Executive patronage and party discipline, to say nothing of the veto power; and they have not been over-scrupulous in the exercise of that power.

Why have not these vast powers and influences been brought to bear upon the expenditures of the Government, with a view to keep them within moderate bounds? But especially, when the Treasury is annually robbed of some ten or fifteen million dollars by fraudulent contrivances and evasions, why is not the power of the Administration brought to bear in the correction of that great evil?

The honorable Senator from Virginia, who says

it is unconstitutional to move any provision in the Senate to prevent these frauds on the Treasury, cannot shelter himself or the Administration from their proper responsibility in relation to this subject, by taking the ground that a remedy for these frauds can only be brought forward in the House of Representatives. Why has no such measure been moved by the supporters of the Administration in the House of Representatives? Why has it been withheld there? Why has the Senator from Virginia, if he really thinks these frauds ought to be corrected, failed to have some measure for their correction brought forward in the House of Representatives through his friends in that body? Why has not the Secretary of the Treasury or the President, or both, seen to this business? They are not so forbearing, nor so delicate in their practices in this respect, that they cannot interfere or lend their influence in carrying this reform in the collection of the revenue through Congress; nor ought they to shrink from the exercise of a legitimate and constitutional interposition in reference to a question of great public interest like the present. I fear, sir, that the Administration and the honorable Senator from Virginia, and those who agree with him in his theories of political economy, consider that if we corrected these frauds, and brought about a wholesome reform in the collection of the customs revenue, it would be a step backwards in the march to free trade. If any other explanation can be given of their conduct, I trust it will not be withheld.

Every step taken by the Administration connected with this subject tends to bring me to the conclusion that I have been right in my apprehensions. If, at such a time as the present, the Administration, and the party which supports it, dare to pursue the course indicated in reference to this loan, what will they not dare to do when the wants of the Treasury shall not be felt? Whither is this Government tending? What is, or what is to be, its settled policy? The honorable Senator from Virginia seems to take it for granted that his views, and those of the Administration, are sustained by the settled sentiment of the people of this country. They may be, for aught I know; but is this policy so firmly settled that he and his party may speculate and experiment upon the strength of the sentiment which sustains them, to the extent they have undertaken to do in relation to this bill, and the amendment of the Senator from Rhode Island?

Sir, I am astonished at the course of the honorable Senator from Virginia and his political friends upon this subject; nor has their course upon other grave questions tended to assure me that I have been wrong in my impression, formed long since, that the old landmarks set up by our fathers are likely soon to be utterly disregarded and overthrown, and with them the political honesty which for a long time forced their observance. Sir, I regard our whole system of free government as in imminent peril.

At no period, in the last thirty years, have so many circumstances in the condition of the country conspired to awaken inquiry and create anxiety as to its future. There is a vague but very general impression floating in the minds of the thinking portion of the people, that we are hastening to a crisis—to a change, of the nature of which there is no well-defined idea or conception. Possibly it may be beneficial in its results; on the other hand, it may usher in an epoch marked and distinguished by great calamities and obstructions to the progress of civilization. The student of general history must have been struck by the fact, that all those great movements and revolutions which have changed the destiny of nations, and the social and political conditions of their populations, sometimes rolling back the tide of improvement, and threatening the extinction of all that science and art had achieved in preceding ages, and in other instances giving a new impetus to further progress, have been preceded by some vague perception or apprehension among the more observing of the people to be affected, of the coming change. So at least contemporary historians will have it.

Whether any change which may take place in the condition and affairs of this country may rise to an importance to be compared with those great

revolutions to which I have referred, and which have left their impress upon the world, I will not undertake to say, nor am I prepared to subscribe to the theory that there is any preternatural or mysterious cause operating in the moral world, which sometimes gives warning of approaching change or convulsion. I rather think that the true solution of the apparent mystery involved in the common saying, that "coming events cast their shadows before," is to be found in the actual circumstances and tendencies of the times—circumstances and tendencies which make but a slight impression or none at all upon the thoughtless, but strike the sagacious observer as most significant and ominous.

That many of the purest patriots and best informed of the people of this country at this time are disturbed and apprehensive of change and convulsion, cannot be denied; but there is no mystery in that. Ample cause may be found for this in the present social and political condition of the country.

It is remarkable, that coincident with this feeling of uneasiness and insecurity in this country, a similar one is felt all over Europe, though rising from different, and, in some respects, from opposite causes; and in both countries tending strongly to postpone the restoration of trade and industry to that degree of activity by which they were but lately distinguished, and upon the restoration of which the Senator from Virginia relies to supply the future wants of the Treasury.

The peace of Europe may be said to be suspended by a hair. The brittle thread of one man's life snapped, and it seems to be conceded that a revolutionary struggle must ensue in one powerful State, which may, in its consequences, involve all Europe in a sanguinary war. That life preserved and prolonged, offers no absolute security for the general repose. Peace would still hold her sway by the slender and uncertain tenure of one man's will. In this fact alone may be found sufficient ground for some apprehension; but there are other causes of uneasiness. However well disposed to peace the Emperor of the French may be—hated and feared rather than loved, as he is, by the great Powers around him—he may be driven by the necessities of his position to avail himself of the passion for military glory which distinguishes his subjects, and seek to strengthen his dynasty by trying his fortune in war. Besides all these, there exists still another cause of uneasiness. The spirit of liberty in Europe is repressed, but not subdued. It is still too formidable an element of disturbance to the established despotisms of the continent to be overlooked in calculating the chances of peace. Like a pent-up giant, it is ever restless, watchful, and prompt upon opportunity to break its fetters.

Here, in this country, we have no despotic governments, general or local. All are molded in the most perfect forms of freedom consistent with the preservation of the great and legitimate objects of civil society. Neither by the theory, nor by any of the express provisions of our political system is any one man clothed with authority, even for a term of years, to play the despot, to substitute his will for the will of the people in deciding upon the issues of peace and of war, or to dictate the policy of the country, domestic or foreign; though, in the practical operation of our system, we know, by experience, that a weak or a bad man may assume and exercise all these powers. Here we have no pent-up spirit of liberty, as in Europe, threatening to burst forth and disturb the public peace in an effort to assert the rights of the people. Still I assert, that there are just grounds for the uneasiness and apprehensions which pervade the public mind. As the country advances in wealth and power, as our territorial dominion expands, it is but too manifest, that in the practical operation of the Government there has been a regular progress of departure from its true theory. The forms of the Government have been observed, while the spirit and objects of their institution have been for the most part disregarded and defeated. The regular and legitimate influences which, by the theory of our system, should preside over elections, and control the administration of the Government, are superseded and inverted.

Whatever other causes may have contributed to

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this deplorable result, the chief one undoubtedly has been the extreme and anomalous party action to which the Government has been subjected by the prevalence of party spirit, that proverbial bane of all free governments, stimulated to excess by the magnitude of the prize of victory in the great quadrennial struggles for the presidential purple—the thousands of lucrative offices, and the millions of public treasure belonging, by established usage, to the victors in these great contests.

That the machine of Government, propelled by such a motive power, should be driven off the track, far out of its legitimate course, and often produce a train of consequence and disasters fatal to many of the great objects and purposes of its construction, should not surprise any one. That a Government thus impelled in its course should come to be one of devices and expedients, rather than one of any sound and settled maxims or principles of public policy; that, in its operation, party interests and objects should predominate over all others; that a general demoralization should ensue; that liberty should exist in excess and become license; that disorder, corruption, and crime should more and more abound; that respect for the laws and all lawful authorities should decline, and that distrust in the stability of the Government itself should gradually infuse itself into the minds of the sober and thoughtful portion of the people, who can wonder at or feel surprise?

The experience of the past teaches us to what dangerous results the extreme party action of the Government may lead, if no check to its intensity can be provided. The same experience teaches us that to do this will be no easy achievement. No sooner is one great struggle for the possession of power and its glittering spoils decided, than the contest is renewed between rival aspirants for the succession. Invention is again upon the rack; the whole moral field of adventure, "from Arctic to Antarctic pole," is explored for the discovery of some new device—some new issue—some new scheme of policy by which the popular sympathies and passions may be excited. Since politics have become a trade, an employment, in which wealth as well as honor and personal distinction may be won, the votaries of ambition are not over-scrupulous as to the means of success. When all other resources are exhausted; when foreign intervention for the protection of trodden-down nationalities fail them; when schemes of annexation and further national aggrandizement offer no immediate prospect of success in winning popular support; when no quarrel can be picked with any foreign Power, a favorite resort of many in seeking to reach the popular heart, the more desperate do not hesitate to try their fortunes by exciting and fomenting sectional jealousies and resentments; anything but general quiet is desirable to them. That would be destruction to their objects. They abhor a political calm as much as nature is said to abhor a vacuum. Peace is not what they want. If they had it, they would fling it away. They prefer a sword. And thus the country seems doomed to one eternal round of excitements and agitations. Twice within the short space of ten years have we seen from such causes the Government brought to the very verge of dissolution.

Happily a hope may now be indulged that these sectional dissensions, which have been so unfortunately fomented, will cease. We have, at least, a truce; an interval of repose, which may be improved and ripened into permanent quiet, and the downward tendency of the Government arrested by a timely diversion of the public mind to questions and measures of public policy, national in their character, and more in conformity with the purposes and objects for which the Government was established. To do this we must economize time. If we loiter by the way, if we hesitate, we are lost. The evil spirit which has been so successful heretofore in sowing discord, is ever awake and of a most inventive genius.

Sir, I speak melancholy truths, but I do not altogether despair of the Republic. The circumstances of the times appear to me to be most auspicious for a determined and successful effort to accomplish a great reform. Besides the apprehensions as to the future, and the diminished confidence in the stability of the Government itself, prevailing in the minds of many of the best men

of the country, to which I have before alluded, the mass of the people have become weary and tired of the strife and agitation growing out of these sectional issues. Thousands and tens of thousands of them are suffering privation from the prostrate condition of trade and many important industrial enterprises of the country; and all the business classes feel that their resources are diminished, and their productive energies more or less crippled and paralyzed by the late unparalleled monetary and commercial revulsion. Happy will it be, if this shock to the great business interests of the country, this check to the general prosperity, shall awaken such a spirit of inquiry among the people as to the causes which produced it, as will restore the Government to its regular and constitutional action, and require the public functionaries, the trustees of power, and those who aspire to those great trusts, to give more of their attention to the public welfare than to the ways and means of retaining or acquiring them.

But, sir, there is another circumstance in the condition of the country, the one to which I alluded at the outset of my remarks, which offers strong inducements to a combined effort to bring back the Government to its original and constitutional tack, and to correct the further progress of the vicious principles and practices in its operation, which threaten to undermine and destroy it.

Twelve months ago, and for the preceding two years or more, there was a surplus in the public Treasury of nearly twenty million dollars; and this was so, even under the drainage of that profuse and extravagant expenditure which has been so often spoken of. But now, in a time of peace with all the world, except with one of the corporations or Territories of our own system, with no extra expenditure except that incurred in fitting out the expedition to Utah, the Treasury is reduced to the necessity of appealing to Congress to supply its wants! In six months from the time when the pressure upon the money market commenced, notwithstanding the surplus then in the Treasury, and the \$28,000,000 of current receipts in the first two quarters of the fiscal year 1857, the Government, technically speaking, was reduced to bankruptcy. An application was made at the opening of Congress for a loan of \$20,000,000 in the form of Treasury notes. It was sustained and carried through under the whip and spur of immediate necessity; the honorable Senator from Virginia telling us that in a fortnight from the time when he spoke, the Treasury would be absolutely exhausted if we failed to pass that bill; while the Secretary of the Treasury, in his letter applying for that issue, intimated distinctly that the \$20,000,000 were only asked as a precaution against a possible deficit, and might not be needed at all. Yet, sir, within four months from that time we have an application for an additional loan of \$15,000,000! To do what? To carry the Government through the present fiscal year ending on the 30th June next, and until the next session of Congress; thus adding to the public debt of the country, in one year, \$35,000,000. Independently and outside of the loan of \$15,000,000 now asked, the means provided for the expenditure of the Government within the present fiscal year, including the surplus in the Treasury at the beginning of it, the current receipts from customs and the public lands, together with the \$20,000,000 of Treasury notes, exceed eighty million dollars. Such is the condition of the Treasury and of the country; a new debt of \$35,000,000, and an annual expenditure of upwards of eighty millions! And unless the expectation of the honorable Senator from Virginia be realized in regard to the revival of trade next year, of which I see no prospect, at least to the extent he estimates, by the time another fiscal year closes we shall be burdened with a public debt far exceeding the debt at the close of an expensive war with Mexico. In the mean time, the depression of trade, and of most of the great industrial employments of the country, caused by the late revulsion, continues with little abatement.

Is there not enough in all these circumstances to awaken inquiry among the people into the causes which have brought so many evils upon the country? To show how much dependence ought to be placed in those who now control the

Government and dictate the policy of the country for the correction of the multiplied evils of the times, we may learn, once for all, from their conduct in relation to the present condition of the Treasury and to the business interests of the country generally. After the lapse of half a year from the time of the extreme point of depression caused by the late commercial revulsion; after the exhaustion of the large surplus of more than eighteen millions in the Treasury when the pressure began, and of all intermediate receipts whatever, a loan of \$20,000,000 in Treasury notes, reissuable in addition, was found to be insufficient to carry on the Government; and when the receipts into the Treasury from all sources have fallen off one half, the Secretary of the Treasury sends a special report to Congress simply asking for a further loan of \$15,000,000, which he thinks may be necessary to enable the Government to fulfill its engagements until Congress shall assemble again; and further stating, in the coolest manner possible, that it is not deemed expedient to make any change in the existing provisions of law for raising revenue, inasmuch as the times have not been favorable for testing the operation of the act of March, 1857.

Truly, sir, the condition of the business and trade of the country has not been favorable for any such purpose; and, unfortunately, in the judgment of the most experienced business men, there is no prospect that the time will ever come when the revenues raised under that act, without a decided change in the regulations or mode prescribed for the collection of duties under it, will ever be sufficient for the support of the Government. It is remarkable that in this report the Secretary does not make any suggestion as to the expediency of providing any relief for the suffering interests of the country. But what is most remarkable and significant of the future is, that the Senate Committee on Finance adopt all the views of the Secretary, and report a bill for this new loan, carrying the public debt in one year up to \$35,000,000, but fail to make any provision for its redemption, or for supplying the future wants of the Treasury. Never in the history of any free Government, or one pretending to be free—certainly not in Great Britain since the expulsion of the Stuarts, nor in this country—has there been an instance of such indifference to the business interests of the country, and such utter disregard manifested, by the public functionaries having charge of the subject, of all the guards and precautions necessary to the protection of public credit. Sir, had a minister of the British Crown, with a sanction of his colleagues, brought forward a naked proposition for a loan in the British House of Commons under similar circumstances, how would it have been treated? Such a storm of indignation would have arisen as would have quickly expelled them in disgrace from power. But one of two things could have been predicated of them: either that they were totally incompetent, or that they were indifferent to the public interests, and disposed to trifle with the feelings and insult the intelligence of the country.

Mr. President, the late commercial and monetary revulsion in this country, in the opinion of the able writer of an article in a late number of the *Edinburgh Review*, has had no parallel in Europe since "the breaking up of the great South sea scheme;" and yet in the American Congress there is no investigation, by a committee, of the causes which produced it, nor any inquiry as to any means in the power of Congress to adopt, either to prevent or to mitigate the severity of similar revulsions in future; nor is there likely to be any, or but a very slight discussion of those important subjects. I can easily conjecture the policy which may influence those who have the conduct of affairs at the present time in their hands, in desiring that this bill should pass with but slight consideration or discussion of the great subjects directly connected with it; but I cannot quite reconcile their policy in this respect to the true interests of the country. It may suit their ends very well that this monetary and commercial crisis shall be permitted to pass without attracting any large share of public attention to its origin; but I am not sure that the country will gain anything by this course. However that may be, it is very certain that neither the President, nor the

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Secretary of the Treasury, nor the honorable Senator from Virginia, is prepared to admit that the late revulsion has been in any degree brought about by the policy of the Government, or by any false theories of political economy, either in regard to trade or currency, held by the party which has so long controlled it.

The honorable Senator from Virginia has briefly presented his views on the subject before the Senate, and he has done so skillfully, and I may say in one respect ably, but not with the frankness that I would have expected from the character of the honorable Senator. He can see in the present depressed condition of the trade and industrial enterprises of the country no cause for any change in our present commercial regulations or revenue system; no cause for the adoption of any new policy on the part of the Government either to restore confidence and hasten the revival of trade, or to replenish the Treasury at the present time; nor does he anticipate that there will be any cause for such change in the future. He looks confidently to the native energies and recuperative powers of the people to overcome all obstacles, to retrieve all disasters, and effect an early revival of trade and industry in all its branches. He has his theory of finance, trade, and currency, which he is content to stand by; but, sir, he has, as it appears to me—I beg his pardon if I do him any injustice—with studious caution avoided saying one word as to the causes which have led to the late commercial and monetary catastrophe; nor does he suggest any remedy for such evils in future. On the contrary, he openly avows his fears that any change which may be made in our present revenue system will tend to retard the progress of free-trade principles. The maxim is now, as at another memorable period in the financial and commercial history of the country, “the Government is able to take care of itself; let the people take care of themselves.” Yes, sir; the Government is able to take care of itself. If the ordinary and current receipts of gold into the Treasury are not sufficient, the Government can borrow enough to supply all deficiencies. The holders of the millions of gold hoarded in the banks, or in private coffers, will prefer lending to the Government at a low interest, to any investment they can make in private enterprises, at a much higher rate of interest, at a time when they can see no prospect of the adoption of a wiser policy by the Government. The policy of the Administration is now in perfect conformity with the maxims and principles of the Democratic Administration of 1838, when the sub-Treasury was first established. I do not charge them with any inconsistency. They have either to adhere to their policy of 1838, or to abandon their theories of political economy as utterly unsound, or at least inapplicable to the condition of this country. The only ground upon which their patriotism can be impeached is, that after experience has so often demonstrated the fallacy of their commercial and monetary theories, in a manner so afflictive to the country, they have not the frankness or moral courage to openly avow the necessity of adopting and acting upon some modification of their former opinions and doctrines.

I said that the honorable Senator from Virginia had carefully avoided to touch upon the causes of the late revulsion. The President, however, is more adventurous; he has given us a description of the condition of the country, in his late annual message, so graphic, and at the same time so true, that I beg leave to read it to the Senate:

“The earth has yielded her fruits abundantly, and has nonnificantly rewarded the toil of the husbandman. Our great staples have commanded high prices, and, up till within a brief period, our manufacturing, mineral, and mechanical occupations have largely partaken of the general prosperity. We have possessed all the elements of material wealth in rich abundance, and yet, notwithstanding all those advantages, our country, in its monetary interests, is at the present moment in a deplorable condition. In the midst of unsurpassed plenty in all the productions of agriculture and in all the elements of national wealth, we find our manufactures suspended, our public works retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers thrown out of employment and reduced to want.”

Following this faithful picture of the effects of the late revulsion in those sections of the country which have suffered most, these remarkable passages may be found:

“It is our duty to inquire what has produced such unfor-

tunate results, and whether their recurrence can be prevented? In all former revulsions, the blame might have been fairly attributed to a variety of cooperating causes; but not so upon the present occasion. It is apparent that our existing misfortunes have proceeded solely from our extravagant and vicious system of paper currency and bank credits, exciting the people to wild speculations and gambling in stocks.”

After this bold and confident announcement that the disasters of the late revulsion have proceeded solely from “our extravagant and vicious system of paper currency and bank credits,” the President proceeds to console us with the assurance that “these revulsions must continue to occur at successive intervals as long as the amount of the paper circulation, bank facilities, and discounts are left to the discretion of fourteen hundred irresponsible banking institutions;” and he further announces, that to this cause may be assigned the character “of our financial history for the last forty years,” which, he states, has been one of “extravagant expansions in the business of the country, followed by ruinous contractions.” These views of the President, if well founded, are of the greatest importance, and should be well understood by the country.

I will now, with the consent of the Senate, read a few passages from the British journal to which I have before alluded, and which may be regarded as the exponent, as it unquestionably is, of the views of the leading champions of the present policy of Great Britain on the subjects of trade and currency:

“The concurring panics of England and America present an instructive contrast. They occurred under dissimilar circumstances, and they have issued in different results. In the United States there was a new country, a boundless extent of unappropriated land, a public debt scarcely exceeding the revenue of a single year, a field for employment so ample as to cause a constant influx of labor and capital from Europe, and resources progressively developed during years of uninterrupted peace. In England there was an old and densely-peopled country, land so completely appropriated as to leave no field spot where, without trespass, we could plant a foot, a weight of debt which no other country in the world has ever been called upon to bear, a field of employment so overcrowded as to cause an annual exodus of labor and capital from the land, and resources diminished by the vast expenditure of the Russian, Persian, and Chinese wars, still subject to a heavy drain for the suppression of the Indian revolt. Who, upon glancing at these contrasting antecedents, could have hesitated to infer that the occurrence of a commercial revulsion would have proved beyond comparison more disastrous in England than in the United States? Who could have anticipated that when a pressure came, America would fall, while England stood apparently unharmed? Yet such has been the actual result. America sank at the first upheaving of the storm. England did not bend to it until a desolating wave from the troubled waters of the West had broken upon her shores. How can this apparent reversal of the natural sequence of events be accounted for? By what latent agency has weakness been conjoined with the elements of strength, and strength with the causes of decline? This unusual conjunction, however anomalous and mysterious it may appear, admits of easy explanation. America has an ill-regulated, England a well-regulated currency. In both countries the law requires that the note circulation shall be convertible into gold upon demand; but in the United States the maintenance of a sufficient supply of gold to secure the fulfillment of the legal requirements is intrusted to the discretion of the banks, while in England it is secured by the provisions of the act of 1844.”

Every fact, every statement expressed in this extract, deserves serious attention and study, remembering that the article was written by an Englishman, a supporter of British policy and British interests, which are deeply involved in the commercial policy which this country shall adopt. No exposition of the striking contrast in the circumstances and condition of the two countries could be more clearly conceived or forcibly expressed; and showing, what the writer did not intend to show, that, if an unrestricted commerce was the policy of the one, it could not be so of the other.

My friend from North Carolina [Mr. CLINGMAN] suggests that the bank act of 1844 was suspended in the late revulsion.

Mr. COLLAMER. It was suspended by the British Ministry immediately upon the revulsion occurring.

Mr. BELL. There was no suspension of specie payments by the bank. There was a suspension, at the suggestion of the Ministers of the Crown, of the restriction imposed upon the amount of the notes the bank was authorized to issue by that act; and the bank proceeded to issue a large amount, I believe, of one pound notes—not to protect the bank itself, or the Government, from discredit, but for the relief of the suffering busi-

ness interests of the country, and thereby prevent the bankruptcy of thousands. That is the difference between English policy, English wisdom, and American policy and folly.

Mr. CLINGMAN. Will the Senator excuse me for interrupting him for a moment?

Mr. BELL. Certainly.

Mr. CLINGMAN. If I understand the matter, the Bank of England was only authorized to issue dollar for dollar upon the securities it held and the specie it had; and the consequence was that when this difficulty occurred, there was no danger of its suspending specie payments; but the act was suspended so as to allow it to issue more. The safety of the system, in England, seems to have arisen from the fact that the bank could only issue in proportion to the bullion it had. Now, do I understand the gentleman as favoring, in the United States, a proposition to put our banks on the same footing, and require them only to issue a paper dollar where they have a dollar in bullion to meet it? Do I understand him as advocating that policy here?

Mr. BELL. My friend from North Carolina will understand me presently. I see his object, but I do not mean to commit myself to any folly, if I know it. He will presently see what my views are on the subject.

Mr. CLINGMAN. I only meant this: the gentleman spoke of the folly of the United States as compared with England. I admit England is wiser; and I wanted to see if we could get at the English system, so as to prevent the over-issue of our banks, which I presume led to the evil.

Mr. BELL. I see the Senator's mind is directed to the same object that mine is in respect to currency, though we may differ as to the means by which that object is to be reached. Yes, sir, England is wiser, not only in regard to the restrictions she has imposed on bank issues, but wiser in her commercial policy. There is not a principle or dogma of political economy, as now taught in the schools, in regard to which England, in my judgment, may not be said to have reached the very acme of wisdom, in its practical application of them, in its broad admission or qualified rejection, in its enactments relative to all the important industrial and commercial interests of her people and her empire. England rejects a principle or a policy at one time, which she adopts at another, just as her condition and varied circumstances demand.

Mr. CLINGMAN. The Senator says England is wiser in her commercial regulations. Does he allude to her having a lower tariff, a lower rate of duties than the United States? If so, can he support this measure, which will, in its effect, largely increase our present duties?

Mr. BELL. What measure?

Mr. CLINGMAN. The measure introduced by the Senator from Rhode Island.

Mr. BELL. I will try to satisfy the Senator as to what my views are before I conclude; but I do not suppose that he and I shall agree altogether.

My object in calling the attention of the Senate to the extract from a British journal, which has just been read, was to show that a high British authority agreed with our President in attributing all the mischief, and the ruin to thousands which have resulted from the late revulsion, to the ill-regulated paper currency of the country—to the abuses of our banking system, and to that cause alone.

I am not at all surprised to find this concurrence of sentiment between English statesmen and the President upon this point. But, assuming that the true and sole cause of the late revulsion and all its train of evils—which, by-the-by, I deny—under which the country is now suffering, is justly attributable to the banks; and when, more especially, we are warned that these ruinous revulsions, at stated intervals, are never to end as long as we have a paper currency consisting of notes issued by so great a number of irresponsible banks, it becomes a subject of the last importance to inquire whether any remedy can be found for so great a mischief? The President, as he ought, has felt the force of this obligation resting upon himself. And what, sir, is the remedy which he prescribes? A bankrupt law, to include banks!—a war against the banks!

I wish my friend from North Carolina [Mr. CLINGMAN] to watch me and see if I do injustice. I understand the war is to be against all banks and all paper circulation. If that is not the policy of the President and his political friends, I should like to have it disavowed. A question has even been raised as to the constitutional power of the States to charter State banks. Upon that point I will refer the Senate to an argument which appears to me to be conclusive. In General Jackson's time, and when the question of currency and the right of the General Government to control it, was one very much discussed, Mr. Gallatin, who took a deep interest in all such questions, was asked, in a mixed company, whether, in his opinion, the States had the constitutional power to charter banks of issue? He replied to this question by asking one in his turn, which was, "how many of the States had chartered such banks?" The gentleman who had made the first inquiry replied that he believed all but one or two. "Well, then," said Mr. Gallatin, "I ought to consider the question very carefully before I decide that the States have no power to charter banks;" implying, of course, that a power which had been exercised from the time the Constitution was formed, and antecedent to that time under the old Confederation, which nearly every State in the Union had exercised, it was at that late day idle to suppose could be determined differently, or that the States would ever surrender the power; and it is well for the country that it is so. Any attempt to bring the chartered banks of the States under the control of the Federal Government by a bankrupt law, would be equally idle and abortive. It would be regarded as equivalent to a denial of the constitutional power of the States to grant bank charters, and a flagrant violation of their reserved rights. Yet this is the only remedy the President is able to discover for the prevention or mitigation of those commercial hurricanes which have so often swept over the country; and this one, I venture to say, will never be seriously pressed even by his own political friends. It may be questioned, in fact, whether it was ever intended to be pressed. Why, then, is this war upon the banks renewed at this time?—for it is but a renewal—a taking up the notes of the same war-cry which was raised in 1837, upon the failure of the deposit banks, and which have been feebly echoed ever since in some sections of the country. It is the counterpart of the "perish credit, perish commerce" doctrine contemporaneously proclaimed. I repeat the question, why is it that this war upon the banks and a paper currency is renewed at this time, when no just expectation can be indulged that either the one or the other can be put down, or brought under the control of the Federal Government? I answer, that this clamor against banks, bank credits, and paper money, is renewed now for the same or similar reasons which operated in 1837, when it was first heard. The clamor was then raised to save the party then in possession of the Government from the just responsibility incurred by tampering with the banks, and the direct encouragement given to their creation by the States, and to over-issues, which had resulted so disastrously to the country. The dishonesty and bad management of the banks were then denounced as the sole cause of the revulsion of that time, just as they are now. Yet they had increased their issues under the express recommendation of the Government.

A fierce war upon the banks at this time may be accounted for, in part, by the explosion of the delusion by which the people have for a long time been misled as to the efficacy of the sub-Treasury invention. It is now manifest that it can neither regulate the currency nor prevent over-trading; but what is most vexatious to the inventors is, that while it secures to the Government a metallic currency for its own support, so far as the receipts from customs and other sources of revenue extend, the important discovery is made that when, from the false policy of the Government in its commercial regulations, or from any other cause, the trade of the country is prostrated, no money of any kind goes into the sub-Treasury, and the Government is driven to the necessity of resorting to the so much despised and denounced paper money for its support. At this time, sixty millions of gold is held by the banks of some four or

five of our large commercial cities alone; yet the sub-Treasury continues empty, and can only be relieved by the use of Government credit. But whatever may be the real motive which has prompted this renewed attack upon the banks, whether it be patriotic and intended to promote the public interest, or as a decoy to divert attention from the great questions and principles which are involved, one thing is most certain: the gross-misapprehension or ignorance of the laws of trade and currency, as developed by experience, prevails among those who are leading and instigating the crusade. The President, in arraigning the banks as the sole cause of the late revulsion, would seem to be ignorant of the fact that commercial and monetary revulsions may occur from over-trading in communities in which the currency is altogether metallic. If any nation or people, whose currency is composed exclusively of gold and silver, buy more from a foreign nation or people than they can pay for in the ordinary products of their own industry, the balance must be paid in the precious metals; and if this unequal trade continues for any length of time, the currency, or circulating medium, falls below the amount necessary to a healthy state of commerce and exchanges, and then prices fall, credit is impaired, and trade comes to a stand, just as certainly as though the currency had consisted chiefly of bank notes.

If the President is really not ignorant that the late revulsion may have proceeded mainly from other causes than the excess of bank issues and discounts, why does he urge the war against banks and a paper circulation with such earnestness? The impression produced upon the common mind, by his views as expressed in his annual message upon this subject, is, that if we had no banks of issue—no bank-note circulation—if we had a gold and silver, a hard-money currency, we should never hear of any more commercial revulsions, bankruptcies, private distress, or the stoppage of individual enterprise.

I see, sir, that the President, in all that he has said upon this subject, has allowed his judgment to be quite too much biased by the known prejudices which, from various causes, exist in the minds of a large portion of the people of this country against all banks and bank paper, and the instinctive preference of the masses for gold and silver over their representative value in paper. A late eminent citizen, long a member of this body, made a gold and silver or a hard-money Government his hobby, as we all know. That distinguished gentleman did more to prejudice a large class of the people against banks and bank notes, and to fasten a conviction upon their minds that their interest would be best promoted by a currency exclusively of gold and silver, by a single but very simple proposition, and his peculiar mode of illustrating it, than all the elaborate speeches made upon the subject in either House of Congress. His proposition was, that every paper dollar in circulation expelled a gold or silver dollar, and so of a bank note of any greater denomination. It kept out of circulation its equivalent amount of gold or silver. To be satisfied that a gold or silver coin was more valuable than a bank note of equivalent nominal value, however good the credit of the bank which issued it, any man had only to ask himself, when called upon to pay a debt, and his money on hand consisted in part of gold and silver coin, and in part of bank notes, which he would pay out—the hard money or the paper—the currency which is imperishable, or that which is perishable? This simple interrogatory was enough to settle the question with all who were not engaged in trade, or who had not leisure to study the question as a science. The fallacy of the argument, as one intended to show that all banks and bank paper ought to be dispensed with, lay too deep for detection by an ordinary inquirer.

There are some important truths or doctrines connected with the subjects of trade and currency, of which the President and those who sustain his views would seem to be ignorant, or behind the age. From the time of Adam Smith, it has been admitted by writers upon political economy that bank notes, or a paper circulation founded upon such securities as insure their convertibility into gold and silver on demand, are of equal value

in all respects to gold and silver. A not less important fact, which appears to be ignored by the President, is the superior advantages and convenience, in some respects, of a paper currency, or circulation convertible into gold or silver. A sound paper circulation has not only the advantage of cheapness and convenience, as a medium of exchange, but, to the extent that it takes the place of the gold and silver that would otherwise be required to be kept in circulation in any community or country as a medium of exchange, it adds to the floating or unfixed capital of the country. The gold and silver dollar released or expelled from circulation by a paper dollar, being no longer required as a medium of exchange—in which employment it could not increase, but, on the contrary, daily loses by abrasion—becomes a part of the active and productive capital of the country, and adds its due proportion of increase to its wealth.

If, therefore, the President and those who support his policy should succeed in putting down all banks of issue, and provide no other paper circulation of equal value, it can be demonstrated that \$100,000,000, at least, would be withdrawn from the present productive capital of the country, without any equivalent benefit.

But, after all, I cannot suppose that the President is so profoundly ignorant of these laws of currency and trade as his policy in making war upon the banks, and pandering to the popular prejudice against paper money, would seem to indicate. When he assumes that the present monetary and commercial condition of the country is to be accounted for by the excessive issues of bank notes, the extravagant expansion of bank credits and discounts, and suggests no other remedy for these evils, except to subject the banks to the penalties of a bankrupt law, he must be supposed, in charity to him as an intelligent gentleman, to be controlled by some higher law, by more imperative obligations in his present position, than any which the true interests of the country would dictate or prescribe. How is it, that he makes no reference in his message to any practical remedy for the evils of a deranged currency? Because he is forbidden by the creed of the party which brought him into power. I do not wish to speak of this subject, if it could be avoided, in reference to parties at all; but we know that a large amount of the political capital of the Democratic party, and which they have wielded with great effect for the last quarter of a century, is founded in opposition to a United States bank. It has been ostentatiously paraded every four years in their platforms—opposition, unrelenting opposition, to a United States bank. Look at the Baltimore and Cincinnati platforms, and every preceding platform from the time of General Jackson, and you will find that opposition to a United States bank is a prominent article in the creed of that party; and yet, in the last fifteen years at least, nobody, Whig or American, has proposed the establishment of a United States bank. It has for twenty years been held up as a monster—a raw-head and bloody-bones, to frighten the weak and timid. It answers the same invaluable purpose to the Democratic party that, for half a century or more the Pretender did to a corrupt Ministry of the British Crown. It was only necessary in Protestant England to get up some alarm about the Pretender and Popery, to silence all opposition to the Cabinet Ministers or to the policy of the reigning dynasty.

The President is forbidden by his political creed to recommend a United States bank; yet the organs of British sentiment, as I have shown by the extract read from a leading British journal, while they agree with the President in assigning our ill-regulated banking system as the sole cause of the late revulsion, which they have particular reasons for doing, admonish him that the evil can only be corrected by some regulator in the nature of a bank.

I do not mean to suggest that any party, or any public man, in this country, ought to propose a national bank, nor do I think that one can or ever will be established, formed on the model of the late Bank of the United States; but that the Federal Government possesses the power, and that some such institution can be devised, by which the currency can be regulated so as to prevent the

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recurrence of any serious monetary and commercial revulsion so far as excessive issues of paper money may tend to produce such results, I have no doubt. As to the question of power, it may be well to call to mind that the first Bank of the United States was approved by Washington; that the second charter of a United States Bank, in 1816, was supported by Mr. Calhoun, and approved by Madison; and that for forty years such a bank was held to be constitutional by the Supreme Court of the United States.

It may be further stated, as a historical fact, that, on a question of the renewal of the charter of the second or last Bank of the United States, it fell a victim to party interest, in the fierce political conflicts of the period of General Jackson's administration; and it may be of some importance also to state that General Jackson himself did not discountenance the policy of a national bank. He expressly said in his veto message that if Congress had called upon him for the plan of a bank which would answer the most important purposes of such an institution, he would cheerfully have presented one. The plan he had prepared to lay before Congress is still in existence. Other plans of a national bank for the regulation of the currency, and to perform the duties of a fiscal agent of the Government, have been presented by persons in high public position. Mr. Tyler, who vetoed the last bill which passed Congress chartering a similar institution, presented a plan of a fiscal board, said to have had the approval of Mr. Webster, which contained provisions looking to the regulation of the currency. If the Government has no power to regulate the currency, it fails in one of its great purposes.

Sir, I agree with the President in the views he has expressed in his message on this subject, so far as to admit that the banks must bear some share of the responsibility for the late revulsion; but I insist that, so far as an undue expansion or increase of their circulation is concerned, they appear to have kept no more than an even pace with what seemed the increasing business and prosperity of the country. By the returns of the condition of the banks made to the Treasury, it appears that the average of their issues of notes in the last five years did not exceed one hundred and ninety millions, and that not more than one hundred and seventy-five millions was at any time in actual circulation—not more than some political economists have estimated might be safely circulated when the trade and business of the country are successfully and actively prosecuted.

But, to whatever degree the banks may have contributed to the late commercial and monetary derangement, by affording improvident facilities to over-trading and speculation, they were very far from being at the root of the evil, as I shall attempt to show.

Sir, the Government cannot escape its share of the responsibility for the consequences of the late revulsion, by the bold and confident manner in which the banks are assailed as the sole cause of it. I propose to inquire whether the Government, or those who have so long administered it, are altogether free from blame or censure? Does no responsibility rest upon them? We shall see.

First, I wish to bring to the notice of the Senate the fact that, from 1851 to 1857, inclusive, embracing a period of seven years, the amount of coin and bullion imported into the United States was only \$42,137,430; and that in the same period there was exported \$332,199,531, showing an excess of gold and silver exported over the amount imported of \$289,762,101; but it is now quite certain that neither the President nor the Secretary of the Treasury had ever turned their attention to the commercial or financial condition of the country until they were suddenly awakened to a sense of danger by the suspension of the New York banks.

That the Secretary of the Treasury, or the President, did not see anything that deserved serious notice in the continued and rapid withdrawal of the gold and silver for so many years is manifest from the fact that, even when the storm came, neither of them knew or suspected from what quarter it came, or what was likely to be the extent of it. They could make no calculations of that from anything they knew of the preceding state or condition of the commerce of the country;

and supposing that it was but a sudden squall, which would soon blow over, they actually went on to pay, out of the still diminishing resources of the Treasury, seventeen per cent. premium for the privilege of redeeming the public debt; and continued to do so as long as any certificates of debt were presented.

But, Mr. President, I wish to call attention to the doctrines and sentiments of a gentleman who has given more of his attention to subjects of this nature than the Secretary of the Treasury or the President; I mean the distinguished Senator from Virginia, [Mr. HUNTER.] He utterly ignores the idea that there was anything in the state of the exchanges—any significance in the fact that millions and millions of coin and bullion were annually flowing out of the country, as has been the case for the last seven years, as worthy of particular observation or notice. He considers gold and silver as commodities; that their exportation, whether large or small in quantity, is no more to be considered in reference to the sound or unsound state of the currency and trade of the country than any other product. The honorable Senator has reputation as a gentleman skilled in questions of finance, and I should like to hear him on this point; but it will be most prudent for the honorable Senator to be silent on this question. For the last quarter of a century, from the period of 1832 at least, if not dating back to the revulsion of 1825, and from that time to the present, the doctrine that the only criterion of a redundant paper circulation, or of an excessive issue of bank notes in any country, is the efflux of coin and bullion, and that the state of the foreign exchanges may always be relied upon as an infallible index of the condition of the currency, in this respect, may be said to have been firmly established. It was first clearly elucidated in 1826, fully sustained by the evidence given before the Parliamentary committee in 1832, and afterwards sanctioned by an act of Parliament in 1844, imperatively requiring the observance of it in the issue of the Bank of England notes; and it now appears to be permanently ingrafted into the policy of that Government. And yet the honorable Senator from Virginia undertakes to state that there is nothing but mere theory in all this—that it is of no value in practice; and insists that gold is only a commodity, and subject to the laws of trade and barter like other products. If he had chosen to go on with the elucidation of his theory upon the subject, he would doubtless have said that we get those large supplies of gold and silver from California—that they are the staple products of the labor of that State, and are exported just as other commodities are. This has been the invariable response to me whenever, within the last three or four years, I have expressed apprehensions that we were upon the eve of a commercial crisis. The answer was, invariably, there is no danger; it is the extraordinary yield of gold in California and Australia, that, both in America and Europe, has stimulated commerce in a degree unequalled in the history of either hemisphere. I was not convinced by this view of the case, though each successive year of a series tended to confirm the delusion that there was no danger of a revulsion.

It is astonishing, however, that those gentlemen who, from their position in the Cabinet and in Congress, were called upon to look carefully into these questions, and especially the Senator from Virginia, should for so many years have overlooked the fact that as much if not more gold was shipped from the Atlantic ports to England and other countries than was received from California; or, if it was observed, that it never caused them to doubt whether the currency of the country could be maintained in a sound condition under such a continued drain of the precious metals, and especially when it was evident that the internal traffic and business of the country, from their uncommon activity, required an increased circulation. The Senator's doctrine is, that gold and silver are but commodities, no way distinguished as articles of trade from any others. He forgets, or will give no weight to the fact, that these commodities, from their peculiar qualities, have been adopted as a common medium or standard of value by which all other commodities are measured and exchanged, and that these metals, or a competent portion of them, as instruments

or agents in effecting the exchanges of the products of labor, and giving activity to internal trade and industry, are just as important as the circulation of the blood is to the human system. Money is the life-blood of all trade and industrial employments, and when in any country the money is composed in part of paper or bank notes, as experience shows that it may safely be when not in excess, it becomes still more important to watch the movement of the precious metals. If the flow is inward there is never any danger. If they become redundant, a portion of them soon find their way abroad, and thus the equilibrium is restored. But when, in any country, as in this, a large portion of the money or circulating medium consists of bank notes, and the flow of gold and silver outwards is largely in excess of the influx, and so continues for a length of time, it may be regarded as an infallible sign that the paper circulation is redundant. The currency of the country is then depreciated relatively to the currencies of other countries, and gold and silver, in this respect, like other commodities, go where they command the highest prices. But the Senator from Virginia denies that this long-continued outward flow of gold from this country was anything remarkable, or furnished any reason for believing that there was an excess of paper money in circulation, or that there was any danger of a revulsion, although for the last seven years, from 1851 to 1857, there was an average annual export of gold and silver amounting to one fifth of our exports, and showing an excess, in the seven years, of the export of gold and silver over the import of the same metals, amounting, as before stated, to \$289,000,000! It is but too evident that neither the Senator from Virginia, nor the President, nor the Secretary of the Treasury, nor their predecessors in office, did see these signs of an approaching commercial catastrophe in time to arrest it; but ought they not to have seen and heeded those signs? ought they not to have studied and profited by them? And will it do for those who were intrusted with the control of the Government to say that they are innocent and in no way responsible for this great evil which has befallen the country, because they did not see and understand what it was their business to see and understand? If the rapid and continued drain of the precious metals did not strike them as a matter of any importance, was there nothing in the unusual and extraordinary increase of the foreign trade of the country to warn them that over-trading and speculation were prevailing to a dangerous extent, and that a revulsion was inevitable, involving the destruction of commercial credit, and a serious derangement of the business operations of the country?

In 1847, the year after the passage of the tariff act of 1846, the total amount of the imports was \$146,543,638; and in the year 1857 they rose to \$360,890,141; showing an increase of imported merchandise in ten years of more than one hundred per cent. In the ten years preceding 1847 the increase was only \$6,000,000; but in the ten years from 1846 to 1857 the increase amounted to \$214,000,000. Was there nothing to awaken inquiry or excite distrust in the solidity of a prosperity which thus appeared so far to surpass all former experience and example?

I have been stating the increase of our imports in the last ten years upon the assumption that the tables of our exports and imports, made up at the Treasury from the custom-house returns, are correct. If the imports were really no greater in amount than there reported, the increase therein exhibited of \$200,000,000 in the consumption of foreign goods by the people of this country, in so short a period as ten years, would be sufficiently astonishing, if, indeed, they were paid for as well as consumed; but if I should show the Senate, as I am confident that I shall be able to do before I take my seat, that the tables of imports sent us from the Treasury Department are deceptive and wholly unreliable; that instead of \$360,000,000, reported to have been imported in 1857, the actual amount must have been at least \$460,000,000, and that a ratable addition ought to be made to the figures representing the imports in each of the last ten years; and when to this statement we add the fact that, in the last ten years, the exports and imports, as reported in the tables compiled at the Treasury, have about balanced each other in

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their gross amounts, but that one sixth part of the exports in the last seven years has been coin and bullion, the increased consumption of foreign merchandise in the last ten years will appear to be still more astonishing; and that such an unequal trade could have been maintained for a period of ten years, is really marvelous. Why, sir, it rivals in extravagance some of the stories in the entertainments of the Arabian Nights; and it is only a less marvel that none of the public gentlemen addicted to the study of such questions should not have foreseen the catastrophe which did finally come.

It has been said, by way of apology for those whose duty and position required that they should have proposed some preventive measure in time to have avoided the late revulsion, that nobody anticipated or could have foreseen such an interruption to the prosperous condition of the country.

Allow me, sir, in answer to this very extraordinary assertion, to read a passage or two from a number of the *London Economist*, a journal of great authority upon all questions of trade and finance, published 3d January, 1857, and which reaches this country usually in about a fortnight after the publication, and which I must presume is taken at the Treasury Department:

"Turning from the finance accounts to the trade returns, they present, as we have already said, results altogether unprecedented in the history of this or any other country; and we frankly admit that it is impossible to contemplate them without feeling some misgiving as to the continuance of an expansion so sudden and so remarkable. An increase in our exports to the extent of £20,000,000 in a single year is a fact for which the most sanguine could not be prepared. It is true that, at the commencement of the year, we concluded a great war, and entered upon a period of peace. But it must be borne in mind that the war was not of a character which interfered much with our foreign trade, and that, in point of fact, our exports, while they had not increased, yet did not suffer any material diminution during its continuance. There were not, therefore, as has sometimes been the case at the conclusion of a war, great markets to supply, which had become exhausted of stocks."

"Judging, therefore, only by the events of the past year, it would be difficult to conceive any combination of circumstances more promising for the year to come. Past experience has, however, shown that periods of sudden expansion and of remarkable prosperity, even though unaccompanied by any obvious speculative character, are generally followed by a reaction, less or more serious, according to circumstances."

The exports of British manufactures in 1855, amounted to £95,688,085; but in 1856, at one bound, they rose to £115,890,857—an increase in one year of £20,000,000, equal to \$100,000,000; an increase unparalleled, according to this authority, in the history of trade and commerce in that country or any other. But dropping this point, and assuming that it is too much to expect of our public functionaries that they should be able to descry any signs of an approaching storm until it bursts upon them, let us inquire, for a moment, in what other respects the Government has contributed to bring upon the country the late disastrous revulsion. The Government is altogether innocent, says the President, of this thing; and so say the leaders of the Democratic party; the banks alone are guilty; all the wild speculation, over-trading, and stock gambling, which brought on the late crisis, were caused by the banks.

Sir, let us see how this is. What has been the policy of the Government of late in relation to the public lands? Millions upon millions of acres of the public lands have been purchased from the Indians and thrown upon the market, far exceeding in amount the wants of the country, or of an increasing population. Investments of a speculative character in the public lands have thus been invited and encouraged by the Government, which have greatly deranged and embarrassed the regular business operations of the country. This is a notorious fact.

Again, in the last five or seven years, twenty-five million acres of the public domain have been given to encourage the construction of railways in the new States—some of them penetrating to the remotest borders of the settlements in the interior; and these donations have stimulated the expenditure of large amounts of borrowed capital in constructing roads, which cannot pay the current expenses of operating them, and are not worth one half their original cost.

Can it be truly said that the Government is in no degree responsible for this enormous exten-

sion of credit, absorption of capital, and stock-gambling which have grown out of this improvident multiplication of railroads, and its kindred policy of tempting speculation in wild lands, not wanted for settlements? I have heard that some grave Senators have been seduced by the idea that they could be suddenly enriched by embarking largely in the purchase of these lands.

Mr. President, embarrassed as I am by the obvious desire of the Senate to close this question without further debate, I am sensible that I have not been, and shall not be, able to do any sort of justice to the subjects which I have undertaken to discuss. But, sir, even at the hazard of incurring the displeasure of some of my friends, I propose to continue my remarks, and bring to the notice of the Senate and of the country another branch of the subject before us—one which I consider of the greatest importance.

The observation and experience of the ablest business men of the country have led them to the conclusion that the best regulator of trade and currency, and the surest preventive of those disastrous fluctuations in both which have so often brought distress upon the country, is to be sought for in the commercial policy of the Government. By the Constitution the commerce between the thirty-two limited sovereignties of the confederated Union, with an aggregate population of thirty millions, is free. Here there is full scope for the operation of free-trade principles. The commercial power of this Government, though given in terms equally over domestic and foreign commerce, is virtually limited by other provisions of the Constitution to foreign commerce; and, accordingly, if we leave out of view the regulation of the coastwise trade, it is only in reference to foreign commerce that we have any commercial regulations, prescribed either by treaty or by statute. The great question is, whether this power to regulate foreign commerce can or ought to be exercised in such manner as to increase and give stability to domestic or internal commerce; or, as one school of political economists contend, solely with the view to raise revenue for the support of the Government? Can it be that the commercial power of the Government was given for any such narrow and limited object; or was it not rather given for the far more noble and beneficent purpose of developing the resources, stimulating the productive energies, increasing the wealth of the country, and thereby adding to the comfort and improving the condition of the people? Commercial regulations that look exclusively to revenue, or to an increased foreign trade, neglect the foundation of both; for an ample revenue and a constantly-increasing foreign commerce depend upon the increasing activity and productions of internal commerce and industry. Increased productions depend upon the diversity of pursuits which invite the employment of capital and labor, and, withal, upon a sound and sufficient circulating medium. All these considerations enter into the economy of domestic industry and trade; and as these flourish and increase, so do the revenue and foreign trade. There is no antagonism between them; yet from the nature of things, that one interest upon which another depends for its support, must be of the greatest importance. So in fact it is, in magnitude as well as in priority of rank.

Taking \$1,100,000,000—the estimate of Professor Tucker—as the value of the annual product of the industry and capital of the country in 1840, and taking further his estimate of the decennial increase of the annual products relatively to population, and making proper allowance for the accession of California to the productive power of the country since 1840 as the basis of the calculation, the value of the annual products of the industry and capital of this country, at this time, may be estimated at two thousand five hundred millions of dollars. The distribution and interchange of the articles or the commodities which make up the amount of these products are what constitute the domestic or internal commerce of the country, except that portion which not being wanted for consumption at home, is exported and exchanged for foreign merchandise; and these last, when brought into the country, add to the internal commerce of the country in proportion to their quantity and value.

Discarding alike the amount of exports in the fiscal year of 1856, ending on the 30th June, 1857, and the exports of the present fiscal year, ending on the 30th June, 1858—the one being too high and the other too low upon which to base an estimate of what the amount or value of the exports would be if the commerce of the country were in a sound and prosperous condition, I will take a medium amount—say \$250,000,000—as likely to be the full value of the annual exports of domestic produce, for some years at least after the trade and industry of the country shall resume their usual activity. The profits made upon the exportation of these \$250,000,000 worth of domestic productions, and upon the merchandise received in exchange, constitute the full value of the foreign commerce of the country for one year.

It will thus be seen that the domestic commodities annually sent abroad and exchanged for foreign products, estimating them at \$250,000,000, constitute but one tenth part of the value of the annual products of the capital and industry of the country. This one tenth of the annual national products is all that is exchanged abroad, and is the basis of what we call the foreign commerce of the country. As to the relative magnitude of the two interests—the foreign and the domestic—the one is ten times more valuable than the other.

But small as is the proportion of our foreign to our domestic commerce, I do not undervalue its importance. It is our foreign trade which takes up and turns to account the annual surplus products of our industry, or that portion which is not demanded for use or consumption at home.

Though from the variety of soil and climate, and the extent of its mineral deposits, this country is less dependent for any essential supply upon the products of foreign growth than any country beneath the sun, yet it is dependent upon foreign trade for some articles which from habit have become necessary to the comfortable subsistence of the people—such as tea, coffee, and sugar, and some others employed in certain manufactures; but for all else—for the \$30,000,000 of woolen goods, the \$30,000,000 of cotton goods, the \$30,000,000 of silks, the \$25,000,000 of iron and iron manufactures, and many million dollars' worth of other articles annually imported—this country could, and may in time, be rendered wholly independent of foreign supply. Silks, and the finer fabrics of wool and cotton, and some of the finer articles of cutlery excepted, the whole amount of the woolen and cotton goods, the iron and iron manufactures, now imported from abroad, could be produced in this country in a comparatively short period; for it is a remarkable fact that three fourths of the entire amount of British manufactures are such as require no greater skill in the operative than can be acquired in a few months' practice. The bulk of the cotton and woolen goods, all the iron, and most of the iron manufactures exported, are of the coarser qualities.

But to come back to the point in question. Two things are clear: the extent and value of the foreign trade does and must always depend upon the quantity and value of the products of internal or domestic industry; and the greater the activity of internal trade and industry, the greater will be the quantity of surplus products, raw or manufactured, to swell the outward current of trade, and the greater the power of the people to consume the foreign products received in exchange for them. The first and greatest question, therefore, to be considered in deciding the policy of our Government in relation to currency and commerce, is, beyond all cavil, what policy would be best calculated to develop the resources of the country, and impart the greatest degree of activity to internal trade and industry? That is the great question; and in regard to this, two directly opposite theories or opinions are held, and one other intermediate between the two. One division or class of the partisans of free trade contend that foreign commerce should be as free and untrammelled as the commerce between the several States of the Union; and, to give effect to this policy, that the revenue to support the Government should be raised by direct taxes, and that the commercial power given to Congress by the Constitution should be and can be exercised constitutionally

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no further than to compel reciprocity. Another class of the same school of economists do not go quite so far; they hold that it is well enough to raise the necessary revenue to support the Government by duties on imported merchandise, but insist that it is neither expedient nor constitutional to impose any such duties on imports but for purposes of revenue, and that no discrimination is admissible with a view to the protection of domestic manufactures. But there is still another class of political economists, or rather of practical business men, in this country, who hold the opposite of these doctrines; who hold that the commercial power given to Congress by the Constitution was intended to be exercised not merely to countervail the commercial policy of other nations, but to establish a commercial policy of our own, founded upon the particular circumstances in the condition of our own country; such a policy as would lead, in the first place, to the production within our own limits, as far as practicable, of all commodities of first necessity to our defense in time of war, and our subsistence both in time of peace and war, that being an essential condition of independence; such a policy as, in the next place, would be calculated to develop every latent or neglected resource of the country, and call into action and stimulate every moral and physical element of productive industry to the highest point of attainable skill and excellence.

How the foreign commerce of the country, small as it is in value, compared with the internal trade and production, if left free from all or from proper restrictive control, may injuriously affect the latter and the greater interest, may be shown by a few facts and considerations.

No great derangement or fluctuation in the currency of the country, nor any commercial revulsion, has ever been brought about, but in connection with excessive importations of foreign products. There may be speculation and overtrading to a considerable extent at home; the circulation may be occasionally increased beyond a safe limit; but the great internal machine of production is a self-adjusting one, if left to its normal operation. Those who speculate wildly and overtrade, suffer; but there is no general crash or stoppage of business, unless there be an explosion from abroad. Take the example of the revulsion of 1837, one of the most ruinous the country has ever passed through; the value of the imports of foreign merchandise in 1834 was, in round numbers, \$126,000,000. In 1836 they rose to \$189,000,000, showing an increase in two years of \$63,000,000. No wonder that in 1837 there was a general crash. Many ingenious suggestions have been made to relieve foreign commerce from any responsibility for the revulsion of that year, but there stands the fact of an increase in imported goods of fifty per cent. in two years. Let us now see how the case stands in relation to the recent revulsion. In the year ending 30th June, 1855, the imports were, in round numbers, \$212,000,000; in the year ending 30th June, 1857, they rose to \$360,000,000, showing an increase in two years of \$148,000,000. Is it therefore wonderful, that a general crash followed this enormous violation of the laws of regular trade? When it is considered how important it is to the active and successful prosecution of all the arts of production to maintain a currency at once sound, steady, and abundant, and that it is impossible to maintain such a currency without an adequate supply at all times of the precious metals, we may be able to form some estimate of the extent of the injuries inflicted upon the country by an ill-regulated foreign commerce; draining it of those indispensable commodities, or causing them to be hoarded in banks or private coffers, forcing a rapid contraction of the circulating medium, superinducing a fall of prices, a depreciation of property ruinous to debtors, a general loss of confidence and destruction of credit, the utter prostration of many important branches of individual enterprise, and the depression of all.

But however grievous the consequences of these occasional revulsions to the general prosperity, they sink into comparative insignificance when contrasted with the permanent obstacles interposed by an ill-regulated and inadequately restricted foreign commerce to the full development of the industrial resources of the country. The

native energies of the people will, in a few years, overcome the disasters of the most ruinous commercial revulsion; but they can never be displayed in their full proportions under the perpetual incubus of an essentially vicious and injurious commercial policy.

I have before stated that the value of foreign products in 1857 must have been \$460,000,000, instead of being no more than the \$360,000,000, as shown by the custom-house accounts. I found this conclusion upon these facts and circumstances: The value of the products exported in the year 1857, at the place of export or shipment, was, in round numbers, \$362,000,000; while the value of the imports at the place of export from the country where produced, was, in round numbers, only \$360,000,000; neither the increased value of the exports in the foreign market, the interest on the capital invested by the merchant, nor the profits upon the inward adventure, or the wages of mercantile industry, are represented in the amount of imports; and it not being so represented, where it should regularly appear, it would seem that the foreign trade of this country is carried on without any profit, or rather at a loss. American merchants do not engage in foreign trade on such terms. How different the returns of the British foreign commerce. It appears from the accounts returned to Parliament of the foreign trade of the United Kingdom for the year 1856, that the declared or real value of the British and Irish exports was £115,890,857, or \$579,454,285; while the declared value of the imports of the United Kingdom, for the same year, were £172,654,823, equivalent to \$863,274,115, and showing an excess of imports over exports of more than forty per cent. after deducting £23,000,000 of imports exported to foreign countries. On the same authority, I am authorized to state that the excess of imports over exports, in a series of years, has averaged forty per cent. If the rate of returns on foreign trade carried on by American merchants should be equal to that of the British merchant—and I cannot see why it should not be—then the value at the port of delivery of the foreign merchandise imported into this country in the year ending the 30th of June, 1857, should be stated at \$505,246,197. Allowing a similar rate of increase in the annual amount of importations stated in the Treasury report, it will result that in the last ten years \$960,000,000, or nearly one thousand million dollars' worth of foreign products, have been imported into the United States more than appears in the custom-house returns, or in the Treasury reports; and in the same time, the frauds upon the revenue must have exceeded one hundred and fifty million dollars—an amount sufficient to construct a railway to the Pacific. The people of the country, not even the President himself, nor the officers of the Government, who have a more particular interest in the subject than others, have no means of knowing the amount of the foreign merchandise brought into the country at any time. Nothing could be more conclusive than this extraordinary deficiency of information upon so important a subject, that our whole commercial system is essentially blind, deceptive, and founded upon false principles.

In the absence of all reliable custom-house returns, showing the amount of our import trade, and when credit enters so largely into all mercantile operations, it is easy to see how the country may become extensively involved by overtrading, and find the currency and the whole machinery of production suddenly disordered without any previous warning; especially when the state of foreign exchange is repudiated as any indication, either favorable or unfavorable, of the condition of the currency or of foreign trade, as it is by our most distinguished financiers and political economists. The delusion of a prosperous condition of the country, in the absence of wise and proper commercial relations, may prevail for years before the inevitable catastrophe dispels it. That such a delusion prevailed during the last five years, we now know; but the mystery is, how it was kept up so long; for, dim as the light was which the Treasury reports shed upon the subject of the trade of the country, it was sufficient, one would have supposed, to have put business men on their guard.

The average value of the annual amount of im-

ports during the five years, commencing with 1848, was \$181,000,000; while the average of the last five years was \$301,000,000, showing an increase in five years of \$120,000,000. In 1852, the year preceding the last term of five years, the imports were only \$212,945,442; in 1857 they rose to the sum of \$360,890,151, exhibiting a difference of \$147,944,699, or nearly seventy-five per cent. We can now understand, if we will, why it was that the gold and silver, the basis of a sound currency, was leaving the country during the last five years at the average rate of \$47,000,000 a year. We can now understand, if we will, how, in order to keep pace with this extraordinary expansion of foreign trade, and to supply the place of the gold and silver sent out of the country to pay for the excessive importation of foreign wares, the banks increased their issues and extended their discounts; how the manufacturers continued their business at a loss, as they must have done, under a competition with foreign goods so overwhelming in amount, in hopes that a better time would come; and how it was, that when neither the merchants, nor the manufacturers, nor the banks, could longer bear up against the pressure, all went down together, some few of the banks, swindling concerns from their origin, and thousands of honest merchants and manufacturers, never to rise again. I repeat, that we can now understand, if we will, how and why it is that when such a crash comes, money becomes scarce or ceases to circulate; that the prices of property and all the products of industry fall; that the debtor finds that he has substantially double the amount to pay that he contracted to pay; how the farmer and planter have to take half price for their products, or let them rot in the barn or under the shed; how all the springs of production become relaxed, and the whole social movement retarded.

Whoever, like the President and the author of the article I have referred to in the Edinburgh Review, attributes the late revulsion, with all its train of evils, to an ill-regulated currency, must be deaf to the teachings of experience. The one of these authorities is supporting a party, and the other the interests of his own country. The unrestricted issue of paper money may have contributed to the disaster, as I have before stated, but the great first cause of this wide-spread calamity is to be found in an ill-regulated, unrestricted foreign commerce. Sir, it was free trade!

I have heard it announced once or twice, in debate on this floor, that nobody is now bold enough to advocate the protective policy. The Secretary of the Treasury announces, in his report, that "the day has passed in this country for increasing the restrictions on commerce." The enlightenment of the period in which we live is too great for that! The policy of Great Britain, in modifying her tariff, to some extent, in conformity with the spirit of free trade, is held up as an example fit to be followed by this country. I have already expressed my admiration of the profound wisdom of British statesmen. They never sacrifice a great national interest to a mere abstraction. They know perfectly well that they risk nothing in the changes they have made in their commercial policy. They know, too—what American statesmen have yet to learn—that the reciprocity in trade which they affect generously to offer to the acceptance of all nations is neither fair nor equal in its benefits, except as between nations in some parity of condition, and the natural resources of which have been equally developed. There can be no fair competition otherwise in the race for preeminence in wealth and power. All the world knows that England stands now without a rival in the arts of production, and that, if the principles of free trade were now ingrafted upon the policy of all other nations, she never could have a rival. The free-trade partisans in this country speak so vauntingly of the progress of these principles, that I should like to hear what nations or people have made them the basis of their commercial policy? what great Power, especially, has adopted this policy? Great Britain, it is true, has adopted them as far as they are applicable to her circumstances and condition; and to that extent, other Powers have done so; But what one has gone beyond that point? Is it Russia? Is it Austria? Is it France? None of those Powers have fallen into the snare; nor could

either of those great Powers adopt such a policy without endangering, nay, without a positive sacrifice of the great element of progress, as well as of independence. Which of the smaller States of Europe have been so insane as to accept the invitation of England? Some few commercial cities only. Neither Holland, nor Belgium, nor Sweden, nor Denmark, nor the Zoll Verein, which represents most of the States of Germany, nor Switzerland, nor Spain, nor Portugal. Several of them have reduced their duties on imported merchandise, but none of them have fully embraced free-trade principles.

The advocates of free-trade principles in England affect to sneer at the narrow policy of France in adhering to her restrictive system; and they point especially to the high rates of duty imposed upon foreign iron. How absurd the idea that France could allow her iron manufactures to go down under the cheaper supplies from England! Where would she be as a military Power without that most essential *material* of war? But France has evinced the superiority of her wisdom in other respect besides the costly protection of her iron interest. Conforming to the first maxim, or what ought to be the first maxim of political economy, which is, that it is the paramount duty of every State or nation that would secure its independence against all contingencies, so to mold its commercial policy as to insure the production, within itself, of all the essential articles of military supply, and, as far as practicable, of such articles of subsistence as are of prime necessity, or such as are by habit so necessary to the comfort of the people, as that discontent would follow the want of them, France, by her persistent efforts and proper protection, has brought the manufacture of sugar from the beet-root to such perfection as to meet the foreign product upon equal terms in the domestic market, and to furnish a large proportion of the amount consumed by her population.

The considerations connected with military defenses and national independence will always prevent the general adoption of those principles of free trade which the Secretary of the Treasury dreams of seeing incorporated into the code of international law. As long as Great Britain maintains her superiority as a naval Power, France dare not relax her commercial system. To do so would reduce her forthwith to the rank of a second-rate, or rather to the condition of a dependent Power. Great Britain alone, of all the nations of the earth, could, at this time, without danger or permanent injury to any of her interests, conform her commercial policy to the principle of free trade: for, as to whatever essential supplies she may want, she can command them by the thunder of her naval batteries.

Those who would follow the example of Great Britain in adopting the principles of free trade in this country, would do well to give some attention to the "vantage ground" she would occupy in entering upon a free competition for the trade of the world; and that is the question at last. All freely admit that the manufactures of Great Britain are the principal foundation and support of her immense commerce. She exports no raw products; her manufactures now supply annually an average of £100,000,000 of exports, equivalent to \$500,000,000; and this they do after supplying the home consumption to an equal amount, as estimated by her ablest economists; thus making the whole annual product of her manufacturing industry £200,000,000, equivalent to \$1,000,000,000. It was this exhaustless mine of wealth that carried England through the terrible and expensive wars of the French revolution triumphantly; and it would enable her again to subsidize half the world in any great war in which they may happen to be engaged.

If it should be inquired how England has been enabled to surpass all the world in manufacturing industry, the free-trade advocate will tell you that this great success arose from several causes: the character of her population; their hardihood and enterprising spirit; the natural advantages of the country; its minerals of greatest utility in the arts; its treasures of iron and coal; the abundance of capital, the accumulation of centuries; but none of them are ever heard to allude to another and most potential cause of the wonderful progress of manufacturing skill and enterprise in Great Brit-

ain. I allude, of course, to the encouragement and protection extended by the Government to the manufacturing interests, by duties and imposts upon the products of other countries, when brought to be vended in the English markets. When the attention of the champions of free trade is called to this point, their utterance is suddenly choked up, or they boldly deny that the protective policy has had anything to do in building up that great British interest.

They dispose of the famous navigation acts in the same way—acts so long and so justly regarded by Englishmen as among the most politic measures of the English Government, and the origin of their maritime ascendancy. By those acts, the importation of foreign merchandise was restricted to English bottoms, or to the ships of the nation or country of which the merchandise were the growth or manufacture; and they also provided that the master and three fourths of the crews of all English vessels should be British subjects. At the period of the passage of these acts Holland aspired to be mistress of the sea. Her fleet became so formidable while under the command of Van Tromp and De Ruyter, that at one time during a war with England, an English ship could hardly venture out to sea. Van Tromp audaciously sailed down the English channel, with a broomstick at the mast-head of his ship, and once entered the Thames and spread consternation among the inhabitants of London itself. The navigation acts were dictated by jealousy and the fear of these bold rivals, and their effect was, in a comparatively short time, to humble the naval power of the Dutch, and to acquire a superiority on the ocean which she maintains to this day; yet those celebrated enactments are now derided as having been dictated by ignorance and a false conception of the true principles of trade and navigation. All that remains of them now is the monopoly of the coasting trade, which is still secured to British vessels. Some of our leading advocates of the free-trade school in this country have proposed to throw open the coasting trade of the United States to British enterprise. In that event, Great Britain would be nothing loath to take advantage of that new opening to her commerce; and before a great while, her trading vessels would be found not only in all the bays, inlets, and rivers on our extensive sea-coasts, but also upon all the lakes and rivers in the interior, peddling British wares at every landing; for the principle would lead to that. It would be free trade, and as for the revenue which it may be supposed would suffer by this license, that is already proposed to be raised by direct taxes.

But I am digressing from the train of my argument. I was enumerating the circumstances in the condition of Great Britain which gave her great advantages in the contest for the trade of the world in which she is embarked, and in which she invites all nations to contend with her upon principles of free trade, and the causes of her unparalleled success in manufacturing industry. I alluded to the abundance of British capital as one great element of her success; but I did not notice one advantage derived from that source, and that is, that it enables the more wealthy class of manufacturers occasionally to submit to great sacrifices in the sale of their manufactures, as it is known they often do, to strangle rival interests springing up in other countries. That combinations for this purpose are often entered into by British manufacturers, I presume will not be disputed.

Nor have I treated, as fully as I should do, of the truly wonderful progress which has been made in Great Britain in substituting mechanical for human power. An able and approved economist of the free-trade school computes that, by this substitution, an available force equal to the combined energies of six hundred millions, or two thirds of the population of the globe, have been crowded into a country not exceeding in extent some of the separate States of this Union, and the entire population of which does not exceed thirty million. What proportion of this vast power or force is employed in the various branches of industry connected directly or indirectly with manufactures, I have no means of estimating, but it must be very large. All agree that what we call manufactures, would be more properly described

as the product of machinery than of the hands—the bone and sinew of man. The mechanics, properly so called, make the machines, and the machines convert the raw material into artificial forms and textures. It has been estimated that the whole number of mechanics and operators, men, women, and children, employed in the production of British manufactures, does not exceed one million and a half, though many millions more are dependent upon them for their support.

It is upon this vast-accumulation of mechanical forces, it is upon this general superiority over other nations in the mechanic arts, that the free-trade advocates base their belief that Great Britain will enjoy a virtual monopoly in supplying the world with certain descriptions of manufactured articles. It is upon these broad and truly wonderful foundations—the creations of British invention, skill, and energy, aided by a wise policy on the part of the Government—that those advocates predict still greater triumphs of British art, claiming that "British cotton and linen goods, British iron and hardware, will become a kind of current money throughout the globe;" that British commerce will be so extended that Britain will become the factor for the world—"its vast capital rendering it an industrial agency for diffusing and equalizing the collected affluence of mankind." These are the calculations—the dreams, perhaps—of enthusiasts; but when we reflect upon the past success of that great people in all that constitutes the glory of nations, we should not be surprised at any future triumph they may achieve. How proudly erect she now stands amid difficulties that might well appal the most powerful nation! Not altogether free from apprehension of the hostile designs of the first military Power of the world, yet with cool determination subduing India, with its one hundred and fifty million inhabitants, to a more perfect obedience to her rule; and at the same time, dictating to the sovereign of three hundred million subjects on the eastern verge of Asia, the terms upon which he may be permitted to occupy his throne in security; and, what is scarcely less admirable in her bearing at such a time, her apparent indifference whether or not she gives offense to this country—no despicable antagonist, if she had no other. But what is most wonderful, not to say mysterious, in the cool and unshaken attitude assumed by Great Britain at this time, is the enormous financial burdens under which she still moves onward in her course—the immense amount of taxes levied upon the industry and resources of her people for the support of her vast public establishments, and to pay the interest upon her public debt of £800,000,000, equivalent to \$4,000,000,000. I see by the returns made to Parliament, that the net revenue collected and paid into the exchequer in 1857, was £72,218,988, equivalent to \$360,000,000. Though there is something truly wonderful in all this, yet there is no mystery in it. The port and majesty with which Great Britain moves among the nations are justified by her inexhaustible natural sources of wealth which she early discovered, and had the wisdom to cherish and develop. If it were fit and just that any one country should make all others tributary to it, the small group of British isles, the seat of British power, with their comparative diminutive population, by raising themselves to their present preëminence, have won the right to make the world tributary to them; and now, having attained the full measure of the benefits which a protective policy could bestow, well may that great people challenge an exchange of their products for the commodities of other nations on free-trade principles. It remains to be seen whether the challenge will be accepted. This country already takes from Great Britain within a fraction of \$100,000,000 worth of her manufactures in exchange for its raw produce, that being one fifth of the whole amount of British exports to all the world, and one third of her entire exports, exclusive of the amount exported to her own possessions and dependencies. But what is more remarkable still in the policy of this country is, that far the largest portion of all the products of British industry brought to this country could, in a comparatively short time, be supplied by native industry and resources.

Mr. President, a desire to close my remarks in-

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duces me to pass over many points I should like to notice; but there are a few, out of which so much capital has been made in this country by the champions of free trade, that I am not willing to slur by silence. They expatiate largely upon the success of free-trade principles in England, and, by this means, they have succeeded in imposing on the credulity of large numbers of the people of this country. After all, what does the free trade of England amount to? She still imposes duties on her imports to the extent of \$20,000,000 on an average. Last year they amounted to \$22,000,000; and how much of the \$17,000,000 raised by excise duties is imposed upon the same commodities before they are consumed I cannot state. What do you think, sir, of the free-trade principles, or rather practice, of England, when she imposes a duty of seventy-two cents upon every pound of tobacco imported into the kingdom, and five per cent. upon the value in addition? What do you think of an annual revenue of from six to seven million pounds, equivalent to thirty or thirty-five million dollars, derived from tobacco alone, the largest portion of which is exported from the United States? How does this consist with the idea of free trade? That, however, is the character of the free trade of England! But even here, we may learn something from the wisdom of English statesmen. Why do they impose such large duties on this article? Because tobacco is an article which enters into what is called unproductive consumption. Though it has become an article necessary to the comfort of the toiling million, yet it is taxed to the maximum that it will bear, because it perishes with the use; because it cannot be spun into yarn or made into cloth. British policy is to import nothing but raw products which can be converted into a product of ten times their original value by the agency of her wonder-working machinery, and such other commodities as contribute to the subsistence and comfort of the operative mechanics and laborers who make and direct the machinery.

Again, we have heard a great deal of the repeal of the corn laws of England, as a great act of justice to the toiling millions, extorted from the Government by the principles of free trade. Sir, I should be pleased to see the Senator from Georgia [Mr. Toombs] in his seat; the Senator who spoke so pathetically of the impositions and oppressions that were practiced upon the toiling millions by the protective policy of this country, by the unjust taxes imposed on them for the improvement of rivers and harbors. He spoke of the hundreds of thousands of poor people—I believe he said there were four hundred thousand in the single city of New York of untaxed inhabitants—scarcely able to eke out a living; many of them not able to do that; and yet Congress was asked still further to distress and oppress them by increased expenditures and the imposition of higher duties—thus raising the price of the goods with which they are to be clothed.

What was the repeal of the corn laws of England intended to effect? The corn laws were that part of the general protective policy of Great Britain which was intended to encourage agriculture, and to insure, as far as practicable, that sufficient supply of food within itself, for the subsistence of its inhabitants, necessary to its independence; but when, from increased population and the limited quantity of lands fit for cultivation, the products of the soil often fell short, as they were almost sure to do in unfavorable seasons, of a sufficient supply for the whole population, the prices in such seasons, as was inevitable, rose so high that the laboring classes, depending upon their daily or weekly wages for the subsistence of their families, and especially those who could get no regular employment, were often not able to buy bread enough to support life; and great numbers, under these circumstances, but for the relief extended under her poor laws in years of scarcity, would have perished. Under these circumstances a cry of "repeal" was raised against her corn laws by the suffering and toiling millions. It was heard and responded to by the Government, and the corn laws were repealed. They ought to have been repealed as soon as population began to tread upon the heels of subsistence. Protection of agriculture had gone as far as it could safely go without a sacrifice of other great

interests, and it was withdrawn without the sacrifice of the agricultural interest. One fourth of the population of Great Britain is still engaged in agricultural pursuits. Agriculture still flourishes, and all the wheat and other grains, and the flour made from them, imported from other countries, constitute but a fraction of what is consumed. It is estimated that all the ships of the merchant service of the world would not be sufficient to transport breadstuffs and provisions enough to supply the United Kingdom, if their entire crop should at any time fail. The sentiment of the invocation of Thomson,

"Ye Britons, venerate the plow,"

is still the sentiment of the English people, as it is of every intelligent people. Agriculture is the foundation of all prosperity, and without its successful development civilization would retrograde. But all history teaches that a people addicted to agriculture only have invariably become either the dependents or the victims of the Powers addicted to trade, war, and spoliation.

But upon what pretext can it be claimed that the repeal of the corn laws of England was a triumph of free-trade principles? Here we have no question about the protection of agricultural industry; it is about the protection of mechanical and manufacturing industry. As to these interests, the repeal of the corn laws was a triumph of the protective policy—of the manufacturing interests of Great Britain—and was so expressly claimed to be by the Anti-Corn Law League and the advocates of free trade. The repeal of the corn laws cheapened breadstuffs and provisions, brought them more within the means of the operatives and laborers in the machine-shops and foundries, in the mines and in the factories, which enabled them to do more work with the same or less wages, and to consume more of the products of manufacturing industry, encouraging new investments of capital, the building of new factories, and thus regular employment was found for thousands who otherwise might have been still doomed to the pittance of subsistence doled out by the poor-rate charity. The repeal of the corn laws brought relief to the toiling millions, but unhappily it could bring no relief to the unemployed poor, except to the extent and in the way I have just explained; for though the market was thrown open to the wheat of the Baltic, of the Black sea, and of the United States, still the poor man out of employment had no means to buy it; and as for him and his starving family, it might as well have remained in the country where it was grown.

How does my friend from Georgia, and those who concur with him in the policy of free trade, expect to advance the interests or relieve the wants of the toiling millions about whose distresses and oppressions under the protective policy they so eloquently declaim? How do they propose to benefit the four hundred thousand destitute poor in the city of New York, referred to by the Senator from Georgia, by their free-trade policy? When you take off all the duties on foreign merchandise, and thereby, if it should so happen, reduce the prices of them, does that relieve their distresses or promote their comfort? Unfortunately, their condition would remain precisely the same; for they have no means to buy clothing at any price, nor will they ever be able to improve their condition until they shall find employment by which they can first put money in their pockets. Nor is this the doom of the poor and idle about the large cities alone, but of the thousands dispersed over the country, who, either from taste or habit, prefer the excitements and the associations of the town and village, or of mechanical labor, to the solitary employments of the farm or the country. But a wise protective policy looks beyond the supply of such employments as will raise the condition of the laboring man above want; it aspires to give him the option of employments at such wages as will enable him to build a house, to educate his children, and to clothe his wife and daughters in a manner conformable to the natural and becoming pride of an American freeman. That is the true way to relieve the wants and to elevate the condition of the toiling millions, and there is no other way.

But, sir, a wise and statesmanlike policy for this country must embrace other classes of our population besides the poor and unemployed. Three

fourths of our population are now engaged in agricultural employments, leaving but one fourth for all others. The cotton and tobacco growers may be sure of a good market under all circumstances; but when the free-trade policy of those who now have control in our public councils shall be carried out; when all the most important manufacturing employments and enterprises shall cease or be broken down, except the building of ships, and steamboats, and locomotives, to carry off our bulky raw products, what will be the fate of the labor and capital employed in the broad expanse of our agricultural domain outside of the cotton and tobacco-growing States and districts? When, in addition to an area already under cultivation and ample enough to supply breadstuffs and animal provisions for half the Christian world, ten millions of acres of land are annually brought under culture; and when the population of all the countries where we sometimes find a market for our agricultural products, but seldom fall short of a sufficient supply derived from their own soil; and when those who sometimes fail in this can most commonly supply all deficiencies from the granaries of their neighbors cheaper than from ours—I repeat, under the circumstances I have enumerated, what is to be the condition of the agricultural population, the farmers and laborers of this country? Where are they to find a market for their still increasing products? What encouragement will they have to improve the productiveness of their lands, build good farm-houses and barns? It is true that the wheat growers on the Atlantic slope may find a good market in the large cities built up by foreign commerce; but when you cast your eye over the vast valleys and plains of the States west and northwest, teeming with the great agricultural staples, corn and wheat, hogs and cattle, horses and mules, you may well ask yourselves, where on this globe are we to look for a demand, an outlet for them at remunerating prices? After the horses and the mules required shall be driven to the cotton States; after the deficiency in their supplies of corn and bacon shall be furnished them; after the few populous cities shall have received their supplies of beef-cattle and pork and flour, where else, I repeat, can the farmer look for a profitable market for the vast surplus of his products which he will still find on his hands? Nowhere, but to the uncertain, fluctuating, and limited markets in foreign countries. In years of famine or short crops in Europe—which, by-the-by, we are liable to have at home as well as abroad—a market may be found for a portion of our large surplus; but the hopes and calculations excited by such occasional demands will prove delusive and short lived. A few years ago, when there happened to be a good market for breadstuffs in some of the States of Europe, and when some new railway connections between the West and the East had recently been finished, the farmers of Tennessee and Kentucky imagined that they had found a new mine of wealth in the wheat-producing qualities of their soil and climate. They obtained near their own doors some ninety cents or a dollar a bushel for their wheat; but as soon as Providence smiled upon their transatlantic customers, their newly-excited hopes and expectations vanished.

In the last five years, which, as we know, were years of inflation in everything, the average value of provisions and breadstuffs exported annually to foreign markets was only, in round numbers, \$57,000,000; in the preceding five years, the average did not exceed \$30,000,000; but under the new state of things which we may expect to follow the triumph of what is called free trade, unless there should spring up a demand abroad justifying an increased exportation of breadstuffs and provisions to the amount of at least fifty million dollars in each successive year, the farm-house would soon decay, and the plow stand still in the furrow throughout more than half the extent of our present agricultural and cultivated surface. Everybody knows that the prices of agricultural products at home are regulated by the foreign demand. If there is no demand abroad, of course prices come down to a figure regulated by the relations subsisting between the supply and demand in the home market; and prices will be very low, as such supplies in this country must, in an average of years, largely exceed the demand,

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Fifteen Million Loan—Mr. Bell.

SENATE.

even though no change should take place for the worse in our present commercial policy; and thus the producers of breadstuffs and provisions, the largest portion of our whole population, may be said to be already reduced to a state of absolute dependence upon foreign markets for any remunerative return for their industry and capital.

But what, especially, will be the condition and prospects of the new States of the West and Northwest, springing up on the Upper Mississippi and Missouri, in which wheat is the great, and in some the only staple production, if the policy foreshadowed, or the one even now existing, should be adopted or perpetuated? Producers of wheat and consumers of the flour made from it will they be all the days of their lives—not a mouth to help them to consume, except the merchant and Indian trader, who supply them with such foreign merchandise as the modicum of price they get for their wheat and Indian annuities pay for. Before the tariff of 1824, the highest price wheat commanded in Illinois was thirty-seven and a half cents per bushel. When wheat commands one dollar per bushel in New York, the farmer in the far West, at this day, may expect to get twenty-five cents per bushel for his surplus, and that will be the maximum in an average of years. What condition could be more forlorn and hopeless? The poor man who has laid up all his small earnings to gratify his pride in becoming a landowner, and now finds himself in the possession of one hundred and sixty acres, will in a short time find it to his interest to sell his land; and if he cannot find a purchaser at any price, to run away from it, and go where he can do better for his family in some other locality or employment. The only exception to this inevitable condition of the far West will be found on the great lines of travel and emigration to California and Frazer's river in pursuit of gold, for it will soon come to pass that no gold can be got in this part of the continent. The emigration to those points will greatly increase, and the emigrants will consume a portion of the products of the farmer immediately on the routes they pursue.

What is the true policy of this country? To encourage and protect by all constitutional and just means its internal trade and industry; to promote the division of labor and the diversity of industrial pursuits; to provide congenial and profitable employment, as far as practicable, for the whole population. Let all the arts of production and civilization be cherished by a discriminating patronage. Let the flame and smoke of the smelting furnace be seen rising from every hill and mountain side, and from every valley where nature has stored her mineral wealth. Let beautiful villages spring up along the line of all our railways, great and small, and dot over all the interior; and in or around all of them let the stately factory appear, with its busy hum of looms and spindles; and hard by, the great workshops be found in which that sort of machines are made that produce the wealth of England. Let the draught stacks of the foundry diversify the scene, and the stroke of the big forge-hammer, reducing the crude metal to the desired forms, be heard; nor let the decent school-house be forgotten, and first, and above all, let the tall church spire ascend—pointing to heaven. In a word, let domestic industry and the manufacturing arts be encouraged and sustained, so that agriculture may find its surest market at home, and be relieved of the foreign dependence and fluctuations to which it is now subjected.

Thus the producers and the consumers of agricultural products will be brought together. The producers of the raw material, and the manufacturer who fashions it into a thousand forms, for use or ornament, will be placed side by side. So Jefferson, with all his original prejudices, at last advised. Washington and Hamilton and the Adamsses also favored this policy: so did Madison and Monroe; and so did Lowndes and Calhoun, in 1816, both of them advocating and voting for the tariff of that year, which was strongly protective in all of its features. Even General Jackson, with all his wild notions about credit and commerce, was still too practical a statesman not to see and acknowledge that all such manufactures as are necessary to make a nation inde-

pendent of foreign supplies in time of war ought to be encouraged. In fact, all those who in their day have rendered their names illustrious in the annals of this country, by their civil or military services, have, at some period of their lives, favored this policy. The illustrious names of Clay and Webster will occur to every one, without any mention from me, as champions of this great American policy.

But, sir, I cannot pursue this subject—I cannot do more than break the shell of it—according to my conception of its magnitude. I will only consume a few moments more in adverting to some of the more prominent objections urged against the protective policy, by the advocates of free-trade, and such as have been addressed rather to the ignorance and prejudice of the people than to their enlightened and impartial judgment. It is said that it is a system of robbery and plunder; taking money out of the pockets of one class of the people and putting it into those of another class; oppressing the laboring poor, for the benefit of the rich capitalist—in other words, making the rich richer and the poor poorer. I will answer the robbery and oppression of the poor argument, when I shall have ascertained how the fact is as to the more plausible charge that the capitalist alone is benefited by this policy. I should like to hear what the average profits have been on capital heretofore invested in manufacturing enterprises, from such gentlemen as the honorable Senator from Rhode Island, on the other side of the Chamber, [Mr. ALLEN,] who has been long and extensively engaged in the business, and who is the political friend and associate of the leading champions of free trade in the Senate, and from his colleague, who sits on this side of the Chamber, [Mr. SIMMONS,] who has also been extensively engaged in manufacturing. What have been the average profits of the capital invested in manufacturing, even in its most prosperous periods, in cottons and woollens, and whatever other manufacturing interests they have a knowledge of? Have they ever exceeded, in any term of years, say five or ten, an average of six per cent.? If the policy of the Government had been stable and reliable for any longer period, it is quite likely that from ten to twelve per cent. might have been realized—not too great a profit on such investments, considering all the risks connected with them.

I should like to hear from the honorable Senator from Virginia [Mr. HUNTER] whether his investigations have not satisfied him that the average profits of manufacturing in this country have never exceeded, for any number of successive years, a reasonable rate of compensation, or such as does not exceed the ordinary rate of profit derived from investments in trade or enterprises of any other description. Sometimes, owing to particular circumstances and contingencies, they may have risen to twelve per cent., and in extraordinary cases even fifteen or twenty per cent. When a broken-down establishment is bought under the hammer, the purchaser, getting the property for, say, \$20,000, which cost \$100,000, may well estimate his profits at thirty per cent., though, if he had bought at cost, he might not have realized more than six per cent.; but, upon an average, I suppose that the profits of manufacturing in this country have never exceeded the ordinary rate of profit in trade.

Mr. COLLAMER. If you deduct their losses, they have not made anything.

Mr. BELL. Instead of being robbers and plunderers, the manufacturers have then, in fact, been robbed and plundered by the Government by its frequent changes of policy; but I shall not dwell on that now. The question I should like the honorable Senator from Virginia to answer me is, whether, according to the laws which regulate trade, business enterprises of all kinds, production, and prices, it is possible that the capital invested in any one industrial employment would ever bring more, in any long term of years, than a fair average amount of profit, when compared with investments in other employments; and for the reason that whenever the profits in any business rise above that rate, other capitalists embark in similar enterprises, until the profits are brought down to the ordinary standard? English capital

would find its way quickly to this country, if any rate of profit exceeding ten per cent., or even less than that rate, could be looked to with any assurance that it would be permanent. To be sure, capital invested in slaves and the rich lands of the Southwest, is supposed to yield a greater rate of profit than I have stated; but then it is subject to great contingencies, great chances. For a few years the seasons are favorable, the yield of cotton large, the prices high; but with the rise of the price of cotton, the prices of slaves and lands rise, and then come years of overflow, droughts, destruction by insects, epidemics, low prices, and declining values; so that, taking it as a whole, I do not consider the profits of planting above the ordinary standard of profits on investments in other industrial pursuits. I care not what employments you adduce to show the contrary. They all find the level of the average profits of business, unless, indeed, it be capital invested in other agricultural pursuits, the products of which often find no paying market. It is the certainty with which the cotton planter can cash his products, at a remunerative price, that gives it the advantage over other agricultural pursuits.

If the views I have presented on the question as to what has been the average profit on capital invested in manufacturing be well founded, there can be no truth in the charge that the effect of the protective policy is to benefit the rich, the capitalist, at the expense of the consumer.

It is said that the effect of a protective duty on foreign goods is always to raise the price of them. That is, indeed, the natural tendency, and for a short time such may be the effect; but it is, and has been, the invariable result in the end that where the article protected is one which can be successfully manufactured in this country, we having the raw material and the competent skill, to reduce prices. That was the case, we all know, in regard to cotton goods after the tariff of 1828. I know, from personal experience, that the price of charcoal-refined iron manufactured in the Southwest fell two cents on the pound the year following the tariff act of 1842. This is the natural result of the home competition; but the competition of the foreign article, in most cases, coöperates with that between the home producers in bringing about this reduction. The protective duty may be so high as to injure the home manufacturer; it may be so high as to stimulate investments of capital to an extent which will lead to over-production of the protected article; and it was for this reason that some of the most judicious friends of the protective policy in Congress voted against the act of 1828, and, among others, the late John Davis, of Massachusetts.

But the objection to the protective policy is still urged, that the price of the protected article is always increased by the amount of duty imposed on the foreign article, and that the consumer pays it, and hence a duty imposed for protection is denounced as a tax upon the consumer. This is the objection I have just answered, brought forward in a different form. Experience has amply shown, that even for the short period of the increased price which sometimes follows the laying on of a protective duty, the foreign producer pays, or rather loses, a portion of the duty. It is not the amount of the duty that regulates the price of the protected article, so much as it is the relation between the supply and the demand. If the supply exceeds the demand, the price falls; and in case the excess of supply over the demand be great, the price of the article will often fall below the cost of production. It is clear from this, that as a general rule, as long as the duty is not prohibitory in its character, the amount of the duty will have very little to do with the price of the article when it reaches the consumer.

The theory of the late Mr. McDuffie was, that the exporter of the domestic product, cotton for example, paid the whole amount of the duty imposed on the merchandise received in exchange for it in the foreign market. He contended that a planter who shipped a hundred bales of cotton to Liverpool, which were there sold, and the proceeds invested in merchandise which had to pay a duty of forty per cent. when imported into the United States, lost forty bales of his cotton—robbed of it by the protective policy of his coun-

try. This theory was long prevalent in the South, but it was too absurd to be held by any but the most jaundiced and intemperate partisans of a local interest. But another doctrine, almost if not quite as preposterous, now prevails to some extent in the South; and I am sorry to say that an American Secretary of the Treasury has committed himself to it before the world in his financial report at the opening of the session. Our accomplished minister of finance has discovered that we cannot expect foreign nations to buy our cotton, rice, breadstuffs, and tobacco, unless we continue to take their productions in return; but he does not appear to have learned that the larger and more diversified the products of internal trade and industry of any nation, the greater will be the amount and value of its foreign trade. Nor does he appear to have given any thought to the consideration that if the people of the United States, by a favorable change in their policy, should, in a few years, by their own machinery and skill, manufacture one half or two thirds the quantity of the \$130,000,000 worth of the cotton, woolen, silken, and linen fabrics, and their compounds, and of iron and iron manufactures, now imported from foreign countries, one consequence would be that more of our cotton, rice, breadstuffs, and tobacco would be consumed at home, and a less proportion of them dependent on a foreign market; and that another and equally important consequence would be that the people of this country would import a far greater quantity of foreign products adapted to their wants and tastes than they do now, and that at the same time the flow of the precious metals would be reversed, and thus enable us, if we would, to impart to our currency a universal credit and a uniform value.

The cotton of the South is a great interest—the most important product, by far, of this or any other country, and no wise or patriotic statesman in this country will favor a policy which tends to impair its value. But it is most unfortunate, I think, that its public guardians are so sensitive to every movement connected with it, in any form or degree. The proposition to remedy the frauds on the revenue, arising chiefly from the mode of collecting duties on the foreign value of the imported merchandise, and to give to domestic manufactures the degree of protection intended by the act of 1846, is no sooner made than it is denounced as a blow aimed at the South.

In 1856 Great Britain imported, in round numbers, seven hundred and eighty million pounds of cotton from the United States, for which the planters were paid \$74,000,000. This amount of American raw cotton, except a small portion exported to the continent, was by British skill and industry converted into fabrics of various kinds and qualities of the value of \$302,000,000, the one half of which, it is estimated, was consumed at home, and the other half exported to foreign countries. Of the \$30,000,000 of cotton goods imported into the United States in 1856, it may be assumed that \$25,000,000 were of British manufacture, representing only one twelfth part of the raw cotton exported to Great Britain in that year. Yet many of the representatives of southern interests think it of vital importance to keep up this sort of interchange of commodities, so discreditable to the policy of this country. Great Britain already receives one fifth of her supplies of raw cotton from countries other than the United States, and every *terra incognita* of the globe is being explored to find some cotton-growing region to rival that of the United States. India, the native land of the cotton-plant, is being penetrated by railways with the same object; and all know how galling it is to British pride to be dependent upon this or any other country for any part of her essential supplies. Yet the cotton-growers take no interest in building up a home market for their great product; and still regard with jealousy and suspicion every proposed change of our commercial policy looking to that, among other objects—fearing some injury to southern interests, or some advantage to the North at the expense of the South.

I wish, sir, it were so, that upon such questions we could know no North, no South, but only our whole country.

INCREASE OF THE NAVY.

SPEECH OF HON. HENRY WILSON,

OF MASSACHUSETTS,

IN THE SENATE, June 7, 1858.

[WRITTEN OUT BY HIMSELF.*]

The amendment offered by Mr. MALLORY, to make an appropriation for ten steam sloop-of-war, being under consideration—

Mr. WILSON said:

Mr. PRESIDENT: This proposition to increase the naval force of the Republic by the addition of ten sloop-of-war is a measure, not of war, but of peace. In December last, when not a speck of war darkened the horizon, the Secretary of the Navy, with the sanction of the President, asked Congress to increase the naval power of the country by the addition of ten small sloop-of-war. In response to the demands of the Executive, the Committee on Naval Affairs have reported the proposition now pending, to build ten war sloops. This is therefore a measure of peace, not of war, and I give it my vote as a measure of peace, not of war. The Senator from New Hampshire, [Mr. HALE,] himself a member of the Naval Committee, proposed to amend the proposition, by building five sloops, and by fitting for service the steamer Franklin. I have followed the lead of the Senator, who is ever watchful of the appropriations for the naval and military service, and given my vote for his amendment. But that amendment has failed to receive the sanction of the Senate, and I am now summoned to give a yea or nay vote upon the proposition to build ten sloop-of-war. I shall vote, Mr. President, for this increase of the naval force of the country, although I do so now with some little reluctance, in the present condition of the Treasury.

Our commercial marine equals, if it does not surpass in tonnage, the commercial marine of England. Freighted with the precious cargoes of a lawful commerce, our merchant ships are floating upon the waves of every sea in every quarter of the globe. The interests and honor of the country alike demand that we should give our lawful commerce, in every clime and on every sea, the protection of our own cannon. Believing that we ought to increase our naval force by annually building a few ships, adapted to the actual wants of our country, I am prepared to sustain the proposition of the committee to build ten sloop-of-war.

But the Senator from North Carolina, [Mr. CLINGMAN,] filled with apprehension and alarm, or with patriotic indignation, at the action of the naval forces of England in the waters of the southern Gulf, proposes to increase the naval power of the country by building twenty gun-boats. The Senator has, I am sure, astonished the Senate by his speech in support of his proposition as a war measure. The Senator's proposition to build twenty little gun-boats is, he tells us, a war measure! A war measure! A proposition to build twenty little cock-boats, hardly large enough to venture out of the waters within the headlands of our own coasts, a war measure! This absolutely insignificant proposition is made and supported in the Senate of the United States as a war measure! The Senator from North Carolina will pardon me for saying that his proposition and his speech will tend to excite emotions of ridicule and contempt towards us abroad. Sir, wherever this proposition shall go, wherever his speech in support of it shall be read, they will bring upon the country the smile of derision for our folly and contempt for our weakness. The commanders of the war ships of England—the great naval Power of the world—commit belligerent acts upon our merchant ships almost within cannon shot of our own shores, and a proposition is seriously made, and gravely supported in the Senate of the United States, to meet these acts of aggression by the first naval Power of the globe, by building twenty little gun-boats! If Senators wish to resort to war measures; if they wish now to meet the acts of Great Britain by preparations for the stern conflict of arms, let them make propositions for the increase of our naval

force on a scale worthy of ourselves and of our great antagonist. Let not Senators resort to a proposition so utterly inadequate, so insignificant, so absolutely contemptible, as this twenty-gun-boat scheme—this twenty-gun-boat war measure!

Mr. CLINGMAN. Will the Senator allow me to ask him a question?

Mr. WILSON. Most certainly.

Mr. CLINGMAN. I understood the Senator to be in favor of taking and bringing into our ports vessels which have offended against us. Does he believe we have force enough to do that now?

Mr. WILSON. Certainly I do. I believe we have force to bring into our ports, or to send to the bottom of the ocean, the little war ships that have committed these hostile, and I believe unauthorized acts.

The honorable chairman of the Naval Committee tells us, Mr. President, that these sloops are admirably adapted to the work of cruising for ships engaged in the slave traffic. If these war sloops are adapted to the work of enforcing our treaty obligations, if they are adapted to the work of vindicating the honor of the country, now tarnished, by putting down piracy, which seeks shelter under the folds of the American flag, let us hasten to build them; let us man them, and send them to the shores of Africa, to the waters of the southern Gulf, to the seas where our flag is now prostituted to cover an accursed and inhuman traffic in the bodies of our fellow-men. Mr. Webster said in his speech in this Chamber, fifteen years ago, in vindication of the treaty of Washington, in which his name is forever associated, that "the immunity of flags is, with the French people, a deep principle, a sentiment, a passion."

Sir, I trust we are as passionately devoted to the honor of the stars and stripes, as the people of France ever were to the immunity of the flag of the lilies or the flag of the tri-color. I trust we are ready to vindicate the honor of the flag of the Republic, whether it be assailed by the aggressive policy of England, or prostituted by pirates in pursuit of a proscribed and hateful traffic. My vote will be given now for these sloops, to redeem the now prostituted and dishonored flag of the nation from the deep stain of covering the damning crime of the slave trade. Deeply as I feel the acts of the commanders of the war ships of Great Britain in the waters of the Gulf, I confess I feel more keenly the prostitution of our flag by men engaged in the polluted and loathsome traffic in the bodies of the children of Africa. I tell Senators that until we exert our power to fulfill our treaty stipulations, until we exert our power to prevent and punish the prostitution of our flag by men engaged in the slave trade, our very sensitiveness at the aggressive acts of the commanders of the English war ships, will bring not honor, but dishonor, upon us before the Christian and civilized world. If we allow our flag to be prostituted with impunity by pirates to cover a traffic abhorred by mankind, the world will regard our efforts to vindicate the immunity of our flag upon the high seas as evidences of our sympathy with, if not our complicity with, the men engaged in the crime of the slave trade. Vote I shall to-day, to build these sloop-of-war, to fulfill our obligations, to redeem our tarnished name, and to cause our flag to be hereafter saved from dishonor.

When the means are granted to build ships adapted to the work, I shall hold the Administration responsible; I shall demand, and I trust the country will demand, that the sincerity of the nation shall be vindicated; that we shall no longer be reproached by the world with allowing our flag to cover the traffic in the bodies of our fellow-men. I go as far as he who goes furthest, in maintaining the immunity of our flag, in denying to any Power on earth the right to molest, stop, visit, or search our ships, upon the highway of nations; but I cannot but feel shame and mortification when I hear, in response to our complaints, that our flag is the chosen flag under which pirates cover their cargoes of human beings, torn by their accursed traffic from their native Africa, to wear out their lives in perpetual bondage. Surely it is fit that while we say to England that we will not allow her cruisers, either on the shores of Africa, or in the waters of the southern Gulf, to visit or search

* For the original report, see page 2743 Cong. Globe.

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American Piracy—Mr. Giddings.

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our merchant ships, we will make every effort within human power to put down the slave trade and to arrest the prostitution of the flag of the Republic to shelter criminals and protect crime. If honest and determined efforts cannot exterminate the unholy traffic, if these efforts cannot prevent the prostitution of our flag by men engaged in that traffic, then justice, humanity, and the national honor, demand that we should, by treaty stipulation, provide for the mutual right of visitation within certain lines of latitude and longitude, with such limits and guards as shall protect honest commerce and detect fraud and piracy. It seems to me, Mr. President, that our honor and our interests alike demand that we should, either by our own force, or, by treaty stipulations, redeem the flag of our country from prostitution and foul dishonor.

That the British Cabinet will disavow the recent acts of some of their naval commanders in the waters of the Gulf, that they will make ample reparation for those illegal and belligerent acts of their officers, cannot be doubted for a moment. England does not seek a controversy with us upon this, or any other issue—certainly not at this time. She has in the East, in China and India, ample fields for the exercise of all her naval and military power, and for the employment of all her resources of wealth and of power. Let her understand that we cannot, that we will not, admit the right of any Power to visit or search our merchant ships on the high seas; that this is a settled question; that there can be no negotiation about that right; that it is a closed question, never more to be reopened; that we would as soon reopen the treaty of 1783, by which she acknowledged America sovereign and independent; and she will give us ample indemnity for the aggressive acts of the past and ample security for the future. The right being admitted, we can, without national dishonor, enter into treaty stipulations, to promote a great object which concerns the cause of humanity and civilization throughout the world.

In December, 1845, I listened to a debate in this Chamber in which the present Secretary of State took the lead. War with England, growing out of the disputed Oregon boundary question, was declared here by leading Senators to be "inevitable." These Halls then rang with the fierce war-cry, "Fifty-four forty, or fight!" While these Chambers were echoing back these words of defiance to British power, the Administration, with Mr. Buchanan at the head of the State Department, was negotiating that treaty by which we retreated from 54° 40' down to 49°; that treaty by which we surrendered five degrees of territory, including Vancouver's Island, to which, President Polk told us, our claim was "clear and unquestionable." Sir, that ignominious surrender of American territory to the grasping cupidity of England was made while these Chambers echoed with fierce denunciations of the pretensions of England. We quailed before the demands of England; we surrendered thousands of square miles of American soil, including the noble harbor at Vancouver's Island; and then we pushed our little army to the banks of the Rio Grande, and involved the nation in a war with Mexico. We got up a war fever about the claims of England to more than five degrees of the territory of the United States on the shores of the Pacific, the tide to which we pronounced "clear and unquestionable," and we then surrendered that territory to our great rival, and whipped Mexico to redeem our tarnished honor.

I see now, Mr. President, evidences of that same policy. We are to bluster towards England, and then to empower the President to employ our aroused and rampant valor against Mexico, and the weak States of Central America. British war ships commit aggressive acts upon our commercial marine on the high seas. The nation feels the indignity, and protests against these acts; and in face of these aggressive acts of England, the Committee on Foreign Relations bring in a set of resolutions expressive of the sense of the Senate, and a bill conferring power upon the President to plunge the nation into a war with Mexico or the feeble States of Central America. England insults our flag; therefore we will resolve that she ought not to have done so, and must not do it again; and to vindicate the outraged honor of

our flag we will authorize the President to punish Mexico and Central America. The Senator from Illinois [Mr. DOUGLAS] has well said that the position of the Committee on Foreign Relations is this: England insults us; therefore we will whip Mexico and the States of Central America. Sir, I do not admire this position; I do not like this policy; I shall not follow the lead of the Committee on Foreign Relations; for, in my humble judgment, this policy brings dishonor rather than honor upon the country. This is the repetition of the deceptive policy of 1845, which tamely shrank from maintaining our rights as against England, and then rashly plunged us into a war with Mexico. With England—proud, arrogant, haughty England—I would maintain the rights of the nation with inflexible firmness. In vindication of our rights or our interests I would cavil with her upon the ninth part of a hair; for our honor and pride demand that we should surrender nothing to the assumptions of power; but towards the poor, weak, distracted States of Mexico and Central America I would be generous, tolerant, and forbearing. This should be the foreign policy of a great Power. This would be a policy worthy of the great Republic of the Western World.

Rumors are rife, Mr. President, that expeditions are now organizing in the United States to make inroads into the territories of the feeble Powers south of us on this continent. It is even hinted that these lawless combinations of adventurers are known to the Administration and are not discouraged by the Administration. That we have fixed our hungry eyes upon the northern provinces of Mexico, upon the Central American States, is patent to the whole world. Should these anticipated raids be made into Mexico or the States of Central America during the coming year, should the Senator from Texas [Mr. HOUSTON] lead, as he hinted he would the other day, into the States of Mexico bordering on the Rio Grande or the Messilla valley, the hordes of adventurers who will conquer that protectorate we will not assume, is it intended by the bill reported by the Committee on Foreign Relations to empower the President to engage, if need be, the nation in this hurtful raid for dominion? Sir, I denounce this movement in advance, and I denounce this bill clothing the Executive with war powers. I will vote for no such bill; I will sustain no such policy. This timid, shrinking policy towards England, and this encroaching, aggressive policy towards the weak Republics south of us on this continent, will bring neither safety nor honor to the Republic. I condemn the one and scorn the other.

We are accustomed, Mr. President, to think that the three million square miles of British territory, and the three million British people, on the North, are the guarantees, the pledges, England has given to peace with the United States. I sometimes think, sir, that the fear that the banner of the Republic would go beyond the chain of lakes, beyond the St. Lawrence; that these provinces of England would, in case of war, become a portion of the country, adding to the territory, the population, the wealth, and the power of the northern section of the Union, had quite as much restraining influence upon the councils of Young America as upon the councils of Old England. The fear of acquisitions on the North, the hope of coveted acquisitions on the South, are guarantees that the influences which now control the policy of the country will not hurry us into any contests with Great Britain which can be avoided even by concessions to her demands. Evidences all around us admonish us that the men who now administer the Government of the United States dread expansion northward, and seek expansion southward; that they are in no haste to find cause of controversy with England, while they are prompt to find cause of quarrel with any Power south of us which will open to them the coveted fields of Cuba, Central America, and Mexico. It behooves the people of America, who ask of foreign nations, in the words of Andrew Jackson, "for nothing which is not right, and who will submit to nothing wrong," to watch and to check this tendency of the men in power to shrink from the maintenance of our rights against the strong, and this tendency to encroach upon the weak.

AMERICAN PIRACY.

SPEECH OF HON. J. R. GIDDINGS,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 7, 1858,

In Committee of the Whole on the state of the Union, upon the Joint Resolutions proposing Hostilities with England, on account of her exercising the Right of Visitation.

Mr. GIDDINGS said:

Mr. CHAIRMAN: I assure the House and the country that I entertain no apprehensions of war; nor have I any fears that war will grow out of any question now pending between this nation and Great Britain. Our present Executive is a Democrat, under the guidance of the slave power; and southern statesmen are too sagacious to suppose that our nation can endure a war in support of the slave trade. In the present state of the popular mind, a war with that Power, for such a cause, would bring the institution to a speedy termination in every State of the Union. Northern members have no desire for war; they prefer the more tardy, but equally sure, method of effecting emancipation by force of public sentiment.

The imperfection of our language often leads to protracted discussion; I shall therefore avoid the use of terms, as far as possible, in what I am about to say.

"The right of search," as exercised upon the high seas in times of war, appears to be generally understood, and in regard to it there is no controversy; but for sixteen years our Ministers at London, and the representatives of the British Government, have been explaining to each other "the right of visitation," and a war is threatened because lexicographers have failed properly to define that form of expression.

Now, sir, I shall not attempt to do that which so many abler men have failed to perform; but I assert the right, and the duty, of the commander of any ship engaged in suppressing piracy, to ascertain the national character of any suspected vessel he may meet upon the high seas.

I also declare it equally the duty of every captain, officer, and sailor, on board the suspected ship, cheerfully to give this information. The owner of the suspected ship, and the owner of the cargo, are bound by every moral consideration to require such captain and crew to give this information when demanded.

It is the duty of all statesmen, and of all Governments, to require the ships belonging to their citizens to furnish this information when suspected. This obligation arises from the fact that all nations are interested in exterminating pirates. But merchants, ship-owners, and sea-faring men, are more directly interested in that object than any other class of citizens, and their obligations correspond with the benefits derived.

I will add, that for ages pirates have been regarded as "outlaws," at war with all nations, and all nations are supposed to be at war with them.

These rules have been held and practiced upon by this Government since we have been a nation. Many of the older members of this body will recollect that, after the close of the last war, the Gulf of Mexico was infested by pirates, whose headquarters appeared to be the Isle of Pines, lying at the west of Cuba. A naval force was engaged for a considerable length of time in accomplishing the destruction of those outlaws. Now, sir, during that whole expedition they visited every suspected vessel that fell in their way, no matter what colors it bore. They visited British and Spanish and French vessels, for that purpose, just as freely as they did those which sailed under our own flag. It was their duty to do so. I think their instructions will be found to contain orders to visit not only suspected vessels, but suspected places. And I believe the official reports now on file in the Navy Department will show that they faithfully fulfilled their instructions. They visited ships; they landed upon territory belonging to other nations, and I deny that England, or France, or Spain, ever uttered a complaint or demanded explanation. Indeed, the ships and people of those nations went further. Seeing our Government carrying on a war for the benefit of mankind, they lent our ships and men

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employed in that work every convenient aid and facility; and had a suspected ship bearing the British flag refused to make her true character known, her commander would have justly incurred the odium of aiding and encouraging piracy; or had the British Government denied our right to ascertain the character of suspected ships bearing the flag of that nation, we should have charged them with sympathizing with the pirates.

In these remarks I have described not merely our practice on that occasion, but on every occasion. I have described, not merely the practice of our own Government, but that of every civilized nation. From the 4th of July, 1776, to this day, our practice, and the practice of Christian Governments, has been uniform, when operating against pirates, excepting that class, more technically called "American pirates," who, under the flag of the United States, are engaged in the African slave trade. These were formerly treated differently. They were not regarded as at war with mankind. They bore the flags of various nations, and pursued their nefarious vocations unmolested. But as Christianity extended, and its principles were better understood, this traffic in human flesh was seen to be a revolting crime, and most Christian nations pronounced it piracy, and treated those who pursued it as "outlaws," worthy of death.

Participating in this general view, the United States, by express statute, prepared with great labor, examined and deliberated upon with great solemnity, and passed by the Senate and by this House, I think without a dissenting voice, pronounced the *African slave trade to be piracy*, and those who followed that vocation to be *pirates*, worthy of death. The act was duly approved by the Executive, published and announced to the civilized world.

At this point of my remarks, I lay down another proposition which, I think, will not be doubted or denied: By this important step, we as a nation became obligated, bound in justice and propriety, to treat those engaged in the African slave trade as *pirates*. That, as a Government, we are bound to aid and assist in eradicating this piracy from the earth. That it is the duty of our statesman and citizens to lend all convenient assistance to the ships of Britain and of all other nations engaged in suppressing this piracy. That it is the obvious duty of the commander, officers, and crew, of every suspected ship, whether it bear American, French, Spanish, British, or Russian colors, cheerfully to give satisfactory evidence of her nationality, when called on for that purpose by ships actually engaged in the humane work of suppressing this traffic in slaves. If any officer refuse to give such information, the refusal constitutes evidence of guilt. In short, I lay down the comprehensive proposition, that so far as this Government is concerned, so far as our statesmen, our people, our merchants, our ship-owners, the commanders and crews of our merchant vessels, are concerned, we hold the same relation to the African slave trade which we hold to other piracies—bound by all the duties incident to piracy of any other character.

Now, sir, like all other propositions based upon clear and obvious justice, I think these will not be denied. No statesman will take issue upon any one of them. They will deny none of them. The only objection that can be raised against them is that which our Ministers at London have repeated a thousand times. They insist that British officers, in visiting our ships to ascertain their nationality, may abuse their power. I grant it; and no power was ever held by man, that was not liable to abuse. They also urge that British officers have committed wrongs upon our ships, when visiting them for the avowed purpose of learning their character, and I add that, in every such case, the British Government is responsible, and has in every instance promptly granted indemnity.

I do not believe that a single instance of such abuse has occurred, at any recent period, in the Gulf of Mexico. If any has taken place, I have no apprehension whatever that hostilities will follow; for I am confident that the British Ministry will, as in past times, explain, apologize, or indemnify those who shall be shown to have sustained loss.

Here I might, with much apparent propriety,

leave the subject. But our Government is now openly engaged in efforts to overthrow the doctrines I have laid down—doctrines which commend themselves to the conscience and judgment of all reflecting men and of all civilized nations: The absurd position now occupied by this Government, in regard to the slave trade, has been reached by slow degrees. We have taken one step after another in this downward course, until we now stand before the nations of the earth in the attitude of supporting this piracy. Historic facts will place this whole matter in a more conspicuous light than argument or refined logic.

Long before our Revolution, the people of these colonies complained to the parent Government of the existence of the slave trade as a grievance. In the Congress of 1774, the members formed an association for the purpose of discouraging the slave trade; and the author of the Declaration of Independence, in 1776, set forth in his draft of that instrument, "that the British King had kept open markets where men were bought and sold," and assigned this as one of the reasons why the colonies should separate from the mother country. In the convention which framed the Constitution, language equally denunciatory of this traffic was used, and Mr. Madison informs us that he himself declared, in convention, that it would be wrong to admit in the Constitution that men can hold property in their fellow-men.

Some of the States, however, felt desirous of continuing the slave trade for a time; but so strong was the sentiment of the people against that barbarous commerce, that it was deemed necessary to provide, by express stipulation, that Congress should not prohibit it prior to the year 1808. Before that day arrived, Congress passed a law for the total abolition of the African slave trade—the act to take effect on the 1st day of January of that year.

Unfortunately, by the same law, Congress provided that persons might carry slaves from one port of the United States to another, under certain regulations. This coastwise transportation of slaves was then supposed necessary for families who emigrated from one slave State to another, for at that day no such commerce was known as the inter-State slave trade. But this provision in the act of 1807 has for many years been prostituted to the protection of an increasing commerce in human flesh.

At the close of the war in 1814, both England and the United States felt the inconsistency which had characterized their action in the recent contest, by authorizing their people to butcher each other on the battle-field; and, having been regarded as two leading nations in the Christian world, they felt the propriety of abolishing this execrable commerce. Lord Gambier and his associates, acting for Great Britain, were distinguished men, and Albert Gallatin, John Quincy Adams, Henry Clay, James A. Bayard, and James Russell, Commissioners on the part of the United States, were conscious of the odium which rested upon our people by reason of their supporting this slave trade. By mutual agreement, they inserted in the treaty of Ghent the tenth article, which reads as follows:

"Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice; and whereas both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both contracting parties shall use their best endeavors to accomplish so desirable an object."

I desire the committee to mark the language of this solemn treaty. The two Governments mutually bound themselves to "use their best endeavors to ENTIRELY ABOLISH THE TRAFFIC IN SLAVES." This treaty stipulation had no more reference to the African than to the American slave trade. Under British laws, there was a commerce carried on between their West India Islands in the bodies of men; and we had authorized a similar commerce on the American coast, and the sages who formed this treaty had no conception that it was more criminal to buy and sell God's image in Africa, than in America. They intended this solemn stipulation to apply to the crime, and not to the place of committing it. If any man doubts this intention, I invite him to examine the remarks of Mr. Adams, made on that subject in this body, I think in 1842. Congress proceeded to carry out this stipulation, so far as the African

trade was concerned. It passed a law declaring that commerce to be "piracy," and we assumed upon ourselves all the duties incident to that view of it. But during forty-four years we have maintained the American slave trade, in violation of that treaty, in violation of JUSTICE and of HUMANITY. Neither the treaty, nor the laws declaring the slave trade to be "piracy," changed or modified any principle or existing element in our moral obligations; these had been established by the law of nature and of nature's God; but our treaty and acts of Congress constitute an acknowledgment of the duties then resting upon our nation, and mark our subsequent recreancy to principle.

Having avowed these sentiments, our Government appeared to rest satisfied, without even an effort to abolish our coastwise traffic. That crime greatly increased, and produced large profits to those engaged in it. It soon became popular with slaveholders; and respectable men, who had surplus slaves, sold them to those who dealt in mankind, and they were transported to the baracoons of more southern cities, where open markets were kept for buying and selling men. Slaveholders then understood that every owner of slaves was directly or remotely involved in the moral guilt of the slave trade; that every purchaser of slaves encourages and sanctions their importation. Every man who sells a slave thereby encourages the slave trade; and no reflecting mind can regard the coastwise slave trade less criminal than that which is carried on upon the shores of Africa. In truth, it was born of the African trade, and in its effects it is more atrocious, as its victims are more intelligent. It is thus that the African slave trade, the coastwise slave trade, the inter-State slave trade, the holding of slaves, the breeding of slaves, the selling and buying of slaves, are all connected and interwoven in one general network of moral turpitude, constituting an execrable, a cancer, upon the body-politic of our nation. The African slave trade constitutes the germ, the root, from which our American slave trade, and all the various relations of that institution in this country, have sprung. If the tree be piracy, it is clear that its fruit can be nothing else than piracy; and when the nation stamped that commerce as *piratical*, it proclaimed the guilt of every man who voluntarily connects himself with slavery.

Men who aspired to moral, political, and social position, could not submit to this ostracism. They were constrained to emancipate their slaves, or render slaveholding *honorable*. To effect this latter object, the wheels of progress must be stopped; religion, civilization, and Christianity, must cease their onward march; slaves must be robbed of their humanity, and transformed into chattels; and the Federal Government must become a patron of the slave trade, instead of using our best endeavors to "entirely abolish the traffic in slaves;" and Congress was called on to sustain and encourage it—to violate our pledged faith before the nations of the earth.

In 1834, two slave ships, the Comet and Encornium, one from Alexandria, and the other, I believe, from Norfolk, Virginia, bound to New Orleans, were shipwrecked upon British islands in the Gulf. The slaves of course became free by landing on British soil. They were suddenly transformed from chattels into immortal beings, destined to an eternity of happiness or misery. The slave merchants returned to this city, chagrined and mortified. The people of the West Indies looked upon these wretches with contempt, our countrymen regarded them with horror, felt they were worthy of the gallows, rather than Executive favor. But the President, himself a slaveholder, involved in all the moral turpitude of these hucksters in our common humanity, at once espoused their cause, and directed our Minister at the Court of St. James to demand compensation from the people of England for permitting their African brethren thus to enjoy their God-given prerogatives. A more arrogant and insulting demand was never put forth by one nation upon another. All understood that the laws of England knew no distinction between these masters and the slaves whom they claimed as property. Neither the people, nor the officers of the British Government, nor the King himself,

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had he been present, would have had any authority whatever for delivering one of these people to the custody or control of another.

Our Minister at London, however, was himself a breeder of slaves. That noble patriot, Daniel O'Connell, had refused to extend to him the civilities due to a Christian statesman, and he felt the more determined to make the Government of England dignify this "American piracy" by acknowledging it to be a legitimate vocation.

To effect this object, however, he saw but one course—that was, to regard the slaves as *property*, and not as *persons*. The crime for which indemnity was sought was so obvious, that *truth* could not sustain it. The laws which govern the moral universe forbid the idea that truth can subserve such iniquity, the claim must therefore be maintained by deception, by "falsehood." And in his official communication to the British Minister, Mr. Stevenson declared:

"Our Government has determined, in the most solemn manner, that slaves killed in the public service of the United States, even in a state of war, were regarded as *property* and not as *persons*, and the Government held responsible for their value."

I need not repeat what I said of this unmitigated falsehood sixteen years since. I then pronounced it false in the concrete, and false in its details, and called on the friends of Mr. Stevenson, and the delegation from his State to cite an instance where the Government had ever paid for a slave killed in the public service. The assertion was not only false, but the reverse of his assertion was true. In every instance where compensation for slaves killed in the public service has been claimed, we have *refused payment*.

Sir, I feel humbled, as an American, as a Christian, when I proclaim these facts. Our nation was disgraced in the presence of the civilized Governments of the earth, when its accredited Minister thus condescended to slander the people of this Union, and libel this Republican Government, in order to support piracy, and do honor to the men so worthy of the gallows. But the falsehood answered his purpose; the British Minister was deceived, the people of England were defrauded of \$115,000, and the first step in rendering the slave trade honorable was successfully taken.

The next step was to constrain northern members of Congress to legislate for the distribution of this money. The slave power insisted that we should sanction the proceedings of the Executive. A bill passed the Senate for that purpose, and those interested attempted to force it through this body, under the previous question. I obtained the floor by strategy, and uttered a protest against sitting in this Hall to legislate upon the price and value of immortal beings. The bill, however, passed, and Congress thus far contributed its influence to render American piracy honorable.

Thus, Mr. Chairman, has this Government lent its moral and political influence, through the executive and legislative departments, to violate, to blot out, its solemn obligations proclaimed in the treaty of Ghent, instead of using its best endeavors to *entirely abolish* the "traffic in slaves." We have lent our utmost endeavors to uphold, encourage, and render it honorable. We have done this through dishonorable means—through fraud and falsehood. Sir, could this Government be subjected to its own laws, it would be liable to fine and imprisonment for obtaining money under false pretenses.

In making these remarks, I am aware that I shall incur the criticism of those who say they will "stand by our country, right or wrong." The maxim is atheistic. I will stand by my Government when it is in the right, but when it is wrong I will do what I can to set it right.

During the session of Congress in December, A. D. 1835, a slave ship was fastened to yonder wharf. It was the *Enterprise*, waiting her cargo. They were purchased in this District; many of them were members of various churches, and one was said to belong to the minister who officiated in the same church of which the slave was a member. The whole cargo was gathered here, under the eye of the President, and of various ministers of the Gospel, and was said to be *respectable*.

Some of the victims, however, were not satisfied with their lot. They preferred death by their own hands, rather than meet the horrors of

southern barracoons. One of them, a young woman, threw herself from the Long Bridge into the Potomac, seeking a watery grave as a relief from the horrors of this "American piracy." Her sad fate excited the attention of one of our most talented poets, who has commemorated the sad story in beautiful verse. But the cargo was completed, and the victims taken on board, after the manner practiced upon the African coast. Indeed, so far as the slave trade was concerned, there was nothing to distinguish this city from the many slave factories of Africa. The sails were hoisted, lines cast off, and the glorious flag of our Union raised. The ship departed under the stars and stripes which may be seen upon nine-tenths of the slave ships that leave the African coast.

But the winds of heaven were more favorable to human rights than our Executive or Congress. The ship was driven far out of her course; and after three weeks of tempestuous weather, the owners of the slaves being on board, preferred running into Port Hamilton, in the Island of Bermuda, and subjecting their slaves to British laws, rather than risk their own lives by remaining longer at sea. The slaves of course became free as soon as they came under the protection of British enactments. Those laws had jurisdiction not only upon the island, but they extended a marine league from the shore. This had been the opinion entertained, and the doctrine admitted and enforced, by all civilized nations, for a century previous. This Government had practiced upon it, and still practices upon it.

But our Executive had undertaken to uphold this American slave trade, and our Minister at London was at once instructed to obtain compensation for the slaveholders. The effrontery manifested in prosecuting such a claim serves in some degree to mitigate the contempt with which every honorable, every high-minded statesman must look upon it. Of course, the British Minister respectfully declined all negotiation upon the subject. He was conscious that his Government as well as ours was bound by the treaty of Ghent to use her "best endeavors to entirely abolish the traffic in slaves." Nor could he see any good reason why England should disgrace herself by an open and obvious disregard of her solemn compact, even if the Government of the United States requested it. England has faithfully carried it out by entirely abolishing it among the people of her West India islands. She had gone further, and abolished slavery in all her dominions, and was then using her best endeavors to suppress it on the coast of the Africa. She now refused to stain her honor by encouraging this *American piracy*. The slaves had been voluntarily brought within the jurisdiction of her laws by direction of their owners, and were free. Nor could her statesmen discover any good reason why the people of England should pay speculators in human flesh for their loss of human cattle.

The genius of Mr. Calhoun alone appeared equal to the emergency. He stood acknowledged at that time the most able and conspicuous of southern statesmen. He saw that the law of nations in regard to the local jurisdiction of each Government must be modified, entirely changed, before any plausible argument could be advanced in favor of this claim. He, therefore, introduced resolutions into the Senate, declaring, that when a ship or vessel enters the port of a friendly Power, through stress of weather or unavoidable accident, she carries with her the laws of the State from whence she sailed, and the persons on board in all their relation, are controlled by the laws of such State. In another resolution he declared that the slaves on board the *Enterprise*, while lying in Port Hamilton, continued to be legal slaves. The movement was a bold one.

I was at the time a member of this body, and well recollect the astonishment expressed by members of the House at these propositions.

Mr. Webster was regarded as the ablest statesman of the free States. He was a Whig, and believed to have some aspirations for the Presidency. All eyes were turned to him; the hopes of the free States appeared to rest on him, more than on any other man. We felt that an easy victory and high honors awaited him in the contest about to come off.

These resolutions were presented on the 4th of March, 1840, and came up for consideration a few days subsequently, when Mr. Porter, of Michigan, a young member of that body, spoke against them. They were then formally referred to the Committee on Foreign Relations, who reported them back with some verbal amendments, but substantially as introduced; and with due formality and solemnity they came up for final action on the 15th of April. Mr. Clay and Mr. Calhoun, and perhaps one or two other Senators from the slave States, spoke in favor of them, declaring their readiness to sustain the institution at any sacrifice; but no voice was raised for humanity, for justice, for the honor of our nation. Mr. Webster was silent, and the record shows that the vote in favor of the resolutions was unanimous. The names of Mr. Webster and other Northern Whig Senators do not appear on the roll of votes given on that occasion.

It is not for me to characterize that act. The pen of the historian yet remains paralyzed in regard to it. My own political pathway has been rugged; storms have raged around me, and many years have come and gone, but the emotions of my own mind on that occasion will not soon be forgotten. I saw, or thought I saw, as clearly as I now realize the effect and tendency of that act. It was intended to stop the wheels of progress, of civilization, and restore the heathenish doctrine, that "Africans have no rights which white men are bound to respect." The advocates of the slave trade then felt that the Senate was fully committed to the support of this "American piracy." It constituted the most important step then taken towards the position which the Executive and his supporters now occupy.

When Mr. Tyler became President, he called Mr. Webster to the Cabinet, and that distinguished statesman was soon constrained to wield his moral and political powers either for or against this slave trade.

On the 27th of October, 1841, the brig *Creole* sailed from Hampton Roads, with a cargo of one hundred and thirty-five slaves on board, bound for New Orleans. It will be borne in mind, that when out from shore at the distance of a marine league, the laws of Virginia ceased to hold jurisdiction over the ship or the persons on board, and they became subject to the exclusive jurisdiction and laws of the United States; and I need not say that these laws had made no provisions for holding men in slavery upon the high seas or in our territories outside the District of Columbia. The moment the ship passed from the jurisdiction of Virginia, these people, by force of law, became clothed with the attributes of freemen.

The slaves on board the *Creole* were conscious of this, from intuitive conviction. Their own immortal natures spurned the doctrine asserted in the Senate, and, under the guidance and promptings of that innate love of liberty which throbs in every human heart, they asserted the rights bestowed upon them by the Creator. One of the slave-dealers attempted forcibly to maintain the doctrine avowed in the Senate. Here, again, that God-given reason, which every man possesses, taught these people, reared in ignorance, in slaveholding stupidity, that the slave-dealer was a pirate, had incurred the just penalty attached to that crime, and they at once inflicted upon the miscreant the punishment due to his iniquity. I leave it for casuists to determine whether he was more guilty than those that encouraged him in his accursed vocation. These quondam slaves, now freemen, taking possession of the ship, extended mercy to the other slave-dealers on board, and directed their course to Nassau, in the island of New Providence, and went on shore, seeking their own happiness.

I well recollect the scene which occurred in the Senate when the news of this transaction reached this city. The members of that body were even more excited than they have been recently. They then threatened to send our ships of war, and sink those British islands; now they only talk of sinking the British navy. It might prove instructive to gentlemen of the present age to read the high-sounding threats and epiphetas used at that day.

Mr. Webster was now Secretary of State under a slaveholding President, associated with a slave-

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holding Cabinet. He was therefore constrained to speak and act for the slave trade; or, if he refused such action, he would be constrained to resign his office. He preferred the former course, and the intellect of that great man, who had been the pride of the free States, was now exerted to carry out the doctrines for which a few months previously he had declined voting. It was a great victory for the slave power. Christianity then lost one of its ablest champions. Forgetful of that eternal justice which sits enthroned above all earthly power, he sent instructions to our Minister at London to demand of the British Government compensation for the loss which the slave-dealers had sustained. In these instructions he assumed the whole theory of Mr. Calhoun, and even characterized the persons who had most righteously gained their liberty as *mulattoes and murderers*! Pardon me if I speak frankly. My lips were then sealed, under the gag-rules of this body; I was not permitted to utter the emotions of my soul in regard to this slave trade. I consulted with my venerable friend, Mr. Adams. He felt the outrage as keenly as mortal could realize it. I proposed that he should present to the House resolutions declaring the law of nations and of the Constitution. I shall never forget his manner and appearance as he assured me that he was *old*; that the influence of Mr. Webster was great; that the contest would occupy years of severe labor; that he could not expect to live long enough to get the public attention turned to it.

I drew up a series of resolutions on the subject, stating what I believed to be the established law of nations, and the constitutional duty resting upon Congress to *abstain from all support of this slave trade*. They were prepared with much caution and study. They were submitted to Mr. Adams for his consideration. He approved them. I presented them to this House. They may be found at length on the Journal of this body for the 21st March, 1842. They denied, in the most emphatic language, the right of the Executive, or of Congress, or of this Government, to involve the people of the free States in a war to maintain a *commerce in human flesh*. To that doctrine I still adhere; I reiterate the sentiment; I tell the President and the Senate that a war in support of the slave trade, either *African or American*, will not be sanctioned by the people, nor by any civilized or Christian nation.

The scenes which followed the presentation of my resolutions called public attention to the subject. The press spoke out; the people reflected and discussed the subject, and for a time the Senate became silent in regard to it. The British Minister ceased for a time to be cajoled or misled to the support of this "American slave trade,"* and for a time I believed the downward tendency of our Government toward its present position was stayed. Great Britain pursued a steady and Christian course, using her best efforts to suppress this commerce. She induced France and Russia and Austria and Prussia to unite with her in granting to the armed vessels of each nation, while cruising within certain degrees of latitude, near the African coast, leave to *search* the suspected ships of the others, for the purpose of detecting those engaged in this piratical slave trade. Lord Aberdeen appropriately styled it "*a holy alliance*," but our Government refused to become a party to this arrangement, and thereby brought upon itself the well-founded suspicion of encouraging the slave trade. It was notorious among the nations of the earth that we were maintaining an *American slave trade*. Both were founded on a denial of the law of nature, the rights of humanity; both rested upon the same infidelity to God and to mankind. All men saw, and all men now feel, that it is most inconsistent for us to maintain and encourage this slave trade upon our own coast, and condemn as pirates those engaged in the same trade upon the African coast.

Our present Secretary of State was then Min-

ister at Paris, and he, as a representative of our Government, wrote and spoke, and used his entire influence, against the quintuple treaty referred to; and as it became more generally known that we favored the *African* as well as the *American* slave trade, pirates frequenting the African coast adopted our flag; as it would protect them from search when near the African coast.

In July, 1842, Lord Ashburton arrived in this city, as Minister Plenipotentiary of the British Crown, specially appointed and authorized to treat with our Government on pending difficulties. Mr. Webster, Secretary of State, in his first official communication with his lordship, dated August 1, 1842, before alluding to any other matters, entered into a long and elaborate argument to induce his lordship to enter into some treaty regulations for securing those engaged in our American slave trade from sustaining loss when their ships happen to be wrecked on British islands, or driven by stress of weather into British ports. He mentioned the two cases of the *Creole* and *Enterprise*, to which I have referred, and urged the propriety of making provision for securing slave-dealers when thus unfortunate. The proposition, if adopted, would have been a repeal of the tenth article of the treaty of Ghent, by which both Governments had bound themselves to "*use their best endeavors to entirely abolish the traffic in slaves*." It would have reversed that covenant, and bound them to use their best endeavors to *support* the "traffic in slaves."

Thus, sir, our own records, the records of Great Britain, bear proof to the efforts of our nation, in *favor of this traffic in slaves*; in favor of providing, by treaty stipulation, for its *permanent protection and encouragement*. Would, sir, that this record were expunged from existence; that this disgrace of our nation could be blotted from the moral universe. But, thanks to Lord Ashburton, thanks to the British nation for their adherence to Christianity, and their resistance of this heathenish, this barbarous commerce in the bodies of women and children. Lord Ashburton refused to enter upon such a negotiation, and thereby saved our nation from the proposed disgrace, and bringing the power of truth and of Christianity to bear upon Mr. Webster, he obtained a further stipulation from our Government *against* this commerce, and covenant to carry out the objects avowed in the treaty of Ghent.

But no sooner had this solemn covenant been entered into, than all other and collateral influences of the Executive were exerted for the protection and encouragement of this African as well as American commerce.

All now present recollect the case of the *Amistad*, a Spanish slave ship. Her cargo had been imported from Africa in June, 1840, for the Cuban market. The *Amistad* took fifty-three of these people on board at Havana, with the intention of carrying them to Principe, on the south side of that island. Those ignorant Africans spurned the doctrines of our Senate, our Secretary of State, our Executive, and of those Spanish pirates; and, obeying the divinity which prompted each heart, they stood forth in the dignity with which God had clothed them. By the physical power with which they were endowed, they asserted their God-given prerogatives of liberty. The captain and cook endeavored to carry out the doctrines of our Senate; but the negroes, by the dim light of their own moral natures, pronounced the men who attempted to enforce such doctrines, *pirates*; and the captain and cook were tried, condemned, and executed, in less time than I have occupied in relating the incident. They then took possession of the ship, sent the crew on shore, and directing the two slave-dealers whom they retained to navigate the ship to Africa, were betrayed, the pirates directing the ship's course to our own shores.

As soon as they came within the jurisdiction of the United States, they were *arrested* by authority of our Government. Instead of being hospitably entertained, they were placed on trial, and the Spanish *pirates set free*. The Executive, with all these facts before him, sent a national ship of war to the coast of Connecticut, with orders to take these victims of the African slave trade on board at the earliest possible moment after the court should refuse to give them their liberty,

and to transport them back to Cuba at the expense of our people, and *deliver them over to the pirates who claimed them*.

But thanks to our judiciary, it had not then become so corrupt as to declare that "*Africans have no rights that white men are bound to respect*." They ordered the Africans set free; and the Executive was defeated. But Mr. Polk, Mr. Pierce, and Mr. Buchanan have had the consummate effrontery repeatedly to advise Congress to compensate those Spanish pirates from the pockets of the laborers of our nation; and I will not disguise the fact, the Senate have almost as often attempted to carry out the Executive recommendation, by passing bills to pay these Spanish slave-dealers, and render the African slave trade honorable. But this body has, in every instance, defeated such attempts.

By the treaty of Washington of 1842, we covenanted to supply a naval force of eighty guns to be stationed along the African coast, with orders to use their efforts to arrest all pirates engaged in the slave trade. This treaty was published to the world, but the manner of executing it is not so well understood by our people. It is said, by men who possess intelligence on the subject, that we have never sent to that coast a ship or vessel worthy to be employed in that service. On this point we have no record evidence; but the prominent fact that our ships thus employed have entirely failed to accomplish the object contemplated, is known and read of all men. It is said they have captured some three or four slave ships, while the British ships of equal force have captured as many scores. We know the zeal and ability and ambition of our officers and seamen; and if the Executive had given them ships adapted to the service, and expressed to them his desire to see this slave trade abolished, they would never have fallen behind the British in this duty. No stronger evidence of bad faith in pretending to carry out this treaty could have been placed on record.

At that period of our history the Executive began a system of efforts to relieve African slave-dealers from the odium of piracy, which our enactments and those of other nations had placed upon them.

In 1841, our Minister at London remonstrated with Lord Palmerston against the practice of armed ships engaged in suppressing the slave trade visiting vessels sailing under the flag of the United States, to ascertain their nationality. I repeat, that in all past time this practice had been followed by the armed ships of all civilized nations, when cruising for pirates. As shown at the opening of my remarks, it was *conceded by all nations*, it was *practiced by all nations*. It was then, is now, and ever will be, the law of nations. Our Minister attempted to confound this right, however, with the right of search.

By this use of terms he was enabled to prolong the discussion. Senate document No. 377, First Session Twenty-Ninth Congress, gives incontestable proof of the ability of our Minister to misunderstand the clearest definition of rights and terms. Mr. Stevenson declared the visitation of a cruiser to a ship, for the purpose of learning whether it was a pirate at war with all mankind, or an American vessel entitled to protection under the United States flag, was nothing less than the right of search, so odious to the American people. To this, the Earl of Aberdeen replied, in somewhat emphatic language:

"The undersigned again renounces, as he has already done, in the most explicit terms, any right on the part of the British Government to search American vessels in time of peace. The sole purpose of the British cruisers is to ascertain whether the vessels they meet are *really American or not*. The right asserted has in truth no resemblance to the right of search, either in principle or in practice. It is simply a right to satisfy the party, who has a legitimate interest in knowing the truth, that the vessel is actually what her colors announce. *This right we concede as freely as we exercise.*" "It is possible that this right may be wantonly and vexatiously used; and if, in spite of the utmost caution, any American vessel should suffer loss and injury, it would be followed by prompt and ample reparation."

Yet our Federal Executive, through our Minister at London, has continued to protest against the interruption of vessels sailing under the American flag, to ascertain *whether they be pirates or not*; and the influence, the moral power, of the

* For fourteen years the claims of our Government in behalf of the slave dealers on board the *Enterprise* and *Creole* were resisted by the British Ministry. But Mr. Pierce, while President, induced them to submit the question of indemnity to an umpire, who is said once to have been a citizen of Boston. He adopted the doctrine of the Senate and of Mr. Webster, and in 1854 decreed full indemnity to these men, so richly deserving the gallows.

Administration, has been exerted for the protection of the very traffic which we profess to hold in utter abhorrence.

Slave ships are, and for many years have been, built in our own ports, under the very eye of the Administration. Indeed, it is said, and I believe with perfect truth, that more ships, now employed in the African slave trade, were built in the United States than in all other portions of the world. We know that in every sea-port there are many officers of Government who would be vigilant and ambitious to learn the character of every vessel built in such port, if conscious that the President desired such information; and the fact that he permits slave ships to be built, and furnished, and sent out, is conclusive evidence that he is in favor of the practice.

Again: the Democratic press of the South—those friendly to the Administration—proclaim the restoration of the African slave trade a favorite political measure. Southern Senators have urged the withdrawal of our naval force from the African coast, in order that we should not appear to hold the African slave trade in abhorrence; and Democratic members of both Houses of Congress urge its restoration.

Within the past year, we were informed by the southern press that slaves direct from Africa were landed upon our southern coast. Southern conventions for years have publicly discussed the propriety of restoring this slave trade. They propose to carry our Government back to the position occupied a century since by the British King—to restore the barbarous practices of a darker age; and their only hesitation in making this doctrine a test of Democracy appears to arise from the fact that it would be unpopular in the free States.

Our present controversy arises from a disposition on the part of our Government to respect the slave trade—to render it honorable, instead of treating it as piracy, and those engaged in it as pirates; and strange to say, the entire Senate appears converted to his doctrine. As a nation, as a Government, we have declared its character, and proclaimed an exterminating war upon all who are engaged in it. We have declared them *enemies to mankind*, outlaws worthy of death. They are so regarded and treated by other nations. To carry on this war, we are bound to contribute all reasonable aid and assistance. Every citizen of this Union is bound to aid in this war for the rights of our common nature. And I declare it the duty of every captain, every officer and sailor, who holds our flag sacred, to aid in preserving it from the dishonor to which the present Administration is seeking to prostitute it. It is their duty, when suspected of piracy, to cheerfully relieve themselves of such suspicion by making their true character understood; and I assert that it is the right of every British, French, Russian, Austrian, or Prussian cruiser, or the cruiser of any other nation, while seeking to destroy these outlaws, to demand of any American ship, or the ship of any other nation, her true character, whether she be a *pirate*, or entitled to protection under the flag she bears; while our own cruisers hold the same indisputable right to learn the character of any, and of all, suspected ships sailing under the flag of any other nation. If our Administration be determined to modify this law of nature and of nations, this principle of justice, of evident propriety, they will find insurmountable difficulties. I trust, I hope, the British Ministry will not recede from its position. They are acting for humanity. The feelings and sympathies of the Christian world are with them in their efforts to eradicate this piracy from the earth. Truth and justice are with them. That higher law of eternal righteousness which sways the destinies of nations and of the world is with them. I would not place our Government in opposition to these attributes of the Creator. I would bring it into harmony with those principles of justice, those laws which govern the moral world.

I know the vastness of our cause. We are constrained to meet the machinations of the slave power at every step of our progress. Let us meet them boldly, candidly, truthfully. Let us consecrate ourselves to this holy work of separating and purifying our Government and people from this piracy, this moral contagion which now

poisons all the veins and arteries of this mighty nation, and must, if not soon stayed in its progress, produce political and moral death to the body corporate.

THE EXPENDITURES AND REVENUES OF THE NATION.

SPEECH OF HON. H. M. PHILLIPS, OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

June 12, 1858.

The House being in the Committee of the Whole on the state of the Union—

Mr. PHILLIPS said:

Mr. CHAIRMAN: Much has been said against the party of which I am a member that, in my judgment, ought not to go unanswered: error, not corrected, is often accepted as truth; and, at this late period, I avail myself of the indulgence granted me of thus addressing the Committee for the purpose of repelling from the Democratic party some of the charges that several Republican members have sought to fasten upon it. The proclaimed principles of the two branches of the Opposition prevent their uniting on any real platform; reform (artificial and pretended reform only) is therefore attempted to be declared as the doctrine in the broad and unmeaning principles of which their differences may be concealed.

Mr. Chairman, the key-note of opposition to the Democratic party has been loudly sounded by the distinguished gentleman from Ohio, [Mr. SHERMAN:] his purpose could not be misunderstood; his speech was carefully and elaborately prepared; it was doubtless intended as a campaign speech, and as proclaiming the doctrines of the Opposition, *nominally* to the Democratic Administration, but *really* to the Democratic party. Believing, as I do, that the harmony of the Union, its prosperity, and its permanency, depend upon the Democratic party, and that without the one there cannot be the other, I deem it a fitting subject on which to address this Committee of the Whole that has under its consideration the *Union generally*.

The adoption of the Federal Constitution was followed by the administration of George Washington for eight years. The unanimity with which he was called to the executive chair, the confidence felt in his patriotism and sagacity, prevented the formation of parties, which, however, soon ensued in the successorship of John Adams. Then, for the first time, was the germ of the Democratic party; but it was reserved for Thomas Jefferson to give it shape and name, and to put upon a permanent basis that Democratic party of the nation which still lives. The perils that environed it at its formation, in the infamous attempt to elevate Aaron Burr to the presidency, but served to strengthen it at its birth, and it then came into action, and began its mission with the strength of a full grown and not an infant party. It was the Democracy of that day that called forth and obtained the extension of territory in the purchase of the Louisiana Territory, as it was reserved for the Democracy of the next Administration to admit into the Union one of the States formed out of it—Louisiana. These acts were violently opposed by the opponents of the Democracy; the same epithets were used, were lavishly applied; the same denunciations were heaped; the same menaces made; but the Democratic party pursued the even tenor of its way; felt itself right; was reckless of temporary consequences; and strengthened the Union by these glorious accessions.

A more severe trial awaited it in the days of James Madison. It had made war upon the greatest Power in the world—Great Britain; it had sent forth its hundreds to fight the myriads of England; its straggling ships to contend with mighty navies, a work of danger and of doubt; but national honor had been invaded, and the Democratic party recognized the patriotic doctrine of "death before dishonor," and pushed forward the contest. Then, as now, its enemies stopped to calculate the cost, to proclaim the danger, and to denounce those who had done these things; and for a time gloom did pervade the nation; but

the glorious successes of our arms, the brilliant victories of our soldiers and our sailors, and a treaty which, for the first time, recognized the United States as an equal in the rank of nations with its haughty foe, established the correctness of the course pursued by the Democratic party. I have not the time, within the hour to which the rules limit me, to dilate upon these things, nor even to notice many of them; but, coming down to more recent times, the recollection is fresh of the opposition to the election of Andrew Jackson, to the removal of the deposits from the United States Bank, to the downfall of that institution, to the establishment of an independent Treasury, to the war with Mexico, and to the revenue reforms, all under Democratic Administrations. Each of these measures it was solemnly and seriously declared would ruin the country; yet who dares now to assert the impropriety of any one of them?

The men who now oppose the Democratic party were in opposition then, and the people frightened by the terrific exaggerations and persuaded by the specious promises more than once yielded—deserted the Democratic standard, suffered the party to be defeated, yet on every occasion its downfall was but momentary, the flash of opposition serving to show sufficiently plainly the perils of its power and the people never failed at the earliest moment to preserve the country from its impending danger, and to rescue the Democratic party by most signal victory. There have been Opposition Administrations, but as the policy of the country has been Democratic, and must continue to be Democratic, these interjected Oppositions have but served to retard the progress and growth which follow the Democratic rule. Will any one deny that the increase of the nation from thirteen weak and puny colonies, to thirty-two strong and giant States is the work of the Democratic party? or that the present elevated position of the country throughout the world has the same origin? If any one be so disposed, let him, at least, in denying this, ascribe it to some other source which he shall name and describe. The mission of the Democratic party, Mr. Chairman, has been to make this country and to preserve it. The history of its three fourths of a century of existence is significant of the means of perpetuating the Union, and by its example spread throughout a continent, at least, its free institutions. I appeal, then, to my Democratic friends to allow no present discontent or disaffection to induce them to desert the Democratic standard or rally round any other; and if they find subject of complaint, let them

"rather bear the ills they have
Than fly to others that they know not of."

It is said of Henry Clay, that, in a canvass for reelection to Congress, he encountered an old huntsman, with whom he had been brought up, who told him that he could not again vote for him, because he had advocated a measure to which the hunter was opposed. Mr. Clay reasoned with him, in that good-humored and winning way which so characterized him, but in vain; in vain he recapitulated the many things which he had done that were acceptable. The hunter recognized all these, but was inexorable. Mr. Clay passed from the subject, and, walking on some time, he began talking about his companion's family; then he inquired about his hunting; asking him if he was as good a shot as ever, and what rifle he had. The huntsman told him he still had old Joe, which he had so long used. "But," said Mr. Clay, "does it never miss fire?" "Yes, of course it does, sometimes," was the reply. "Then," said Mr. Clay, "if it ever missed fire you threw it away did you not—eh? or what did you do?" at the same time looking him fixedly in the eye. The old man understood the point of the inquiry, burst into tears, and seized Mr. Clay's hands, exclaiming, "Why, I picked the flint and tried it again; and, by Harry, I'll try you again!" Now, if there are any who think that the Democratic gun has missed fire, let them pick its flint and try it again. They can do no better with a change. They will have plenty of cause of complaint with new allies, and will have self-reproaches hereafter, as many of them probably have serious doubts and misgivings now.

But, Mr. Chairman, I accept the challenge of the gentleman from Ohio, [Mr. SHERMAN,] and I will endeavor to show that his objections are not well founded. He appears as a prosecutor; he arraigns the Democratic party; he undertakes to put it upon trial; he presents such evidence as he pleases; and withal, he must fail to convince any reflecting man of the justice of his accusations. Were his charges true, they ought not to suffice, because he has artfully concealed the alternative which Democratic defeat would bring, and the remedy which might be found to be worse than the disease. "Kill or cure" is a dangerous prescription; and our country is not in so critical a condition as to require this desperate remedy, even if prescribed by so skillful a practitioner. While I might concede the correctness of all that he said, I would dissent from his deductions, and I would even then declare that these known errors or evils were far more tolerable than the unknown upon which we might rush, and which we would probably experience from this indescribable reform party which the gentleman seems fondly to hope shall supersede the party now in power. I will take the bull by the horns, Mr. Chairman, and I will deal boldly with the doctrines advanced, while I must do so under protest, because the gentleman from Virginia [Mr. LETCHER] has shown—incontestably proved—that the estimates and figures of the gentleman from Ohio are entirely mistaken; prominent error throughout has been shown to exist.

The charge made by the gentleman from Ohio is, in a word, *extravagance*; and the watchwords that he recommends to the Opposition party for the next campaign are, *retrenchment and reform*. The charge is not new, while retrenchment and reform have been often promised by the same party that seeks to use them now.

I deny the charge *in toto*: I assert that the Administrations of the country have been conducted with a spirit of proper economy, having regard to the condition of the nation. If I am asked whether less money might not have been expended, I will answer affirmatively; if the means of Government were not adequate to its expenditures, of course the necessary expenses could have been lessened; but with the bountiful revenue of the country, less could not have been used without a display of niggardiness and parsimony, unworthy the name of economy and unbecoming the great and glorious nation, of which we are all so proud. Does the gentleman not know that the country's expenditures must keep pace with the country's growth? Will he advocate before his constituents that nothing is due to its station and position? Will he put his country upon pauper or prison allowance? It will not do to answer that the money comes from the people; for it must be borne in mind, in connection therewith, that it goes back to, and is expended among, the people, and the people are willing to sanction any expenditure which contributes to the welfare, honor, character, interest, or permanency of the Union. The best way of establishing wrong is, by contrast in showing the right, and if the gentleman had shown the extravagant items and his mode of reform in something like detail, the wrong might have been better discovered; if there has been error, it is his duty to correct it, and if he does not attempt it, he does less than his constituents have a right to demand.

The Utah war is a prominent subject for complaint; and sorry was I to hear an American legislator, on the floor of the House of Representatives, in finding fault with the Executive, say:

"Instead of sending peace commissioners to reason with a rebellious people, and negotiate terms of peace, he posted this army in the mountains, and compelled them to be supported there with flour at fifty dollars a barrel, and other provisions at an equally enormous rate."

No greater encouragement could be given to the treasonable purposes of Brigham Young and his followers than was found in that sentence. Will an American constituency indorse the doctrine that the American Government must submit to treason and rebellion? must send peace commissioners to treat with a rebellious people? must sue and beg that parrietal hands may be stayed? coax and persuade into obedience and submission to laws? When the United States must do such things as these, then let her forego her claim to

be considered in the front rank of nations! Then, too, any expenditures will be too much; and herein the gentleman is most consistent. But such a course will not be tolerated; where there exists rebellion, mutiny, or treason; where the law is trampled under foot; where a power is set up as sovereign in opposition to, and in defiance of the authority, of the United States, every American, having a spark of patriotic feeling, will insist on maintaining the dignity of his country and the majesty of her laws; upon crushing out the rebellion; upon putting down the treason, and bringing to condign punishment the traitors, without regard to the sacrifice, inconvenience, or cost. Yet the gentleman thinks otherwise; perhaps he would send peace commissioners to Great Britain to solicit that she will direct her officers not to continue their visits and searches of our ships. Certainly, consistency will require him to advocate this doctrine; for the crime of treason at home is greater, far greater, than hostility or aggression abroad. That there was rebellion in Utah, one of our organized Territories; that the former Governor had refused to surrender to the authority of his successor; that the laws of the United States had been disregarded, and that there was armed resistance to Federal troops; in short, that war was waged by this rebellious Territory, is not doubted nor denied by the gentleman; but he prefers to procure peace *cheaply*, as he thinks, but dearly-bought as it would be, with national dishonor.

The expenditures for the Army constitute the greatest increase; and, with the nation at war, with the spread of territory, with the exposed frontier, and with hostile Indians yet among our people, let any one point out what item of expense could have been spared or diminished. As the settlements of our country progress there must be increased protection; and with so small an Army—for there seems to be a jealousy of a large standing Army—the expenses of transportation of men and supplies from place to place as wanted are necessarily large. Our extended frontier and coasts require augmented defenses; and these things, especially in distant regions, are prolific of expense. What, too, is our Navy compared with that of any of the other large Powers of the world? Yet this, too, is a cause of largely-increased expenditure; and certainly no one would object that it shall be placed in a condition which will insure protection to our commerce, and enable it to be ready for service at any time that war may arise. It must be such as shall be respected in peace and feared in war; it must be effective, and, growing with the growth of the country, it must be in like manner strengthened. The Army and Navy of the United States are themes on which much might be said; the glory and honor of the country are in their protection; and where is the legislator so miserly as to refuse supplies for these Departments, because, forsooth, the nation is in a state of profound peace?

The gentleman from Illinois [Mr. LOVEJOY] some days since inveighed against the appropriations for the Army service, and said "men in time of peace did not go about armed to the teeth, and that there was as little occasion for nations to do so." The gentleman's allusion was strikingly unfortunate; for while no individual need arm himself here for either protection or defense, it is simply because the law furnishes arms, armed men, police, for those purposes at home, and our seamen and soldiers for a like object abroad. It is because of the public protection and defense that individuals need not "go armed to the teeth," as the gentleman from Illinois expresses it. Our Army, our Navy, and our fortifications afford to every one the exemption which, without these public auxiliaries, no one could claim. Yet these things have produced the greatest increase of public expenditure, and therefore it is against them that the odium is to be directed. The spirit of economy which would cut down the Army and Navy, the fortifications and defenses of the country, is one of which the new party may, when they have the power, claim the paternity; the Democratic party repudiates it, and does not fear the responsibility connected with these things. So, too, with the augmented expenses of our diplomatic intercourse, of our Indian departments, and of our civil list for Territories, judiciary, &c.

No allowance is made for the increase of the country or of its population or of its wants; nor is there any recollection of the fact that every dollar expended goes into the pockets of the people. Away, then, with this deceptive cry of extravagance. Practice before you preach, or your sincerity will be doubted. Show that you, or any of your allies, have suggested or attempted to effect a single reform in any one of the things which you hold up to public odium; and if there is a temporary deficiency arising from miscalculation or from untoward events, such as could not be foreseen, instead of reviling those who are not to blame for it, aid to repair it by replenishing the Treasury, so that, at all hazards, the public faith shall be kept and the public creditors shall be paid. A loan is not a matter of choice—it is of inevitable necessity; and while the gentleman from Ohio admits the deficiency and the necessity for supply, he declares he will not vote for a loan, and he will not even suggest any other mode of enabling the obligations of Government to be met.

It must not be forgotten that many of the debts now to be paid were incurred by the authority of the House of Representatives of the Thirty-Fourth Congress, in which the Democratic party was in a sorrowful minority; but it matters not by whom or how they were authorized, honor and honesty demand their payment, and hence the necessity for the use of the public credit to such as are willing, in preference to subjecting the unwilling, to grant a coerced credit which they can but poorly afford.

The gentleman from Ohio, speaking of the miscellaneous list, says:

"In this vast mausoleum are buried your secret contracts, your jobs, your custom-houses, your marine hospitals, your post office deficiency and post offices, your coast survey, your court-houses."

Are not all these things necessary and useful in our country? The sneering manner in which he speaks of "*your custom-houses, your marine hospitals, your post office deficiency and post offices, your coast survey, your court-houses,*" will not depreciate them in public opinion. Custom-houses, post offices, and court-houses are necessary; marine hospitals and coast surveys are useful and benevolent; yet, in the fury of his party wrath, they come in for indiscriminate denunciation: the post office deficiency is a tax that should be cheerfully paid, because it is the necessary result of cheap postage, of the benefits of which the people of the free States have a full and plentiful share. What shall be the country when the demands for these reforms are satisfied? with no Army, no Navy, no custom-houses, no marine hospitals, no coast survey, no cheap postage, no post offices, and no court-houses, or only such as stunted expenditures will maintain, the honor and glory of the country will be at a discount.

My friend from Virginia, [Mr. LETCHER,] who sits close by me, said that there are some persons who seem to think that patriotism consists in spending money. I know none such, and have heard nothing said here which justifies that assumption. But I can truly retort on him that there are some persons who seem to think that patriotism consists in saving money. One of his colleagues has avowed nearly as much, and, in a violent opposition to proposed expenditures, he actually referred to the Democratic platform and Virginia resolutions of 1798 as not justifying the measure. This gentleman, I believe, has voted against nearly all the appropriations proposed or made, though when an appropriation was proposed for the navy-yard in Virginia, both of these economical gentlemen, together with all the other rigid economists from that State, walked between the tellers in favor of it. The application by the facetious gentleman from Louisiana, [Mr. DAVIDSON,] of Esop's fable, "The Bull and the Ox," to one of these gentlemen, [Mr. CLEMENS,] was strikingly appropriate. There are other gentlemen from the South who have preached up the sternest and strongest economy. One gentleman was terrified at the expense attending the National Observatory; another treated the gradual increase of expense in a manner most awfully prophetic, reminding me of the easy descent mentioned by Virgil, the escape from which is so dreadful and

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difficult. The anxiety of our southern friends is less about the credit side of the account than it is about the debit side. They advocate stinted expenditures because they do not like the probable mode of increase of the revenue; but the same sincerity does not mark the course of the Opposition, who have advanced the charge of extravagance, and have adopted a theory of reform merely for political and partisan purposes. I earnestly hope that the people will not be deceived nor misled by this halcyon cry of reform! They have been deceived more than once by it. They yielded to it in 1840, and the promised reforms were an attempt to fasten upon them another bank of the United States, and the passage of a bankrupt law which privileged reckless speculators from paying their debts—a law so odious that in two years it was repealed, yet not before hundreds of millions of dollars of indebtedness had been cleared out by it. They yielded to it in 1848, yet no reform can be shown, for none was made or attempted; and the history of our country shows that no reform has ever been made except by the Democratic party. Hence, too, its troubles! Its members are not always prepared for the changes which progress requires; and some with the best intentions, yet timid, are not at all times ready to march with its advancing column.

It is a fact, a melancholy truth, that the Treasury is exhausted; and this, too, at a time when a surplus was predicted and expected. During the last session of Congress this surplus was the source of constant trouble and anxiety. Scheme after scheme was devised to deplete the Treasury and prevent this accumulation. The public were alarmingly told that the collection of more revenue than was necessary would accumulate so large a portion of the circulating coin that business and trade would be interrupted and embarrassed. No one seemed to anticipate that the sunshine might be followed by storm-clouds, or that the present prosperity would ever be diminished. A plan was hit upon for the purpose of diminishing the revenues, and certainly it was most successful in accomplishing the object for which it was designed. Mr. Robert J. Walker, the able and distinguished Secretary of the Treasury under President Polk, had arranged the details of the tariff of 1846, which, while it reduced the duties, largely increased the revenue. It was adjusted with discriminations in favor of such articles as were produced here; and, until 1857, it was found to be so well adjusted and proportioned that no interference had been attempted with its details. It had supplied, nay, it had filled to overflowing, the national Treasury; but in March, 1857, a headlong and heedless change was made; a further and ill-digested reduction of duties was effected, intended to diminish the revenue from six to ten million dollars; and this, too, when the national debt was still in existence. To this cause may be partly ascribed the deficiency which has arisen; while the financial revulsion which pervaded the whole moneyed world was a valuable auxiliary in making and keeping the Treasury empty. The great revenue of the coun-

try must be derived from duties on imports, and these must be so arranged as to produce the revenue required. I shall make no deceptive promises, no professions, on this subject, but will show that there is no other source from which the Treasury can be supplied. If I succeed in this, our duty is plain, and it must be performed at every sacrifice.

The public lands have yielded large amounts, but it can hardly be contended that they ought to be relied upon for revenue. They are held by the Government for higher and better purposes than mere speculation; and while it may be politic to dispose of them by sale, the present stagnation of business of every kind forbids the idea that they can be made the available means of supply at this time. The very decided vote in this House yesterday against the increase of the postage rates—121 against it to 37 in its favor—shows that the post offices of the Government are considered as institutions maintained for a nobler object than money. The postal facilities accommodate all the people, and a reduction of facility in this Department would be a gross violation of the popular will. We have the power to levy a direct tax—the Constitution gives that power—but it is not wise to exercise it while other and easier means are at hand. A direct tax will be paid by the people whenever the necessities of Government require it to be levied; but, however equal in name, it is unequal in operation, and it would be most odious. We are already payers of direct taxes. We pay them for the support of our city and our State governments; and to add a national tax is to increase to every man the burdens which already are onerous. There can be no parallel between this country and any other in this particular. The people of other places have but one Government to recognize, and to which the tributary taxes must be paid; but it is not so with us. We have State as well as national governments. We owe separate allegiance, we perform separate duties as citizens, and we already pay enough of direct taxes.

If, then, Mr. Chairman, I am right in assuming that it is neither wise nor just to look to direct taxation, post office receipts, or sales of public lands, for obtaining the national revenue, or even for material contribution to that object, there seems to be but one source from which the supply can be maintained, and that is from duties on imports. Whatever amount is required for the support of Government must be obtained; and the Constitution, in authorizing Congress, virtually directs it "to lay and collect taxes, duties, imposts, and excises to pay the debts and to provide for the common defense and general welfare of the United States;" and I am ready and willing to act in accordance with this direction. A repeal of the act of March, 1857, a substitution of a proper and honest mode of valuation of the goods upon which duties are paid, and an attentive body of public officers, in my opinion, will effect much, if not all the improvements required. Our laws should be sufficient to require that the true and accurate value of the imported article should be

ascertained, and the duty should be levied upon that value; the honest importer would not then, as he is now, be injured and undersold by the conduct of the less scrupulous.

These are views that I have long entertained. At the time of the passage of the act of 1857, I expressed my disapproval; and I then foretold what has since happened; for, in my opinion, the deficiency would have existed without the financial revulsion, which has helped to conceal the real cause.

I do not choose, Mr. Chairman, to be misunderstood. I am not in favor of extravagance, nor useless lavish expenditures; I well know that extravagance gives rise to corruption, and that corruption is the sure forerunner of decay. Neither do I favor an increased or unnecessary number of office-holders; they should be considered necessary evils; there should be no sinecures, no one should reap who does not sow, and I would limit their number to the absolute wants of Government. I profess to be a practical and not a theoretical economist. I am in favor of an *economical* but not a *cheap* government: cheap articles are not always the best, nor do they last the longest; things in this country are worth full pay. The liberty and protection of the citizen, the honor and glory of the nation, are fully worth all they cost, and any other system would be pernicious and short-lived. Perhaps the administration of Government could be cheapened, if given out to the lowest bidder; but the people would pay very dearly for such economy. My purpose, Mr. Chairman, was to vindicate the Democratic party from the charge of extravagance, so boldly made against it. I have deferred until now, within a few hours of the sessions' close, in the hope that some more able and experienced member would undertake the task, and I attempt it somewhat reluctantly, and at the instance of what I consider to be an imperative duty.

I have not attempted to examine or to correct the figures and calculations of the gentleman from Ohio. His speech was characterized by industry, talent, and elaboration; but it was founded on mistake in facts, as the gentleman from Virginia has shown, and in argument as, I trust, I have been somewhat instrumental in exposing.

That there may have been instances of extravagance or imposition cannot be doubted; that such are incident to a vast Government like ours is undeniable; and that no laws will prevent them effectually seems but too probable; but the annual expenditures of this Government, large as they seem to be, have never equaled a half year's interest on the national debt of Great Britain, (even at its diminished rate of interest;) a country, too, diminutive in territory and extent when compared with the measureless domain of the United States.

Whatever our country properly requires it can afford, and whatever it can afford it must have; its public edifices and its institutions, its Navy and its Army, are but monuments of its greatness and power; and while in the hands of those who have so long and so well governed it, "onward" shall be its progress.

LAWS OF THE UNITED STATES.

PUBLIC ACTS OF THE THIRTY-FIFTH CONGRESS

OF THE

UNITED STATES,

Passed at the First Session, which was begun and holden at the City of Washington, in the District of Columbia, on Monday, the 7th day of December, 1857, and ended Monday, the 14th day of June, 1858.

JAMES BUCHANAN, President. JOHN C. BRECKINRIDGE, Vice President, and President of the Senate. BENJAMIN FITZPATRICK was appointed President of the Senate, *pro tempore*, March 29, 1858. JAMES L. ORR, Speaker of the House of Representatives.

CHAPTER I.—An Act to authorize the issue of Treasury notes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to cause Treasury notes for such sum or sums as the exigencies of the public service may require, but not to exceed, at any time, the amount of twenty millions of dollars, and of denominations not less than one hundred dollars for any such note, to be prepared, signed, and issued in the manner hereinafter provided.

SEC. 2. *And be it further enacted,* That such Treasury notes shall be paid and redeemed by the United States, at the Treasury thereof, after the expiration of one year from the dates of said notes, from which dates, until they shall be respectively paid and redeemed, they shall bear such rate of interest as shall be expressed in said notes, which rate of interest, upon the first issue, which shall not exceed six millions of dollars of such notes, shall be fixed by the Secretary of the Treasury, with the approbation of the President, but shall in no case exceed the rate of six per centum per annum. The residue shall be issued, in whole or in part, after public advertisement of not less than thirty days, as the Secretary of the Treasury may direct, by exchanging them at their par value for specie to the bidder or bidders who shall agree to make such exchange at the lowest rate of interest, not exceeding six per centum, upon the said notes: *Provided,* That, after the maturity of any of said notes, interest thereon shall cease at the expiration of sixty days' notice of readiness to pay and redeem the same, which may at any time or times be given by the Secretary of the Treasury in one or more newspapers published at the seat of Government. The payment or redemption of said notes herein provided shall be made to the lawful holders thereof, respectively, upon presentment at the Treasury, and shall include the principal of each note and the interest which shall be due thereon. And for such payment and redemption, at the time or times herein specified, the faith of the United States is hereby solemnly pledged.

SEC. 3. *And be it further enacted,* That such Treasury notes shall be prepared under the direction of the Secretary of the Treasury, and shall be signed in behalf of the United States by the Treasurer thereof, and countersigned by the Register of the Treasury. Each of these officers shall keep, in a book or books provided for that

purpose, separate, full, and accurate accounts, showing the number, date, amount, and rate of interest of each Treasury note signed and countersigned by them, respectively; and also similar accounts, showing all such notes as may be paid, redeemed, and canceled, as the same may be returned, all which accounts shall be carefully preserved in the Treasury Department. And the Treasurer shall account quarterly for all such Treasury notes as shall have been countersigned by the Register and delivered to the Treasurer for issue.

SEC. 4. *And be it further enacted,* That the Secretary of the Treasury is hereby authorized, with the approbation of the President, to cause such portion of said Treasury notes as may be deemed expedient to be issued by the Treasurer in payment of warrants in favor of public creditors or other persons lawfully entitled to such payment, who may choose to receive such notes in payment at par. And the Secretary of the Treasury is further authorized, with the approbation of the President, to borrow, from time to time, such sums of money upon the credit of such notes as the President may deem expedient: *Provided,* That no Treasury notes shall be pledged, hypothecated, sold, or disposed of, in any way, for any purpose whatever, either directly or indirectly, for any sum less than the amount of such notes, including the principal and interest thereof.

SEC. 5. *And be it further enacted,* That said Treasury notes shall be transferable, by assignment indorsed thereon, by the person to whose order the same shall be made payable, accompanied together with the delivery of the notes so assigned.

SEC. 6. *And be it further enacted,* That said Treasury notes shall be received by the proper officers in payment of all duties and taxes laid by the authority of the United States, of all public lands sold by said authority, and of all debts to the United States of any character whatever, which may be due and payable at the time when said Treasury notes may be offered in payment thereof; and upon every such payment credit shall be given for the amount of principal and interest due on the note or notes received in payment on the day when the same shall have been received by such officer.

SEC. 7. *And be it further enacted,* That every collector of the customs, receiver of public moneys, or other officer or agent of the United States, who shall receive any Treasury note or notes in

payment on account of the United States, shall take from the holder of such note or notes a receipt, upon the back of each, stating distinctly the date of such payment and the amount allowed upon such note; and every such officer or agent shall keep regular and specific entries of all Treasury notes received in payment, showing the person from whom received, the number, date, and amount of principal and interest allowed on each and every Treasury note received in payment; which entries shall be delivered to the Treasury, with the Treasury note or notes mentioned therein, and, if found correct, such officer or agent shall receive credit for the amount, as provided in the last section of this act.

SEC. 8. *And be it further enacted,* That the Secretary of the Treasury be, and he hereby is, authorized to make and issue, from time to time, such instructions, rules, and regulations to the several collectors, receivers, depositaries, and all others who may be required to receive such Treasury notes in behalf of, and as agents in any capacity for, the United States, as to the custody, disposal, canceling, and return of any such notes as may be paid to and received by them, respectively, and as to the accounts and returns to be made to the Treasury Department of such receipts as he shall deem best calculated to promote the public convenience and security, and to protect the United States as well as individuals from fraud and loss.

SEC. 9. *And be it further enacted,* That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be paid the principal and interest of such Treasury notes as may be issued under this act at the time and times when, according to its provisions, the same should be paid. And the said Secretary is further authorized to purchase said notes at par for the amount of principal and interest due at the time of the purchase on such notes. And so much of any unappropriated money in the Treasury as may be necessary for the purpose is hereby appropriated to the payment of the principal and interest of said notes.

SEC. 10. *And be it further enacted,* That, in place of such Treasury notes as may have been paid and redeemed, other Treasury notes to the same amount may be issued: *Provided,* That the aggregate sum outstanding, under the authority of this act, shall at no time exceed twenty millions of dollars: *And provided further,* That the power to issue and reissue Treasury notes, con-

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ferred on the President of the United States by this act, shall cease and determine on the first day of January, eighteen hundred and fifty-nine.

SEC. 11. *And be it further enacted*, That to defray the expenses of engraving, printing, preparing, and issuing the Treasury notes herein authorized, the sum of twenty thousand dollars is hereby appropriated, to be paid out of any unappropriated money in the Treasury: *Provided*, That no compensation shall be made to any officer whose salary is fixed by law, for preparing, signing, or issuing Treasury notes.

SEC. 12. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of or purporting to be a Treasury note, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited note, purporting to be a Treasury note as aforesaid, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any Treasury note issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered Treasury note, issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony; and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years nor more than ten years, and to be fined in a sum not exceeding five thousand dollars.

SEC. 13. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody and possession any metallic plate engraved after the similitude of any plate from which any notes issued as aforesaid shall have been printed, with intent to use such plate, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a term not less than three nor more than ten years, and fined in a sum not exceeding five thousand dollars.

SEC. 14. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause a statement to be published monthly of the amount of Treasury notes issued, and paid and redeemed, under the provisions of this act, showing the balance outstanding each month.

APPROVED, December 23, 1837.

CHAP. III.—An Act to detach Selma, in the State of Alabama, from the Collection District of New Orleans, and make it a Port of Delivery within the Collection District of Mobile.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Selma, in the State of Alabama, which was constituted a port of delivery within the collection district of New Orleans by the act of third March, eighteen hundred and fifty-seven, chapter one hundred and two, be detached from that district, and be made a port of delivery within the collection district of Mobile.

APPROVED, January 27, 1858.

CHAP. IV.—An Act to supply an omission in the enrollment of a certain act therein named.

Whereas, the following clause of the act entitled "An act making appropriations for the support of the Army for the year ending the thirtieth

June, eighteen hundred and fifty-eight," approved March third, eighteen hundred and fifty-seven, to wit: "For the manufacture of arms at the national armories, three hundred and sixty thousand dollars," was omitted in the enrollment of the said act: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of three hundred and sixty thousand dollars, for the manufacture of arms at the national armories, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, February 4, 1858.

CHAP. V.—An Act to alter the time of holding the Courts of the United States for the State of South Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act, the terms of the district court of the United States for South Carolina, at its sitting in Charleston, shall be held on the first Monday in January, May, July, and October, in each and every year, instead of at the times heretofore appointed.

SEC. 2. *And be it further enacted*, That from and after the passing of this act, the term of the circuit court of the United States for South Carolina, at its sitting in Charleston, shall be held on the first Monday in April, in each and every year, instead of at the time heretofore appointed.

SEC. 3. *And be it further enacted*, That all writs, recognizances, and process of all kinds, already issued, taken or made returnable to the time hitherto appointed for the terms of the said courts, shall be considered and taken as made for the time herein provided for the said courts.

APPROVED, February 10, 1858.

CHAP. VI.—An Act making Appropriations for the payment of Invalid and other Pensions of the United States, for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

For invalid pensions, under various acts, three hundred and twenty-five thousand dollars.

For pensions under acts of the eighteenth March, eighteen hundred and eighteen, fifteenth May, eighteen hundred and twenty-eight, and seventh June, eighteen hundred and thirty-two, eighteen thousand dollars.

For pensions to widows of those who served in the revolutionary war, under the third section of the act of fourth July, eighteen hundred and thirty-six, the acts of seventh July, eighteen hundred and thirty-eight, third March, eighteen hundred and forty-three, seventeenth June, eighteen hundred and forty-four, second February, and twenty-ninth July, eighteen hundred and forty-eight, and second section act of third February, eighteen hundred and fifty-three, two hundred and fifty thousand dollars.

For pensions to widows and orphans, under act of twenty-first of July, eighteen hundred and forty-eight, first section act of third February, eighteen hundred and fifty three, and under special acts, eighty-six thousand dollars.

For privateer invalids, five hundred dollars.

For Navy pensions to widows and orphans, under act of eleventh August, eighteen hundred and forty-eight, ninety thousand dollars.

APPROVED, February 10, 1858.

CHAP. VIII.—An Act to enable the President of the United States to fulfill the Stipulations contained in the third and sixth Articles of the Treaty between the United States and the King of Denmark, of the eleventh April, eighteen hundred and fifty-seven, for the discontinuance of the Sound Dues.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the

same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the eleventh April, eighteen hundred and fifty-seven, viz:

To carry out the stipulation contained in the third article of said treaty, three hundred and ninety-three thousand and eleven dollars.

To carry out the stipulation contained in the sixth article of said treaty, fifteen thousand seven hundred and twenty dollars and forty-four cents, or so much thereof as may be necessary to pay the interest provided for in said article.

APPROVED, March 4, 1858.

CHAP. IX.—An Act to appropriate Money to supply Deficiencies in the Appropriations for Paper, Printing, Binding, and Engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of defraying the deficiencies in the appropriations for the paper for the printing, for the printing and for the binding, engraving and lithographing, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, the following sums of money are hereby appropriated out of any money in the Treasury not otherwise appropriated:

To pay for paper, one hundred and four thousand dollars.

To pay for the printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, fifty-seven thousand six hundred and nineteen dollars and ninety-four cents.

To pay for the binding, lithographing, and engraving, ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses, one hundred and seventy-nine thousand five hundred and sixty-nine dollars and sixty-four cents.

APPROVED, March 11, 1858.

CHAP. XII.—An Act to create additional Land Districts in the State of California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to establish additional land districts, in his discretion, not exceeding three, in the State of California, and to fix, from time to time, the boundaries thereof, as the public interest may require; which districts shall, respectively, be named after the places at which the offices shall first be established; and the President shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all of the land districts in said State, and remove the offices when the same shall be expedient.

SEC. 2. *And be it further enacted*, That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, or during the recess thereof, and until the end of the next ensuing session, a register and a receiver for each of said additional districts, who shall, respectively, be required to reside at the site of the offices, shall be subject to the same laws and responsibilities, and whose compensation shall be the same as is now prescribed by law for other land offices in that State.

APPROVED, March 29, 1858.

CHAP. XIII.—An Act to provide for the organization of a Regiment of Mounted Volunteers for the Defense of the Frontier of Texas, and to authorize the President to call into the service of the United States two additional Regiments of Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be authorized to receive into the service of the United States one regiment of Texas mounted volunteers, to be raised and organized by the

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State of Texas for the defense and protection of the frontier thereof, to continue in service from the time that the whole regiment shall be mustered into service, for the term of eighteen months, unless sooner discharged by the President. Said regiment shall be composed of one colonel, one lieutenant colonel, one major, one adjutant with the rank of first lieutenant, one quartermaster and commissary with similar rank, one surgeon and two assistant surgeons, one sergeant major, one quartermaster and commissary sergeant, and ten companies, each of which shall be composed of one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, two buglers, one farrier, and seventy-four privates. Each of said officers below the rank of major—non-commissioned officers, musicians, farrier, and privates—shall furnish and keep himself supplied with a good, serviceable horse and horse equipments, for the use and risk of which, in addition to the pay and allowances herein provided, he shall receive forty cents a day while in service with his horse; and if any non-commissioned officer, musician, farrier, or private shall, from carelessness or neglect, injure, or render his horse unfit for service, and shall fail to supply a serviceable horse within the period of ten days from the loss, such soldier shall, from such time until he shall furnish himself with a horse, be entitled only to the pay of a private of infantry.

SEC. 2. *And be it further enacted*, That the officers, non-commissioned officers, musicians, farrier, and privates, of said regiment shall, when mustered into the service of the United States, be subject to the rules and articles of war. They shall be armed at the expense of the United States, as the President shall direct. They shall be allowed the same pay, rations, and allowances in kind, including clothing, and be subject to the same rules and regulations, as are provided for the regiments of cavalry now in the service; but no field officer shall receive forage for a greater number of horses than he may from time to time actually have in service. No pay or allowances shall be due until said regiment shall be received into the service; but each officer and man shall then be entitled to one day's pay and allowance for every twenty miles he may have been required to travel from his residence to the place of muster.

SEC. 3. *And be it further enacted*, That, for the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the frontiers, the President of the United States be, and he is hereby, authorized to call for and accept the services of any number of volunteers, not to exceed in all two regiments, of seven hundred and forty privates each; the same, or any portion thereof, to be organized into mounted regiments or infantry, as the President may deem proper, to serve for the term of eighteen months from the time of their being received into service, unless sooner discharged by the President. Said volunteers, if called for and received as mounted men, shall be constituted in the same manner as is provided in the first section of this bill for the Texas regiment of mounted volunteers, and shall receive the same pay and allowances, shall be subject to the same rules and regulations as are provided in this bill for said corps; and if called for, and if received as infantry, they shall be placed on the same footing in every respect with the infantry regiments now in the service, shall receive the same pay and allowances, and be governed by the same rules and regulations; and the said regiments, whether organized as mounted men or infantry, shall be subject to the rules and articles of war.

SEC. 4. *And be it further enacted*, That the volunteers provided for by this act shall not be accepted in bodies of less than one regiment, whose officers shall be appointed in the manner prescribed by law in the several States or Territories to which said regiments shall respectively belong, except the quartermasters and commissaries, who shall be detailed from their respective departments of the regular Army of the United States.

SEC. 5. *And be it further enacted*, That the pay of said volunteers shall not be due until received into the service, but each officer and man shall

then be entitled to one day's pay for every twenty miles he may have been required to travel from his residence to the place of muster.

APPROVED, April 7, 1858.

CHAP. XIV.—An Act to acquire certain Lands needed for the Washington Aqueduct, in the District of Columbia.

Whereas it is represented that the works of the Washington aqueduct, in the District of Columbia, are delayed in consequence of the proprietors' refusal, in some cases, to sell lands required for its construction at reasonable prices, and because, in other cases, the title to the said land is imperfect, or is vested in minors, or persons *non compos mentis*, or in a *feme covert*, or [in persons] out of the District of Columbia; and whereas it is necessary for the making of the said aqueduct, reservoirs, dams, ponds, feeders, and other works, that a provision should be made for condemning a quantity of land for the purpose: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall and may be lawful for the United States, or its approved agent, to agree with the owners of any land in the District of Columbia, through which said aqueduct is intended to pass, for the purchase or use and occupation thereof; and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the District of Columbia, on application to a judge of the circuit court of said District, the said judge shall issue his warrant, under his hand, to the marshal of the said District to summon a jury of eighteen inhabitants of said District not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter; notice of the time and place of said meeting being first given to the owners of such land or to their legal representatives, in person if that be practicable, and, if not, by publication in some Washington city newspaper daily for two weeks; and the marshal, upon receiving the said warrant, shall forthwith summon the said jury, and, when met, shall administer an oath or affirmation to every jurymen who shall appear, being not less than twelve in number, that he will faithfully, justly, and impartially value the land, and all damages the owner thereof shall sustain by cutting the aqueduct through such land, or the partial, or temporary, or permanent appropriation, use, or occupation of such land, according to the best of his skill and judgment; and that in such valuation he will not spare any person for favor or affection, nor any person grieve for malice, hatred, or ill will; and the inquisition thereupon taken shall be signed by the marshal and four fifths of the said jury, and [be] returned by the marshal to the circuit court for the District of Columbia; and, unless good cause be shown against the said inquisition, it shall be affirmed by the court at its first term after said return, and [be] recorded; but if, from any cause, no inquisition shall be returned to such court within one month after the commencement of the next ensuing term, the said court, [shall,] at its discretion, as often as may be necessary, direct another inquisition to be taken in the manner above prescribed; and upon every such valuation the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and the quality and duration of the interest and estate in the same required by the said United States for the use of the aqueduct, and their valuation shall be conclusive on all persons, and shall be paid for by the said United States, or its authorized agent, to the owner of the land, or his, or her, or their legal representative; and on payment thereof, the said United States shall be seized of such land as of an absolute estate in perpetuity, or with such less quantity and duration of interest or estate in the same, or subject to such partial or temporary appropriation, use, or occupation, as shall be required and desired as aforesaid, as if conveyed by the owner to the said United States; and whenever, in the construction of the said aqueduct, or any of the works thereof, reservoirs, dams, ponds, feeders, tunnels, aqueducts, culverts,

bridges, or works of any other description whatsoever appurtenant thereto, it shall be necessary to use earth, timber, stone, or gravel, or any other material to be found on any of the lands adjacent or near thereto, and the said United States or their agent cannot procure the same for the works aforesaid by private contract of the proprietor or owner; or in case the owner should be a *feme covert*, or *non compos*, or under age, or out of the District, the same proceedings, in all respects, shall be had as in the case before mentioned of the assessment and condemnation of the lands required for the said aqueduct or the work appurtenant thereto: *Provided*, That the work shall not be delayed pending any such proceeding in court, but the same shall be continued without obstruction thereby, after the inquisition shall be returned to the court.

SEC. 2. *And be it further enacted*, That it shall and may be lawful for the United States or its agent, in case of any dispute of difficulty arising as to the ownership of the land condemned as above for the use of said aqueduct, or in case the owner should be a *feme covert*, under age, *non compos*, or out of the said District of Columbia, and no person duly authorized to receive the same, that the United States or its agent be authorized, by petition to the circuit court for the District of Columbia, and upon said court's order, to deposit the money for which the said land was condemned in the place directed by said court, and the certificate of the proper officer of said deposit shall be considered as a full payment for said land, and thereby vest in the United States an absolute estate in perpetuity, or with such less quantity and duration of interest in the same, as subject to such partial, or temporary, or permanent use or occupation as shall be required and described as aforesaid, if conveyed by the owner or owners of said land.

SEC. 3. *And be it further enacted*, That it shall be the duty of said circuit court to hear and determine to whom the said money does belong, and, upon being satisfied as to whom the land did belong, to pass their decree directing the clerk of said court to pay over to the owner the same money deposited as above, after deducting expenses. The court is further authorized to direct the mode for trying the case, and the litigants have the right of appeal, provided the appeal is taken within sixty days from the decree of the said court.

APPROVED, April 8, 1858.

CHAP. XXIII.—An Act to incorporate Gonzaga College, in the City of Washington and District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Burcard Villiger, Charles H. Stonestreet, Daniel Lynch, Edward X. Hand, and Charles Jenkins, and their successors, be, and they are hereby, made a body-politic and corporate forever, by the name of the President and Directors of Gonzaga College, for purposes of charity and education; and by that name may sue and be sued, prosecute and defend; may have and use a common seal, and the same alter and renew at pleasure; may adopt rules, regulations, and by-laws, not repugnant to the Constitution and laws of the United States, for properly conducting the affairs of said corporation; may take, receive, purchase, and hold estate, real, personal, and mixed, not exceeding in value the sum of two hundred thousand dollars at any one time, and may manage and dispose of the same at pleasure, and apply the same, or the proceeds of the sales thereof, to the uses and purposes of the said corporation, according to the rules and regulations which now are, or may hereafter be, established.

SEC. 2. *And be it further enacted*, That the said corporation shall have and enjoy the power and faculty to confer and confirm upon such pupils in the institution or others, who, by their proficiency in learning or other meritorious distinctions, they shall think entitled to them, such degrees in the liberal arts and sciences as are usually granted in colleges.

SEC. 3. *And be it further enacted*, That the pres-

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ident and directors of Georgetown College be, and they are hereby, authorized and empowered to convey to the said president and directors of Gonzaga College and their successors forever, who are hereby authorized and empowered to receive the same, such lands and property, and such estate, real, personal, or mixed, as the said president and directors of Georgetown College may receive, or may have received, for the use or benefit of said president and directors of Gonzaga College.

Sec. 4. *And be it further enacted*, That nothing in this act shall be so construed as to authorize this said corporation to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency.

Sec. 5. *And be it further enacted*, That each of the corporators in said corporation shall be held liable, in his individual capacity, for all the debts and liabilities of said corporation, however contracted or incurred, to be recovered by suit, as other debts or liabilities, before any court of competent jurisdiction.

Sec. 6. *And be it further enacted*, That Congress may at any time hereafter alter, amend, or repeal the foregoing act.

APPROVED, May 4, 1858.

CHAP. XXIV.—An Act to incorporate the Benevolent Christian Association of Washington City.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the Christian churches in the city of Washington, without distinction of sect or creed, be, and they are hereby, authorized, on or before the last day of August of each and every year, to appoint one person, and that the person so appointed, and their successors be, and they are hereby, made a body-politic and corporate, under the name and style of "The Benevolent Christian Association of Washington City," and, as such, may purchase, have, hold, use, and acquire, by donation or any lawful means, estate, real and personal, not exceeding two hundred thousand dollars in value, and the same may lease, let, sell, transfer, and convey, and otherwise dispose of; and may sue and be sued, and plead and be impleaded; and may have a common seal, and the same may change at pleasure; and may make by-laws, rules, and regulations for the management of their affairs.

Sec. 2. *And be it further enacted*, That the purpose of the said association shall be to relieve the wants of the destitute poor of Washington city; and that the persons named as aforesaid by the several Christian churches, shall be directors of the said association, and continue in office until the first day of October in each year, and until their successors be appointed, and as such shall have power to appoint appropriate officers, and to employ and compensate such agents as they deem expedient, and to appropriate the funds and property of the association to such use as in their discretion they deem best suited to promote the purpose of their incorporation, and with this view they may associate with them as auxiliaries, under such rules and regulations as they may prescribe, any other and all such benevolent associations or societies as now exist, or may hereafter be organized in the city of Washington for the purpose of aiding or contributing to the relief of the poor and destitute persons in said city.

Sec. 3. *And be it further enacted*, That nothing in this act shall be so construed as to authorize the said corporation to issue any note, token, device, scrip, or any other evidence of debt, to be used as a currency.

Sec. 4. *And be it further enacted*, That each of the corporators in said corporation shall be held liable, in his individual capacity, for all the debts and liabilities of said corporation, however contracted or incurred, to be recovered by suit, as other debts or liabilities, before any court of competent jurisdiction.

Sec. 5. *And be it further enacted*, That Congress may at any time hereafter alter, amend, or repeal the foregoing act.

APPROVED, May 4, 1858

CHAP. XXV.—An Act to supply Deficiencies in the Appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and fifty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and fifty-eight, out of any money in the Treasury not otherwise appropriated, namely:

For compensation of the officers, clerks, messengers, and others receiving an annual salary, in the service of the House of Representatives, viz: Six messengers, by resolution of the House of Representatives twenty-third December, eighteen hundred and fifty-seven, three thousand nine hundred and thirteen dollars.

For folding documents, including pay of folders, wrapping paper, twine, and paste, twenty thousand dollars.

For furniture for Speaker's room, and committee rooms, Clerk's offices, Sergeant-at-Arms' office, Doorkeeper's room, and carpenters work, thirty thousand dollars.

For newspapers, three thousand dollars.

For laborers, by resolution of the House of Representatives, twenty-third December, eighteen hundred and fifty-seven, two thousand dollars.

For stationery, four thousand dollars.

For horses, carriages, and saddle horses, one thousand five hundred dollars.

To enable John C. Rives to pay to the reporters of the House for reporting the debates of the present session of Congress, the usual additional compensation of eight hundred dollars each, four thousand dollars.

Army.—for the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and offices; forage in kind for the horses, mules, and oxen of the quartermaster's department at the several posts and stations, and with the armies in the field; for the horses of the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts; of straw for soldiers' bedding, and of stationery, including company and other blank books for the Army, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders, Army regulations, and reports, seven hundred and seventy-eight thousand dollars.

For the purchase of horses for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts, two hundred and fifty-two thousand dollars.

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service, expenses of courts-martial and courts of inquiry, including the additional compensation to judge advocates, recorders, members, and witnesses, while on that service, under the act of March sixteenth, eighteen hundred and two; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters, other disbursing officers, and trains, when military escorts cannot be furnished; expenses of the interment of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's depart-

ment, including hire of interpreters, spies, and guides for the Army; compensation of clerk[s] to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, viz: the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps, one hundred and ninety thousand dollars.

For constructing barracks and other buildings at posts which it may be necessary to occupy during the year; and for repairing, altering, and enlarging buildings at the established posts, including hire or commutation of quarters for officers on military duty; hire of quarters for troops, of storehouses for the safe-keeping of military stores, and of grounds for summer cantonments; for encampments and temporary frontier stations, eighty thousand dollars.

For transportation of the Army, including the baggage of the troops when moving either by land or water; of clothing, camp, and garrison equipment from the depot at Philadelphia to the several posts and Army depots; horse equipments, and of subsistence from the places of purchase and from the places of delivery under contract, to such places as the circumstances of the service may require it to be sent; of ordnance, ordnance stores, and small arms, from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts, drays, ships, and other sea-going vessels and boats for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as from their situation require that it be brought from a distance; and for clearing roads and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops on the frontier, five million four hundred thousand dollars.

For subsistence in kind, one million two hundred and twenty thousand dollars.

For surveys for military defenses, geographical explorations and reconnoissances for military purposes, five thousand dollars.

Miscellaneous.—For contingent expenses of the northeast Executive building, viz: for fuel, light, and repairs, one thousand dollars.

For the erection of stables and conservatory at the President's House to replace those about to be taken down to make room for the extension of the Treasury building, three thousand nine hundred and five dollars.

For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending thirtieth June, eighteen hundred and fifty-seven, over and above that authorized under the appropriation of fifty thousand dollars for that period, two hundred and twenty thousand dollars.

For payment to clerks temporarily employed in the Post Office Department on account of the extraordinary labors connected with the lettings of new contracts for the term commencing on the first July, eighteen hundred and fifty-eight, and the increase of business in the inspection and deprecation office of said Department, five thousand two hundred and eighteen dollars and eighty-nine cents.

For lighting the President's House and Capitol, the public grounds around them, and around

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the executive offices, and Pennsylvania avenue, and Bridge and High streets, in Georgetown, five thousand dollars.

For compensation of the surveyor general of Utah Territory, from first day of January, eighteen hundred and fifty-six, to thirtieth of June, eighteen hundred and fifty-seven, one thousand five hundred dollars.

For purchase of the "Masonic Temple" in the city of Boston, for the accommodation of the United States courts, upon the terms agreed on by the Secretary of the Interior and the proprietors thereof, in addition to the sum of one hundred thousand dollars appropriated by the act of third March, eighteen hundred and fifty-seven, for the erection of a building for said purpose, five thousand dollars.

SEC. 2. *And be it further enacted*, That the sum of one million four hundred and sixty-nine thousand one hundred and seventy-three dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and fifty-eight.

SEC. 3. *And be it further enacted*, That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been or may be made under allowances authorized by the House of Representatives during the last Congress: *Provided*, That said allowances shall have been duly approved by the Committee of Accounts: *And be it further provided*, That the said allowances be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 4. *And be it further enacted*, That, whenever hereafter contracts shall be made by the Secretary of War or the Secretary of the Navy by virtue of the sixth section of the act approved the first of May, eighteen hundred and twenty, entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," he shall, if Congress be in session at the time, promptly report to both Houses thereof the reasons for making such contract, stating fully all the facts and circumstances which, in his judgment, rendered such contract necessary; if Congress be not in session at the time of making such contract, he shall, at the commencement of their next session, make such report to both Houses; and no such contracts shall be made hereafter, except in cases of pressing exigency.

APPROVED, May 4, 1858.

CHAP. XXVI.—An Act for the admission of the State of Kansas into the Union.

Whereas, the people of the Territory of Kansas did, by a convention of delegates assembled at Lecompton on the seventh day of November, one thousand eight hundred and fifty-seven, for that purpose, form for themselves a constitution and State government, which constitution is republican; and whereas, at the same time and place, said convention did adopt an ordinance, which said ordinance asserts that Kansas, when admitted as a State, will have an undoubted right to tax the lands within her limits belonging to the United States, and proposes to relinquish said asserted right if certain conditions set forth in said ordinance be accepted and agreed to by the Congress of the United States; and whereas, the said constitution and ordinance have been presented to Congress by order of said convention, and admission of said Territory into the Union thereon as a State requested; and whereas, said ordinance is not acceptable to Congress, and it is desirable to ascertain whether the people of Kansas concur in the changes in said ordinance, hereinafter stated, and desire admission into the Union as a State as herein proposed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States, in all respects whatever, but upon this fundamental condition precedent, namely: that the question of admission with

the following proposition, in lieu of the ordinance framed at Lecompton, be submitted to a vote of the people of Kansas, and assented to by them, or a majority of the voters voting at an election to be held for that purpose, namely: that the following propositions be, and the same are hereby, offered to the people of Kansas for acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit: *First*. That sections number sixteen and thirty-six in every township of public lands in said State, or where either of said sections or any part thereof has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools. *Second*. That seventy-two sections of land shall be set apart and reserved for the support of a State University, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. *Third*. That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof. *Fourth*. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the Governor thereof, within one year after the admission of said State; and, when so selected, to be used or disposed of on such terms, conditions, and regulations as the Legislature may direct; *Provided*, That no salt spring or land the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. *Fifth*. That five per centum of the net proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition that said State of Kansas shall never interfere with the primary disposal of the lands of the United States, or with any regulations which Congress may find necessary for securing the title in said soil to bona fide purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents. *Sixth*. And that said State shall never tax the lands or property of the United States in that State. At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may be pleased, "Proposition accepted," or "Proposition rejected." Should a majority of the votes cast be for "Proposition accepted," the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States in all respects whatever, shall be complete and absolute; and said State shall be entitled to one member in the House of Representatives in the Congress of the United States until the next census be taken by the Federal Government. But should a majority of the votes cast be for "Proposition rejected," it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition; and in that event the people of said Territory are hereby authorized and empowered to form for themselves a constitution and State government, by the name of the State of Kansas, according to the Federal Constitution, and may elect delegates for that purpose whenever, and not before, it is ascertained by a census duly and legally taken that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of

the United States; and whenever thereafter such delegates shall assemble in convention, they shall first determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and, if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to such limitations and restrictions as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union as a State under such constitution, thus fairly and legally made, with or without slavery, as said constitution may prescribe.

SEC. 2. *And be it further enacted*, That for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor, United States District Attorney, and secretary of the Territory of Kansas, and the presiding officers of the two branches of its Legislature, namely, the President of the Council and Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end. And three of them shall constitute a board; and the board shall have power and authority to designate and establish precincts for voting, or to adopt those already established; to cause polls to be opened at such places as it may deem proper in the respective counties and election precincts of said Territory; to appoint as judges of election, at each of the several places of voting, three discreet and respectable persons, any two of whom shall be competent to act; to require the sheriffs of the several counties, by themselves or deputies, to attend the judges at each of the places of voting for the purpose of preserving peace and good order; or the said board may, instead of said sheriffs and their deputies, appoint at their discretion, and in such instances as they may choose, other fit persons for the same purpose. The election hereby authorized shall continue one day only, and shall not be continued later than sundown on that day. The said board shall appoint the day for holding said election, and the said Governor shall announce the same by proclamation; and the day shall be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act. The said board shall have full power to prescribe the time, manner, and places of said election, and to direct the time [within] which returns shall be made to the said board, whose duty it shall be to announce the result by proclamation, and the said Governor shall certify the same to the President of the United States, without delay.

SEC. 3. *And be it further enacted*, That in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who possess the qualifications which were required by the laws of said Territory for a legal voter, at the last general election for the members of the Territorial Legislature, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said election. And if any person not so qualified shall vote or offer to vote, or if any person shall vote more than once at said election, or shall make or cause to be made any false, fictitious, or fraudulent returns, or shall alter or change any returns of said election, such person shall, upon conviction thereof before any court of competent jurisdiction, be kept at hard labor not less than six months and not more than three years.

SEC. 4. *And be it further enacted*, That the members of the aforesaid board of commissioners, and all persons appointed by them to carry into effect the provisions of this act, shall, before entering upon their duties, take an oath to perform faithfully the duties of their respective offices; and, on failure thereof, they shall be liable and subject to the same charges and penalties as are provided in like cases under the territorial laws.

SEC. 5. *And be it further enacted*, That the officers mentioned in the preceding section shall receive for their services the same compensation as is given for like services under the territorial laws.

APPROVED, May 4, 1858.

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CHAP. XXVII.—An Act to provide for the Issuing, Service, and Return of original and final Process in the Circuit and District Courts of the United States in certain Cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all suits, not of a local nature, hereafter to be brought in the circuit and district courts of the United States, in a district in any State containing more than one district, against a single defendant, shall be brought in the district in which the defendant resides; but if there be two or more defendants, residing in different districts in the same State, the plaintiff may sue in either district and issue a duplicate writ against the defendants, directed to the marshal of any other district within the State in which any of the defendants reside, on which duplicate writ the clerk issuing the same shall indorse that it is a true copy of a writ sued out of the court of the proper district, and such original and duplicate writs, so issued, shall, when executed and returned into the office from which they issued, constitute one suit and be proceeded on accordingly, and upon any judgment rendered in a suit so brought, process of execution may be issued, directed to the marshal of any district in the same State. And in suits of a local nature, where the defendant resides in a different district in the same State than the one in which the suit is brought, the plaintiff may have original and final process against such defendant, directed to the marshal of the district in which he resides.

Sec. 2. *And be it further enacted,* That in all cases of a local nature at law or in equity, where the land or other subject-matter of a fixed character lies partly in one district and partly in another district, within the same State, the plaintiff may bring his action or suit in the circuit or district court of either district, and the court in which any such action or suit shall have been commenced, as aforesaid, shall have jurisdiction to hear and decide the same, and to cause meane or final process to be issued and executed as fully as if the land or other subject-matter were wholly within the district for which such court is constituted.

APPROVED, May 4, 1858.

CHAP. XXVIII.—An Act to alter the Times of holding the Circuit and District Courts of the United States for the District of Vermont.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the circuit court of the United States now directed to be holden at Windsor, in and for the district of Vermont, on the twenty-first day of May, shall, after the first day of July next, be holden on the fourth Tuesday of July annually at said place, and the district court of the United States, within and for said district, instead of the twenty-seventh day of May, shall, after the first day of July next, be holden on the Monday next after the fourth Tuesday in July annually.

Sec. 2. *And be it further enacted,* That all indictments, informations, suits, or actions, and proceedings of any kind, whether civil or criminal, now pending in said courts respectively, shall have day in court and be proceeded in, heard, tried, and determined on the days herein appointed for the holding of said courts respectively, in the same manner that might and ought to have been done had the said courts respectively been holden on the twenty-first and twenty-seventh days of May.

APPROVED, May 4, 1858.

CHAP. XXIX.—An Act making Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the year ending June thirtieth, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department, and fulfilling treaty stipulations with the various Indian tribes.

For the current and contingent expenses of the Indian Department, viz:

For the pay of superintendents of Indian affairs, and of the several Indian agents, per acts of fifth June, eighteen hundred and fifty, twenty-eighth September, eighteen hundred and fifty, twenty-seventh February, eighteen hundred and fifty-one, third March, eighteen hundred and fifty-two, third March, eighteen hundred and fifty-three, thirty-first July, eighteen hundred and fifty-four, third March, eighteen hundred and fifty-five, eighteenth August, eighteen hundred and fifty-six, and third March, eighteen hundred and fifty-seven, eighty-six thousand two hundred and fifty dollars.

For the pay of the several Indian sub-agents, per act of thirty-first July, eighteen hundred and fifty-four, ten thousand five hundred dollars.

For the pay of clerk to superintendent at St. Louis, Missouri, per act of twenty-seventh June, eighteen hundred and forty-six, one thousand two hundred dollars.

For the pay of clerk to superintendent in California, per act of third March, eighteen hundred and fifty-two, two thousand five hundred dollars.

For the pay of interpreters, per acts of thirtieth June, eighteen hundred and thirty-four, twenty-seventh February, eighteen hundred and fifty-one, and eighteenth August, eighteen hundred and fifty-six, thirty-one thousand nine hundred dollars.

For presents to Indians, five thousand dollars.

For provisions for Indians, eleven thousand eight hundred dollars.

For buildings at agencies, and repairs thereof, ten thousand dollars.

For insurance, transportation, and necessary expenses of delivery of annuities, goods, and provisions to the Indian tribes in Minnesota, Michigan, and Wisconsin, thirty thousand dollars.

For contingencies of the Indian department, thirty-six thousand five hundred dollars.

For the employment of temporary clerks by superintendent of Indian affairs, on such occasions and for such periods of time as the Secretary of the Interior may deem necessary to the public service, five thousand dollars.

Blackfoot Nation.—For third of ten installments as annuity, to be expended in the purchase of such goods, provisions, and other useful articles as the President, at his discretion, may from time to time determine, per ninth article of the treaty of seventeenth October, eighteen hundred and fifty-five, twenty thousand dollars.

For third of ten installments as annuity, to be expended in establishing and instructing them in agricultural and mechanical pursuits, and in educating their children, and promoting civilization and Christianity, at the discretion of the President, per tenth article of the treaty of seventeenth October, eighteen hundred and fifty-five, fifteen thousand dollars.

For expenses of transportation and delivery of annuities in goods and provisions, seventeen thousand dollars.

Calapooias, Molalla, and Clackamas Indians of Willanette Valley.—For fourth of five installments of annuity for beneficial objects, per second article of treaty twenty-second January, eighteen hundred and fifty-five, ten thousand dollars.

For fourth of five installments for pay of physician, teacher, blacksmith, and farmer, per third article treaty twenty-second January, eighteen hundred and fifty-five, two thousand two hundred and sixty dollars.

Chasta, Scoton, and Umpqua Indians.—For fourth of fifteen installments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four, two thousand dollars.

For fourth of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, six hundred dollars.

For fourth of five installments for support of two smiths' and smiths' shops, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, two thousand one hundred and twenty dollars.

For fourth of ten installments for pay of phy-

sician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand and sixty dollars.

For fourth of fifteen installments for pay of teachers, and purchase of books and stationery, per fifth article treaty eighteenth November eighteen hundred and fifty-four, one thousand two hundred dollars.

For this amount to be expended when the united bands shall be required to remove to the Table Rock reserve, or elsewhere, for provisions to aid in their subsistence during the first year they shall reside thereon, as the President may direct, per fourth article treaty eighteenth November, eighteen hundred and fifty-four, six thousand five hundred dollars.

Chippewas of Lake Superior.—Fulfilling the treaty of thirtieth September, eighteen hundred and fifty-four.

For two thirds of seventeenth of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of seventeenth of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight hundred dollars.

For two thirds of seventeenth of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, seven thousand dollars.

For two thirds of seventeenth of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of seventeenth of twenty-five installments for the pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For two thirds of seventeenth of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For fourth of twenty installments in coin, goods, household furniture, and cooking utensils, agricultural implements and cattle, carpenters' and other tools and building materials, and for moral and educational purposes, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, nineteen thousand dollars.

For fourth of five installments in blankets, cloths, nets, guns, ammunition, and such other articles of necessity as they may require, to the Bois Forte band, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, two thousand dollars.

For fourth of twenty installments for six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, five thousand and forty dollars.

For fourth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and twenty dollars.

For second of twenty installments for the seventh smith and assistant, and support of shop, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of a smith, assistant, and shop for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

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For support of two farmers for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand two hundred dollars.

Chippewas of the Mississippi.—Fulfilling the treaty of twenty-second February, eighteen hundred and fifty-five.

For one third of seventeenth of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four thousand one hundred and sixty-six dollars and sixty-seven cents.

For one third of seventeenth of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four hundred dollars.

For one third of seventeenth of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand five hundred dollars.

For one third of seventeenth of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of seventeenth of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of seventeenth of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of seventeenth of twenty-five installments for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three hundred and thirty-three dollars and thirty-three cents.

For fourth of twenty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, twenty thousand dollars.

Chippewas, Pillager, and Lake Winnibigoshish bands.—For fourth of thirty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, ten thousand six hundred and sixty-six dollars and sixty-six cents.

For fourth of thirty installments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five, eight thousand dollars.

For fourth of thirty installments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five, four thousand dollars.

For fourth of twenty installments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For fourth of five annual installments for the purchase of powder, shot, lead, twine, and tobacco, per third article treaty twenty-second February, eighteen hundred and fifty-five, six hundred dollars.

For fourth of five annual installments for the hire of six laborers, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For fourth of fifteen annual installments for support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen

hundred and fifty-five, two thousand one hundred and twenty dollars.

Chippewas of Saginaw, Swan Creek, and Black River.—For third of five equal annual installments for educational purposes, under the direction of the President, per second article of the treaty of second August, eighteen hundred and fifty-five, four thousand dollars.

For third of five equal annual installments for agricultural implements and carpenters' tools, household furniture and building materials, cattle, labor, and necessary useful articles, per second article of the treaty of second August, eighteen hundred and fifty-five, five thousand dollars.

For third of ten equal annual installments in coin, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of second August, eighteen hundred and fifty-five, ten thousand dollars.

For third installment for the support of one blacksmith shop for ten years, per second article of the treaty of second August, eighteen hundred and fifty-five, twelve hundred and forty dollars.

Chippewas, Menomonees, Winnebagoes, and New York Indians.—For education, during the pleasure of Congress, per fifth article treaty eleventh August, eighteen hundred and twenty-seven, one thousand five hundred dollars.

Chickasaws.—For permanent annuity in goods, per act of twenty-fifth February, seventeen hundred and ninety-nine, three thousand dollars.

Choctaws.—For permanent annuity, per second article treaty sixteenth November, eighteen hundred and fifty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three thousand dollars.

For permanent annuity for support of light-horsemen, per thirteenth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for education, per second article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six thousand dollars.

For permanent provision for blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for iron and steel, per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article of treaty twenty-second June, eighteen hundred and fifty-five, three hundred and twenty dollars.

For interest on five hundred thousand dollars, at five per centum, for education and other beneficial purposes, to be applied under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five, twenty-five thousand dollars.

For fulfilling treaty stipulations with the various Indian tribes:

Comanches, Kiowas, and Apaches of Arkansas river.—For fifth of ten installments for the purchase of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, eighteen thousand dollars.

For expenses of transportation of the fifth of ten installments of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, seven thousand dollars.

Creeks.—For permanent annuity in money, per fourth article treaty seventh August, seventeen hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand five hundred dollars.

For permanent annuity in money, per second article treaty sixteenth June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen

hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, twenty thousand dollars.

For permanent provision for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For permanent provision for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For permanent provision for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For blacksmith and assistant, and shop and tools, during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For iron and steel for shop during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For wagon maker during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For assistance in agricultural operations during the pleasure of the President, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For education during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand dollars.

For the second of seven additional installments for two blacksmiths, assistants, shop, and tools, per thirteenth article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand six hundred and eighty dollars.

For the second of seven additional installments for iron and steel for shops, per thirteenth article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six, five hundred and forty dollars.

For twenty-eighth of thirty-three installments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For fifteenth of twenty installments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For five per centum interest on two hundred thousand dollars, for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six, ten thousand dollars.

Delawares.—For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, one hundred dollars.

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land set apart by treaty of eighteen hundred and twenty-nine for education, per resolution of Senate nineteenth January, eighteen hundred and thirty-eight, and fifth article treaty sixth May, eighteen hundred and fifty-four, two thousand three hundred and four dollars.

For fifth of eight equal installments for payment of five chiefs, per sixth article treaty sixth May, eighteen hundred and fifty-four, one thousand two hundred and fifty dollars.

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Florida Indians, or Seminoles.—For the last of fifteen installments in goods, per sixth article treaty fourth January, eighteen hundred and forty-five, two thousand dollars.

For the last of fifteen installments in money, per sixth article treaty fourth January, eighteen hundred and forty-five, and fourth article treaty ninth May, eighteen hundred and thirty-two, three thousand dollars.

Iowas.—For interest in lieu of investment on fifty-seven thousand five hundred dollars to the first July, eighteen hundred and fifty-nine, at five per centum, for education or other beneficial purposes, under the direction of the President, per second article treaty nineteenth October, eighteen hundred and thirty-eight, and ninth article treaty seventeenth May, eighteen hundred and fifty-four, two thousand eight hundred and seventy-five dollars.

Kansas.—For interest in lieu of investment on two hundred thousand dollars, at five per centum, per second article treaty fourteenth January, eighteen hundred and forty-six, ten thousand dollars.

Kaskaskias, Peorias, Weas, and Piankeshaws.—For second of three installments of nine thousand dollars for the years eighteen hundred and fifty-seven, eighteen hundred and fifty-eight, and eighteen hundred and fifty-nine, per sixth article treaty thirtieth May, eighteen hundred and fifty-four, nine thousand dollars.

For the last of five installments for support of blacksmith and assistant, per sixth article treaty thirtieth May, eighteen hundred and fifty-four, seven hundred and twenty dollars.

For the last of five installments for purchase of iron and steel, per sixth article treaty thirtieth May, eighteen hundred and fifty-four, two hundred and twenty dollars.

Kickapoos.—For fifth installment of interest, at five per centum, on one hundred thousand dollars for education, per second article treaty eighteenth May, eighteen hundred and fifty-four, five thousand dollars.

For the payment of this sum as the fifth installment upon two hundred thousand dollars, to be paid in eighteen hundred and fifty-eight, per second article treaty eighteenth May, eighteen hundred and fifty-four, fourteen thousand dollars.

Menomonees.—For third of twelve installments for continuing and keeping up a blacksmith shop and providing the usual quantity of iron and steel, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, nine hundred and sixteen dollars and sixty-six cents.

For third of ten installments of annuity upon two hundred thousand dollars, balance of three hundred and fifty thousand dollars, for cession of lands, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, twenty thousand dollars.

Miamies of Kansas.—For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty fifth June, eighteen hundred and fifty-four, nine hundred and forty dollars.

For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four, six hundred dollars.

For their proportion of eighteenth of twenty installments in money, per second article treaty twenty-eighth November, eighteen hundred and forty, and fourth article treaty fifth June, eighteen hundred and fifty-four, five thousand six hundred and thirty-six dollars and thirty-six cents.

For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four, two thousand five hundred dollars.

For fifth of six equal annual installments to Miamies residing on ceded lands, for purchase of former perpetual and other annuities and relinquishments of claims, per fourth article treaty

fifth June, eighteen hundred and fifty-four, thirty-one thousand seven hundred and thirty-nine dollars and eleven cents.

Miamies of Indiana.—For their proportion of eighteenth of twenty installments in money, per second article treaty twenty-eighth November, eighteen hundred and forty, and fourth article treaty fifth June, eighteen hundred and fifty-four, six thousand eight hundred and sixty-three dollars and sixty-four cents.

For interest on investment of two hundred and twenty-one thousand two hundred and fifty-seven dollars and eighty-six cents, at five per centum, for Miami Indians of Indiana, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four, eleven thousand and sixty-two dollars and eighty-nine cents.

Miamies, Eel River.—For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five, five hundred dollars.

For permanent annuity in goods or otherwise, per third article treaty twenty-first August, eighteen hundred and five, two hundred and fifty dollars.

For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine, three hundred and fifty dollars.

Navajoes.—For fulfilling treaty stipulations with the Navajoes, pursuant to the requirements of the tenth article treaty ninth September, eighteen hundred and forty-nine, five thousand dollars.

Nisqually, Puyallup, and other tribes and bands of Indians.—For fulfilling the articles negotiated twenty-sixth December, eighteen hundred and fifty-four, with certain bands of Indians of Puget sound, Washington Territory.

For fourth installment, in part payment for relinquishment of title to lands to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four, two thousand dollars.

For fourth of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistant if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four, four thousand five hundred dollars.

Omahas.—For the first of ten installments of this amount, being second of the series, in money or otherwise, per fourth article treaty sixteenth March, eighteen hundred and fifty-four, thirty thousand dollars.

For fourth of ten installments for support of a miller, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For fourth of ten installments for support of blacksmith and assistant, and iron and steel for shop, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For fourth of ten installments for support of farmer, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

Osages.—For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the value of fifty-four sections of land set apart second June, eighteen hundred and twenty-five, for educational purposes, per Senate resolution eighteenth January, eighteen hundred and thirty-eight, three thousand four hundred and fifty-six dollars.

Ottos and Missourias.—For the first of ten installments of this amount, being the second series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four, thirteen thousand dollars.

For fourth of ten installments for pay of miller, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For fourth of ten installments for blacksmith and assistant, and iron and steel for shop, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For fourth of ten installments for farmer, per

seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

Ottawas and Chippewas of Michigan.—For third of ten equal annual installments for educational purposes, to be extended [expended] under the direction of the President, according to the wishes of the Indians, so far as may be reasonable and just, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, eight thousand dollars.

For third of five equal annual installments in agricultural implements and carpenters' tools, household furniture, and building materials, cattle, labor, and necessary useful articles, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, fifteen thousand dollars.

For third installment for the support of four blacksmith shops for ten years, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, four thousand two hundred and forty dollars.

For third installment of principal payable annually for ten years, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand dollars.

For interest on two hundred and seventy-six thousand dollars, unpaid part of the principal sum of three hundred and six thousand dollars, for one year, at five per centum per annum, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, thirteen thousand eight hundred dollars.

For third of ten equal annual installments, in lieu of former treaty stipulations, to be paid per capita to the Grand River Ottawas, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, three thousand five hundred dollars.

Ottawas of Kansas.—For their proportion of the permanent annuities in money, goods, or otherwise, payable under the fourth article of the treaty of third August, seventeen hundred and ninety-five, second article of the treaty of seventeenth November, eighteen hundred and seven, fourth article of the treaty of seventeenth September, eighteen hundred and eighteen, and fourth article of the treaty of twenty-ninth August, eighteen hundred and twenty-one, two thousand six hundred dollars.

Pawnees.—For agricultural implements, during the pleasure of the President, per fourth article treaty ninth October, eighteen hundred and thirty-three, one thousand dollars.

Pottawatomies.—For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five, one thousand dollars.

For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine, five hundred dollars.

For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighty-two, two thousand five hundred dollars.

For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand dollars.

For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hundred and twenty-nine, sixteen thousand dollars.

For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two, two hundred dollars.

For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three, seven hundred dollars.

For education, during the pleasure of Congress, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and fourth article treaty twenty-seventh October, eighteen hundred and thirty-two, five thousand dollars.

For permanent provision for the payment of money, in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of the fifth and seventeenth June,

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eighteen hundred and forty-six, three hundred dollars.

For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine, two hundred and fifty dollars.

For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, thirty-two thousand one hundred and fifty dollars.

Pottawatomies of Huron.—For permanent annuity in money or otherwise, per second article treaty seventeenth November, eighteen hundred and seven, four hundred dollars.

Quapaws.—For education, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand and sixty dollars.

For farmer, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, six hundred dollars.

Rogue Rivers.—For fifth of sixteen installments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three, two thousand five hundred dollars.

Sacs and Foxes of Mississippi.—For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four, one thousand dollars.

For twenty-seventh of thirty installments as annuity in specie, per third article treaty twenty-first September, eighteen hundred and thirty-two, twenty thousand dollars.

For twenty-seventh of thirty installments for gunsmith, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, six hundred dollars.

For twenty-seventh of thirty installments for iron and steel for shop, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, two hundred and twenty dollars.

For twenty-seventh of thirty installments for blacksmith and assistant, shop and tools, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, eight hundred and forty dollars.

For twenty-seventh of thirty installments for iron and steel for shop, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, two hundred and twenty dollars.

For twenty-seventh of thirty installments for forty barrels of salt and forty kegs of tobacco, per fourth article treaty twenty-first September, eighteen hundred and thirty-two, one thousand dollars.

For interest on two hundred thousand dollars, at five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven, ten thousand dollars.

For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two, forty thousand dollars.

Sacs and Foxes of Missouri.—For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars.

Seminoles.—For the second of ten installments for the support of schools, per eighth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For the second of ten installments for agricultural assistance, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For the second of ten installments for the support of smiths and smiths' shops, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand two hundred dollars.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity,

per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

Senecas.—For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, five hundred dollars.

For permanent annuity in specie, per fourth article treaty seventh [seventeenth] September, eighteen hundred and eighteen, five hundred dollars.

For blacksmith and assistant, shop and tools, and iron and steel, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, one thousand and sixty dollars.

For miller, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, six hundred dollars.

Senecas of New York.—For permanent annuity, in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one, six thousand dollars.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars.

For interest, at five per centum, on forty-three thousand and fifty dollars, transferred from Ontario Bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents.

Senecas and Shawnees.—For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one, one thousand and sixty dollars.

Shawnees.—For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

For fifth of seven annual installments of money, in payment for lands, per third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

For fifth installment of interest, at five per centum, on forty thousand dollars, for education, per third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

For permanent annuity for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

Six Nations of New York.—For permanent annuity in clothing and other useful articles, per sixth article treaty eleventh November, seventeen hundred and ninety-four, four thousand five hundred dollars.

Sioux of Mississippi.—For interest on three hundred thousand dollars, at five per centum, per second article treaty twenty-ninth September, eighteen hundred and thirty-seven, fifteen thousand dollars.

For eighth of fifty installments of interest, at five per centum, on one million three hundred and sixty thousand dollars, per fourth article treaty twenty-third July, eighteen hundred and fifty-one, sixty-eight thousand dollars.

For eighth of fifty installments of interest, at five per centum, on one hundred and twelve thousand dollars, being the amount in lieu of the reservations set apart in the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty twenty-third July, eighteen hundred and fifty-one, five thousand six hundred dollars.

For eighth of fifty installments of interest, at five per centum, on one million one hundred and sixty thousand dollars, per fourth article treaty fifth August, eighteen hundred and fifty-one, fifty-eight thousand dollars.

For eighth of fifty installments of interest, at five

per centum, on sixty-nine thousand dollars, being the amount allowed in lieu of the reservation of lands set apart by the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty fifth August eighteen hundred and fifty-one, three thousand four hundred and fifty dollars.

Treaty of Fort Laramie.—For eighth of ten installments in provisions and merchandise, for payment of annuities and transportation of the same to certain tribes of Indians, per seventh article treaty seventeenth September, eighteen hundred and fifty-one, and Senate's amendment thereto, seventy thousand dollars.

Umpquas, (Crow Creek band.)—For fifth of twenty installments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three, five hundred and fifty dollars.

Fulfilling the articles of twenty-ninth November, eighteen hundred and fifty-four, with the

Umpquas and Calapooias, of Umpqua Valley, Oregon.—For fourth of five installments of annuity for beneficial objects, to be expended as directed by the President, per third article treaty twenty-ninth November, eighteen hundred and fifty-four, three thousand dollars.

For fourth of ten installments for the pay of a blacksmith, and furnishing shop, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand and sixty dollars.

For fourth of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand dollars.

For fourth of ten installments for the pay of a farmer, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, six hundred dollars.

For fourth of twenty installments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, seven hundred dollars.

Utahs.—For fulfilling treaty stipulations with the Utahs, pursuant to the requirements of eighth article treaty thirtieth December, eighteen hundred and forty-nine, five thousand dollars.

Winnebagoes.—For the last of thirty installments as annuity in specie, per second article treaty first August, eighteen hundred and twenty-nine, eighteen thousand dollars.

For the last of twenty-seven installments as annuity in specie, per third article treaty fifteenth September, eighteen hundred and thirty-two, ten thousand dollars.

For the last of thirty installments for fifty barrels of salt, per second article treaty first August, eighteen hundred twenty-nine, two hundred and fifty dollars.

For the last of thirty installments for three thousand pounds of tobacco, per second article treaty first August, eighteen hundred and twenty-nine, six hundred dollars.

For the last of twenty-seven installments for one thousand five hundred pounds of tobacco, per fifth article treaty fifteenth September, eighteen hundred and thirty-two, three hundred dollars.

For the last of thirty installments for three smiths and assistants, per third article treaty first August, eighteen hundred and twenty-nine, two thousand one hundred and sixty dollars.

For the last of thirty installments for iron and steel for shop, per third article treaty first August, eighteen hundred and twenty-nine, six hundred and sixty dollars.

For the last of thirty installments for laborer and oxen, per third article treaty first August, eighteen hundred and twenty-nine, three hundred and sixty-five dollars.

For the last of twenty-seven installments for education, per fourth article treaty fifteenth September, eighteen hundred and thirty-two, three thousand dollars.

For the last of twenty-seven installments for six agriculturists, purchase of oxen, plows, and other implements, per fifth article treaty fifteenth September, eighteen hundred and thirty-two, two thousand five hundred dollars.

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For the last of twenty-seven installments for the pay of two physicians, per fifth article treaty fifteenth September, eighteen hundred and thirty-two, four hundred dollars.

For interest on one million one hundred thousand dollars, at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven, fifty-five thousand dollars.

For twelfth of thirty installments of interest on eighty-five thousand dollars, at five per centum, per fourth article treaty thirteenth October, eighteen hundred and forty-six, four thousand two hundred and fifty dollars.

Miscellaneous.—For carrying into effect the act of third March, eighteen hundred and nineteen, making provisions for the civilization of the Indian tribes, in addition to the sum specified in said act, five thousand dollars.

For continuing the compilation and completion of a map of the Indian territory, two thousand dollars.

APPROVED, May 5, 1858.

CHAP. XXXI.—An Act for the Admission of the State of Minnesota into the Union.

Whereas an act of Congress was passed February twenty-six, eighteen hundred and fifty-seven, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States;" and whereas the people of said Territory did, on the twenty-ninth day of August, eighteen hundred and fifty-seven, by delegates elected for that purpose, form for themselves a constitution and State government, which is republican in form, and was ratified and adopted by the people at an election held on the thirtieth day of October, eighteen hundred and fifty-seven, for that purpose: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Minnesota shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted,* That said State shall be entitled to two Representatives in Congress until the next apportionment of Representatives amongst the several States.

SEC. 3. *And be it further enacted,* That from and after the admission of the State of Minnesota, as hereinbefore provided, all the laws of the United States which are not locally inapplicable, shall have the same force and effect within that State as in other States of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established; the judge, attorney, and marshal of the United States for the said district of Minnesota shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal of the district of Iowa; and in all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States, upon any record from the supreme court of Minnesota Territory, the mandate of execution or order of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Minnesota, or to the supreme court of the State of Minnesota, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Minnesota Territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

APPROVED, May 11, 1858.

CHAP. XXXII.—An Act amendatory of an Act entitled "An Act to establish two additional Land Districts in the Territory of Minnesota," approved July eighth, eighteen hundred and fifty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of an act entitled "An

act to establish two additional land districts in the Territory of Minnesota," approved July eighth, anno Domini eighteen hundred and fifty-six, as defines the southern boundary of the northwestern land district, on the west side of the Mississippi river, be, and the same is hereby, repealed, and in lieu thereof the following boundaries are established, to wit: Commencing at the point of the eastern side of the Mississippi river where the present south line touches the river; thence down said river to the point opposite the intersection with the river of the eighth standard parallel; thence along said parallel to the point of intersection of guide meridian number four; thence along said guide meridian to the seventh standard parallel; thence west along said seventh parallel to the Sioux Wood river; thence north to the line heretofore established.

SEC. 2. *And be it further enacted,* That the line dividing ranges twenty-three and twenty-four be the boundary line between the northwestern and northeastern land districts in lieu of the range line between eighteen and nineteen, as heretofore established in the above-recited act.

APPROVED, May 11, 1858.

CHAP. XXXIII.—An Act to enlarge the Detroit and Saginaw Land Districts in Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the present Cheboygan district, in the State of Michigan, which lies south of the line dividing townships twenty-eight and twenty-nine north, and east of the line dividing ranges two and three west, shall be attached to and form a part of the present Saginaw district, and all that part of the said Cheboygan district which lies north of the line dividing townships twenty-eight and twenty-nine north, and east of the line dividing ranges one and two west, including the Island of Mackinac, be attached to and form a part of the Detroit district, in said State.

SEC. 2. *And be it further enacted,* That this act take effect from and after the first day of July next.

APPROVED, May 11, 1858.

CHAP. XXXIV.—An Act making Appropriations for the support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Military Academy, for the year ending the thirtieth of June, eighteen hundred and fifty-nine:

For pay of officers, instructors, cadets, and musicians, one hundred and twelve thousand eight hundred and six dollars.

For commutation of subsistence, three thousand and sixty-six dollars.

For forage for officers' horses, eight hundred and sixty-four dollars.

For current and ordinary expenses, as follows: repairs and improvements, fuel and apparatus, forage, postage, stationery, transportation, printing, clerks, miscellaneous and incidental expenses, and departments of instruction, thirty-five thousand six hundred and ten dollars.

For gradual increase and expense of library, one thousand dollars.

For expenses of the Board of Visitors, three thousand dollars.

For forage for artillery and cavalry horses, eight thousand six hundred and forty dollars.

For supplying horses for cavalry and artillery practice, one thousand dollars.

For barracks for dragoon detachment, one thousand five hundred dollars.

For barracks for artillery detachment, six thousand five hundred dollars.

For purchase of a bell, and mounting the same with the clock on one of the public buildings, four hundred and fifty dollars.

For repairs to officers' quarters, five hundred dollars.

For models for the department of cavalry, two hundred and fifty dollars.

For extension of water-pipes and increase of reservoir, two thousand five hundred dollars.

For targets and batteries for artillery exercise, one hundred and fifty dollars.

For gas-pipes and retorts, extension to cadets' mess-hall, academic hall, and other public buildings, two thousand five hundred dollars.

For stables for dragoon and artillery horses, two thousand four hundred and sixty-eight dollars.

APPROVED, May 11, 1858.

CHAP. XXXV.—An Act to amend the Act entitled "An Act to ascertain and settle the private Land Claims in the State of California," passed March third, eighteen hundred and fifty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases pending in the district courts of the United States in California, on appeal from the decree of the commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress passed March third, eighteen hundred and fifty-one, if either party shall desire to examine any witness residing in any other district within said State, or shall require the production of any paper, written instrument, book, or document, supposed to be in the possession or power of a witness residing in another district, the court wherein the case is pending, or any judge thereof, being satisfied, by affidavit or otherwise, of the materiality of such witness, or of the production of such paper, written instrument, book, or document, as evidence of the case, may order the clerk of said court to issue a subpoena, or a subpoena duces tecum for such witness and for such paper, written instrument, book or document; which subpoena or subpoena duces tecum shall run into any other district in said State, and be served by the marshal of either district, as the court or judge may direct: And the court or judge ordering said writ shall have power to enforce obedience to said process, and punish disobedience by attachment, and in like manner as if said witness resided within the district where the cause may be pending, and all attachments and process necessary to enforce obedience or punish disobedience to the aforesaid writs of subpoena and subpoena duces tecum may be served and executed by the marshal of either district, as the court or judge may direct: *Provided,* That a witness attending the court under a subpoena issued under the provisions of this act, in a district in which he does not reside, shall be entitled to the same fees for attendance as are allowed by the laws of the State of California to witnesses in similar cases.

APPROVED, May 11, 1858.

CHAP. XXXVI.—An Act for the Relief of the Hungarian Settlers upon certain tracts of land in Iowa, hitherto reserved from Sale by order of the President, dated January twenty-two, eighteen hundred and fifty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of preemption be, and the same hereby is, extended to all Hungarian settlers on that body of land reserved from sale or location by order of the President of the United States, dated January twenty-second, eighteen hundred and fifty-five, said lands being known and described as follows: northeast quarter of northwest quarter of section ten, township sixty-seven, range twenty-six; east half of southeast quarter of section eleven, township sixty-seven, range twenty-six; east half of northeast quarter of section fourteen, township sixty-seven, range twenty-six; southwest quarter of southeast quarter of section fourteen, township sixty-seven, range twenty-six; east half of northeast quarter of section twenty-two, township sixty-seven, range twenty-six; southeast quarter of northeast quarter of section twenty-three, township sixty-seven, range twenty-six; west half of northeast quarter of section twenty-three, township sixty-seven, range twenty-six; west half of northwest quarter of section twenty-three, township sixty-seven, range twenty-six; north half of northeast

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quarter of section five, township sixty-eight, range twenty-six; east half of northwest quarter of section five, township sixty-eight, range twenty-six; east half of northeast quarter of section six, township sixty-nine, range twenty-six; northeast quarter of northwest quarter of section six, township sixty-nine, range twenty-six; southwest quarter of northwest quarter of section six, township sixty-nine, range twenty-six; southeast quarter of section six, township sixty-nine, range twenty-six; west half of southwest quarter of section six, township sixty-nine, range twenty-six; northeast quarter of section seven, township sixty-nine, range twenty-six; northwest quarter of section seven, township sixty-nine, range twenty-six; southwest quarter of southeast quarter of section thirty-two, township sixty-nine, range twenty-six; northeast quarter of section one, township sixty-eight, range twenty-seven; northeast quarter of section two, township sixty-eight, range twenty-seven; northwest quarter of northeast quarter of section one, township sixty-nine, range twenty-seven; northeast quarter of southeast quarter of section one, township sixty-nine, range twenty-seven; northeast quarter of northeast quarter of section twelve, township sixty-nine, range twenty-seven; northeast quarter of northeast quarter of section thirty-six, township seventy, range twenty-seven; northwest quarter of section thirty-six, township seventy, range twenty-seven; west half of southeast quarter of section thirty-six, township seventy, range twenty-seven; north half of southwest quarter of section thirty-six, township seventy, range twenty-seven.

SEC. 2. *And be it further enacted*, That all such Hungarians entitled to the right of preemption to the above-described lands by this act, who may have gone on to said lands prior to January twenty-second, eighteen hundred and fifty-five, or since that time, and have continued to inhabit and improve the same, shall hold their claims, not exceeding one hundred and sixty acres to each preëmptor, against any other subsequent claimants whatever: *Provided further*, That said claimants under settlement and cultivation made prior to January twenty-second, eighteen hundred and fifty-five, or prior to the passage of this act, shall make known their claims in writing to the Register at Chariton within three months from the date of publication in said district, of notice to said claimants, of the privileges granted hereby, to be given by the Commissioner of the General Land Office; and in all cases proof and payment must be made at the land office aforesaid, within twelve months from the date of publication of notice aforesaid.

APPROVED, May 11, 1858.

CHAP. XXXVII.—An Act to authorize the Secretary of the Treasury to sell the old Custom-House and Site in Bath, Maine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to sell at public auction, after first fixing a minimum price therefore, the old custom-house and site at Bath, Maine, when the new custom-house shall be completed and fit for occupation; and he is hereby authorized to use all or so much of the money arising from the sale of said old custom-house and site as shall be necessary to furnish the new custom-house.

APPROVED, May 11, 1858.

CHAP. XXXVIII.—An Act to authorize the Vestry of Washington Parish to take and inclose certain parts of Streets in the City of Washington, for the purpose of extending the Washington Cemetery, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the vestry of Washington parish shall be, and are hereby, authorized, with the con-

sent of the corporation of the city of Washington, to take, inclose, and use forever, those parts of Eighteenth and Nineteenth streets east, which lie between the north side of G street south and the north side of Water street; and also those parts of south G and south H streets which lie between Seventeenth and Twentieth streets east, for the purpose of enlarging the Washington cemetery: *Provided*, That the power hereby conferred shall not be exercised as regards such particular portion of either of the aforesaid streets as may pass in front of any lot of ground not owned by the said vestry, until the said vestry shall become the owners of such lot of ground: *And provided further*, That the said vestry shall not sell, for any purpose whatever, any of the aforesaid parts of streets, but the United States shall retain and hold such parts thereof as may be laid out for burial purposes for the interment of members of Congress, or such officers of the Government as may die in Washington.

SEC. 2. *And be it further enacted*, That no canal, railroad, street, or alley shall ever be laid out or opened into or through the Washington cemetery, except such avenues or walks as may be laid out by the vestry of Washington parish, for the use and purposes of the said cemetery.

SEC. 3. *And be it further enacted*, That the Washington cemetery shall be forever free from taxation.

APPROVED, May 18, 1858.

CHAP. XXXIX.—An act to provide for the Collection and Safe-keeping of Public Archives in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Secretary of the Interior to cause to be collected and deposited in the surveyor general's office in California, all official books, papers, instruments of writing, documents, archives, official seals, stamps, or dies, that may be found in the unauthorized possession of any individual, relating to and used in the administration of government and public affairs in the department of Upper California, and which belonged to the Government during the existence of Spanish or Mexican authority in Upper California; and the same, when deposited in his office, shall be safely and securely kept by the surveyor general in the archives of his office; and copies thereof, authenticated by the surveyor general under the seal of his office, shall be evidence in all cases where the originals would be evidence: *Provided*, That, at the time of depositing said books, papers, writings, and documents in said archives, a schedule and accurate description thereof shall be made by the surveyor general, with a statement of the time and place where the same were found, and when they were deposited in the archives, which shall be certified under the seal of the surveyor general and filed in his office; and a certified copy of said schedule shall be transmitted to the Commissioner of the General Land Office, and also to the Attorney General.

SEC. 2. *And be it further enacted*, That if the surveyor general shall have cause to suspect a concealment of any such official books, papers, writings, documents, archives, or officials seals, stamps, or dies aforesaid, in any particular dwelling-house, building, or place, any judge or commissioner of the United States may, on affidavit showing the facts and circumstances upon which such suspicions are founded, grant to the surveyor general, or to any marshal of the United States, a warrant to enter such house, building, or place, and there to search for such official books, papers, writings, documents, archives, seals, stamps, or dies, and to take possession thereof and deposit them in the archives of the surveyor general's office as aforesaid.

SEC. 3. *And be it further enacted*, That if any person shall, without lawful authority, willfully take from the archives of the said surveyor general's office any expediente, map, diseño, book, paper, writing, record, document, seal, stamp, or die; or shall willfully alter, deface, mutilate, injure, or destroy any expediente, book, paper, map, diseño, instrument of writing, document, record, seal, stamp, or die, deposited in said archives; or shall conceal or unlawfully withhold from the posses-

sion of the surveyor general, or on demand refuse to deliver to him any expediente, map, diseño, official book, paper, writing, document, archive, record, seal, stamp, or die, relating to or used in the administration of government in the department of Upper California, and belonging to the Government during the existence of Spanish or Mexican authority in said department; or shall willfully alter, deface, mutilate, make away with, or destroy any such official book, expediente, map, diseño, paper, writing, document, archive, record, seal, stamp, or die, the person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof in any court of competent jurisdiction, shall forfeit and pay a fine not exceeding ten thousand dollars, at the discretion of the court, and be imprisoned for a term not exceeding ten years, at a like discretion.

SEC. 4. *And be it further enacted*, That if any person shall willfully, secretly, and fraudulently place or cause to be placed in or among the archives of the surveyor general's office, any expediente, book, paper, diseño, map, draught, record, or any instrument of writing purporting to be a petition, decree, order, report, concession, grant, confirmation, map, diseño, expediente, or part of an expediente, denouncement, title-paper, or evidence of right, title, or claim to any land, mine, or mineral, or any book, writing, paper, or document whatever, the person so offending shall be deemed and adjudged guilty of a misdemeanor, and, upon conviction thereof by any court of competent jurisdiction, shall forfeit and pay a fine not exceeding five thousand dollars, and be imprisoned for a term not exceeding three years; or be both fined and imprisoned within said limits, at the discretion of the court.

APPROVED, May 18, 1858.

CHAP. XL.—An Act for the Prevention and Punishment of Frauds in Land Titles in California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited; or willingly aid and assist in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, or any title-paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; or if any person, for the purposes aforesaid, or either of them, shall utter or publish as true and genuine, any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, title-paper, evidence of right, title, or claim to lands or mines or minerals in the State of California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, and not more than ten years, and shall be fined not exceeding ten thousand dollars.

SEC. 2. *And be it further enacted*, That if any person shall make, or cause or procure to be made, or shall willingly aid and assist in making, any falsely-dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title-paper, or written evidence of right, title, or claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands or mines or minerals in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the seventh day of July,

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A. D. eighteen hundred and forty-six, for the purpose of setting up or establishing any claim against the United States to lands or mines or minerals within the State of California, or of enabling any person to set up or establish any such claim; or if any person shall sign his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority, and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informe, report, record, confirmation, or other proceeding on an application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, and shall be fined not exceeding ten thousand dollars.

SEC. 3. *And be it further enacted*, That if any person, for the purpose of setting up or establishing any claim against the United States to lands, mines, or minerals within the State of California, shall present, or cause or procure to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseño, map, espediente or part of an expediente, title-paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged, altered, or counterfeited, or any falsely-dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, espediente or part of an expediente, title-paper, or written evidence of right, title, or claim to lands, mines, or minerals in California, knowing the same to be falsely dated; or if any person shall prosecute in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in California, or shall, after the passage of this act, continue to prosecute any claim now pending in said courts against the United States for lands, mines, or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, espediente or part of an expediente, title-paper, or written evidence of right, title, or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, or counterfeited, or falsely dated, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, on conviction thereof, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, and shall be fined not exceeding ten thousand dollars.

APPROVED, May 18, 1858.

CHAP. XLIII.—An Act to amend an Act entitled "An Act to authorize the President of the United States to cause to be surveyed the Tract of Land in the Territory of Minnesota, belonging to the Half-Breeds or Mixed Bloods of the Dacotah or Sioux Nation of Indians, and for other purposes," approved seventeenth July, eighteen hundred and fifty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved the seventeenth July, eighteen hundred and fifty-four, above referred to, chapter eighty-three, be, and the same is hereby amended, so that the body of land known as the half-breed tract, lying on the west side of Lake Pepin and the Mississippi river, in the Territory of Minnesota, and which is authorized to be surveyed by the said act of eighteen hundred and fifty-four, shall be subject to the operation of the laws regulating the sale and disposition of the public lands; and settlements heretofore made thereon are declared valid so far as they do not conflict with settlements made by half-breeds, and that the settlers shall have the benefit of the pre-

emption laws of the United States, any location of half-breed scrip thereon, after the date of the settlement, notwithstanding: *Provided*, The declaration of preemption be filed within three months after public notice is given of the passage of this act in the proper land district: *And provided*, That when two or more persons have settled on the same quarter section, prior to the passage of this act, they shall be permitted to enter the same, and the rights of each shall be determined according to the provisions of the act relating to preemptions, passed March third, eighteen hundred and forty-three.

SEC. 2. *And be it further enacted*, That the provisions of this act shall not extend to any tract or subdivision, within the body of land aforesaid, which shall have been settled upon in good faith by, and is in the occupancy of, any of the said half-breeds or mixed bloods; which lands, so settled upon and occupied by the half-breeds, are hereby expressly declared to be subject to no other disposition than location by the "certificates" or "scrip" authorized to be issued by the said act of eighteen hundred and fifty-four, for the benefit of said Indians. Nor shall the provisions of this act extend to any lands which may have been located prior to its passage with half-breed scrip, with the consent of the settlers thereon.

APPROVED, May 19, 1858.

CHAP. XLIV.—An Act to create a Land District in the Territory of New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the public lands in the Territory of New Mexico, to which the Indian title shall have been extinguished, shall constitute a land district, to be called the "district of New Mexico," the office for which shall be established at such place within said district as the President of the United States may from time to time direct.

SEC. 2. *And be it further enacted*, That, for the purpose of carrying this act into effect, the President shall be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, or during the recess thereof, a register and receiver for the district hereby created, who shall be required to reside at the site of the office, and whose powers, duties, obligations, and responsibilities shall be the same as are now prescribed by law for other land officers, (so far as they apply to these officers.)

SEC. 3. *And be it further enacted*, That this act shall not take effect in less than six months after its passage.

APPROVED, May 24, 1858.

CHAP. XLV.—An Act for the Relief of Isaac Drew and other settlers upon the Public Lands in the State of Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Isaac Drew, and such other persons as may have settled, in good faith, in the State of Wisconsin, since the first day of July, eighteen hundred and fifty, upon any portion of the lands that were erroneously selected by said State as a part of the five hundred thousand acre grant, which selections were not confirmed, and who were at that date, or since that time have become, an actual settler and housekeeper, and made improvements on any tract embraced among said erroneous selections, are hereby entitled to the same right of preemption, and upon the same terms and conditions, as are prescribed by an act entitled "An act to appropriate the proceeds of the sales of the public lands and grant preemption rights," approved September fourteenth, [fourth,] eighteen hundred and forty-one: *Provided*, Such lands shall be paid for by such settlers at the minimum price.

SEC. 2. *And be it further enacted*, That where persons have erroneously entered any of the lands named in the first section of this act, and shall satisfactorily show to the register and receiver that, prior to, or within three months after, the passage of this act, they have made an actual settlement on the lands mentioned in the first section, the Commissioner of the General Land Office

is hereby authorized to issue patents therefor: *Provided*, That it shall be satisfactorily made to appear to him that the entry of the tract or tracts sought to be patented does not interfere with the rights or occupancy of any actual settler.

APPROVED, May 24, 1858.

CHAP. XLVI.—An Act to prevent the inconvenient accumulation in the Post Office Department of Postmasters' Quarterly Returns.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General may, from time to time, in his discretion, dispose of any quarterly returns of mails sent or received, preserving the accounts current, and all vouchers accompanying such accounts, and use such portions of the proceeds thereof as may be necessary to defray the cost of separating and disposing of the same: *Provided*, That the accounts shall be preserved entire at least two years.

APPROVED, May 24, 1858.

CHAP. LVIII.—An Act for extending the Land Laws east of the Cascade Mountains, in Oregon and Washington Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the existing laws relating to the survey and disposal of the public lands in the Territories of Oregon and Washington, west of the Cascade Mountains, be, and the same are hereby, extended and made applicable also to the lands lying east of said mountains within said Territories.

APPROVED, May 29, 1858.

CHAP. LIX.—An Act to amend the "Act to incorporate the Columbia Institution for the Instruction of the Deaf and Dumb and the Blind," approved February sixteenth, eighteen hundred and fifty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the provision made in the above-recited act for the maintenance and tuition of pupils in the said institution, the sum of three thousand dollars per annum, payable quarterly, shall be allowed, for five years, for the payment of salaries and incidental expenses of said institution, and that three thousand dollars be, and is hereby, appropriated for the present fiscal year, payable out of any moneys in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the deaf and dumb and the blind children of all persons in the military and naval service of the United States, while such persons are actually in such service, shall be entitled to instruction in said institution, on the same terms as deaf and dumb and blind children belonging to the District of Columbia.

SEC. 3. *And be it further enacted*, That all receipts and disbursements under this act shall be reported to the Secretary of the Interior, as required in the sixth section of the act to which this is an amendment.

APPROVED, May 29, 1858.

CHAP. LXXXI.—An Act to provide for the Location of certain confirmed Private Land Claims in the State of Missouri, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the decisions in favor of certain land claimants herein made by the recorder of land titles in the State of Missouri and the two commissioners associated with him, by virtue of an act entitled "An act for the final adjustment of private land claims in Missouri," approved July nine, eighteen hundred and thirty-two, and an act supplemental thereto, approved second March, eighteen hundred and thirty-three, as entered in the transcript of decisions transmitted by the said recorder and commissioners to the Commissioner of the General Land Office, which said claims are named and numbered as follows: Manuel de Liza, number thirty-three; John Coontz and Hempstead number forty-four; Matthew Saucier, number fifty-seven; Charles Tayon, number sixty-seven; the sons of Joseph M. Pepin, number

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seventy-four; Louis Lorimier, number eighty-seven; Bartholomew Cousin, number eighty-nine; Manuel Gonzales Moro, number ninety-five; Seneca Rawlins, number one hundred and four; William L. Long, number one hundred and six; Joachim Liza, number one hundred and thirty-three; Francis Lacombe, number thirty-four; Israel Dodge, number three hundred and thirty-eight; Joseph Silvain, number two hundred and ninety-three; John P. Cabanis, number two hundred and ninety-eight; William Hartley, number three hundred and one; Andrew Chevalier, number two hundred and ninety-two; William Morrison, number three hundred and seven; Solomon Belieu, number three hundred and eight; Paschal Detchemendez, number three hundred and nine; Baptiste Amure, number three hundred and ten; Alexander Maurice, number three hundred and twenty-three; John Baptiste Vallee, number three hundred and thirty-four; said decisions above named being in the first class of claims, acted upon by said board; also the claim of Regis Loisel, number six, in the second class, acted on by said board be, and the same are hereby confirmed to the respective claimants or their legal representatives.

SEC. 2. *And be it further enacted*, That the decisions in favor of land claimants made by P. Grimes, Joshua Lewis, and Thomas B. Robertson, commissioners appointed to adjust private land claims in the eastern district of the Territory of Orleans, communicated to the House of Representatives by the Secretary of the Treasury, on the ninth day of January, one thousand eight hundred and twelve, and which is [are] found in the American State Papers, Public Lands, (Duff Green's edition,) volume two, from page two hundred and twenty-four to three hundred and sixty-seven, inclusive, be, and the same are hereby confirmed, saving and reserving, however, to all adverse claimants the right to assert the validity of their claims in a court or courts of justice: *Provided, however*, That any claim so recommended for confirmation, but which may have been rejected, in whole or in part, by any subsequent board of commissioners, be, and the same is hereby, specially excepted from confirmation.

SEC. 3. *And be it further enacted*, That the locations authorized by the preceding section shall be entered with the register of the proper land office, who shall, on application for that purpose, make out for such claimant, or his legal representatives, (as the case may be,) a certificate of location, which shall be transmitted to the Commissioner of the General Land Office; and if it shall appear to the satisfaction of the said commissioner that said certificate has been fairly obtained, according to the true intent and meaning of this act, then, and in that case, patents shall be issued for the land so located as in other cases; and for each and every certificate as aforesaid, issued by the register of any land office, he shall receive the sum of one dollar; that in all cases of confirmation by this act, or where any private land claim has been confirmed by Congress, and the same, in whole or in part, has not been located or satisfied, either for want of a specific location prior to such confirmation, or for any reason whatsoever, other than a discovery of fraud in such claim subsequent to such confirmation, it shall be the duty of the surveyor general of the district in which such claim was situated, upon satisfactory proof that such claim has been so confirmed, and that the same, in whole or in part, remains unsatisfied, to issue to the claimant, or his legal representatives, a certificate of location for a quantity of land equal to that so confirmed and unsatisfied; which certificate may be located upon any of the public lands of the United States subject to sale at private entry, at a price not exceeding one dollar and twenty-five cents per acre: *Provided*, That such location shall conform to legal divisions and subdivisions.

SEC. 4. *And be it further enacted*, That the register of the proper land office, upon the location of such certificate, shall issue to the person entitled thereto a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue as in other cases.

APPROVED, June 2, 1858.

NEW SERIES—No. 36.

CHAP. LXXXII.—An Act making Appropriations for the Legislative, Executive, and Judicial Expenses of Government for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and fifty-nine, namely:

Legislative.—For compensation and mileage of Senators, one hundred and sixty-two thousand seven hundred and fifty dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz: Secretary of the Senate, three thousand six hundred dollars; officer charged with disbursements of the Senate, four hundred and eighty dollars; chief clerk, two thousand five hundred dollars; principal clerk, and principal executive clerk in the office of the Secretary of the Senate, at two thousand one hundred and sixty dollars each; eight clerks in the office of the Secretary of the Senate, at one thousand eight hundred and fifty dollars each; keeper of the stationery, one thousand seven hundred and fifty-two dollars; two messengers, at one thousand and eighty dollars each; one page, at five hundred dollars; Sergeant-at-Arms and Doorkeeper, two thousand dollars; assistant-doorkeeper, one thousand seven hundred dollars; postmaster to the Senate, one thousand seven hundred and fifty dollars; assistant postmaster and mail carrier, one thousand four hundred and forty dollars; two mail boys, at nine hundred dollars each; superintendent of the document room, one thousand five hundred dollars; two assistants in document room, at one thousand two hundred dollars each; superintendent of the folding room, one thousand five hundred dollars; two messengers, acting as assistant doorkeepers, at one thousand five hundred dollars each; sixteen messengers, at one thousand two hundred dollars each; superintendent in charge of Senate furnaces, one thousand two hundred dollars; assistant in charge of furnaces, six hundred dollars; laborer in private passage, six hundred dollars; two laborers, at four hundred and eighty dollars each; clerk or secretary to the President of the Senate, one thousand seven hundred and fifty-two dollars; draughtsman, one thousand eight hundred and fifty dollars; clerk to the Committee on Finance, one thousand eight hundred and fifty dollars; clerk to the Committee on Claims, one thousand eight hundred and fifty dollars; clerk of printing records, one thousand eight hundred and fifty dollars—making seventy-eight thousand nine hundred and fourteen dollars.

For the additional compensation allowed by the resolution of the Senate of the eleventh of May, eighteen hundred and fifty-eight, to a messenger in the office of the Secretary of the Senate, for the fiscal year ending the thirtieth of June, eighteen hundred and fifty-eight, three hundred and thirty dollars.

For the contingent expenses of the Senate, viz:

For binding, fifty thousand dollars.

For lithographing and engraving, forty-five thousand dollars.

For stationery, twelve thousand dollars.

For newspapers, three thousand dollars.

For Congressional Globe and binding the same, twenty-four thousand two hundred and seventeen dollars and twenty cents.

For reporting proceedings, ten thousand four hundred dollars.

For clerks to committees, pages, police, horses, and carryalls, twenty-six thousand five hundred and eighty dollars and fifty cents.

For miscellaneous items, twenty-thousand dollars.

For stationery for fiscal year ending the thirtieth of June, eighteen hundred and fifty-eight, five thousand dollars for the Senate; and for stationery for fiscal year ending thirtieth of June, eighteen hundred and fifty-eight, five thousand dollars for the House of Representatives.

For compensation and mileage of members of the House of Representatives and Delegates from

Territories, five hundred and eighty thousand two hundred and fifty dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, viz: Clerk of the House of Representatives, three thousand six hundred dollars; two clerks, at two thousand one hundred and sixty dollars each; seven clerks, at one thousand eight hundred dollars; clerk in charge of books for members, one thousand eight hundred dollars; reading clerk, one thousand eight hundred dollars; librarian, one thousand eight hundred dollars; clerk in charge of the stationery, one thousand eight hundred dollars; principal messenger in the office, one thousand seven hundred and fifty-two dollars; three messengers, at one thousand two hundred dollars each; Sergeant-at-Arms, two thousand one hundred and sixty dollars; clerk to the Sergeant-at-Arms, one thousand eight hundred dollars; messenger to the Sergeant-at-Arms, one thousand two hundred dollars; postmaster, two thousand one hundred and sixty dollars; one messenger in the office, one thousand seven hundred and forty dollars; four messengers, at one thousand four hundred and forty dollars each; Doorkeeper, two thousand one hundred and sixty dollars; superintendent of the folding room, one thousand eight hundred dollars; superintendent and assistant in the document room, at one thousand seven hundred and fifty-two dollars each; messenger in charge of the Hall, seventeen hundred and forty dollars; five messengers, at one thousand five hundred dollars each; eight messengers, at one thousand two hundred dollars each; six messengers, at one thousand two hundred dollars each; messenger to the Speaker, one thousand seven hundred and fifty-two dollars; clerk to the Committee of Claims, one thousand eight hundred dollars; clerk to the Committee of Ways and Means, one thousand eight hundred dollars—making eighty-six thousand seven hundred and forty-eight dollars.

For contingent expenses of the House of Representatives, viz:

For binding documents, one hundred thousand dollars

For furniture, repairs, and boxes for members, ten thousand dollars.

For stationery, fifteen thousand dollars.

For horses, carriages, and saddle horses, six thousand dollars.

For fuel, oil, and candles, three thousand six hundred dollars.

For newspapers, twelve thousand five hundred dollars.

For engraving, electrotyping, and lithographing, one hundred thousand dollars.

For Capitol police, five thousand eight hundred and ninety dollars.

For laborers, six thousand two hundred and eighty-five dollars.

For pages and temporary mail boys, four thousand two hundred dollars.

For folding documents, including pay of folders, wrapping paper, twine, and paste, thirty thousand dollars.

For cartage, two thousand dollars.

For miscellaneous items, thirty thousand dollars.

For twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the second session of the Thirty-Fifth Congress, seventeen thousand three hundred and fifty-two dollars.

For binding twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the second session of the Thirty-Fifth Congress, eight thousand and ninety-seven dollars and sixty cents: *Provided*, That no greater price shall be paid for the same than sixty cents for each volume or part, actually bound and delivered.

For reporting the debates of the second session of the Thirty-Fifth Congress, eight thousand dollars.

For the usual additional compensation to the reporters for the Congressional Globe for reporting the proceedings of the House of Representatives for the next regular session of the Thirty-Fifth Congress, eight hundred dollars to each reporter, four thousand dollars.

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To pay to the reporters of the Senate the usual extra compensation for the third session of the Thirty-Fourth Congress, eight hundred dollars each, three thousand two hundred dollars.

To pay to the reporters of the Senate the usual extra compensation for the first session of the Thirty-Fifth Congress, eight hundred dollars each, three thousand two hundred dollars.

To pay to the reporters of the Senate the usual extra compensation for the second session of the Thirty-Fifth Congress, eight hundred dollars each, three thousand two hundred dollars.

For one hundred copies of the Congressional Globe and Appendix, and for binding the same, for the second session of the Thirty-Fifth Congress, for the use of the Library of the House of Representatives, four hundred and forty dollars.

For the compensation of the draughtsman and clerks employed upon the land maps, clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, seventeen thousand and eight hundred dollars.

For two mail boys, at nine hundred dollars each, and the messenger in charge of the south extension, three thousand three hundred dollars.

For furnishing the committee rooms, retiring rooms, and offices in the south wing of the Capitol extension with gas-fixtures, chandeliers, iron safes, and other furniture, forty thousand dollars.

Library of Congress.

For compensation of Librarian, three Assistant Librarians, and messenger, nine thousand dollars.

For contingent expenses of said Library, one thousand dollars.

For coal, and fireman for furnaces to warm the Library, six hundred dollars.

For purchase of books for said Library, five thousand dollars.

For purchase of law books for said Library, two thousand dollars.

Botanic Garden.

For procuring manure, tools, fuel, repairs, purchasing trees and shrubs for Botanic Garden, to be expended under the direction of the Library Committee of Congress, twenty-three hundred dollars.

For pay of horticulturist and assistants in the Botanic Garden and green houses, to be expended under the direction of the Library Committee of Congress, five thousand one hundred and twenty-one dollars and fifty cents.

For reglazing and repairing damages to the green-houses by the hail storm of June, eighteen hundred and fifty-seven, one thousand and forty four dollars and sixteen cents.

Public Printing.

For compensation of the Superintendent of Public Printing, and the clerks and messenger in his office, eleven thousand five hundred and four-tenths dollars.

For contingent expenses of his office, viz: For blank books, stationery, postage, advertising for proposals for paper, furniture, traveling expenses, cartage and labor in storing and transportation of paper, and miscellaneous items, two thousand eight hundred and fifty dollars.

For rent of wareroom, two hundred and fifty dollars.

For paper required for the printing of the second session of the Thirty-Fifth Congress, one hundred thousand dollars.

For printing required for the second session of the Thirty-Fifth Congress, seventy thousand dollars.

Court of Claims.

For salaries of three judges of the Court of Claims, the solicitor, assistant solicitor, deputy solicitor, clerk and assistant clerk, and messenger thereof, twenty-seven thousand three hundred dollars.

For stationery, fuel, gas or other lights, printing, labor, and miscellaneous items for the Court of Claims, four thousand dollars.

For commissioners' fees for taking testimony in behalf of the Government, fees of witnesses and of agents or attorneys to be appointed by the solicitor to attend to the taking of depositions, five thousand dollars.

Executive.

For compensation of the President of the United States, twenty-five thousand dollars.

For compensation of the Vice President of the United States, eight thousand dollars.

For compensation to secretary to sign patents for lands, one thousand five hundred dollars.

For compensation to the private secretary, steward, and messenger of the President of the United States, four thousand six hundred dollars.

For contingent expenses of the executive office, including stationery therefor, three hundred and fifty dollars.

Department of State.

For compensation of the Secretary of State and Assistant Secretary of State, clerks, messenger, assistant messenger, and laborers in his office, fifty-seven thousand eight hundred dollars.

For the Incidental and Contingent Expenses of said Department.

For proof-reading, packing, and distributing laws and documents, including cases and transportation, and miscellaneous expenses, five thousand dollars.

For stationery, blank books, binding, furniture, fixtures, repairs, painting and glazing, six thousand five hundred dollars.

For newspapers, six hundred dollars.

For miscellaneous items, two thousand dollars.

To enable the Secretary of State to purchase fifty copies, each, of volumes twenty-two and twenty-three of Howard's Reports of the Decisions of the Supreme Court of the United States, five hundred dollars.

To enable the Secretary of State to carry into effect the act entitled "An act for the admission of the State of Kansas into the Union," ten thousand dollars.

Northeast Executive Building.

For compensation of four watchmen and two laborers of the northeast executive building, three thousand six hundred dollars.

For contingent expenses of said building, viz: for fuel, lights, repairs, and miscellaneous expenses, four thousand three hundred dollars.

Treasury Department.

For compensation of the Secretary of the Treasury, Assistant Secretary of the Treasury, clerks, messenger, assistant messenger, and laborers in his office, forty-eight thousand six hundred dollars.

For compensation of the First Comptroller, and the clerks, messenger, and laborers in his office, twenty-eight thousand three hundred and forty dollars.

For compensation of the Second Comptroller, and the clerks, messenger, and laborer in his office, twenty-six thousand eight hundred and forty dollars.

For compensation of the First Auditor, and the clerks, messenger, assistant messenger, and laborer in his office, thirty-five thousand nine hundred and forty dollars.

For compensation of the Second Auditor, and the clerks, messenger, assistant messenger, and laborer in his office, thirty-five thousand five hundred and forty dollars.

For compensation to the Third Auditor, and the clerks, messenger, assistant messenger, and laborers in his office, one hundred and sixty-two thousand six hundred and forty dollars.

For compensation of the Fourth Auditor, and the clerks, messenger, and assistant messenger in his office, twenty-seven thousand seven hundred and forty dollars.

For compensation of the Fifth Auditor, and the clerks, messenger, and laborer in his office, seventeen thousand eight hundred and forty dollars.

For compensation of the Auditor of the Treasury for the Post Office Department; and the clerks, messenger, assistant messenger, and laborers in his office, one hundred and seventy-two thousand three hundred and forty dollars.

For compensation of the Treasurer of the United States, and the clerks, messenger, assistant messenger, and laborers in his office, twenty-five thousand seven hundred and forty dollars.

For compensation of the Register of the Treasury, and the clerks, messenger, assistant messenger, and laborers in his office, fifty thousand three hundred and forty dollars.

For compensation of the Solicitor of the Treasury, and the clerks and messenger in his office, seventeen thousand one hundred and forty dollars.

For compensation of the Commissioner of the Customs, and the clerks, messenger, and laborer in his office, twenty thousand four hundred and forty dollars.

For compensation of the clerks, messenger, and laborer of the Light-House Board, nine thousand two hundred and forty dollars.

Contingent Expenses of the Treasury Department.

In the office of the Secretary of the Treasury: For copying, blank-books, stationery, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress—said clerks to be employed only during the session of Congress or when indispensably necessary to enable the Department to answer some call made by either House of Congress at one session to be answered at another; and no such extra clerk shall receive more than three dollars and thirty-three and one third cents per day for the time actually and necessarily employed—and for miscellaneous items, thirteen thousand seven hundred and fifty dollars.

In the office of the First Comptroller:

For furniture, blank-books, binding, stationery, public documents, State and territorial statutes, and miscellaneous items, and the Union and National Intelligencer newspapers, two thousand two hundred dollars.

In the office of the Second Comptroller:

For blank-books, binding, stationery, pay for the National Intelligencer and Union, to be filed and preserved for the use of the office, office furniture, and miscellaneous items, one thousand five hundred dollars.

In the office of the First Auditor:

For blank-books, binding, stationery, office furniture, cases for records and official papers, and miscellaneous items, including subscription for the Union and National Intelligencer, to be filed for the use of the office, one thousand eight hundred dollars.

In the office of the Second Auditor:

For blank-books, binding, stationery, office furniture, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, one thousand two hundred dollars.

In the office of the Third Auditor:

For blank-books, binding, stationery, office furniture, carpeting, two newspapers, the Union and Intelligencer, preserving files and papers, bounty-land service, miscellaneous items and arrearages, three thousand five hundred and forty dollars.

In the office of the Fourth Auditor:

For stationery, books, binding, labor, and miscellaneous items, one thousand one hundred dollars.

In the office of the Fifth Auditor:

For blank-books, binding, stationery, office furniture, carpeting, and miscellaneous expenses, in which are included two daily newspapers, one thousand dollars.

In the office of the Auditor of the Treasury for the Post Office Department:

For stationery, blank-books, binding, ruling, miscellaneous items, for file-boards, repairs, cases and desks for safe-keeping of papers, furniture, lights, washing towels, ice, horse for messenger, telegraphic dispatches, and stoves, twelve thousand five hundred and fifty dollars.

In the office of the Treasurer:

For blank-books, binding, stationery, and miscellaneous items, one thousand dollars.

In the office of the Register:

For ruling and full-binding books for recording collectors' quarterly abstracts of commerce and navigation, and blank abstracts for their use, blank-books, binding, and stationery, arranging and binding canceled marine papers, and records, and miscellaneous items, including office furniture and carpeting, copper-plate printed certificates of registers of vessels, and crew lists, ten thousand dollars:

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In the office of the Solicitor:

For blank-books, binding, labor, and miscellaneous items, and for statutes and reports, two thousand two hundred dollars.

In the office of the Commissioner of Customs:

For blank-books, binding, stationery, and miscellaneous items, two thousand dollars.

Light-House Board:

For blank-books, binding, stationery, miscellaneous expenses, and postage, seven hundred and fifty dollars.

For the general purposes of the Southeast Executive Building.

For compensation of eight watchmen and nine laborers of the southeast executive building, ten thousand two hundred dollars.

For contingent expenses of said building, viz: Fuel, lights, repairs, and miscellaneous, eight thousand five hundred dollars.

For compensation of four watchmen and two laborers for the south extension of the southeast executive building; three thousand six hundred dollars.

For contingent expenses of said building, fuel, and miscellaneous items, three thousand dollars.

Department of the Interior.

For compensation of the Secretary of the Interior, and the clerks, messengers, assistant messengers, watchmen, and laborers in his office, thirty-six thousand nine hundred dollars.

For compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, one hundred and seventy-two thousand six hundred and ninety dollars; and the authority conferred upon the principal clerk of public lands, of Acting Commissioner *ad interim*, in the absence, and so forth, of the Commissioner, by the second section of the act reorganizing the General Land Office, approved the fourth of July, eighteen hundred and thirty-six, shall be, and the same hereby is, transferred to the chief clerk of said General Land Office.

For additional clerks in the General Land Office, under the act of third March, one thousand eight hundred and fifty-five, granting bounty lands, and for laborers employed therein, fifty-eight thousand four hundred dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair.

For compensation of the Commissioner of Indian Affairs, and the clerks, messenger, assistant messenger, watchmen, and laborer, in his office, thirty-one thousand nine hundred and forty dollars.

For compensation of the Commissioner of Pensions, and the clerks, messenger, assistant messenger, and laborers in his office, one hundred and nine thousand three hundred and forty dollars.

For compensation of the Commissioner of Public Buildings, and the clerk in his office, three thousand two hundred dollars.

Contingent Expenses—Department of the Interior.

Office of the Secretary of the Interior:

For books, stationery, furniture, fuel, lights, and other contingencies, and for books and maps for the library, seven thousand two hundred dollars.

For expense of packing and distributing the congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress approved twenty-eighth January, eighteen hundred and fifty seven, six thousand dollars.

For the preservation of the collections of the exploring and surveying expeditions of the Government, four thousand dollars.

For the transfer to, and new arrangement of those collections in, the Smithsonian Institution, one thousand dollars.

To enable the Secretary of the Interior to pay the superintendent of the building occupied by said Secretary and his Department, from the first day of January, eighteen hundred and fifty-five, to the thirtieth day of June, eighteen hundred and

fifty-eight, the allowance to be made to such superintendent, with his salary as clerk, not to exceed two thousand dollars per annum, the sum of seven hundred dollars.

General Land Office:

For cash system and military patents, under laws prior to twenty-eighth September, eighteen hundred and fifty; patent and other records; tract books and blank-books for this and the district land offices; binding plats and field notes; stationery, furniture, and repairs of same, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, thirty-three thousand five hundred dollars.

For contingent expenses, in addition, under swamp land act of twenty-eighth September, eighteen hundred and fifty, military bounty acts of twenty-eighth September, eighteen hundred and fifty, and twenty-second March, eighteen hundred and fifty-two, and act thirty-first August, eighteen hundred and fifty-two, for the satisfaction of Virginia land warrants, twenty-six thousand one hundred dollars.

For fuel, lights, and incidental expenses attending the same, including pay of furnace keepers, four thousand dollars.

For contingent expenses under the act of third March, one thousand eight hundred and fifty-five, granting bounty lands, and amendatory act of fourteenth May, eighteen hundred and fifty-six, to wit: For patents, patent and other records, stationery, and miscellaneous items on account of bounty lands under said acts, thirteen thousand dollars.

Office of Indian Affairs:

For blank-books, binding, stationery, fuel, and lights, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, five thousand dollars.

Pension Office:

For stationery, binding books, furniture, and repairing the same, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, and for books for the library, ten thousand dollars.

For contingent expenses in the said office under the bounty land act of third March, one thousand eight hundred and fifty-five:

For engraving and retouching plates for bounty land warrants, printing and binding the same, stationery, blank-books for register's office, furniture, and miscellaneous items, fifteen thousand dollars: *Provided*, however, That the Secretary of the Interior, at his discretion, shall be authorized to use any portion of said appropriation for clerical services by the day, week, month, or year, at such rates as he may deem just and fair.

Surveyors General and their Clerks.

For compensation of the surveyor general of Illinois and Missouri, and the clerks in his office, five thousand eight hundred and twenty dollars.

For compensation of the surveyor general of Louisiana, and the clerks in his office, four thousand five hundred dollars.

For compensation of the surveyor general of Florida, and the clerks in his office, five thousand five hundred dollars.

For compensation of the surveyor general of Wisconsin and Iowa, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of Arkansas, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of Oregon, and the clerks in his office, seven thousand five hundred dollars.

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, one thousand five hundred dollars.

For compensation of the surveyor general of California and the clerks in his office, fifteen thousand five hundred dollars.

For compensation of the surveyor general of Washington Territory and the clerks in his office, seven thousand dollars.

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, three thousand dollars.

For compensation of the surveyor general of New Mexico, and the clerks in his office, seven thousand dollars.

For compensation of translators in the office of the surveyor general of New Mexico, two thousand dollars.

For rent of the surveyor general's office in New Mexico, fuel, books, stationery, and other incidental expenses, three thousand dollars.

For compensation of the surveyor general of Kansas and Nebraska, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of Minnesota, and the clerks in his office, eight thousand three hundred dollars.

For compensation of clerks in the offices of the surveyors general, to be apportioned to them according to the exigencies of the public service, and to be employed in transcribing field notes of surveys, for the purpose of preserving them at the seat of Government, forty-one thousand dollars.

For salary of the recorder of land titles in Missouri, five hundred dollars.

War Department.

For compensation of the Secretary of War, and the clerks, messenger, assistant messenger, and laborer in his office, twenty-two thousand dollars.

For compensation of the clerks and messenger in the office of the Adjutant General, thirteen thousand six hundred and forty dollars.

For compensation of the clerks and messenger in the office of the Quartermaster General, sixteen thousand four hundred and forty dollars.

For compensation of the clerks and messenger in the office of the Paymaster General, twelve thousand four hundred and forty dollars.

For compensation of the clerks, messenger, and laborer in the office of the Commissary General, ten thousand and forty dollars.

For compensation of the clerks and messenger in the office of the Surgeon General, five thousand two hundred and forty dollars.

For compensation of the clerks, messenger, and laborer in the office of Topographical Engineers, ten thousand six hundred and forty dollars.

For compensation of the clerks and messenger in the office of the Chief Engineer, eight thousand two hundred and forty dollars.

For compensation of the clerks and messenger in the office of the Colonel of Ordnance, twelve thousand two hundred and forty dollars.

Contingent Expenses of the War Department.

Office of the Secretary of War:

For blank-books, stationery, books, maps, extra clerk hire, and miscellaneous items, five thousand five hundred dollars.

Office of the Adjutant General:

For blank-books, binding, stationery, and miscellaneous items, two thousand dollars.

Office of the Quartermaster General:

For blank-books, binding, stationery, and miscellaneous items, one thousand two hundred dollars.

Office of the Paymaster General:

For blank-books, binding, stationery, and miscellaneous items, five hundred dollars.

Office of the Chief Engineer:

For blank-books, binding, stationery, and miscellaneous items, including two daily Washington papers, nine hundred dollars.

Office of the Surgeon General:

For blank-books, binding, stationery, and miscellaneous items, four hundred dollars.

Office of Colonel of Ordnance:

For blank-books, binding, stationery, and miscellaneous items, nine hundred and fifty dollars.

Office of the Colonel of Topographical Engineers:

For blank-books, binding, stationery, and miscellaneous items, one thousand two hundred dollars.

For the General Purposes of the Northwest Executive Building.

For compensation of four watchmen and two laborers of the northwest executive building, three thousand six hundred dollars.

For fuel, light, and miscellaneous items, four thousand dollars.

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For the General Purposes of the Building corner of F and Seventeenth Streets.

For compensation of the superintendent, four watchmen, and two laborers, for said building, three thousand eight hundred and fifty dollars. And the compensation of superintendent may be allowed to the clerk who has performed, or may hereafter perform, the duties of that office; the allowance to be made to such superintendent, with his salary as clerk, not to exceed two thousand dollars.

For fuel, compensation of firemen, and miscellaneous items, four thousand eight hundred dollars.

Navy Department.

For compensation of the Secretary of the Navy, and the clerks, messenger, assistant messenger, and laborer, in his office, twenty-nine thousand six hundred dollars.

For compensation of the Chief of the Bureau of Navy-Yards and Docks, and the clerks, messenger, and laborer in his office, fourteen thousand one hundred and forty dollars.

For compensation of the Chief of the Bureau of Ordnance and Hydrography, and the clerks, messenger, and laborer in his office, twelve thousand three hundred and forty dollars.

For compensation of the Chief of the Bureau of Construction, Equipment, and Repairs, and of the engineer-in-chief, and the clerks, messenger, and laborers in his office, twenty-one thousand three hundred and forty dollars.

For compensation of the clerks, messenger, and laborer in the Bureau of Provisions and Clothing, eight thousand eight hundred and forty dollars.

For compensation of the Chief of the Bureau of Medicine and Surgery, and the clerks, messenger, and laborer in his office, nine thousand five hundred and forty dollars.

*Contingent Expenses of the Navy Department.**Office Secretary of the Navy:*

For blank-books, binding, stationery, newspapers, periodicals, and miscellaneous items, two thousand eight hundred and forty dollars.

Bureau of Yards and Docks:

For stationery, books, plans, and drawings, eight hundred dollars.

Bureau of Ordnance and Hydrography:

For blank-books, stationery, and miscellaneous items, seven hundred and fifty dollars.

Bureau of Construction, Equipment, and Repairs:

For blank-books, binding, stationery, printing, and miscellaneous items, eight hundred dollars.

Bureau of Provisions and Clothing:

For blank-books, stationery, and miscellaneous items, seven hundred dollars.

Bureau of Medicine and Surgery:

For blank-books, stationery, and miscellaneous items, four hundred and fifty dollars.

For the General Purposes of the Southwest Executive Building.

For compensation of four watchmen of the southwest executive building, two thousand four hundred dollars.

For contingent expenses of said building, viz:

For labor, fuel, lights, and miscellaneous items, three thousand nine hundred and thirteen dollars.

Post Office Department.

For compensation of the Postmaster General, three Assistant Postmasters General, and the clerks, messenger, assistant messengers, watchmen, and laborers of said Department, one hundred and fifty-seven thousand eight hundred dollars.

Contingent Expenses of said Department.

For blank-books, binding, and stationery, fuel for the General Post Office building, including the Auditor's Office, oil, gas, and candles, printing, day watchman, and for miscellaneous items, eleven thousand dollars.

For repairs of the General Post Office building, for office furniture, glazing, painting, whitewashing, and for keeping the fire-places and furnaces in order, four thousand dollars.

To meet the expenses incident to the comple-

tion of a large portion of the General Post Office extension, viz:

For furnishing partially eighty-one rooms, incidental expenses in all other portions of the new building, fuel, gas, candles, day watchman, miscellaneous items, and ten laborers at six hundred dollars each, twenty-eight thousand dollars.

Printing for Executive Departments.

For paper and printing for the Executive Departments, including the paper, printing, and binding of the annual statement of commerce and navigation of the United States, and the paper and printing of the annual estimates of appropriations, fifty-five thousand dollars.

Mint of the United States at Philadelphia.

For salaries of the director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, assistant melter and refiner, and seven clerks, twenty-seven thousand nine hundred dollars.

For wages of workmen and adjusters, seventy-four thousand eight hundred dollars.

For incidental and contingent expenses, including wastage, in addition to other available funds, seventy-five thousand dollars.

For specimens of ores and coins to be reserved at the Mint, three hundred dollars.

For transportation of bullion from New York assay office to the United States Mint for coinage, ten thousand dollars.

At San Francisco, California.

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and five clerks, twenty-six thousand four hundred and fifty-five dollars.

For wages of workmen and adjusters, one hundred and sixty-six thousand eight hundred and ninety-four dollars.

For incidental and contingent expenses, including wastage, in addition to other available funds, twenty-two thousand six hundred and six dollars.

At New Orleans.

For salaries of superintendent, treasurer, assayer, coiner, melter and refiner, and three clerks, eighteen thousand three hundred dollars.

For wages of workmen, twenty-two thousand dollars.

For incidental and contingent expenses, including wastage, in addition to other available funds, twenty thousand nine hundred dollars.

At Charlotte, North Carolina.

For salaries of superintendent, coiner, assayer, and clerk, four thousand five hundred dollars.

At Dahlonega, Georgia.

For salaries of superintendent, coiner, assayer, and clerk, five thousand three hundred dollars.

For wages of workmen, one thousand two hundred dollars.

Assay Office, New York.

For salaries of officers and clerks, twenty-one thousand one hundred dollars.

Government in the Territories.

TERRITORY OF OREGON.

For salaries of Governor, three judges, and Secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

TERRITORY OF NEW MEXICO.

For salaries of Governor, three judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

TERRITORY OF UTAH.

For salaries of Governor, three judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

TERRITORY OF WASHINGTON.

For salaries of Governor, three judges, and secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

TERRITORY OF NEBRASKA.

For salaries of Governor, three judges, and secretary, ten thousand five hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

TERRITORY OF KANSAS.

For salaries of Governor, three judges, and secretary, ten thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

TERRITORY OF MINNESOTA.

For defraying the expenses incurred in taking the census of the Territory of Minnesota, under the act approved twenty-sixth February, eighteen hundred and fifty-seven, twenty thousand dollars: *Provided*, The compensation to the officers taking the same shall not exceed that allowed by the acts of twenty-third May, eighteen hundred and fifty, and thirtieth August, eighteen hundred and fifty, to those who took the census in California, Oregon, Utah, and New Mexico.

Judiciary.

For salaries of the Chief Justice of the Supreme Court, and eight associate justices, fifty-four thousand five hundred dollars.

For salaries of the district judges, one hundred and eight thousand seven hundred and fifty dollars.

For salary of the circuit judge of California, six thousand dollars.

For salaries of the chief justice of the District of Columbia, the associate judges, and the judges of the criminal court and the orphans' court, fifteen thousand seven hundred and fifty dollars.

Office of the Attorney General.

For salaries of the Attorney General, and the clerks and messenger in his office, eighteen thousand one hundred dollars.

For contingent expenses of the office of the Attorney General, two thousand five hundred dollars.

For purchase of law and necessary books, and binding, for the office of the Attorney General, one thousand dollars.

For the purchase of deficient State reports and statutes for the office of the Attorney General, one thousand dollars.

For fuel and labor for the office of the Attorney General, one thousand dollars.

For furniture and book-cases for office of the Attorney General, one thousand dollars.

For legal assistance and other necessary expenditures in the disposal of private land claims in California, twelve thousand dollars.

For services of special counsel and other extraordinary expenses, in defending the title of the United States to public property in California, forty thousand dollars.

For the employment of such number of clerks, not exceeding three, by the district attorney of the northern district of California, as may be necessary to transcribe the records of the district court in land cases upon which appeals have been or may be taken to the Supreme Court, such sum as may be necessary is hereby appropriated, provided the compensation shall not exceed one hundred and fifty dollars a month for each; and that such clerks shall not be employed under the authority of this act after the third day of March, eighteen hundred and fifty-nine.

For salary of the reporter of the decisions of the Supreme Court, one thousand three hundred dollars.

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For compensation of the district attorneys, eleven thousand seven hundred and fifty dollars.
For compensation of the marshals, ten thousand four hundred dollars.

Independent Treasury.

For salaries of the assistant treasurers of the United States at New York, Boston, Charleston, and St. Louis, sixteen thousand five hundred dollars.

For additional salaries of the treasurer of the Mint at Philadelphia of one thousand dollars, and of the treasurer of the branch mint at New Orleans of five hundred dollars, one thousand five hundred dollars.

For salaries of five of the additional clerks authorized by the acts of sixth August, eighteen hundred and forty-six, and paid under acts of twelfth August, eighteen hundred and forty-eight, third March, eighteen hundred and fifty-one, and third March, eighteen hundred and fifty-five, five thousand seven hundred dollars.

For salary of additional clerk in office of assistant treasurer at Boston, one thousand two hundred dollars.

For salaries of clerks, messengers, and watchmen, in the office of the assistant treasurer at New York, thirteen thousand nine hundred dollars.

For contingent expenses under the act for the safe-keeping, collecting, transfer, and disbursement of the public revenue, of sixth August, eighteen hundred and forty-six, ten thousand dollars, in addition to premium received on transfer drafts: *Provided*, That no part of said sum shall be expended for clerical services.

For salaries of nine supervising and fifty local inspectors, appointed under act thirtieth August, eighteen hundred and fifty-two, for the better protection of the lives of passengers by steamboats, with travelling and other expenses incurred by them, eighty thousand dollars.

Expenses of the Collection of Revenue from Lands.

To meet the expenses of collecting the revenue from the sale of public lands in the several States and Territories:

For salaries and commissions of registers of land offices and receivers of public moneys, one hundred and twenty thousand dollars.

For defraying the expenses of the Supreme, circuit, and district courts of the United States, including the District of Columbia; also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures incurred in the fiscal year ending June thirtieth, eighteen hundred and fifty-nine, and previous years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, one million dollars.

Penitentiary.

For compensation of the warden, clerk, physician, chaplain, assistant keepers, guards, and matron of the penitentiary of the District of Columbia, twelve thousand five hundred and forty dollars.

For compensation of three inspectors of said penitentiary, seven hundred and fifty dollars.

For the support and maintenance of said penitentiary, seven thousand nine hundred and twenty dollars and twenty-five cents.

For compensation of two additional guards, hereby authorized, thirteen hundred and twenty dollars.

For compensation, in part, for the messenger in charge of the main furnace in the Capitol, four hundred and twenty dollars.

For stationery, blank-books, plans, drawings, and other contingent expenses of the office of the Commissioner of Public Buildings, two hundred and fifty dollars.

For compensation to the laborer in charge of the water-closets in the Capitol, four hundred and thirty-eight dollars.

For compensation to the public gardener, one thousand four hundred and forty dollars.

For compensation of twenty-two laborers employed in the public grounds and President's garden, thirteen thousand two hundred dollars.

For compensation of the keeper of the western

gate, Capitol square, eight hundred and seventy-six dollars.

For compensation of two day watchmen employed in the Capitol square, one thousand two hundred dollars.

For compensation of two night watchmen employed at the President's house, one thousand two hundred dollars.

For compensation of the doorkeeper at the President's house, six hundred dollars.

For compensation of the assistant doorkeeper at the President's house, six hundred dollars.

For compensation of one night watchman employed for the better protection of the buildings lying south of the Capitol, and used as public stables and carpenters' shops, six hundred dollars.

For compensation of four draw-keepers at the Potomac bridge, and for fuel, oil, and lamps, five thousand five hundred and eighty-four dollars and forty cents.

For compensation of two draw-keepers at the two bridges across the eastern branch of the Potomac, and for fuel, oil, and lamps, one thousand one hundred and eighty dollars.

For compensation of the auxiliary guard, and for fuel and oil for lamps, nineteen thousand four hundred dollars.

For furnace-keeper at the President's house, six hundred dollars.

SEC. 2. *And be it further enacted*, That hereafter the estimates for the various Executive Departments shall designate not only the amount required to be appropriated for the next fiscal year, but also the amount of the outstanding appropriation, if there be any, which will probably be required to be used for each particular item of expenditure.

APPROVED, June 2, 1858.

CHAP. LXXXIV.—An Act declaring the Title to Land Warrants in certain Cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when proof has been, or shall hereafter be, filed in the Pension Office, during the lifetime of a claimant, establishing, to the satisfaction of that office, his or her right to a warrant for military services, and such warrant has not been, or may not hereafter be, issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrants shall vest in the widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant; and all such warrants, and all other warrants issued pursuant to existing laws, shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs, or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

SEC. 2. *And be it further enacted*, That the provisions of the first section of the act approved March twenty-two, eighteen hundred and fifty-two, to make land warrants assignable, and for other purposes, shall be so extended as to embrace land warrants issued under the act of the third March, eighteen hundred and fifty-five.

APPROVED, June 3, 1858.

CHAP. LXXXV.—An Act to extend an act entitled "An act to continue Half Pay to certain Widows and Orphans," approved February three, eighteen hundred and fifty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all those surviving widows and minor children who have been, or may be, granted and allowed five years' half pay under the provisions of any law or laws of the United States, be, and they are hereby, granted a continuance of such half pay, under the following terms and limitations, viz: to such widows during life, and to such child or children, where there is no widow, whilst under the age of sixteen years, to commence from the expiration of the half pay provided for by the first section of the act entitled "An act to continue half pay to certain widows and orphans," approved February three, eight-

teen hundred and fifty-three: *Provided, however*, That in case of the marriage or death of any such widow, the half pay shall go to the child or children of the deceased officer or soldier whilst under the age of sixteen years; and, in like manner, the child or children of such deceased officer or soldier, when there is no widow, shall be paid no longer than while there are children or a child under the age aforesaid: *And provided further*, That the half pay of such widows and orphans shall be half the monthly pay of the officers, non-commissioned officers, musicians, and privates of the infantry of the regular Army of the United States, and no more, and that no greater sum shall be allowed to any such widow or minor children than the half pay of a lieutenant colonel: *And provided also*, That this act shall not be construed to apply to or embrace the case of any person or persons now receiving a pension for life; and, further, that wherever half pay shall have been granted by any special act of Congress, and is renewed or continued under the provisions of this act, the same shall commence from the date hereof.

SEC. 2. *And be it further enacted*, That the provisions renewed and continued by this act, shall be payable out of any money in the Treasury not otherwise appropriated.

APPROVED, June 3, 1858.

CHAP. LXXXVI.—An Act Confirming Locations of Land Warrants under certain circumstances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which locations have been made with bounty land warrants on lands which were subject to entry at private sale, but upon individual competition were put up to the highest bidder, and the excess paid for in cash, such locations shall be, and they are hereby confirmed, if in all other respects regular; and authority is hereby given to issue patents accordingly: *Provided*, That such confirmation shall only extend to cases existing prior to the passage of this act.

APPROVED, June 3, 1858.

CHAP. XCI.—An Act making an Appropriation for the Payment of Clerks employed in the offices of the Registers of the Land Offices at Oregon City and Winchester, in the Territory of Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of seven thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to reimburse the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon, for expenses incurred by them in the employment of clerks actually required for the transaction of the business of their respective offices, growing out of an act entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey and to make donations to settlers of the said public lands," approved September the twenty-seventh, one thousand eight hundred and fifty.

APPROVED, June 5, 1858.

CHAP. XCII.—An Act to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the Boundary Lines between the Territories of the United States and the State of Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized and empowered to appoint a suitable person or persons, who, in conjunction with such person or persons as may be appointed by and on behalf of the State of Texas for the same purpose, shall run and mark the boundary lines between the Territories of the United States and the State of Texas; beginning at the point where the one hundredth degree of longitude west from Greenwich crosses Red river, and running thence north to the point where said

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one hundredth degree of longitude intersects the parallel of thirty-six degrees thirty minutes north latitude; and thence west with the said parallel of thirty-six degrees and thirty minutes north latitude to the point where it intersects the one hundred and third degree of longitude west from Greenwich; and thence south with the said one hundred and third degree of longitude to the thirty-second parallel of north latitude; and thence west with the said thirty-second degree of north latitude to the Rio Grande.

SEC. 2. *And be it further enacted*, That such landmarks shall be established at the said point of beginning on Red river, and at the other corners, and on the said several lines of said boundary, as may be agreed on by the President of the United States, or those acting under his authority, and the said State of Texas, or those acting under its authority.

SEC. 3. *Be it further enacted*, That the sum of eighty thousand dollars, or so much thereof as may be necessary, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act: *Provided*, That the person or persons appointed and employed on the part and behalf of Texas are to be paid by the said State: *Provided further*, That no persons, except a superintendent or commissioner, shall be appointed or employed in this service by the United States but such as are required to make the necessary observations and surveys to ascertain such line and erect suitable monuments thereon and make return of the same.

APPROVED, June 5, 1858.

CHAP. XCIII.—An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and fifty-nine, namely:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Grenada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, and Sandwich Islands, two hundred and seventy-four thousand dollars.

For salaries of the secretaries of legation of the United States, twelve thousand dollars.

For salaries of assistant secretaries of legation at London and Paris, three thousand dollars.

For salary of the secretary of legation to China, acting as interpreter, five thousand dollars.

For salary of the secretary of legation to Turkey, acting as dragoman, three thousand dollars.

For contingent expenses of all the missions abroad, fifty thousand dollars.

For contingent expenses of foreign intercourse, sixty thousand dollars.

For expenses of intercourse with the Barbary Powers, three thousand dollars.

For expenses of the consulates in the Turkish dominions, viz: interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirout, two thousand five hundred dollars.

For the relief and protection of American seamen in foreign countries, one hundred and fifty thousand dollars.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens and vessels of the United States from shipwreck, ten thousand dollars—to be expended under the direction of the President of the United States.

For the purchase of blank-books, stationery, arms of the United States, seals, presses, and flags, and for the payment of postages and miscellaneous expenses of the consuls of the United States, forty thousand dollars.

For office rent for those consuls-general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, twenty-seven thousand three hundred and seventy dollars.

For salaries of consuls-general at Quebec, Calcutta, Alexandria, Simoda, Havana, Constantinople, Frankfort-on-the-Main; consuls at Liverpool, London, Melbourne, Hong Kong, Glasgow, Mauritius, Singapore, Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica), Leeds, Manchester, Nassau, (New Providence,) Southampton, Turk's Island, Prince Edward's Island, Havre, Paris, Marseilles, Bordeaux, La Rochelle, Lyons, Moscow, Odessa, Revel, Saint Petersburg, Matanzas, Trinidad de Cuba, Santiago de Cuba, San Juan, (Porto Rico,) Cadiz, Malaga, Ponce, (Porto Rico,) Trieste, Vienna, Aix-la-Chapelle, Canton, Shanghai, Fouchou, Amoy, Ningpo, Beirout, Smyrna, Jerusalem, Rotterdam, Amsterdam, Antwerp, Funchal, Oporto, St. Thomas, Elsinore, Genoa, Basle, Geneva, Messina, Naples, Palermo, Leipsic, Munich, Leghorn, Stuttgart, Bremen, Hamburg, Tangiers, Tripoli, Tunis, Rio de Janeiro, Pernambuco, Vera Cruz, Acapulco, Callao, Valparaiso, Buenos Ayres, San Juan del Sur, Aspinwall, Panama, Lagayra, Honolulu, Lahaina, Capetown, Falkland Islands, Venice, Stettin, Candia, Cyprus, Batavia, Payal, Santiago, (Cape de Verdes,) Saint Croix, Spezzia, Athens, Zanzibar, Bahia, Maranh Island, Para, Rio Grande, Matamoras, Mexico, (city,) Tampico, Paso del Norte, Tabasco, Paita, Tumbes, Talcahuano, Carthagena, Sabanillo, Omoa, Guayaquil, Cobija, Montevideo, Tahiti, Bay of Islands, Apia, Lanthala; commercial agents at San Juan del Norte, Port-au-Prince, San Domingo, (city,) St. Paul de Loanda, (Angola,) Monrovia, Gaboon, Cape Haytien, Aux Cayes, and Amor river, one hundred and seventy-three thousand seven hundred and fifty dollars.

For interpreters to the consulates in China, four thousand five hundred dollars.

For compensation to the commissioner, chief astronomer and surveyor, assistant astronomer and surveyor, clerk, and for provisions, transportation, and contingencies of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, seventy-one thousand dollars.

For compensation and per diem of the commissioner, compensation of the surveyor, and for the payment of all expenses of the commissioner under the reciprocity treaty with Great Britain, twenty-three thousand dollars.

APPROVED, June 5, 1858.

CHAP. CXXII.—An Act to Confirm the Sale of the Reservation held by the Christian Indians, and to provide a permanent home for said Indians.

Whereas, by the thirteenth article of a treaty made and concluded at Washington on the sixth day of May, one thousand eight hundred and fifty-four, between the United States of America and the Delaware Indians, a grant of four sections of land was made to the Christian Indians, for which a patent was to be issued to the said Indians, "subject to such restrictions as Congress may provide;" and whereas, a patent was so issued to them on the twenty-first day of May, eighteen hundred and fifty-seven; and whereas, it fully appears, by the evidence and papers on file before the Committee on Indian Affairs, that the four sections of land set apart by said treaty was, on the twenty-ninth day of May, eighteen hundred and fifty seven, sold and conveyed by said Christian Indians to one A. J. Isacks for the consideration of forty-three thousand four hundred dollars, which sum was a fair consideration for said lands: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the payment of the said sum of forty-three thousand four hundred dollars by the said A. J. Isacks to the Secretary of the Interior, for the use and benefit of said Christian Indians, within ninety days from the passage of this act, it shall then be the duty of the President of the United States to confirm said sale.

SEC. 2. *And be it further enacted*, That the Sec-

retary of the Interior be, and he hereby is, authorized and required to receive the proceeds of the sale of the said four sections of land, and apply the same as follows: that is to say, so much thereof as may be necessary to the purchase of a suitable tract of land for a permanent home for the Christian Indians, the erection of the necessary buildings for their accommodation, and the purchase of stock, agricultural implements, and whatever else may be necessary to establish them thereon; the balance of the said fund to be invested by the Secretary of the Interior in safe and profitable stocks, the interest whereof shall be applied to the support of a school among the said Christian Indians.

SEC. 3. *And be it further enacted*, That, whenever the Christian Indians desire it, the tract purchased under the provisions of the preceding section shall be divided among them, under the direction of the President of the United States, to be held in severalty, and with all the rights incident to a fee-simple estate: *Provided*, That the said tracts, when so divided, shall be forever inalienable by the grantees or their heirs, except with the consent and approval of the President of the United States.

APPROVED, June 8, 1858.

CHAP. CXXXIII.—An Act for the Relief of certain Settlers on the Public Lands in the State of Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the even-numbered sections of land selected by the State of Wisconsin in the month of June, in the year eighteen hundred and forty-nine, to satisfy the quantity of land due said State under the act of Congress of August eighth, eighteen hundred and forty-six, granting land in aid of the improvement of the Fox and Wisconsin rivers, as have been sold, or contracted to be sold, by said State or its assigns, under the laws thereof, are hereby confirmed to said State, as parts of said grant, and the title of the purchasers declared to be valid as though the said selections had been made in conformity with law: *Provided*, That nothing contained in this act shall be construed to increase the quantity of land to which the State is entitled under the grant aforesaid: *And provided further*, That a schedule, duly certified [certified] by the Governor, of the lands sold and contracted for to be sold, prior to the passage of this act, shall be filed in the General Land Office within six months from the date of this act.

SEC. 2. *And be it further enacted*, That every person being the head of a family, widow, or single man over the age of twenty-one years, who, on the eleventh day of June, in the year eighteen hundred and forty-nine, was, or since that time has become, an actual settler and house-keeper, and has made other improvements on any tract embraced in said even-numbered section selection, which the State of Wisconsin or its assigns has not sold or contracted to sell, is hereby entitled to the same right of preemption, and upon the same terms and conditions, as is prescribed by an act entitled "An act to appropriate the proceeds of the sales of the public lands and to grant preemption rights," approved September fourth, in the year eighteen hundred and forty-one: *Provided*, That this act shall not be construed to convey to Wisconsin any parts or portions of said even-numbered section selections which said State or its assigns have not actually sold or contracted to sell, and the title to which is not confirmed by the first section of this act.

APPROVED, June 9, 1858.

CHAP. CXLV.—An Act to repeal the fifth section of an act entitled "An act to authorize the Register or Enrollment and License to be issued in the name of the President or Secretary of any incorporated Company owning a Steamboat or Vessel," approved March third, eighteen hundred and twenty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fifth section of "An act to authorize the register or enrollment and license to be issued in the name of the president or sec-

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retary of any incorporated company owning a steamboat or vessel," approved March third, eighteen hundred and twenty-five, be, and the same is hereby repealed.

APPROVED, June 11, 1858.

CHAP. CXLVI.—An Act for the Relief of Settlers on certain Lands in the State of Illinois.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every settler on any of the public lands heretofore selected by [the] State of Illinois, but which have not been confirmed to said State, under the provisions of the act of fourth September, eighteen hundred and forty-one, who settled thereon in good faith prior to the passage of this act, shall be entitled to preempt their respective claims by legal subdivisions, not to exceed one hundred and sixty acres in a compact body, at the ordinary minimum of one dollar and twenty-five cents per acre, unless within the six-mile limits of any railroad grant, and in that case at the usual double minimum of two dollars and fifty cents per acre: *Provided,* Such settlers shall establish their rights according to the rules and regulations prescribed under the provisions of the act of fourth September, eighteen hundred and forty-one, and pay for the same within three months from the date of the publication of this act by the register of the proper district: *Provided,* That no declaratory statement shall be required to be filed by such settlers.

APPROVED, June 11, 1858.

CHAP. CXLVII.—An Act to change the Time of holding the Spring Term of the District Court of the United States for the Western District of the State of Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the term of the district court of the United States for the western district of the State of Texas, held at Tyler, in said district, on the first Monday in March of each year, be, and the same is hereby, changed to the fourth Monday in April of each year.

SEC. 2. *And be it further enacted,* That all writs, recognizances, and process of all kinds already issued, taken, or made, or that may be issued, taken, or made returnable at the time hitherto appointed for the term of the said court, shall be considered, taken, and held as made returnable to the term of said court, as herein provided.

APPROVED, June 11, 1858.

CHAP. CXLVIII.—An Act for the Relief of certain Purchasers of Lands within the limits of the Choctaw Cession of eighteen hundred and thirty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office be authorized, and he is hereby required, to cause patents to be issued on all certificates for entries made within the limits of the Choctaw cession of eighteen hundred and thirty, at less than the true graduation price, which were issued prior to the reception, by the local land officers, of the true graduation lists, where such certificates and entries are regular in all other respects; any law to the contrary notwithstanding.

APPROVED, June 11, 1858.

CHAP. CLIII.—An Act making Appropriations for the Naval Service for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and fifty-nine:

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, three million eight hundred and five thousand four hundred and five dollars.

For provisions for commission, warrant, and petty officers, and seamen, including engineers and marines attached to vessels for sea service, nine hundred and forty-one thousand seven hundred dollars.

For surgeons' necessities and appliances for the sick and hurt of the Navy, including the engineer and marine corps, thirty-two thousand one hundred and fifty dollars.

For increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy, two million eight hundred and fifty thousand dollars: *Provided,* That there shall not be purchased any larger quantity of hemp of foreign growth for the use of the Navy than shall be required to meet the deficiency in the supply of the American article, as reported to the Navy Department, from quarter to quarter, by the agents appointed to procure the article of American growth: *Provided further,* That hemp of American growth of like quality can be purchased at the same price as hemp of foreign growth.

For ordnance and ordnance stores and small arms, including incidental expenses, five hundred and ninety-eight thousand dollars.

For contingent expenses that may accrue for the following purposes, viz: freight and transportation, printing and stationery, advertising in newspapers, books, maps, models, and drawings, purchase and repair of fire-engines and machinery, repairs of, and attending to, steam-engines in navy-yards, purchase and maintenance of horses and oxen, and drawing teams, carts, timber-wheels, and the purchase and repairs of workmen's tools, postage of public letters, fuel, oil, and candles for navy-yards and shore stations, pay of watchmen and incidental labor, not chargeable to any other appropriation, transportation to, and labor attending the delivery of provisions and stores on foreign stations, wharfage, dockage, and rent, traveling expenses of officers and others under orders, funeral expenses, store and office rent, stationery, fuel, commissions and pay of clerks to Navy agents and storekeepers, flags, awnings, and packing boxes, premiums and other expenses of recruiting, apprehending deserters, per diem pay to persons attending courts-martial and courts of inquiry, and other services authorized by law, pay to judges-advocate, pilotage and towage of vessels, and assistance to vessels in distress, bills of health, and quarantine expenses of vessels of the United States Navy in foreign ports, eight hundred and ninety-seven thousand six hundred dollars: *Provided,* That the expenditures under the foregoing appropriations shall be so accounted for as to show the disbursements by each bureau, under each respective appropriation.

Marine Corps.—For pay of the officers, non-commissioned officers, musicians, and privates, clerks, messengers, stewards, and servants, for rations and clothing for servants, subsistence and additional rations for five years' service of officers, for undrawn clothing and rations, bounties for reenlistments, and pay for unexpired terms of previous service, three hundred and ninety-five thousand five hundred and seventy-eight dollars and twenty-six cents.

For provisions for marines serving on shore, sixty-four thousand three hundred and thirteen dollars.

For clothing, sixty-six thousand five hundred and twelve dollars.

For fuel, twenty thousand seven hundred and fifty-six dollars and seventy-five cents.

For military stores, viz: repair of arms, pay of armorers, purchase of accouterments, ordnance stores, flags, drums, fifes, and other instruments, and one thousand rifled muskets, twenty-five thousand dollars.

For transportation of officers and troops, and expenses of recruiting, twelve thousand dollars.

For repairs of barracks and rent of offices where there are no public buildings for that purpose, eight thousand dollars.

To pay the contractors for building cisterns, erecting porticoes to commandant's house and officers' quarters, to complete porticoes on the men's quarters, pavements and curb to commandant's house and officers' quarters of the marine barracks at Pensacola, Florida, (so as fully to

complete said marine garrison,) sixteen thousand eight hundred dollars.

For contingencies, viz: freight, ferriage, toll, cartage, and wharfage, compensation to judges-advocate, per diem for attending courts-martial, courts of inquiry, and for constant labor, house rent in lieu of quarters, burial of deceased marines, printing, stationery, postage and telegraphing, apprehension of deserters, oil, candles, gas, forage, straw, furniture, bed-sacks, spades, shovels, axes, picks, and carpenters' tools, keep of a horse for the messenger, and pay of matron, washerwoman, and porter at hospital headquarters, and for the purchase of a fire-engine for the use of the marine barracks at headquarters, thirty-two thousand five hundred dollars.

NAVY-YARDS.

For the construction and completion of works, and for the current repairs at the several navy-yards, viz:

Portsmouth, New Hampshire.—For mooring piers for dock, extending stables, completion of dock basin, repairs of floating-dock, and repairs of all kinds, fifty-two thousand two hundred and fifteen dollars.

Boston.—For reservoirs, boiler-house, chimney and boilers at rope-walk, altering tar-kettles, machinery and bobbins for rope-walk, to complete machine-shop, and for machinery for machine-shop and foundry, extension of dry-dock, and repairs of all kinds, two hundred and three thousand five hundred dollars.

New York.—For boiler-house and setting boilers, water-pipes, drains, quay walls, sewer extended to quay wall, boiler to dredger, timber basin, repairs of oakum-shop, filling ponds in yard, dredging channel and scows, piling site for marine barracks, machinery for machine-shop, boiler-shop, saw-mill, foundry, smithery, and brass foundry, and repairs of all kinds, two hundred and sixty-nine thousand five hundred and sixteen dollars; and the amount heretofore appropriated for coal-house may be applied to the completion of the store-house.

Philadelphia.—For extending gun-carriage shop, additional story to plumber's shop, dredging channels, and repairs of dredger, repairs of dry-dock, and repairs of all kinds, ninety-seven thousand two hundred and fourteen dollars.

Washington.—For extension of navy store, for anchor-shop and coal-houses, pavements, drains and gutters, machinery and tools, and repairs of all kinds, ninety-nine thousand one hundred dollars.

Norfolk.—For continuation of quay wall, completing virtually establishment, completing grading and drainage, dredging channels, continuing ship-house number forty-eight, to be built of iron or wood as may be deemed expedient, machinery and tools, completing reservoir, completing carpenters' shop and repairs of all kinds, two hundred and eighty-five thousand eight hundred and eight dollars.

To enable the Secretary of the Navy to purchase tools and furnish the machine-shop and foundry at the Norfolk navy-yard, twenty thousand dollars.

Pensacola.—For continuing granite wharf, repairing and operating dock, filling and paving around dock basin, dredging in front of basin, repairs of railways, completing water pipes to permanent wharf, completing foundry, constructors' workshop, cistern at machine-shop, trip-hammer for smithery, blast pipes, and repairs of all kinds, two hundred and forty-seven thousand three hundred and sixty-five dollars.

Mare Island, California.—For guard-house number seventy-three, tar and pitch-house number seventy-four, two cisterns number forty-nine, grading, paving, continuing wharf, foundry, and boiler establishment, gas works, and Bishop's derrick, three hundred and seventeen thousand nine hundred and seventy-one dollars.

HOSPITALS.

For the construction and completion of works, and for the current repairs of the several naval hospitals:

Boston.—For repairs of buildings and grounds, three thousand dollars.

That the Secretaries of the Treasury and Navy be, and they are hereby, authorized and required

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to ascertain in such way as they may deem best, the actual value of the ten acres of land heretofore belonging to the naval hospital estate at Chelsea, Massachusetts, and ceded by the sixth section of "An act making appropriations for the civil and diplomatic service of the Government," approved the third March, eighteen hundred and fifty-five, for the purposes of a marine hospital for the district of Boston and Charlestown. And the Secretary of the Treasury shall pay the so ascertained value of the said ten acres, out of any money in the Treasury not otherwise appropriated, to the credit of the naval hospital fund, out of which the original purchase of the property so ceded was made.

New York.—For completing heating apparatus, and repairs of buildings and fences, thirteen thousand two hundred dollars.

Naval Asylum, Philadelphia.—For gateway and iron gate on Shippen street, and road from same; repairs to furnaces, grates, and ranges; painting main building and lodges; brick floors in governor's and surgeon's houses; cleaning and white-washing; gas tax, water tax, furniture for the asylum and repairs, and for general repairs, eight thousand five hundred dollars.

For support of beneficiaries at the asylum, twenty-six thousand three hundred and ninety-two dollars.

Norfolk.—For repairs of buildings and appurtenances, eleven thousand dollars.

Pensacola.—For draining and filling ponds, and repairs of buildings and grounds, eighteen thousand seven hundred dollars.

Magazines:

For the construction and completion of works, and for the current repairs at the several naval magazines:

Portsmouth, New Hampshire.—For gun-carriage shop and storehouse, boiler-room, engine and machinery, and repairs of all kinds, forty-six thousand six hundred dollars.

Boston.—For repairs of all kinds, one thousand five hundred dollars.

New York.—For dredging channel to Ellis's Island, and repairs of all kinds, six thousand eight hundred dollars.

Philadelphia.—For repairs of all kinds, one thousand dollars.

Norfolk.—To complete ordnance building, continuation of sea-wall at magazine, and for iron crane at Fort Norfolk, sixty-one thousand two hundred and sixty-five dollars.

Pensacola.—For repairs of all kinds, one thousand dollars.

Mare Island, California.—For shell-house, magazine, keeper's house and grounds, tank-house and filling-room, railway and cars to transport powder to and from magazine, shot-beds, cleaning and piling shot and shells, eleven thousand four hundred and fifty dollars.

For pay of superintendents, naval constructors, and all the civil establishments at the several navy-yards and stations, one hundred and thirty-nine thousand two hundred and thirty-two dollars.

For the purchase of nautical instruments required for the use of the Navy; for repairs of the same, and also of astronomical instruments; and for the purchase of nautical books, maps, and charts, and for backing and binding the same, eighteen thousand dollars.

For printing and publishing sailing directions, hydrographical surveys, and astronomical observations, in addition to the balance on hand, five thousand dollars.

For continuing the publication of the series of wind and current charts, and for defraying all the expenses connected therewith, eighteen thousand dollars.

To enable the Secretary of the Navy to pay the salary of Professor James P. Espy, two thousand dollars; the payment to be made in the same manner and under the like control as former appropriations for meteorological observations: *Provided*, That the employment of a meteorologist, under the contract of the Secretary of the Navy, shall cease on and after the thirtieth day of June, eighteen hundred and fifty-nine.

For models, drawings, and copying; for postage, freight, and transportation; for keeping grounds in order; for fuel and lights; and for all

other contingent expenses, and for the wages of persons employed at the United States Naval Observatory and Hydrographical Office, viz: one instrument maker, two watchmen, and one porter, six thousand one hundred and sixty dollars: *Provided*, That the compensation of the watchmen employed at the United States Observatory and Hydrographical Office shall be the same as that paid to the several watchmen employed in the Executive Departments of the Government.

For improvement and repairs of buildings and grounds, and support of the Naval Academy at Annapolis, Maryland, forty-five thousand six hundred and seventy-one dollars and twenty-two cents.

For preparing for publication the American Nautical Almanac, twenty-six thousand eight hundred and eighty dollars.

For five steam sloops, authorized by act third March, eighteen hundred and fifty-seven, one million three hundred and fifty thousand dollars.

To enable the Secretary of the Navy to pay for the preparation of a code of regulations for the government of the Navy, as directed in the seventh section of the act entitled "An act making appropriations for the naval service for the year ending the thirtieth of June, eighteen hundred and fifty-eight," approved third March, eighteen hundred and fifty-seven, three thousand dollars: *Provided*, That the provisions of the seventh section of the naval appropriation bill approved March third, eighteen hundred and fifty-seven, directing the Secretary of the Navy to have prepared, and to report to Congress at this session for its approval, a code of regulations for the government of the Navy, and so forth, be extended to the next session of Congress.

To enable the Secretary of the Navy to pay the expenses of courts of inquiry to investigate the cases of certain officers affected by the act entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" approved sixteenth January, eighteen hundred and fifty-seven, one hundred and ten thousand dollars.

For completing the publication of the charts of the late expedition for the exploration of the river La Plata and its tributaries, five thousand dollars.

That the Superintendent of Public Printing be, and is hereby, directed to transfer to the Bureau of Ordnance and Hydrography the plates from which the illustrations and charts of the late Japan expedition were printed.

Sec. 2. *And be it further enacted*, That from and after the first day of July, eighteen hundred and fifty-six, the clerks and messengers at the navy-yard and marine barracks at Washington, shall be entitled to receive the compensation authorized by the acts of April twenty-second, eighteen hundred and fifty-four, and August fifth, eighteen hundred and fifty-four, for the payment of which such sum as may be necessary be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

Sec. 3. *And be it further enacted*, That it shall be lawful to enlist boys for service in the United States marine corps, with the consent of their parents or guardians, not being under eleven nor over seventeen years of age, to serve until they shall arrive at the age of twenty-one years; the boys so enlisted to receive the same pay, rations, clothing, and so forth, now received by boys enlisted in said corps, under the authority of the Secretary of the Navy.

Sec. 4. *And be it further enacted*, That to defray the expenses and compensation of a commissioner to the Republic of Paraguay, (should it be deemed proper by the President to appoint one,) in execution of the joint resolution of the present session "for the adjustment of difficulties with the Republic of Paraguay," ten thousand dollars, or so much thereof as may be necessary: *Provided*, That the compensation hereby allowed shall not exceed the rate of seven thousand five hundred dollars per annum for the time employed.

Sec. 5. *And be it further enacted*, That all the steamships of the Navy of the United States now building, or hereafter to be built, shall be named by the Secretary of the Navy, under the direction of the President of the United States, according to the following rule, namely: All those of forty guns or more shall be considered of the first

class, and shall be called after the States of the Union; those of twenty guns and under forty shall be considered as of the second class, and be called after the rivers and principal towns or cities; and all those of less than twenty guns shall be the third class, and named by the Secretary of the Navy as the President may direct, care being taken that no two vessels in the Navy shall bear the same name.

Sec. 6. *And be it further enacted*, That the Secretary of the Navy cause to be constructed, as speedily as may be consistent with the public interests, seven steam screw sloops-of-war, with full steam power, whose greatest draught of water shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas; and that there be, and is hereby, appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose above specified, the sum of twelve hundred thousand dollars, out of any money in the Treasury not otherwise appropriated.

APPROVED, June 12, 1858.

CHAP. CLIV.—An Act making Appropriations for sundry Civil Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the objects hereafter expressed, for the fiscal year ending the thirtieth June, eighteen hundred and fifty-nine, viz:

Survey of the Coast.

For continuing the survey of the Atlantic and Gulf coast of the United States, (including compensation to superintendent and assistants, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed on the work,) two hundred and fifty thousand dollars.

For continuing the survey of the western coast of the United States, one hundred and thirty thousand dollars.

For continuing the survey of the Florida reefs and keys, (excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed on the work, forty thousand dollars.

For running a line to connect the triangulation on the Atlantic coast with that on the Gulf of Mexico, across the Florida peninsula, ten thousand dollars.

For repairs of the Crawford, Madison, Mason, and George M. Bache, and other sailing vessels used in the coast survey, ten thousand dollars.

For pay and rations of engineers for seven steamers, used in the hydrography of the coast survey, no longer supplied by the Navy Department, twelve thousand eight hundred dollars: *Provided*, That the Secretary of the Treasury may make such allowances to the officers and men of the Army and Navy, while employed on coast survey service, for subsistence, in addition to their compensation, as he may deem necessary, not exceeding the sum authorized by the Treasury regulation of the eleventh May, eighteen hundred and forty-four.

To supply deficiency in the fund for the relief of sick and disabled seamen, one hundred and fifty thousand dollars.

Light-House Establishment.

For the Atlantic, Gulf, and lake coasts, viz:

For supplying five hundred and fifty-six light-houses and beacon lights with oil, glass chimneys, wicks, chamois skins, polishing powder, whitening, and cleaning materials, transportation and other necessary expenses of the same, repairing and keeping in repair the lighting apparatus, one hundred and thirty-eight thousand seven hundred and twenty-four dollars and forty-five cents.

For repairs and incidental expenses, refitting and improvements of all the light-houses and buildings connected therewith, one hundred and

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seventy-three thousand two hundred and eighty-nine dollars and twenty-one cents.

For salaries of six hundred and eleven keepers of light-houses and light-beacons, and their assistants, sixty thousand dollars.

For salaries of fifty-two keepers of light-vessels, twenty thousand two hundred and six dollars and fifty-seven cents.

For seamen's wages, repairs, supplies, and incidental expenses of fifty-two light-vessels, one hundred and eighty-five thousand one hundred and ninety-nine dollars and fifty cents.

For expenses of raising, cleaning, painting, repairing, remooing, and supplying losses of buoys and day beacons, and for chains and sinkers for the same, and for coloring and numbering all the buoys, eighty-two thousand two hundred and twenty-eight dollars and seventy-eight cents.

For the Coasts of California, Oregon, and Washington:

For oil and other supplies for twenty-four lights, cleaning materials of all kinds, and transportation of the same, expenses of keeping lamps and machinery in repair, publishing notices to mariners of changes of aids to navigation, one thousand four hundred and seventy-two dollars and ninety-one cents.

For repairs and incidental expenses of twenty-four lights, and buildings connected therewith, twenty-four thousand five hundred and sixty-three dollars.

For maintenance of the vessel provided for by the act of eighteenth August, eighteen hundred and fifty-six, for inspection and transportation purposes, thirty thousand dollars.

For fuel and quarters for officers of the Army serving on light-house duty, the payment of which is no longer provided for by the quartermaster's department, seven thousand and thirty-four dollars and five cents.

For compensation of two superintendents for the life-saving stations on the coasts of Long Island and New Jersey, three thousand dollars.

For compensation of fifty-four keepers of stations, at two hundred dollars each, ten thousand eight hundred dollars.

For contingencies for life-saving apparatus on the coast of the United States, twelve thousand dollars.

For the purchase of the best self-righting life-boat, to be placed at each of the twenty-eight life-saving stations on the coast of New Jersey, six thousand four hundred and forty dollars.

For the purchase of the best life-boats, to be approved by the Treasury Department, for use on the coast of Long Island, ten thousand dollars.

For procuring two additional improved metallic life-boats, a metallic life-car, and necessary harness, lines, and other suitable articles, to be used under the direction of the Secretary of the Treasury in saving life, in case of marine disasters off Galveston station, Texas, ten thousand dollars.

Survey of the Public Lands.

For surveying the public lands, (exclusive of California, Oregon, Washington, New Mexico, Kansas, Nebraska, and Utah,) including incidental expenses and island surveys in the interior, and all other special and difficult surveys demanding augmented rates, to be apportioned and applied to the several surveying districts, according to the exigencies of the public service, including expenses of selecting swamp lands, and the compensation and expenses to survey or to locate private land claims in Louisiana, in addition to the unexpended balances of all former appropriations, forty thousand dollars.

For correcting erroneous and defective lines of public and private surveys in Illinois and Missouri, at a rate not exceeding six dollars per mile, one thousand dollars.

For surveying in Louisiana, at augmented rates now authorized by law, three thousand dollars.

For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, one hundred thousand dollars.

For continuing the survey of base, meridian, standard, parallels, township and section lines in New Mexico, twenty-five thousand dollars.

For surveying such of the private claims in

New Mexico as shall have been confirmed by Congress, including expenses incurred by the surveyor general in adjudicating the same, fifteen thousand dollars.

For surveying the necessary base, meridian, standard, parallels, township and section lines in Kansas and Nebraska, also outlines of Indian reservations, one hundred thousand dollars.

For preparing the unfinished records of public and private surveys to be transferred to the State authorities, under the provisions of the act of twelfth June, eighteen hundred and forty, in those districts where the surveys are about being completed, ten thousand dollars.

For resurveys and examinations of the surveys of the public lands in those States where the offices of the surveyors general have been, or shall be, closed, under the acts of the twelfth June, eighteen hundred and forty, and twenty-second January, eighteen hundred and fifty-three, including two thousand dollars for the salary of the clerk detailed to this special service in the General Land Office, two thousand dollars.

For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement of cuttings and seeds, sixty thousand dollars: *Provided*, That it shall be the duty of the Commissioner of Patents to submit to the Secretary of the Interior, at the commencement of each session of Congress, the invoices of seeds and cuttings purchased with the money hereby appropriated; and also a statement of expenses in procuring agricultural statistics, and incidental expenses in procuring seeds, cuttings, and information.

For drawings to illustrate the mechanical report of the Commissioner of Patents for the year eighteen hundred and fifty-eight, six thousand dollars.

Hospital for the Insane.

For the support, clothing, and medical treatment of the insane of the District of Columbia, and of the Army and Navy at the asylum in said District, twenty-four thousand five hundred dollars.

For salaries and incidental expenses of the institution for the instruction of the deaf, dumb, and blind in the District of Columbia, authorized by the act approved May twenty-nine, eighteen hundred and fifty-eight, three thousand dollars.

For extension of stables and erection of sheds in connexion with the stock yard, four thousand dollars.

For heating and ventilating the entire unfinished remainder of the hospital edifice, and for slightly remodelling the heating apparatus of the present finished portions of the building, so that the heating and ventilation of the whole establishment shall be one connected and efficient system, fifteen thousand dollars.

For support, care, and medical treatment of forty transient paupers; medical and surgical patients in Washington Infirmary, six thousand dollars.

For purchase of manure for the public grounds, one thousand dollars.

For hire of carts on the public grounds, one thousand and ninety-five dollars and fifty cents.

For purchase and repair of tools used in the public grounds, five hundred dollars.

For purchase of trees and tree-boxes, to replace where necessary such as have been planted by the United States, and the repair of pavements in front of the public grounds, five thousand dollars.

For annual repairs of the Capitol, water-closets, public stables, water pipes, pavements, and other walks within the Capitol square, broken glass and locks, six thousand dollars.

To enable the Commissioner of Public Buildings to fit up with shelves the two rooms at the south end of the library of Congress, for the use of the library, and for putting up a partition in the passage to them, two hundred and seventy dollars.

For annual repairs of the President's house and furniture, improvement of grounds, purchasing trees and plants for garden and making hot-beds therein, and contingent expenses incident thereto, twelve thousand dollars.

For fuel, in part, of the President's house, one thousand eight hundred dollars.

For lighting the President's house and Capitol,

the public grounds around them and around the executive offices, and Pennsylvania avenue, and Bridge and High streets in Georgetown, forty-three thousand dollars.

For erecting thirty additional lamp posts in Bridge and High streets, in Georgetown, eight hundred and ten dollars.

For purchase of books for [the] library at the executive mansion, to be expended under the direction of the President of the United States, two hundred and fifty dollars.

For repairs of the Potomac, Navy-Yard, and upper bridges, six thousand dollars.

For repairs of Pennsylvania avenue, three thousand dollars.

To pay the residue of the salary due the engineer for constructing the bridge across the Potomac at Little Falls, two thousand five hundred and eighty-nine dollars and sixty-seven cents; and for painting the hand-rails, and iron work of said bridge, four hundred dollars, and the bridge is hereby placed under protection of Georgetown, with power to regulate the speed of travel and the passage of droves of cattle over the same, but no tolls shall be charged.

For public reservation number two, Lafayette square, three thousand dollars.

For taking care of the grounds south of the President's house and keeping them in order, one thousand dollars.

For the payment of laborers employed in shoveling snow from the walks to and around the Capitol, the President's house, and the pavements along the Government reservations on Pennsylvania avenue, eight hundred dollars.

For repairs of water pipes, five hundred dollars.

For repairs of the furnaces under the Senate Chamber and Supreme Court room, one thousand dollars.

For casual repairs of the Patent Office building, three thousand dollars.

For completing the west wing of the Patent Office building, filling up the southwest corner of the square, setting the curb, and raising Ninth street in front of the building to its proper grade, fifty thousand dollars.

For repairing the fence around that portion of the mall upon which the Smithsonian Institution is situated, one thousand dollars.

For cleaning out the sewer traps on Pennsylvania avenue, three hundred dollars.

For purchasing plants for the conservatory at the President's house, one thousand dollars.

For the completion of the Washington aqueduct, eight hundred thousand dollars, and, in addition thereto, so much of the appropriation of two hundred and fifty thousand dollars "for paying existing liabilities for the Washington aqueduct, and preserving the work already done from injury," contained in the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending the thirtieth June, eighteen hundred and fifty-seven," approved eighteenth August, eighteen hundred and fifty-six, as may not be required for said purposes.

For United States Capitol extension, seven hundred and fifty thousand dollars: *Provided*, That none of this appropriation shall be expended in embellishing any part of the Capitol extension with sculpture or paintings unless the designs for the same shall have undergone the examination of a committee of distinguished artists, not to exceed three in number, to be selected by the President, and that the designs which said committee shall accept shall also receive the subsequent approbation of the Joint Committee on the Library of Congress; but this provision shall not be so construed as to apply to the execution of designs heretofore made and accepted from Crawford and Rogers.

For extension of the General Post Office, one hundred thousand dollars.

For binding two thousand four hundred copies of Code of the District of Columbia, at seventy-five cents per copy, authorized by act approved third March, eighteen hundred and fifty five, one thousand eight hundred and seventy-five dollars.

For defraying the expenses of a certain party of Omaha Indians who visited the city of Washington during the months of February and March,

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eighteen hundred and fifty-two, to be expended under the direction of the Secretary of the Interior—being the balance of a former appropriation, which was carried to the surplus fund on the thirtieth June, eighteen hundred and fifty-seven—three hundred and thirty-five dollars.

For continuing the extension of the Treasury building, five hundred thousand dollars.

For continuing the work on the custom-house at New Orleans, Louisiana, two hundred and fifty thousand dollars.

For continuing the work on the custom-house at Charleston, South Carolina, two hundred thousand dollars.

For the completion of custom-houses at the following places, viz: at Ellsworth, Maine, two thousand dollars; at Portsmouth, New Hampshire, fifty thousand dollars; at Bristol, Rhode Island, including fencing and grading, five thousand dollars; at New Haven, Connecticut, sixty thousand dollars; at Oswego, New York, ten thousand dollars; at Plattsburg, New York, ten thousand dollars; at Newark, New Jersey, ten thousand dollars; at Norfolk, Virginia, twenty thousand dollars; at Pensacola, Florida, five thousand dollars; at St. Louis, Missouri, twenty thousand dollars; at Mobile, Alabama, including fencing and paving, thirty thousand dollars; at Galena, Illinois, ten thousand dollars; at Milwaukee, Wisconsin, ten thousand dollars; and for annual repairs at custom-houses, fifteen thousand dollars.

For the completion of marine hospitals at the following places, viz: at Portland, Maine, three thousand dollars; at St. Mark's Florida, two thousand five hundred dollars; at New Orleans, Louisiana, including filling up site, grading, introducing gas and water pipes and fixtures, and fencing, eighty-five thousand dollars; at Cincinnati, Ohio, fifty thousand dollars; at Galena, Illinois, five thousand dollars, and for annual repairs at marine hospitals, fifteen thousand dollars: *Provided*, That no portion of the sums herein appropriated for the completion of custom-houses and marine hospitals, excepting those for Charleston and New Orleans, shall be expended until the Secretary of the Treasury shall be satisfied that the sums respectively appropriated will complete the buildings for which they are intended, and until arrangements shall be made to carry this into effect.

For fencing, grading, paving, and furnishing the custom-houses at the following places, viz: at Ellsworth, Maine, three thousand dollars; at Bath, Maine, (for furniture alone,) eleven hundred dollars; at Burlington, Vermont, four thousand six hundred dollars; at New Haven, Connecticut, eight thousand five hundred dollars; at Oswego, New York, seven thousand three hundred dollars; at Plattsburg, New York, nine thousand nine hundred dollars; at Newark, New Jersey, five thousand two hundred dollars; at Alexandria, Virginia, three thousand seven hundred dollars; at Norfolk, Virginia, twelve thousand dollars; at Mobile, Alabama, (for furniture alone,) two thousand six hundred dollars; at Pensacola, Florida, two thousand five hundred dollars; at St. Louis, Missouri, fourteen thousand six hundred dollars; at Louisville, Kentucky, three thousand nine hundred dollars; at Cleveland, Ohio, seven thousand one hundred dollars; at Galena, Illinois, three thousand seven hundred dollars; at Milwaukee, Wisconsin, seven thousand seven hundred dollars.

For fencing, grading, paving, and furnishing the marine hospitals at the following places, viz: at Burlington, Vermont, three thousand four hundred dollars; at Chelsea, Massachusetts, (out-buildings, grading and fencing,) nineteen thousand seven hundred dollars; at St. Mark's, Florida, twelve hundred dollars; at Detroit, Michigan, seven thousand five hundred dollars; at Galena, Illinois, three thousand eight hundred dollars; at Burlington, Iowa, four thousand one hundred dollars.

To enable the Library Committee to complete the payments for a series of portraits of the Presidents of the United States, contracted for under authority of Congress, and for framing the same, five thousand dollars.

For paying the expenses of the commissioners appointed in pursuance of the joint resolution of

the twenty-sixth of February, eighteen hundred and fifty-seven, to inquire into and test the process of J. T. Barclay for preventing the counterfeiting the coins of the United States, in addition to the sum appropriated by said resolution, eight hundred dollars.

For printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and paper for the same, eighty thousand dollars.

For binding documents ordered to be printed by the House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same, one hundred and twenty-three thousand dollars.

For binding documents ordered to be printed by the Senate during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same, one hundred and thirteen thousand dollars.

To enable the Secretary of the Interior to complete the digest of the statistics of manufactures according to the returns of the seventh census, three thousand five hundred dollars; but the work is not to be undertaken unless the Secretary of the Interior shall be satisfied that the sum hereinbefore mentioned will complete the work.

For making the necessary repairs to the jail in Washington city, and putting venetian blinds to the windows, the sum of eight hundred and forty dollars.

To pay the draughtsman employed by the Committees on Public Buildings and Grounds of the two Houses of Congress, for drawing and calculations furnished, and incidental expenses defrayed by him during the last and present session of Congress, five hundred and twenty-eight dollars.

For satisfying the claims of the States of Maine and Massachusetts, under the stipulation of the treaty between the United States and Great Britain, concluded on the ninth day of August, in the year eighteen hundred and forty-two, a sum not exceeding eleven thousand four hundred and ninety-six dollars and eighty-one cents in satisfaction of such claims of the State of Maine; and nine thousand two hundred and fifteen dollars and thirteen cents in satisfaction of like claims of the State of Massachusetts; to be audited by the proper accounting officers of the Treasury.

For defraying the expense of carrying into execution the joint resolution, approved May eleven, eighteen hundred and fifty-eight, "authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever," three thousand dollars, or so much thereof as may be necessary.

For the payment of three companies of volunteers called into the service of the United States in the Territory of Kansas in eighteen hundred and fifty-six by the order of the Governor of that Territory, eight thousand six hundred and sixty-eight dollars and fourteen cents.

For the contingent expenses of the Senate, viz: For miscellaneous items, and paying fees of witnesses before committees of the Senate, seven thousand seven hundred dollars.

To John B. Mutt, for compensation as acting secretary of the Territory of Nebraska during the vacancy created by the death of T. B. Cummings, three hundred and sixteen dollars and thirty-five cents.

For lithographing and engraving ordered by the Senate during the present session, the sum of forty-five thousand dollars.

For binding documents ordered to be printed by the Senate during the present session, the sum of forty thousand dollars.

To supply a deficiency in the appropriation for legislative and contingent expenses of Washington Territory for the fiscal year ending June thirtieth, eighteen hundred and fifty-seven, the sum of seven thousand five hundred dollars, or so much thereof as may be necessary; and the register of the land office and receiver of public moneys in the Territory of New Mexico shall receive the same compensation now allowed by law to the same class of officers in Washington Territory: *Provided*, Their compensation, in-

cluding fees, shall not exceed three thousand dollars each per annum.

Sec. 2. *And be it further enacted*, That the balance of the appropriation of two thousand two hundred dollars, "for flagging footway in the Congressional Burying-Ground, from the entrance of the same to the Government vault," per act approved third March, eighteen hundred and fifty-seven, be applied in extending the flagging the whole length of the avenue, as was originally intended; and that the appropriation of one thousand five hundred dollars "for the construction of a wooden bridge, with a double track, across the canal, in the line of Maine avenue," per same act, may be applied to the erection of a foot-bridge in lieu thereof, as recommended by the Commissioner of Public Buildings.

Sec. 3. *And be it further enacted*, That section six of an act passed August eighteenth, eighteen hundred and fifty-six, entitled "An act making appropriations for certain civil expenses of the Government for the year ending thirtieth of June, eighteen hundred and fifty-seven," shall apply to the subsistence of the commissioner therein named from the time he entered upon the discharge of his duties, and the same shall be paid out of appropriations already made.

Sec. 4. *And be it further enacted*, That, in addition to those now authorized by law, there may be employed by the Secretary of the Treasury, in the office of the Register of the Treasury, an additional clerk of the third class, and in the office of the Treasurer of the United States an additional clerk of the third class; and three thousand two hundred dollars to carry into effect the provisions of this section to the thirtieth of June, eighteen hundred and fifty-nine, is [are] hereby appropriated.

Sec. 5. *And be it further enacted*, That no part of the appropriations which may be at any time made for the contingent expenses of either House of Congress, shall be applied to any other than the ordinary expenditures of the Senate and House of Representatives, nor as extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them, nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses, or either of them, unless such clerk, messenger, or other attendant, be so employed by a resolution of one of said Houses.

Sec. 6. *And be it further enacted*, That the extra compensation paid out of the contingent fund of the Senate, to clerks of committees, under the resolution of the fourteenth March, eighteen hundred and fifty-seven, be allowed at the Treasury.

Sec. 7. *And be it further enacted*, That it shall be the duty of the Commissioner of the Public Buildings to cause obstructions of every kind to be removed from such streets, avenues, and sidewalks in the city of Washington as have been, or may be hereafter, improved in whole or in part by the United States, and to keep the same, at all times, free from obstructions; and, for this purpose, he shall have power to institute suits in any court having competent jurisdiction in the District of Columbia; and it shall be the duty of the district attorney for said district to prosecute the same; and whenever any person shall desire to remove the paving stones, or to displace any other work done by the authority of the United States, for the purpose of laying gas pipes, or for any other purpose, it shall be the duty of such person to obtain a written permit from the said Commissioner; and such persons shall oblige themselves to replace the said work to the satisfaction of the said Commissioner, and within such time as he may prescribe.

Sec. 8. *And be it further enacted*, That if any person shall place [any] obstruction on the streets, avenues, or side-walks aforesaid, such person shall pay the costs of removing the same, and shall, moreover, be subject to a penalty of ten dollars, to be recovered as other debts are recovered in the District of Columbia, for each and every day the said obstruction may remain after the Commissioner shall have given notice for its removal. And if any person or persons removing the paving stones or other work done by the authority of the United States, shall fail to replace the same to the satisfaction of the Commissioner, within the time prescribed by him, he or they

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shall be subject to a penalty of twenty-five dollars for each and every failure, and shall moreover, pay the costs of replacing the same, the whole to be recovered before any court in the District of Columbia, having competent jurisdiction; and that this and the preceding section shall continue in force until repealed by Congress.

SEC. 9. *And be it further enacted*, That the Secretary of the Treasury be instructed to report to Congress, at its next regular session, all applications made by the constituted authorities of the State[s] and cities, for the reopening and re[ex]amination of the settlements heretofore made with such State[s] and cities, and report the principle of readjustments upon which such claim is based, and the amount thereof. And the Secretary of the Treasury is further instructed to report to Congress at its next regular session, the gross amount that will be required to pay such claim to the States and cities of the United States.

SEC. 10. *And be it further enacted*, That the eleventh section of the act of Congress, approved September fourth, eighteen hundred and forty-one, entitled "An act to appropriate the proceeds of the public lands, and to grant preemption rights," be so amended that appeals from the decisions of the district officers, in cases of contest between different settlers for the right of preemption, shall hereafter be decided by the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior.

SEC. 11. *And be it further enacted*, That the proper accounting officers of the Treasury be directed to ascertain as among the expenditures of the State of Maine, in defending the territory heretofore in dispute with Great Britain, the amounts paid in borrowing money for those expenditures beyond the rate of six per centum per annum, whether in the form of discounts or otherwise, in all cases in which the principal of such expenditures, and interest upon them, at the rate of six per centum, have heretofore been refunded to said State by the United States, and that the Secretary of the Treasury be directed to pay the amount so ascertained out of any moneys in the Treasury not otherwise appropriated, to any properly authorized officer of said State. In making the ascertainment herein directed, the accounting officers shall compute the principal and interest of the difference between the cash received by Maine, in negotiating stocks and notes; and the nominal amount of such stocks and notes, and the interest accrued thereon; and in cases where Maine was obliged, in negotiating for moneys, to increase the rate of interest on previous loans, the amount of such increase shall be computed and allowed; but not so as to reckon interest upon interest.

SEC. 12. *And be it further enacted*, That so much of all acts and parts of acts as require or authorize the Postmaster General to publish notice of letting contracts to carry the mails in the respective States, in newspapers published in the city of Washington, in the District of Columbia, be, and the same is hereby, repealed.

SEC. 13. *And be it further enacted*, That the line surveyed by John C. McCoy, in eighteen hundred and thirty-eight, as the western boundary of the half-breed tract, specified in the tenth article of the treaty made between commissioners on the part of the United States and certain Indian tribes, at Prairie du Chien, on the fifteenth of July, eighteen hundred and thirty, be, and the same is hereby, established as the true western boundary of said tract.

SEC. 14. *And be it further enacted*, That all the ruling and binding for the several Executive Departments shall be executed by practical and competent bookbinders, to be appointed by the head of the Department.

SEC. 15. *And be it further enacted*, That the President of the United States cause the sum of six thousand dollars to be advanced to Clark Mills, in addition to the sum already advanced, out of the fifty thousand dollars appropriated by the act of January twenty-five, eighteen hundred and fifty-three, to erect at the capital of the nation an equestrian statue of Washington, on the personal application and receipt of the said Mills: *Provided*, That the said Mills furnish the Secre-

tary of the Interior such security for the completion of the statue as the Secretary may require.

SEC. 16. *And be it further enacted*, That the Secretary of State be, and he is hereby, authorized to adjust, upon principles of equity and justice, the accounts of I. D. Andrews, late agent of the United States, for expenses and disbursements in connection with the reciprocity treaty, and that the same be paid according to said adjustment.

SEC. 17. *And be it further enacted*, That the collectors of the customs in the several collection districts be, and they are hereby and hereafter, required to act as disbursing agents for the payment of all moneys that are, or may hereafter be, appropriated for the construction of custom-houses, court-houses, post offices, and marine hospitals, with such compensation, not exceeding one quarter of one per cent., as the Secretary of the Treasury may deem equitable and just: *And provided further*, That where there is no collector at the place of location of any public work herein specified, the superintendent of such public work shall act as disbursing agent, without any additional compensation therefor; and all laws and parts of laws in conflict with the provisions of this section be, and the same are hereby, repealed.

SEC. 18. *And be it further enacted*, That in all cases of judgments and decrees, in any territorial court of the United States, now rendered, or hereafter to be rendered, and from which there might be a writ of error, or appeal to the Supreme Court of the United States, there may be presented such writ of error or appeal within the time, and under the other restrictions limited by law to said Supreme Court, notwithstanding such Territory may, after such judgments and decrees, have been admitted into the Union as a State; and said Supreme Court shall, when the same is decided, direct the mandate to such court as the nature of the writ of error or appeal, in their judgment, may require.

SEC. 19. *And be it further enacted*, That the Secretary of the Senate and Clerk of the House of Representatives be, and they are hereby, directed to continue down to the fourth of March, eighteen hundred and fifty-nine, the compilation of the congressional documents published by Congress under the name of the "American State Papers," in the same manner as the first series thereof, under the authority of the act of Congress of March two, eighteen hundred and thirty-one, and the joint resolution of Congress of March two, eighteen hundred and thirty-three; and with the same particular index to each class, and a general index to the work. And the said Secretary and Clerk are hereby directed to contract with Gales & Seaton, the publishers of the first series thereof, for publishing the same, not to exceed two thousand copies in number, at a price per volume not exceeding that paid for the first series, to be delivered to the Secretary of the Interior as the same may be published; and the said Secretary of the Interior shall place three hundred copies in the Department of State for its use, and for exchange with foreign Governments, and seven hundred copies in his own Department, for distribution to public libraries in the several States and Territories, and hold the residue of the copies in his custody, subject to the future direction of Congress: *Provided*, That the prices or rates to be paid for the printing of this work shall not exceed those paid at present for the printing of the documents of Congress, including paper and binding, having regard to the quality and value of the material used and work done: *Provided*, That the cost of the publication shall not exceed three hundred and forty thousand dollars, and that not more than twenty-five thousand dollars shall be required for the purpose during the next fiscal year.

SEC. 20. *And be it further enacted*, That all diplomatic and salaried consular officers who were appointed under the act entitled "An act to remodel the diplomatic and consular systems of the United States," approved March the first, eighteen hundred and fifty-five, shall have the same compensation during the time necessarily occupied in making the transit to, and returning from their respective posts, and while they were receiving their instructions, as is provided for diplomatic and salaried consular officers in the eighth section of the act entitled "An act to regulate the

diplomatic and consular systems of the United States," approved August eighteenth, eighteen hundred and fifty-six: *Provided*, That the foregoing shall not be construed to apply to any diplomatic or consular officer who was in office, and at his post of duty, when said act, approved March first, eighteen hundred and fifty-five, took effect, except to allow compensation to such officers during the time necessarily occupied in returning from their respective posts.

APPROVED, June 12, 1858.

CHAP. CLV.—An Act making supplemental Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the year ending June thirtieth, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department, and fulfilling treaty stipulations with various Indian tribes:

Calapooias, Molalla, and Clackamas Indians, of Willanette Valley.—For fourth of five installments for pay of physician, teacher, blacksmith, and farmer, per third article treaty twenty-second January, eighteen hundred and fifty-five, three thousand four hundred and forty dollars.

Nisqually, Puyallup, and other tribes and bands of Indians.—For fulfilling the articles negotiated twenty-sixth December, eighteen hundred and fifty-four, with certain bands of Indians of Puget sound, Washington Territory:

For fourth of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistants, if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four, two thousand two hundred dollars.

Chasta, Scoton, and Umpqua Indians.—For fourth of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, four hundred dollars.

For fourth of ten installments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, four hundred and forty dollars.

Umpquas and Calapooias, of Umpqua Valley, Oregon.—For fourth of ten installments for the pay of a blacksmith, and furnishing shop, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, four hundred and forty dollars.

For fourth of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand dollars.

For fourth of ten installments for the pay of a farmer, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, four hundred dollars.

For fourth of twenty installments for the pay of a teacher, and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, seven hundred and fifty dollars.

For the general incidental expenses of the Indian service in the Territory of Oregon, including insurance and transportation of annuities, goods, and presents, and office and traveling expenses of the superintendent, agents, and sub-agents, thirty-nine thousand five hundred dollars.

For adjusting difficulties and preventing outbreaks among the Indians in the Territory of Oregon, ten thousand dollars.

For defraying the expenses of the removal and subsistence of Indians in Oregon Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, compensation of laborers and other employes, one hundred and eleven thousand dollars.

For the general incidental expenses of the Indian service in the Territory of Washington, including insurance and transportation of annuities, goods, and presents, and office and traveling ex-

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penses of the superintendent, agents, and sub-agents, thirty-six thousand dollars.

For adjusting difficulties and preventing outbreaks among the Indians in Washington Territory, twelve thousand five hundred dollars.

For defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, and compensation of laborers and other employes, sixty-one thousand five hundred dollars.

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintendent, agent, and sub-agent, fifteen thousand dollars.

For defraying the expenses of the removal and subsistence of Indians of California to the reservations in that State, and for pay of physicians, smiths, mechanics, and laborers at the reservations, one hundred and sixty-two thousand dollars.

For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuit[s] of civilized life, to be expended under the direction of the Secretary of the Interior, seventy-five thousand dollars.

For the compensation of three special agents and three interpreters for the Indian tribes of Texas, and for purchase of presents, fifteen thousand dollars.

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock for the Indians in Texas, fifty thousand dollars; and the Secretary of the Interior is hereby authorized to accept and survey the Indian reservation designated by an act of the Legislature of the State of Texas, approved February fourth, eighteen hundred and fifty-six, and to appoint an Indian agent for said reservation.

For the maintenance of a school at Brazos agency, pay of a teacher, and purchase of books, one thousand five hundred dollars.

For the general incidental expenses of the Indian service in the Territory of Utah, presents of goods, agricultural implements, and other useful articles, including traveling expenses of the superintendent, agents, and clerk hire, fifty-five thousand dollars.

Creeks.—For payment in goods to the Creek Indians for damages on their annuity goods, wrecked in the steamer Governor Meigs, in December, eighteen hundred and fifty-four, one thousand nine hundred and ninety-five dollars and twenty-five cents.

Seminoles.—For payment to the Seminoles for damages on their annuity goods, wrecked in the steamer Governor Meigs, in December, eighteen hundred and fifty-four, three hundred and thirty-two dollars and eleven cents.

For reimbursement to W. J. Cullen, superintendent of Indian affairs for the northern superintendency, for expenditures made by him in the recovery of five thousand dollars of the public funds stolen from Fort Ridgely, six hundred and fifty dollars.

Ottos and Missourias.—For keeping in repair the grist and saw mill provided for by the seventh article of the treaty of fifteenth March, eighteen hundred and fifty-four, three hundred dollars.

For the erection of a blacksmith's shop, for supplying the same with tools and keeping it in repair, per seventh article of the treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For erection of houses for the miller, farmer, blacksmith, and engineer, one thousand eight hundred and fifty dollars.

For assistant miller, three hundred dollars.

For an engineer and assistant, one thousand eight hundred dollars.

Omahas.—For keeping in repair the grist and saw-mill provided for by the eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, five hundred dollars.

For the erection of a blacksmith's shop, for supplying the same with tools, and keeping it in

repair, per eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For erection of houses for miller, farmer, blacksmith, and engineer, two thousand two hundred and fifty dollars.

For an assistant miller, three hundred dollars.

For an engineer and assistant, one thousand eight hundred dollars.

For this amount to erect suitable buildings at the Omaha agency, to replace those recently destroyed by fire, two thousand five hundred dollars.

Shawnees.—For fifth of seven annual installments of money, in payment for lands, per third article treaty, tenth May, eighteen hundred and fifty-four, ninety-nine thousand dollars, the same having been omitted in the enrolling of the "Act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and fifty-nine," approved May fifth, eighteen hundred and fifty-eight.

Winnebagoes.—For payment of Baptiste Lussier, a Winnebago half-breed, for this amount, to which he is entitled under the fourth article of the treaty with the Winnebagoes, of the first November, eighteen hundred and thirty-seven, four hundred dollars, with interest thereon from the date of unauthorized payment to John H. Kinzie, in eighteen hundred and thirty-eight, at six per centum, four hundred and eighty dollars, together making eight hundred and eighty dollars.

To enable the Secretary of the Interior to perform the engagements and stipulations of General Harney made with the Sioux Indians at Fort Pierre in eighteen hundred and fifty-six, seventy-two thousand dollars.

To enable the Secretary of the Interior to adjust differences and preserve peace with the Cutt-Head and Yantonaie bands of Sioux Indians, twenty-five thousand dollars.

For compensation of five extra clerks employed in the Indian office under the act of fifth August, eighteen hundred and fifty-four, and third of March, eighteen hundred and fifty-five, and under appropriations made from year to year, seven thousand dollars.

Pawnees.—For fulfilling the stipulations in the treaty with the Pawnees of the twenty-fourth of September, eighteen hundred and fifty-seven:

For first of five installments in goods and such articles as may be necessary for them, per second article of said treaty, forty thousand dollars.

For support of two manual-labor schools, during the pleasure of the President, per third article of said treaty, ten thousand dollars.

For pay of two teachers, per third article, twelve hundred dollars.

For erection of houses for teachers, per third article, one thousand dollars.

For two complete sets of blacksmith, gunsmith, and tinsmith's tools, per fourth article, seven hundred and fifty dollars.

For erection of shops for smith, per fourth article, five hundred dollars.

For purchase of iron, steel, and other necessities for same, during the pleasure of the President, per fourth article, five hundred dollars.

For pay of two blacksmiths, one of whom to be a gunsmith and tinsmith, per fourth article, twelve hundred dollars.

For compensation of two strikers or apprentices in shops, per fourth article, four hundred and eighty dollars.

For first of ten installments for farming utensils and stock, during the pleasure of the President, per fourth article, twelve hundred dollars.

For the first year's purchase of stock, and for erecting shelters for the same, per fourth article, three thousand dollars.

For pay of a farmer, per fourth article, six hundred dollars.

For the erection of a steam grist and saw mill, per fourth article, six thousand dollars.

For first of ten installments for pay of miller, at the discretion of the President, per fourth article, six hundred dollars.

For first of ten installments for pay of an engineer, at the discretion of the President, per fourth article, twelve hundred dollars.

For compensation to apprentices to assist in working the mill, per fourth article, five hundred dollars.

For the erection of dwelling-houses for the interpreter, blacksmiths, farmer, miller, and engineer, (five hundred dollars each,) per fourth article, three thousand dollars.

For the first of three installments for the pay of six laborers, per seventh article, three thousand dollars.

For payment to Samuel Allis, in remuneration for his services, and for losses sustained by him, per tenth article, one thousand dollars.

For payment to Ta-ra-da-ka-wa, head chief of the Tappahs band, and four other Pawnees, for their services as guides, and for losses sustained by them, (one hundred dollars each,) per eleventh article, five hundred dollars.

To enable the Pawnees to settle any just claims existing against them, per twelfth article, ten thousand dollars.

For surveying the exterior lines of the reservation provided for in the first article, one thousand dollars.

SEC. 2. *And be it further enacted*, That the Commissioner of Indian Affairs be, and he hereby is, authorized and required, with the approval of the Secretary of the Interior, to remove from any tribal reservation any person found therein without authority of law, or whose presence within the limits of the reservation may, in his judgment be detrimental to the peace and welfare of the Indians, and to employ for the purpose such force as may be necessary to enable the agent to effect the removal of such person or persons.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe since the removal of the Miamies in eighteen hundred and forty-six, and since the treaty of eighteen hundred and fifty-four, and whose names are not included in the supplement to said treaty, their proportion of the tribal annuities from which they have been excluded; and he is also authorized and directed to enroll such persons upon the pay list of said tribe, and cause their annuities to be paid to them in future: *Provided*, That the foregoing payments shall be in full of all claims for annuities arising out of previous treaties. And said Secretary is also authorized and directed to cause to be located for such persons each two hundred acres of land out of the tract of seventy thousand acres reserved by the second article of the treaty of June fifth, eighteen hundred and fifty-four, with the Miamies, to be held by such persons by the same tenure as the locations of individuals are held which have been made under the third article of said treaty.

APPROVED, June 12, 1858.

CHAP. CLVI.—An Act making Appropriations for the support of the Army for the year ending the thirtieth June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending the thirtieth of June, eighteen hundred and fifty-nine:

For expenses of recruiting, transportation of recruits, three months' extra pay to non-commissioned officers, musicians, and privates on enlistment, one hundred and ten thousand dollars.

For pay of the Army, three million five hundred and ninety-one thousand seven hundred and eighty-four dollars.

For commutation of officers' subsistence, nine hundred and ninety-eight thousand four hundred and thirty-four dollars and fifty cents: *Provided*, That the Superintendent of the Military Academy, while serving as such by appointment of the President, shall have the local rank, the pay and allowances of a colonel of engineers; that the commandant of the corps of cadets at the Military

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Academy, while serving as such as by appointment of the President, shall have the local rank, the pay and allowances of a lieutenant colonel of engineers, and besides his other duties, shall be charged with the duty of instructor in the tactics of the three arms at said academy; and that the senior assistant instructor in each of the arms of service, viz: of artillery, cavalry, and infantry, shall severally receive the pay and allowances of the assistant professor of mathematics.

For commutation of forage for officers' horses, one hundred and twenty-four thousand one hundred and twenty-eight dollars.

For payments to discharged soldiers for clothing not drawn, fifty thousand dollars.

For payments in lieu of clothing for officers' servants, thirty-nine thousand eight hundred and ninety dollars.

For subsistence in kind, one million three hundred and eighty thousand six hundred and fifty-two dollars and sixty-five cents.

For clothing for the Army, camp and garrison equipage, one million and sixty-two thousand seven hundred and two dollars and ninety-nine cents.

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guards, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen, of the quartermaster's department at the several posts and stations, and with the armies in the field; for the horses of the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding, and of stationery, including company and other blank-books for the Army, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders, Army regulations, and reports, one million seven hundred and forty-five thousand dollars.

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packets received and sent by the officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation of judge advocates, recorders, members, and witnesses, while on that service, under the act of March sixteenth, eighteen hundred and two; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; in the construction of roads, and on other constant labor, for periods of not less than ten days, under the acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expressmen to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains, where military escorts cannot be furnished; expense of the interment of officers killed in action, or who die when on duty in the field, or at the posts on the frontiers, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, viz: the purchase of portable forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps, five hundred thousand dollars.

For constructing barracks and other buildings at posts which it may be necessary to occupy during the year; and for repairing, altering, and enlarging buildings at the established posts, including hire or commutation of quarters for officers on military duty, hire of quarters for troops,

of storehouses for the safe-keeping of military stores, and of grounds for summer cantonments, and for temporary frontier stations, seven hundred and ninety thousand dollars.

For the repairs of the barracks at Baton Rouge, Louisiana, the sum of twenty-five thousand dollars, to be expended under the direction of the Secretary of War.

For mileage or the allowance made to officers of the Army for the transportation of themselves and their baggage, when traveling on duty without troops, escorts, or supplies, one hundred and thirty thousand dollars.

For transportation of the Army, including the baggage of the troops, when moving either by land or water; of clothing, camp and garrison equipage, from the depot at Philadelphia to the several posts and Army depots; of horse equipments, and of subsistence from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small arms, from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts, drays, ships and other sea-going vessels and boats required for the transportation of supplies and garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as, from their situation, require that it be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops on the frontier, three million four hundred thousand dollars.

For the purchase of horses for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and the companies of light artillery, two hundred thousand dollars.

For contingencies of the Army, twenty-five thousand dollars.

For the medical and hospital departments, one hundred and five thousand dollars.

For contingent expenses of the adjutant general's department at division and department headquarters, five hundred dollars.

For compensation of the clerk and messenger in the office of the commanding general, two thousand dollars.

For contingent expenses of the office of the commanding general, three hundred dollars.

For armament of fortifications, three hundred thousand dollars.

For ordnance, ordnance stores, and supplies, including horse equipments for the mounted regiments, two hundred and fifty thousand dollars.

For the current expenses of the ordnance service, including experiments in the manufacture of cannon and cannon powder, and for tests of arms and ammunition, not otherwise provided for, one hundred and fifty thousand dollars.

For the purchase of gunpowder for the land service, one hundred thousand dollars.

For the manufacture of arms at the national armories, four hundred thousand dollars.

For the purchase of breech-loading carbines of the best model, to be selected and approved by a board of ordnance officers, twenty-five thousand dollars.

For the alteration of old arms, so as to make them breech-loading arms, upon a model to be selected and approved by a board of ordnance officers, twenty-five thousand dollars: *Provided*, That any portion of said sum, not exceeding five thousand dollars, may be expended under the direction of the Secretary of War, and at his discretion, in applying to the old or new arms any recent improvement in the mode of priming.

For the Allegheny arsenal, thirty-five thousand one hundred dollars.

For Fort Monroe arsenal, twenty-four thousand nine hundred dollars.

For Kennebec arsenal, eleven thousand six hundred dollars; two thousand dollars of which may

be used in bringing gas upon the arsenal grounds, and with leave to extend gas-pipes through the grounds by the gas company.

For St. Louis arsenal, thirty-one thousand dollars.

For Washington arsenal, nine thousand three hundred and seventy-nine dollars.

For an additional timber and carriage storehouse at the North Carolina arsenal, twenty-five thousand dollars.

For Watervliet arsenal, thirty thousand dollars.

For repairs and preservation of the public buildings, fences, drains, culverts, and so forth, at all the smaller arsenals, twenty thousand dollars.

For continuing the construction of the arsenal in California, one hundred thousand dollars.

For contingencies of arsenals, ten thousand dollars.

For repairing the arsenal and two eighteen-pound gun carriages, at Stonington, Connecticut, seven hundred and fifty dollars.

For repairs and improvements and new machinery at Springfield armory, Massachusetts, fifty-five thousand two hundred and twenty-seven dollars.

For repairs and improvements and new machinery at Harper's Ferry, one hundred and one thousand nine hundred and seven dollars.

For surveys for military defenses, geographical explorations, and reconnaissances, for military purposes, and surveys with armies in the field, ninety-five thousand dollars.

For purchase and repairs of instruments, fifteen thousand dollars.

For continuing the survey of the northern and north western lakes, including Lake Superior, seventy-five thousand dollars.

For printing charts of lake surveys, ten thousand dollars.

To enable the Secretary of War to employ temporary clerks in the office of the Quartermaster General, on bounty land service, five thousand dollars.

For the support of four companies of volunteers mustered into the service of the United States, at Camp Scott, Utah Territory, in October, November, and December, eighteen hundred and fifty-seven, one hundred and seventy-three thousand four hundred and seventy-eight dollars and eighty cents.

For continuing the construction of the following works of defense:

Fort at Hog Island ledge, in Portland harbor, Maine, forty thousand dollars.

Fort Richmond, Staten Island, New York harbor, New York, seventy-five thousand dollars.

Fort Delaware, Delaware river, Delaware, seventy-five thousand dollars.

Fort Carroll, Soller's Point flats, Baltimore harbor, Maryland, seventy-five thousand dollars.

Fort Taylor, Key West, Florida, seventy-five thousand dollars.

Fort Jefferson, Garden Key, Tortugas, Florida, one hundred and fifty thousand dollars.

Fort Point, San Francisco, California, one hundred and twelve thousand five hundred dollars.

For contingent expenses of fortifications, preservation of sites, protection of titles, and repairs of sudden damage, thirty thousand dollars.

For construction of permanent platforms for modern cannon of large caliber in existing fortifications of important harbors, thirty thousand dollars.

For the payment of claims favorably reported upon by the board of Army officers (appointed under the sixth section of the act approved August thirty-first, eighteen hundred and fifty-two) in their final report to Congress dated April nineteenth, eighteen hundred and fifty-five, seven thousand eight hundred and seventy-two dollars and fifty-two and one third cents.

For the construction of bridges and the improvement of the crossings of streams on the road from Fort Smith, in Arkansas, to Albuquerque, in New Mexico, fifty thousand dollars; and that the sum of one hundred thousand dollars be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended in completing connected sections of the road extending from Albuquerque, in the Territory of New Mexico, westward, on the route to the Col-

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orada river, on or near the thirty-fifth parallel of north latitude.

Sec. 2. *And be it further enacted*, That the balances from the appropriations for "preventing and suppressing Indian hostilities, and for traveling allowance of volunteers," already expended in the payment of Florida volunteers called into service by authority of the War Department, may be applied by the accounting officers of the Treasury to the settlement of the accounts of paymasters by whom said balances were disbursed.

Sec. 3. *And be it further enacted*, That it shall be lawful for any commissioned officer of the Army to administer the prescribed oath of enlistment to recruits, provided the services of a civil magistrate authorized to administer the same cannot be obtained.

Sec. 4. *And be it further enacted*, That there be appropriated, out of any money in the Treasury not otherwise appropriated, for preparing the drawings of the sailing charts of the Bhering's Strait and North Pacific Exploring and Surveying Expedition, under the control and direction of the Secretary of the Navy, but not for printing the same, six thousand seven hundred dollars.

Sec. 5. *And be it further enacted*, That the eleventh section of the act of third March, eighteen hundred and forty-seven, entitled "An act making provision for an additional number of general officers and for other purposes," which deprives sutlers in the Army of their right to a lien upon any part of the pay of the soldiers, or to appear at the pay table to receive the soldiers' pay from the paymaster, be, and the same is hereby, repealed.

Sec. 6. *And be it further enacted*, That all the existing laws, or parts of laws, which authorize the sale of military sites which are or may become useless for military purposes, be, and the same are hereby, repealed, and said lands shall not be subject to sale or preemption under any of the laws of the United States: *Provided*, further, That the provisions of the act of August eighteenth, eighteen hundred and fifty-six, relative to certain reservations in the State of Florida, shall continue in force.

APPROVED, June 12, 1858.

CHAP. CLX.—An Act making Appropriations for the Expenses of Collecting the Revenue from Customs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated for the expenses of collecting the revenue from customs for each half year, the sum of one million eight hundred thousand dollars, payable out of any moneys in the Treasury not otherwise appropriated, together with such sums as may be received from storage, cartage, drayage, and labor for said half year.

Sec. 2. *And be it further enacted*, That from and after the said first day of July, eighteen hundred and fifty-eight, all laws and parts of laws which authorize the payment of the expenses, or any portion of the expenses of collecting the revenue from customs to any port or ports on the Pacific coast of the United States out of the accruing revenue, before the same is paid into the Treasury, shall be, and hereby are repealed.

Sec. 3. *And be it further enacted*, That the Secretary of the Treasury shall report to the next session of Congress a plan and estimates for reducing the expenses of the collection of the revenue, in accordance with the general recommendations of his last annual report.

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized, at his discretion, to discontinue all ports of delivery, the revenue received at each of which does not amount to the sum of ten thousand dollars.

Sec. 5. *And be it further enacted*, That no collector of the customs, deputy collector, naval officer, deputy naval officer, surveyor, deputy surveyor, general appraiser, superintendent of warehouses, or appraisers, shall receive a compensation more than twenty-five per cent. greater than is now paid to the officers and persons engaged in said services at the port of New York: *Provided*, That this section shall not be so construed as to

increase the compensation of any officer of the customs, or of any person engaged in the collection thereof.

APPROVED, June 14, 1858.

CHAP. CLXI.—An Act making an Appropriation for the Completion of the Military Road from Astoria to Salem, in Oregon Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of thirty thousand dollars (\$30,000) be, and the same is hereby, appropriated for the completion of the military road from Astoria to Salem, to be completed under the direction of the Secretary of War.

APPROVED, June 14, 1858.

CHAP. CLXII.—An act to establish certain Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post roads:

ALABAMA.

From Pine Level, in Montgomery county, via China Grove, Fryer's Bridge, Monticello, to Pea River, in Pike county.

From Jefferson, via Macon, to Brewersville. From Greenville, via Tuluca, Rainersville, to Leon.

From Handy post office to Jasper, in Walker county.

From Lyonsville, via Nichols', Carlie's, and Gordon's, to Whiteside's, on the Nashville and Chattanooga railroad.

From Larkinsville to Gunter's Landing. From Athens, via Good Springs and Gilbertsboro', to Mount Rassell.

From Talladega, via Florence's Ferry and Coosa Valley, to Crosswell.

From Cusseta to Chambers' Court-House.

From Society Hill to Tuskegee.

From Oxford, via Walker's store, to Fife.

From Jonesboro' to Democrat.

From Mexico to Chester.

From Ledohatchie, on the Alabama and Florida railroad, via Haynesville, Lowndsboro', Cross Roads, and Benton, to Selma.

From Oleander to Warrenton.

From Harpersville, via Kelly's Creek, Coosa Valley, Crosswell, Broken Arrow, and Trout Creek, to Greensport.

From Indigo Head to Busbeeville.

From Morgan to Columbia.

From Goshen, via Mottsville and Tranquility, to Reevesville.

From Elba, via Jones', Hilton's Cross Roads, Barnestown, Williams' Mill, Clary's, to Wardsville, Florida[a.]

From Haynesville, via Hickory Grove, Suresville, and Argus, to Troy.

From Gadsden, via Hoke's Bluff, Hogan's, New Bethel, D. Draper's, Cross Plains, Narrow Valley, Palestine, to Esom Hill, Georgia.

From Jacksonville, via New Bethel, Reevesville, Ball Play, Long's Ferry, and Matthews, to Blue Pond.

From Bruceville to Union Springs.

From Houston, Winston county, to Hanby, Walker county.

From Somerville to Valhermoso Springs, Morgan county.

From Montgomery, via Greenville and Sparta, to Pensacola, Florida.

ARIZONA.

From La Mesilla to La Mesa.

From Tucson, via Sopori, to Tubac.

From Tucson, via Sopori, to Agua Caliente.

From Wharton, via Tucson, Tubac, and Caladonia, to Fort Buchanan.

ARKANSAS.

From Lockport, via A. H. Henson's, to Monterey.

From Liberty to Murfreesboro'.

From Powhatan, via Cuba, A. Oaks, on Spring river, Major B. Ketter's, and Myatt, to Pilot Hill.

From Green Mount, via Relfs' Bluff, Connersville, to Lehi.

From Brownsville, via Maj. John Hardin's, to Lake Bluff.

From Centre Point to Ultima Thule.

From Brownstown, via Paracifita, to Doaksville.

From Wild Hans to North Fork of White river.

From Gainesville to Greenville, in Missouri.

From Fort Smith to Albuquerque, in the Territory of New Mexico.

From Marion, via Walnut Grove, Lyle's Ferry, and Neely's Ferry, to Walnut Camp.

From Little Rock to Hungary.

From Lewisburg, in Conway county, by Galler Rock, and Bate's Mill, to Dardanelle, in Yell county.

From Mill Bayou to Chitteceaux, Missouri.

From Augusta, in Jackson county, via Alvin McDonald, to Jackson Port.

From Searcy, in White county, to intersect the route from Des arc to Forth Smith, at Cadron creek.

From Paracifita, in Sevier county, to Shetucket, in Polk county.

CALIFORNIA.

From Weaversville, via the mouth of Carson creek, to Canon city, in Trinity county.

From Sacramento City, via Washington, Puta, Vacaville, Suisun, Condolice, Napa city, Sonoma, Santa Rosa, and other intermediate post offices, to Petaluma, in Sonoma county.

From San Francisco to San Rafael.

From San Francisco to Berry and Fomales.

From San Juan, in Monterey county, to Los Angeles, in Los Angeles county.

From Auburn, Placer county, via English's bridge and Grass valley, to Nevada city.

From Sacramento city, via Yolo city, in Yolo county, to Cacheville.

From Sacramento to Stockton.

From San Bernardino, via San Geronia, Ross, Conchullo valley, to Fort Yuma.

From Union, via Hoopa valley, to Orleans bar.

From Union to San Francisco.

From Marysville, via North San Juan, to Forest city.

From Nevada city, via Woolsey's flat, Orleans flat, Chips flat, Allegheny, Forest city, Downieville, Monte Christo, Eureka, North Poker flat, to La Porte.

From Sonora, Tuolumne county, to Mariposa city.

From Stockton, via Knight's ferry, Rock river ranche, La Grange, and Murray bridge, to Mariposa.

From Murphy's, via Big Tree road, to Carson valley, Utah Territory.

From La Porte, via Quincy, to Susanville, Utah Territory.

From Bidwell's bar, via Noble's Pass, to Susanville, Utah Territory.

From Shasta city, via Noble's Pass, to Susanville, Utah Territory.

From Genoa, via Eagle, Washo, Truckey, and Long valleys, to Susanville, Utah Territory.

From San Francisco, via Alviso, to San José.

From Suisun City to Nurse's landing.

From Colusa to Marysville.

From San Francisco to Trinity, via Petaluma and Humboldt.

From San Francisco to Crescent City, via Trinidad and Humboldt bay.

From Crescent City, via Indian creek, Happy Camp, Scott river, to Yrka.

From Trinidad, via Orleans bar, Salmon rivers, to Yrka.

From Belmont, via Purcel's store, Piscadary, William's landing, to Santa Cruz.

From Oreville, via Bidwell's bar, Peaville, Brush creek, Meadow valley, to Quincy.

From Jackson to Volcano.

From Sacramento city, via Washington, Cashville, Cache creek, Yolo City, and Canon, to Clear Lake, Napa county.

From Sacramento city, by Onisbe and Walnut Grove, to Georgiana Slough, in Sacramento county.

From Mokelumne Hill, by Rich Gulch, to West Point, in Calaveras county.

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From Knight's Ferry, by La Grange, to Horritas, Mariposa county.
From Nevada city, by Alpha, to Washington, Nevada county.

From Yrka, via Shasta valley, Soda springs, Portuguese flats, Dog Creek, Churntown, to Shasta.

DELAWARE.

From Smyrna, via Chesterfield and Millington, in Kent county, Maryland, to Chestertown, in the same county.

FLORIDA.

From Mellonville, via Apopka Lake, Harris Lake, Adamsville, Sumpterville, Monroe's ferry, Pierceville, and Spring Hill, to Bay Port.

From Marianna, Florida, via Bellvue, to Bainbridge, Georgia.

From Bay Port to Clear Water Harbor.

From Orlando, in Orange county, to Adamsville, in Sumpter county, via south side of Lake Apopka.

From Clear Water Harbor to Tampa.

From Pilatka to Station at Bellamy road.

From Silver Spring, via Orange Springs, to Station at Bellamy road.

From Cedar Key to New Orleans, in steamers.

From Fernandina to Charleston, in steamers.

From Cedar Key to Key West, in steamers.

From Starke to Pilatka, via Cadiz and Timmons.

From Starke, via New river, to Providence.

From Fort Gates, on the St. Johns river, via Lake Charles and Silver Springs, to Osceola.

From Marion Cross Roads, in Jefferson county, via Finnholloway, Econphenia Spring, Warrior, and Cook's Hammock, to Clay Landing.

From Little River, in Columbia county, via Samuel Barber's and William Johnson's, to Shoaltown, on the Suwannee river.

GEORGIA.

From Doctor Town to Holmesville.

From Ocapelco to Piscioia.

From Magnolia to Troublesome.

From Holmesville to Doctor Town.

From Doctor Town to Waynesville, via Pen-darvis' store.

From Newman to Carrollton.

From Doctor Town, via Holmesville, Ocmulgee to Feronia.

From Little York to Boxville.

From Jonesboro' to Stockbridge.

From Palmetto to Carrollton, via Rivertown and Chanceville.

From Thompson to Lincolnton

From Franklin to La Grange.

From Seward, via Mount Vernon, to Battle-ground.

From Waresboro' to Irwinsville.

From Blakely, via Starford's Store, in Miller county, Curry's bridge, on Spring creek, and Hutchinson's ferry, to Quincy, Florida.

From Greenville, via Woodbury, Thundering Spring, and Tepid Springs, to Thomaston.

From Ellejay to Jasper.

From Columbus, via King post office, Cusseta, to Green Hill.

From Americus to Holley Grove.

From Vienna to Vineyard.

From Hawkinsville, via Lawson, Abbeville, and House creek, to Irwinsville.

From Newman, via Bowenville, Carrollton, Bowdon, (Georgia,) Arbacochee, Warren, to Oxford, Alabama.

From Gainesville, via Brown's bridge and Coal Mountain, to Cumming.

From Clarksville to Carnesville.

From Clayton, via Huopee, to Blairsville.

From Atlanta, via Gainesville, Sulphur Springs, and Carnesville, to Hartwell.

From Lexington, via Wolfe Skin, to Watkinsville.

From Warrenton, via Gibson, to Fenn's Bridge.

From the city of New York, via Savannah, Georgia, Thomasville, Tallasse, (Florida,) St. Marks, to New Orleans, Louisiana.

From Forsyth to Russellville.

From Boxville to Sugar Creek.

From Marietta, via Powder Springs, Salt Springs, New Manchester, and Campbelltown, to Fairburne.

From Morgan, Calhoun county, to Blakely, in Early county.

ILLINOIS.

From Mount Sterling, via Buckhorn, Walker's Neck, George Peyton's, Liberty, Adams post office, in the village of New Town, Payson to Hannibal, Missouri.

From Versailles, via Chambersburgh, Perry, to Griggsville, in Pike county.

From Camp Point, Adams county, via Houston, James Sales, in two north, range seven west, Big Neck post office, and Woodville, in Adams county, Chili, West Point, James Rankin's, to Warsaw.

From Dakota, on the Racine and Mississippi railroad, via Rock Grove, to Broadhead, on the Milwaukee and Mississippi railroad, Wisconsin.

From Joliet to Oswego.

From Golconda to Raleigh.

From Trenton to Mascouta.

From Ottawa, via Buck creek and Freedom, to Earlsville.

From Belleville, via Shiloh, to Lebanon.

From Kankakee city, on the Illinois Central railroad, to Dwight, on the Chicago and St. Louis railroad.

From Rockford, via New Millford, Killbuck, and Lindenwood, to Lane.

From Junction, via Lindenwood, White Rock, and Payne's Point, to Oregon.

From Lane to Oregon.

From Mattoon, in Coles county, via Paradise and Greenland, to Vandalia.

From Olney, in Richland county, via St. Marie and Newton, in Jasper county, to a point on Eastern Branch Central railroad.

From Preston to Chester, in Randolph county.

From Mattoon, via Sullivan, Marrowbone, to Decatur.

From Fayetteville to Elk Horn.

From Mount Vernon to Richview, in Washington county.

From Springfield, via Groveland, Delavan, Prairie creek, and Middletown, to Peoria.

From Chester, in Randolph county, via Steuben and Worthington, to Murphysboro', in Jackson county.

From Table Grove, in Fulton county, to Vermont.

From Bernadotte, in Fulton county, to Ipavia.

From Argyle to Colchester, in McDonough county.

From Monmouth, via Ellison, Raritan, and Bedford, in Henderson county, to La Harp, in Hancock county.

From Carthage to Appenoose.

From Florence to Winchester.

From Rushville, via Littleton and Birmingham to Plymouth.

From Macomb, in McDonough county, via Johnson and Table Grove, to Ipavia.

From Rock Island, via Dubuque, to Dunleith, Iowa.

From Washington, Tazewell county, via Mackinaw, Little Mackinaw, and Armington, to Atlanta.

From Chillicothe, via Northampton, Long Ridge, Valley post office, to Wyoming.

From Pecatonica, via Durand, Loona, and Avon, to Broadhead, Wisconsin.

From Grouse, via Kaneville, to Blackberry Station.

From Atlanta, via Mount Hope, Armington, and Mackinaw, to Washington.

From Havanna, via Mason city and Stephens, to Lincoln.

From Mattoon to Vandalia.

From Girard, via Lanesville, to Litchfield.

From Alton, via Harris and Woodburn, to Bunker Hill.

From Cheona, via Fairbury, to Douglas City.

From Elizabeth, via Avery, Guilford, Scale's Mound, White Oak Springs, and New Diggings, to Shullsburg, Wisconsin.

From Warren, via, Greenvale, Ward's Grove, Stockton, Plum river, Derinda, and Elizabeth, to Hanover.

From Equality, via Harrisburgh and Marion, to Carbondale.

From Murphysboro', via Blairsville and Herring's Prairie, to Marion.

From Pinckneyville, via Grand Cote Prairie, to Coulterville.

From Jonesboro', via William Penrod's and Willard's Landing, to Jackson, Missouri.

From Caledonia to Valley Forge.

From Dunleith, via Potosi, Cassville, Patchgrove, to Prairie du Chien, in Wisconsin.

INDIANA.

From Natches, in Martin county, via Pleasant Valley, Halbert's Bluff, Dover Hill, and Scotland, to Bloomfield, in Greene county.

From Jasper, in Dubois county, via Porterville, High Rock, and Hudsonville, to Washington.

From Rochester, via Kewana, and Mooresburgh, to Winnemac.

From Bourbon, via Tippecanoe town, to Bloomingsburgh.

From Knox, via Lake City and North Bend, to Monterey.

From Knox, via Clear Spring, to West York.

From Francesville to Winnemac.

From Kokoma, via John McDowell's, to Burlington.

From Lexington to Charleston.

From Michigantown, via Burgett's and Russia, to Kokomo.

From Frankfort, via Kirkland, Hillsboro', Berlin, and Petersburg, to Tipton.

From Rockville, via Ionia, Bridgeton, to Brazil.

From Winnemac to Francisville.

IOWA.

From Prairie du Chien, via Nezekaw, Ion, Buckland, Volney, Cleveland, to Frankville.

From Mason City, via Bristol, to Albert Lea.

From Clayton, via Garnaville, Reed, Elkader, and Waggoner, to Clermont.

From Prairie du Chien, via Johnson's Landing, Bell's Mills, and Waterville, to Wawkon.

From Des Moines, via Winterset, Afton, Bedford, Mound City, Missouri, to White Cloud, Kansas.

From Dyersville, via Fairbank and Waverly, to Clarksville.

From Cascade, in Dubuque county, via Isabel, Overreach's Ferry and Walnut Grove, in Jones county, Pioneer Grove, in Cedar county, Gower's Ferry, to Iowa City.

From Fort Dodge, via Lizzard Fork and Storm Lake, to Cherokee, in Cherokee county, Plymouth, to Westfield.

From McGregor, via Elkader, Volga City, to Manchester.

From McGregor, via Postville, Ossian, Fort Atkinson, Jacksonville, and North Washington, to St. Charles city.

From St. Charles city, via Rockford and Mason city, to Algona.

From Manston, via Wonewoc, to Hillsborough.

From Sioux city to Sioux Falls.

From Fillmore, via Jacksonville, Walker's, Clear Creek, Braddy's Mill, to Clarinda.

From Fort Dodge, along the west bank of the Des Moines river, crossing the west branch at Dacotah, up the west branch to the Irish colony, there crossing the west branch, to Spring Lake.

From Des Moines City, via Indianola, Osceola, and Leon, in Iowa, and Gentry Court-House, (Missouri,) to Saint Joseph in the State of Missouri.

From Lewis, via Iranistan, Blake's Settlement, Rocky Ford, Corey post office, to Sidney.

From Bellefontaine, via Attica and Gosport, to Chariston.

From West Union, via Fredericksburgh and Bradford, to St. Charles City.

From Des Moines, via Buffalo Grove, Ripley, and Jefferson, in Green county, to Sac city in Sac county, to Sioux City, in Woodbury county.

From Webster, via Hewitt, Buffalo Grove, Blue Earth City, to Mankato, Minnesota.

From Lewis, in Cass county, via Smith Bell's Mill, and Sciota, in Montgomery county, to Clarinda, in Page county.

From Dubuque, via Bellevue and Sabula, to Davenport.

From Sioux City, in Woodbury county, via Plymouth city, to Spirit Lake.

From Sioux City, in Woodbury county, via Nicolet, to Sioux Falls, Minnesota.

35TH CONG...1ST SESS.

Laws of the United States.

From Des Moines, via Jefferson, in Green county, Lake City, Calhoun county, to Sac City, in Sac county.

From Des Moines, via Dayton, Fort Dodge, Addison, and Paoli, to Spirit Lake.

From Bentonsport, in Van Buren county, via Keosauque, Philadelphia, Iowaville, Ottumwa, Eddyville, Amsterdam, Red Rock, Bennington, Lafayette, and Adelphi, to Des Moines.

From Burlington, via Augusta, Denmark, West Point, Dover, and Primrose, to Farmington.

From Marietta, via Nevada, Boonesboro', county seat of Green county, county seat of Carroll county, Dennison, and Belvidere, to Decatur, Nebraska Territory.

From Des Moines City, via Indianola, Chariton, Corydon, Walnut, (Iowa,) St. John, and Milan, to Jefferson City, Missouri.

From Elkador, via Elkport, Millville, to Cassville, Minnesota.

From Magnolia, via Preparation, Belvidere, and Smithland, to Correctionville.

From Dyersville, via Poultny, Plum Spring, Yankee Settlement, Honey creek, Cox creek, Volga City, Highland, Elgin, Clermont, &c., to Decorah.

From Independence, via Laporte City creek, Lafayette, Marietta, Iowa Centre, to Des Moines.

From Clayton, via Garnaville, Clayton Centre, Elkador, Highland Dinna, to Fayette.

From Ottumwa, Chillicothe, Cuba, to Alban.

From Cedar Falls, via Willoughby, Swanton, Bear Grove, Genoa, to Marysville.

From Sioux City, via Sergeant's Bluff, Smithland, Morris, Denison, Carrollton, Panora, to Adel.

From Brunswick to Unionville.

From Knoxville, via Red Rock, Reedsville, Monroe, to Newton.

From Magnolia, via the mouth of Soldier river, Cumming City, Fontenelle, Buchanan, North Bend, Columbus City, and Monroe, to Cleveland, Nebraska Territory.

From Tipton, in Cedar county, to Rome, Madison, and the center of Jones county, and thence to Cascade, in Dubuque county.

From Muscatine to Oscaloosa, via Ononka, Columbus City, Amboy, Washington, and Signourney.

From Oscaloosa to Council Bluffs, via Knoxville, Indianola, and Winterset.

From Independence, by Fairbank, in Buchanan county, Franklin, Bremer, and Leroy, in Bremer county, to Fredericksburgh, in Chickasaw county.

From Mount Pleasant, in Henry county, via Wayne, in said county, Crawfordville, Amboy, Davis creek, and Yatton, in Washington county, and Seventy-Eight, in Johnson county, to Iowa City.

From Iowa Falls, in Hardin county, via Marysville, Hampton, and Saratoga, in Franklin county, to Mason City, in Cerro Gordo county.

From Dacotah, in Humboldt county, via the south half of section eighteen, township ninety-three, and range thirty, and Paoli, in Palo Alto county, to Spirit Lake, in Dickinson county.

From Winterset, in Madison county, via Fontenelle, Adair county, to Lewis, in Cass county.

From Iowaville, via Troy, Stringtown, and Milton, to Memphis, Missouri.

From Wiscotta, Dallas county, via Bolds, in the northeast corner of Adair county, Holliday's Settlement, and Clarksville, to Fontenelle, in said county.

From Eddyville to Des Moines, via Hamilton, Marysville, Attica, Knoxville, Pleasantville, Wheeling, Hartford, Carlisle, and Avon.

From Newton, Jasper county, to Nevada, Story county, via the State road.

From McGregor, via Elkader, Volga City, Taylorsville, Brush creek, Buffalo Grove, to Independence.

From Quincy, via Brookville, to Bedford.

From Sioux City to Covington.

From Steamboat Rock, in Hardin county, via Berlin, Bur-Oak Grove, Skunk Grove, and Webster City, to Fort Dodge.

From McGregor's, in Clayton county, via Monana, Fort Atkinson, in Winnisheik county, Jacksonville and New Hampton, in Chickasaw county, to St. Charles City, in Floyd county.

From Inkpadutah, on the Big Sioux, to Iowa, on the Missouri river, (Dacotah Territory.)

From St. Charles via Mason City, Clear Lake, Algona, and Paoli, to Moulton City.

From Cedar Falls, via Belmond, Algona, and Spirit Lake, to Fort Ridgely, (Minnesota.)

From Westfield, via Greeley's Grove, to Independence.

From Marietta, via Lafayette, Steamboat Rock, Ackley, Namantown, Hampton, Saratoga, Mainse Grove, Doun Grove, to Mason City.

From Iowa City, via Windham, Lafayette City, Millersburg, Montezuma, Linn Grove, to Des Moines City.

From Toledo, via Boonesboro', New Jefferson, Carrollton, Denison, Belvidere, Onawa, Cook's Landing, to Decatur, in Nebraska Territory.

From Grinnell, via Green Castle, Timber creek, to Marietta.

From Cedar Falls, via Willoughby, to Leoni, the county seat of Butler county.

From Mount Pleasant, in Henry county, to Washington, in Washington county, via Trenton, Marshall, and Marcellus.

From Marengo, in Iowa county, to Vinton, in Benton county, via Irving, in Benton county.

From Ashton to Decatur, in Nebraska Territory.

From Marietta, via Nevada, Boonesboro', New Jefferson, to Carrollton.

From Mitchell, via Plymouth to Mason.

From Mount Vernon, via Linden, Paddington, to Wapsa.

From New Jefferson, via Lake City, Raccoon Fork, to Sac City.

From Onawa, via Smithland, Cherokee, to Spirit Lake.

From Osage, via Shell Rock Falls, to Mason City.

From Ossian, via Calmar, Buchanan, New Oregon, Vernon Springs, Morgan, Grainger, to Foreston.

From Ottumwa, via Chillicothe, Cuba, to Abia.

From Sac City, via Lane's Grove, Spirit Lake, and Springfield, Minnesota, to Maukato.

From Cascade, via Suplis Ford, to Wyoming.

From Centreville, via Moravia, to Abia.

From Clear Lake City, via Elk Grove, Forest City, to Blue Earth City, Minnesota.

From Corydon, via Warsaw, Medicineville, and Terre Haute, Missouri, to Scousville.

From Corydon to St. Johns, Missouri.

From Crescent City to Florence, Nebraska Territory.

From Delhi to Nottingham, on the Dubuque and Pacific railroad.

From Dennison, via Belvidere, Ashton, to Dexter in Nebraska Territory.

From Des Moines, via Mitchell, Green Castle, Edenville, Starry Grove, to Marietta.

From Fort Dodge to Sioux Falls, Minnesota.

From Fort Dedge up West Fork of Des Moines river, to Spirit Lake.

From Greenfield, via Holaday's and Pierson's Mill, to Adell.

From Harlin, via Waukon, New Galena, Dorchester, Portland Prairie, Minnesota, and Caledonia, to Brownsville.

From Iowa Falls, via Alden, Otisville, Fryburg, Belmond, Bur Oak Grove, Forest City, to Blue Earth City, Minnesota.

From Iowa Falls, via Belmond, to Clear Lake City.

From Leon, via Stanley's Store, Spring Valley, to Nine Eagles.

From Lewis, via Wheeler's Grove, Farm Creek, Silver Creek, to Glenwood.

From Bloomfield to Lancaster, Missouri.

From Bradford to Rockford.

From Cedar Falls, via Willoughby, Butler Centre, Bear Grove, Maysville, Hampton, Saratoga, Belmond[d], Irvington, to Algona.

From Decorrah, via Bluffton, Plymouth Rock, Twine Springs, Arnoldsville, Lane Springs, Forest City, and Leroy, to Austin, in Minnesota.

From Dyersville, via Rockville, Hopkinton, to Anamosa.

From Independence, via Chatham, Fairbank, Rock's Settlement, to Fredericksburg.

From Johnsonport, via Rossville, Cleveland, Lybrand, Postville, Clearmount, to West Union.

From Landing to Twine Spring, in Winnisheik county.

From Magnolia, via Preparation, Belvidere, Smithland, to Sioux City.

From Monticello, via New Buffalo, McQueen's Mill, to Paris.

From Mount Vernon, via New London, Paddington, to Clark's Ford.

From Rockford, to Rock Grove City.

From Rockford, via west side of Shell Rock river, Nora Springs, to Shell Rock Falls.

From Webster, via Peck's Cooper's Indianapolis, to Hopewell.

From West-Union, via Wapsi, Buck run, Martinsburg, to Waverly.

From Belmond, via Liberty, Dacotah City, to Packard's settlement, (on the Little Sioux.)

From Walnut Fork, via Madison, and the center of Jones county, to Cascade.

From Webster City, by Dacotah City, Paoli, Irish Colony, to Spirit Lake.

From Webster City, via Cropper's Grove, to Maukato, Minnesota.

From West Liberty, via Pike, to Port Allen.

From Wilton Junction, via Tipton, to Loudon Station, on the Chicago, Iowa, and Nebraska railroad.

From Sioux City, via the mouth of Vermillion river, and the lower crossing of James river, at the present established ferries on those rivers, to Fort Randall, Nebraska Territory.

From Fort Dodge, via Emmett City, thence to Odessa, in Minnesota, thence via Otesco, Crystal Lake City, to Maukato. [Maukato.]

From McGregor to Owatonna, in Minnesota.

From Sioux City, Iowa, via lower crossing of the Big Sioux river, the mouth of Vermillion river, present crossing of James river, and Choctaw creek, to Indian Agency, on the Yancton Sioux reserve and Fort Randall.

From Sioux City, via Neobrara, to the Indian agency of the Ponka Indians, and the valley of the Neobrara river, to the South Pass of the Rocky Mountains, via Chimney Rock.

From Sioux City, via Sioux Falls, to the mouth of Snake river.

From Fort Randall, Nebraska Territory, via the mouth of Crow river, passing on the east side of the Missouri, to the mouth of Little Medicine Knobb river.

From Sioux Falls to Fort Randall.

From the mouth of James river, via Blue Earth, Rocky Hill, Sandy Hill, to Wakaudapi Hills.

From Neobrara, via Ponka reserve, to Chimney Rock.

From Sioux City, Iowa, via Neobrara to Ponka reserve, to Fort Randall and mouth of White Earth river.

KENTUCKY.

From Lebanon, via Bradfordsville, Liberty, Poplar Hill, Adam's Mill, to Somerset.

From Murray to Feliciana.

From New Liberty to Ghent.

From Murray, via Boydsville, Dukedom, and Feliciana, to Hickman.

From Providence, via Clyde, to Vanderburgh.

From Paducah, via Mayfield and Feliciana, to Hickman.

From Crittenden to Falmouth.

From John Word's, in Knox county, to Bush's Store, in Laurel county.

From Flat Lick to Manchester.

From Ashland to Stewart's Tunnel.

From Paris, via Flat Rock, Sharpsburg, to Owingsville.

From Bells Trace, via New Hope, to Head of Paint.

From Gladestville, (Virginia,) via Willow Lick, Head of Poor Fork, to John Sturgel, Kentucky.

From Somerset, via Sublimity, to Williamsburgh.

From Sublimity to Linden.

From Hustonville, via Middleburg, Adam's Mills, to Somerset.

From Louisville, by the plank road, to Tippecanoe, in Oldham county.

From Hopkinsville to Paducah, via Cadiz, Wallonia, Rock Castle, Birmingham, Briansburg, and Palmer.

From Paducah to Blondville, via Jamestown, Newton's Creek, and Hazlewood.

From Cadiz, via Donaldson, to Limeport, Tennessee.

From Madisonville to Caseyville.

Laws of the United States.

35TH CONG...1ST SESS.

From Madisonville to Morganfield.
 From Paducah to Paris, Tennessee, via Mayfield and Boydsville.
 From Princeton to Smithland, via Eddyville and Dyersburg.
 From Benton to Mayfield, via Walker's Store and Symsonia.
 From Paducha to Hickman, via Mayfield, Felician, and Lodgton.
 From Blandville to Hickman, via Milburn, Clinton, and Lodgton.
 From Morganfield to Caseyville, via Gum Grove.
 From Newcastle, via Springport and Marion, to New Liberty.

KANSAS TERRITORY.

From Westport, (Missouri,) via Shawnee, (Kansas Territory,) Lexington, Franklin, Lawrence, Kanwaka, Lecompton, Big Springs, Tecumseh, and Topeka, to Indianola.
 From Westport, (Missouri,) via Olatka, (Kansas Territory,) San Barnard, Prairie city, and Ottawa creek, to Sac and Fox agency.
 From Westport, (Missouri,) via Paola, (Kansas Territory,) Ossawatimie, Miami village, Centerville, Sugar Mound, Carbondale, and Little Osage, to Fort Scott.
 From Westport, (Missouri,) to Spring Hill.
 From Westport, (Missouri,) via Bloomington, Paris, and Sugar Mound, to Cofachiqui.
 From Sugar Mound, via Paris and Brooklyn, to Westport.
 From Butler, (Missouri,) via Menika, (Kansas Territory,) Shannon, Hyatt, Hampden, Burlington, Ottumwa, California, Italia, and Emporia, to Council Grove.
 From Fort Scott to Marmaton.
 From Fort Scott to Catholic Mission.
 From Fort Scott to Crawford Seminary, (Missouri.)
 From Fort Scott, via Barnesville, to West Point.
 From Fort Scott to Fort Union.
 From Fort Scott to Mapleton.
 From Fort Scott to Fort Atkinson.
 From Fort Scott, via Breckinridge, (Missouri,) Hard Wood, Medoc, Carthage, Neosho, Harmon's Mill, Elkridge, Pineville, and White Rock Prairie, to Bentonville.
 From Ossawatimie to Walker.
 From Leroy to Belmont.
 From Leroy to Hampden.
 From Leroy to Pleasant Grove.
 From Council Grove, via Kenton and Riley city, to Fort Riley.
 From Council Grove, via Orleans, Italia, Columbia, Leroy, Neosho Falls, Cofachiqui, to Fort Scott.
 From Topeka, via Waubanusee, Zeandale, and Ashland, to Fort Riley.
 From Ossawatimie, via Walker and Shannon, to Neosho.
 From Ossawatimie, via Shumansville and Ohio city, to Sac and Fox agency.
 From Paola, via Ossawatimie, Bloomington, and Paris, to Sugar Mound.
 From Shumanville, via Shannon, to Cafachiqui.
 From Richardson, via Italia, to Columbia.
 From Sac and Fox agency to Leroy.
 From Fort Riley, via Reader, to Vermillion city.
 From Fort Riley, via Randolph and Vermillion city, to Marysville.
 From Lawrence, via Bloomington, Richardson, and Italia, to Emporia.
 From Topeka, via Brownsville, to Council Grove.
 From Topeka, via Brownsville, Wilmington, and Kansas Centre, to Emporia.
 From Lawrence, via Prairie city, Ottawa creek, Shannon, Hyatt, and Cofachiqui, to Humboldt.
 From Tecumseh, via Richland, to Sac and Fox agency.
 From Tecumseh, via Walkamsa city, to Richardson.
 From Lecompton, via Walkamsa, Ottawa creek, McKinney, and Stanton, to Ossawatimie.
 From Lecompton to Marysville.
 From Lecompton to Richardson.
 From Lecompton, by Davis and Midway, to Paoli.

From Kansas, (Missouri,) via Wyandotte, (Kansas Territory,) Quindaro, and Lawrence, to Lecompton.
 From Kansas, (Missouri,) via Wyandotte, Quindaro, and Delaware city, to Leavenworth city.
 From Kansas, (Missouri,) via Oskallassa, (Kansas Territory,) to Ozawkie.
 From Fort Leavenworth to Tauromee.
 From Fort Leavenworth, via Leavenworth city, to Lawrence.
 From Leavenworth city, via Middletown, to Lecompton.
 From Leavenworth city, via Nerato, Easton, Shieffids, Ozawkie, Mt. Florence, Indianola, Silver Lake, St. Mary's Mission, Rock creek, Manhattan, Ogden, and Fort Riley, and Kansas Falls, to Buchanan.
 From Leavenworth city, via Stanley's, Mooney, Grasshopper Falls, Rock Point, and Vermillion city, to Dyer's.
 From Leavenworth city, via Fort Leavenworth, Kickapoo city, Fort William, Sumner, Mount Pleasant, Atchison, Doniphan, Rock creek, Walnut Grove, and High Land, to Iowa Point.
 From Independence, (Missouri,) via Kansas, the settlement at the mouth of Huesfona, on the Upper Arkansas, and Little Salt Lake settlement, at the head of Nicolet river, to Stockton, (California.)
 From St. Joseph, (Missouri,) via Whiteheads, (Kansas Territory,) Rogersville, and Troy, to Walnut Grove.
 From St. Joseph, (Missouri,) via Elwood, (Kansas Territory,) Walthanna, Palermo, Geary city, Doniphan, and Ozawkie, to Lecompton.
 From St. Joseph, (Missouri,) via Iowa Point, (Kansas Territory,) Mt. Roy, Hamlin, Central city, Highland, and Urbana, to Marysville.
 From Iowa Point to Mount Roy.
 From Iowa Point to Swain's Store.
 From White Cloud to Padonia.
 From Marysville to Nottingham.
 From Atchison, via Kennekuk, Burnside, Powhattan, and Capsimi, to Marysville.
 From Rubo, (Nebraska,) to Topeka.
 From Rogersville, via Nemaha agency, to White Cloud.
 From Oregon, (Missouri,) via Iowa Point, (Kansas Territory,) to Nemaha agency.
 From Kickapoo city, via Crooked creek, to Grasshopper Falls.
 From Ozawkie, via Pleasant Hill and Indianola, to Topeka.
 From Doniphan, via Green Top, to Pleasant Grove.
 From West Point to Brooklyn.
 From West Point to Paris.
 From Walthanna to Claytonville.
 From Lawrence, via Shields, to Sumner.
 From Topeka, via Grasshopper Falls, to Sumner.
 From St. Joseph, (Missouri,) to Kennekuk.
 From Pleasant Hill, (Missouri,) via Plum Grove, Spring Hill, Gardiner, and Franklin, to Lawrence.
 From Spring Hill, via Shannon, Hyatt, and Stanton, to Neosho city.
 From Quindaro, via Shawnee, Olathe, Paola, Ossawatimie, Shannon, and Hyatt, to Burlington.
 From Lawrence, via Palmyra, Ohio city, Deer creek, to Humboldt.
 From White Cloud, via Pandonia, Hamburg, Central City, Richmond, and Seneca, to Marysville.
 From White Cloud to Iowa Point.
 From Topeka, via Brownsville, Wilmington, Waushara, Allen, and Orleans, to Plymouth.
 From Leavenworth city, via Atchison, Sumner, Donaphan, Palermo, Elwood, White Cloud, Rulo, (Nebraska Territory,) Nemaha, and Brownsville, to Nebraska city.
 From Lawrence to Burlington.
 From Lecompton, via Bloomington, Versailles, to Italia.
 From Emporia, via Bayard, Chelsea, El Dorado, to Towanda.
 From Leavenworth city, on the old military road as now established, via Salt Creek valley, Mount Pleasant, Rusk, Alley's Cuyuga, Ken-

nekuk, Locknanes, Palmetto, and Marysville, to Fort Kearny, (Nebraska Territory.)
 From Lawrence, via Oskaloosa, Grasshopper Falls, Hamlin, Falls City, and Brownsville, to Nebraska city, (Nebraska Territory.)
 From Topeka to St. Joseph, (Missouri.)
 From Fort Riley to Gatesville.
 From Lawrence, via Big Springs, to Brownville, Fremont, Alma, to Ashland.
 From Burlington, via Verdigris Falls, Fall river, Indiana city, to El Dorado.
 From Lawrence, via Centropolis, Sac and Fox agency, and Oread, to Burlington.
 From Grasshopper Falls, via Osawkie and Oskaloosa, to Lawrence.
 From Sac and Fox agency to Pleasant Grove.
 From Grasshopper Falls to Hatton.
 From Cofachiqui, via Belmont, to Pleasant Grove.
 From Leavenworth city and Fort Leavenworth, via Kennekuk, to Palmetto.
 From St. Joseph, (Missouri,) via Iowa Point Mount Roy, Hamlin, Central City, to Marysville.
 From Leavenworth city, via Oskaloosa, to Lecompton.
 From Westport, (Missouri,) via Spring Hill, Stanton, Shumansville, Greeley, to Neosho City.
 From St. Joseph, (Missouri,) via Wothina, Winona, Hiawatha, Carson, Central City, to Marysville, Kansas.
 From Warrensburgh, (Missouri,) via Harrisonville, Paola, to Ossawatimie.
 From Manhattan City to Marysville.
 From Elwood to Capioma.
 From St. Joseph, (Missouri,) via Palermo, Geary City, Donaphan, Monrovia, Grasshopper Falls, to Topeka.
 From St. Joseph, (Missouri,) via Rushville, via Sumner, Oskaloosa, to Lawrence.
 From Topeka, via Quincy and Eagle City, to Shel Rock Falls.
 From Emporia to Cottonwood Falls.
 From Italia, via Council Grove, to Buchanan.
 From Warsaw, (Missouri,) via Butler, to Montgomery, Kansas.
 From Ossawatimie, via Paris, to Montgomery.
 From Atchison to Vermillion City.
 From Atchison to De Foe.
 From Atchison to America.
 From Atchison, via Lancaster, Muscotah, Eureka, Ontario, and America, to Vermillion City.
 From St. Joseph (Missouri) and Elwood, via Kennekuk, to Grasshopper Falls.
 From Kansas City to Fort Scott.

LOUISIANA.

From New Road, via Morganza, Bayou, Catwaba, Cypress Point, to Simmsport.
 From Vernon, via Brush Valley and Sparta, to Ringgold.
 From Ville Platte to Hickory Flat.
 From Shreveport to Mansfield, via Red Bluff and Kingston.
 From Livonia, via Point Coupee Court-House, to Point Coupee post office.
 From Goodwater to Vernon.
 From Baton Rouge to Henry F. Bennett's store, parish of Ascension.
 From Painscourtville to Bayou Pierre, Part and Belle river, in the parish of Assumption.

MAINE.

From Bridgewater, via Mars' Hill, Letter "C," and Maple Grove, to Fort Fairfield.
 From Bridgeford, via Saco, Buxton, Standish, Baldwin, Sebago, Denmark, and Fryeburg, to Lovell.
 From Kingfield, via Jerusalem, and Stratton brook, to Eustis' Mills.
 From East Eddington, via Clifton and Otis, to Mariaville.
 From Phillips' to Rangeley.
 From Bradford to Dover.

MARYLAND.

From Patuxent to Forest.
 From Lakesville to Bishop's Head.
 From Snow Hill to Derickson's Cross Roads.
 From Snow Hill, via Newtown to Princess Anne.

MASSACHUSETTS.

From Taunton, via Raynham, to Bridgewater.

35TH CONG....1ST SESS.

Laws of the United States.

From Bellingham to Woonsocket Falls, (Rhode Island.)
From Sheldenville to Wrentham.

MINNESOTA.

From Minneapolis, via Greenwood, Cocato, Forest City, and Irving, to Breckinridge.
From Fort Brits, via Blue Earth City, to Albert Lea.
From Houston City, via Yucatan, and Highland, to Preston.
From Dacotah City, via Judson, Crystal Lake City, to Blue Earth City.
From Albert Lea, via Bristol, (Iowa,) Mason City, to Cerro Gordo, (Iowa.)
From Albert Lea, via Blue Earth City, Fairbault county, to Winnebago City.
From Traverse des Sioux, via Head of Swan Lake, Lafayette, Fort Ridgely, to Sioux agency.
From Lake City, via Mazeppa, Pine Island, Manterville, to Wassiojah.
From New Ulm, via Soda Springs, Oasis, Mountain Pass, to Medary.
From Medary, via Flandreau City, Summit City, Sioux Falls City, Emineja, to Sioux City, (Iowa.)
From Medary to Fort Randall, (Nebraska Territory.)
From Lake City to Rochester.
From La Crescent, via Loretto, Ridgeway, Farmersville, Wytoka, Wayland, Wyattville, Warren, Neoca, Saratoga, Chatfield, and Marion, to Rochester.
From Caledonia, via Sheldon, Yucatan, and Dedham, to Rushford.
From Rochester, via Marion, Chatfield, Farmers' Grove, and Preston, to Carimona.
From St. Peters, via New Ulm, Fort Ridgely, Sioux agency, to Pajutazee.
From Looneyville, via Houston, Yucatan, Deadham, Newbury, Senora, to Elliot.
From Chatfield, via High Forest, Madison, Geneva, Freeborn, to Winnebago City.
From Shockapee, via St. Valentine, Rockford, Monticello, to Clear Water.
From Brownsville, via La Crescent, Eagle Bluffs, Dressbuck, Dakota, Richmond, Lineville, Horner, to Winona.
From Winnebago city, via Fairmount, to Jackson.
From Glencoe, via Hutchinson, Forest City, Paynesville, to Clear Water.
From Glencoe, via Camden, to Watertown.
From Elliot, via Granger, Uxbridge, Forest City, Lime Springs, Chester, Leroy, Six Mile Grove, Cedar Valley, Otranto, Shell Rock City, Walnut Lake, to Blue Earth City.
From Chatfield, via Pleasant Grove, High Forest, to Austin.
From Minneapolis, via Wayzata, Watertown, Weinstead, Byron, and Cedar City, to Kandiyohi.
From Minneapolis to Hudson, on the west side of Minnesota river.
From Clear Lake, via Clear Water and Fair Haven, to Forest City.
From Faribault, via Swaresey and Iasco, to Mankato.
From Owatanna, via Clear Lake and Iasco, to Mankato.
From Austin, via Geneva, Berlin, Otisco, Wilton, and Iasco, to St. Peter.
From Wabashau, via Dodge City, to Medford.
From Princeton, via Granite City, to Crow Wing.
From Little Falls, via Granite City, Hanover, and Stirling, to Fortuna.
From Little Falls, via Broitersburg, to Sunrise City.
From Watsab, in Benton county, to St. Joseph, in Stearns county.
From St. Cloud, via Broitersburg, and Brunswick, to Fortuna.
From Faribault, in Rice county, to Wilton, in Waseca county.
From Grey Eagle, via Pine Creek, P. O., to Ridgeway.
From Rochester, via Salem, Ashland, and Somerset, to Wilton.
From Red Wing, via Sacramento, Wanamingo, and Rice Lake, to Owatona.
From Carmon's Falls, via Wastedo, Hader,

Wanamingo, Cherry Grove, and Concord, to Monterville.

From Austin to Blue Earth City.
From Minneapolis, via Watertown and Winstead, to Breckenridge.
From Mount Vernon to White Water Falls.
From Geneva, in Freeborn county, to Freeborn City, in Faribault county.
From Swan River to Long Prairie.
From Blue Earth City, to Fort Dodge, in Iowa.
From New Ulm, via Tuttle's Farm, to Leavenworth.
From Long Prairie to Little Falls.
From Columbus to Cambridge.
From Clear Spring, via Clearwater, to Forest City.
From Red Wing to Montorville.
From Sioux Falls to Fort Randall, Nebraska Territory.
From the mouth of James River, via Blue Earth, Rocky Hill, Sandy Hill, to Wakandapi Hills.
From Elliot, via Granger, Uxbridge, Forest City, Lime Springs, Chester, Le Roy, Six Mile Grove, Cedar Valley, Otranto, Shell Rock City, Walnut Lake, to Blue Earth City.
From Chatfield, via Pleasant Grove, High Forest, to Austin.
From Minneapolis, Wayzata, Watertown, Weinstead, Byron, and Cedar City, to Kandiyohi.
From Minneapolis, to Hudson, on the west side of Minnesota river.
From Clear Lake, via Clearwater and Fair Haven, to Forest City.
From Faribault, via Swanzey and Iasco, to Mankato.
From Owatanna, via Clear Lake, Iasco, to Mankato.
From Austin, via Geneva, Berlin, Otisco, Wilton, Iasco, to St. Peters.

MICHIGAN.

From Corunna, via Shiawassee town, Freeport, Antrim, Conway, to Fowlerville.
From Leonard post office, in Mecosta county, the northern terminus of route number twelve thousand six hundred and seven, to Stevens' post office in Grand Traverse county.
From Nickleville, in Saginaw county, via Brody and Elsie, to Duplain, in Clinton county.
From Brooklyn to Napoleon.
From Lapeer, in Lapeer county, via Marathon, Watertown, and Fremont, in Tuscolee county, to Vassar, in said county.
From Adamsville, via Mottville and Union, to White Pidgeon.
From St. John's, in Clinton county, via Keystone, Greenbush, Stella, North Star, to La Fayette.
From —, via Matherton, Monticello, to Albany, in Isabel county.
From Ithica, via La Fayette, to St. Charles.
From Ithica, via Alina and St. Louis, to Midland City.
From St. John's, via Luna, Gardner's Corners, East Essex, Maple Rapids, Spring Brook, to Ithica.
From Jackson to Pulaski.
From Marquette, by the most direct line to the Wisconsin State line, on the Menomonic river, about five miles from its mouth.
From Little Traverse, via Mackinaw City, to Duncan.
From Appleton, via Shawano, L. Ance's P. O., Houghton's, Clifton, Eagle river, Eagle Harbor, to Copper Harbor.
From Midland City to Albany.
From Pewamo, via Maple P. O., to Portland.
From Pewamo to Mancherton.
From Chessanning to St. Charles.
From Ontanagon, via Rockland, Adventure, Algonquin, Houghton, Clifton, Eagle river, Eagle Harbor, to Copper Harbor.

MISSISSIPPI.

From Kosciusko, via Centre, Plattsburgh, Noxapater, Coopwood, Fearn's Springs, and Gholson, to Shuqualak.
From Granada, via Duck Hill, Stateland, Greensboro', Bankston, Wilcox, New Prospect, and Louisville, to Macon.
From Carrollton to Sidon.
From Schuqualak, via Gholson, Coffadelliah,

Philadelphia, Laurel Hill, Edinburg, and Carthage, to Canton.

From Kosciusko, via Long Creek, Allen, Williams' Ferry, to Taylor's Depot.
From Lauderdale station, on the Mobile and Ohio railroad, via Kemper's Springs, Cullum's Mills and Pleasant Ridge, to De Kalb.
From Benton to Vaughn's station.
From Okolona, via Houston, Pittsboro', to Granada.
From Granada, via Charleston, to Goff's Landing.
From Canton, via Ludlow, Hillsboro', Corhatta, and Decatur, to Enterprise.

MISSOURI.

From Herman, in Gasconade county, via Francis Peters, on Second Creek, Mount Sterling, John B. Coopers', in Osage county, Alexander S. Rogers', in Galloway's Prairie, to Pay Down, in Maries county.
From Jefferson City to Emporia, Kansas.
From Greenfield, via Horse creek and Lamar, to Fort Scott, Kansas.
From Jefferson City to Moneka, Kansas.
From Little Piney, via Wright and Ketchum's Store, to Dent Court-House, in Dent county.
From Greenfield, Dade county, via King's Point and Davisburgh, to Carthage, in Jasper county.
From Osage City, via Toas, Castle Rock, Westphalia, Maries, to Vienna.
From Pilot Knob, in Iron county, via Charles Carter's, in Reynolds county, to Doniphan, in Ripley county.
From Marshfield to St. Luke.
From Cole Camp, via Clinton, to Butler.
From Neosho, via Spartansville and Gilstrap's Ferry, to the Grand Sabine, in the Cherokee Nation.
From Vienna to Tuscumbia.
From Steelville to Centerville.
From Bolivar, via Pleasant Hope and Fair Grove, to Marshfield.
From Chester, (Illinois,) via St. Mary's Landing, R— Mills, Pleasant Valley, Cross Roads, Mine La Motte, to Frederickstown.
From Fayette, via Bunker Hill, to Sturgeon.
From Brunswick, via Elk Springs, Lacleide, Linneus, Scottsville, Milan, Jackson Corners, Unionville, to Centerville, (Iowa.)
From Somerset to Princeton.
From Macon City, via La Platte, Kirksville, Greentop, Inkerman, Lancaster, Lavinah, to Bloomfield, (Iowa.)
From Chillicothe, via Trenton, Middlebury, to Princeton.
From Shelbyville, via Newark, to Edina.
From Huntsville, via Fort Henry, Breckinridge, and Magee College, to Bloomington.
From Boonville, via Boonsboro', to Glasgow.
From Canton, via Monticello, Newark, Edina, Kirkville, Nineveh, Greenville, Milan, Lindley, and Trenton, to Gallatin.
From Lowell to Rockport.
From Oregon, via Whig Valley and Glain's Rancho, to Marysville.
From Fillmore, via Graham, Russell's Mills, Lamar's Station, and Amity, to Clarinda, (Iowa.)
From Canton, via Memphis, Lancaster, Unionville, St. John, Princeton, Bethany, Gentry Court-House, and Rochester, to St. Joseph.
From Rochester, via Douglas, Island Branch, Mount Pleasant, West Fork, and Middle Fork of Grand river, to Fairview.
From Rockport to Lewis, (Iowa.)
From Oregon, via Forest City, to White Cloud, (Kansas.)
From St. Joseph, via Elwood, Wathena, Troy, and Bennett's, to Kennekuck, (Kansas.)
From Parkville, via Ridgeley and Plattsburgh, to Stewartsville.
From Weston, via Camden Point, to Easton.
From St. Joseph, via Belmont and Laporte, to Charleston, (Kansas.)
From Easton, via Rochester and Fairview, to Des Moines.
From Missouri City, via Liberty and Plattsburgh, to Stewartsville.
From Liberty, via Hayneville and Mirabile, to Gallatin.
From Missouri City, via Hayneville, to Cameron.

Laws of the United States.

35TH CONG....1ST SESS.

From Parkville, via Plattsburgh, Gallatin, Trenton, Milan, Memphis, to Burlington, (Iowa.)
 From Greenwood Valley to Eminence.
 From Charleston to St. James Bayou.
 From Appleton, via Pocahontas and Vancle's Store, to Cape Girardeau City.
 From Frederickstown to Perryville.

From Princetown, via Cainsville, Harrison City, and Coysville, to Albany.
 From Platte City, via Farley, to Leavenworth City, (Kansas.)
 From Rockport, via Rich, to Mount Vernon, (Nebraska.)

From Chillicothe, via Springhill, Livingston, Jamesport, Crittenden, and Pleasant Ridge, to Bethany.
 From Plattsburgh, via Platte river, Arnolds-ville, Berming, De Kalb, and Rushville, to Atchinson, (Kansas.)

From Richfield, via Cameron, Alto-Vista, and Pattensburg, to Bethany.

From Harrisonville, via Parla, Stanton, Ohio City, to Sac and Fox agency.

From Elk Mills, via Lewis Hetterbrand's, Peter L. Thompson's, and Lewis Rogers's, to the Grand Sabine, (Cherokee Nation.)

From Herman, via Second Creek, Mount Sterling, Delhi, Galloway's Prairie, to Paydor.

From Savannah, via Whiteville, Guilford, and Sweet Home, to Bedford, (Iowa.)

From Allendale, via Centrehill, Smithton, and West Point, to Marysville.

From St. Joseph's, via Iowa Point, White Cloud, Mount Roy, Yamlin, and Central City, (Kansas.)

From Bethany, via Eagleville, to Decatur City, (Iowa.)

From Parkville, via Barry, to Plattsburgh.

From Carrollton, via Finney's Grove, Millville, and Knoxville, to Plattsburgh.

From Parkville, via Fairmount, Smithville, Carpenter's Store, and Plattsburgh, to Gallatin.

From Marysville to Bedford, (Iowa.)

From Bethany to Nine Eagles.

From Lebanon to Hartwell.

From Douglas Court-House to Howell Court-House.

From Hartwell to Douglas Court-House.

From Buffalo, via St. Luke, to Marshfield.

From Fremont, via Wheatland, to Lamar.

From Pilot Knob to Houston.

From Herman, via Francis Peters's, Mount Sterling, John B. Cooper's, in Osage county, Alexander S. Rogers's, in Galloway's Prairie, to Pay Down, in Maries county.

From Butler to Emporia, (Kansas.)

From Greenfield, via Horse creek and Lamar, to Fort Scott, (Kansas.)

From Butler to Moneka, (Kansas.)

From Little Piney, via Wright and Ketchum's Store, to Dent Court-House.

From Greenfield, via King's Point, and Davisburg, to Carthage.

From Osage City, via Toas, Castle Rock, Westphalia, and Maries, to Vienna.

From Pilot Knob, via Charles Carter's, to Doniphan.

From Neosho, via Spartanville, (Missouri,) and Giltrap's Ferry, to the Grand Sabine, (Cherokee Nation.)

From Vienna to Tusculumbia.

From Steelville to Centreville.

From Bolivar, via Pleasant Hope and Fair Grove, to Marshfield.

From Pond Creek, via Hall and Varona, to Copp's Creek.

From Marshfield to Hartwell.

From Houston to Howell Court-House.

From Howell Court House to Pilot Hill, (Arkansas.)

From Cole Camp, via Chariton, to Butler.

From Hartwell to Ozark.

From Lamar to Nevada.

From Nevada to Papinsville.

From Independence, via Hickman's Mill and Santa Fe, to Fort Scott, (Kansas.)

From Versailles, in Morgan county, via Mount Pleasant, Spring Garden, and Fair Play, to Vienna, in Maries county.

From Warrensburg, via Basin Knob, Lone Jack, to Independence.

From Marshall, via Hazel Grove, Browns-ville, and Dunksburg, to Knob Nestor.

From Appleton, in Girardeau county, via Pocahontas, Vancel's Store, to Cape Girardeau City.

From Sturgeon to Mexico.

From Florida, in Monroe county, via Santa Fé, to Mexico, in Andrain county.

From High Hill, in Montgomery county, on the North Missouri railroad, via Price's Branch and Tivoli, in said county, Truxton, Lost Branch, and Louisville, in Lincoln county, to Ashley, in Pike county.

From Palmyra, via Brookville, Philadelphia, West Springfield, Novelty, and Wilson, to Kirks-ville.

From Monroe City to Mexico.

From Bowling Green, via Harmony, to Spencersburg.

From Warrenton, on the North Missouri rail-road, via Truxton and Nineveh, to Ashley.

From Frederickstown to Ironton.

From Warrensburg, via Harrisonville, to Min-neola, (Kansas.)

From St. Joseph, via Elwood, Wathena, and Highland, in Doniphan county, Mount Roy, Pa-donia, and Plymouth, in Brown county, Kansas and Middleburg, in Richardson county, to Paw-nee City, in Nebraska.

From La Grange to Quincy, Illinois.

From Memphis, via Uniontown, to Savannah, Davis county, Iowa.

NEW HAMPSHIRE.

From Ossipee, via Ossipee Centre, West Ossi-pee, to Tamworth.

From Marlow, via East Lempster, to Lemp-ster.

From Manchester, via Bedford, Amherst, Mil-ford, East Wilton, and Mason, to New Ipswich

From Salisbury to West Salisbury.

NEW YORK.

From Malden bridge to Rider's Mills.

From Dansville, via South Dansville, and Ste-phens's Mills, to Hornellsville.

From Union, via Vestal and Ferry creek, to Little Meadows, (Pennsylvania.)

From Brooklyn, via Third Avenue and Bay Ridge, to Fort Hamilton.

From Cameron, via Swale, Talbott's South Hill, and Hedgesville, to Woodhull.

From Sinclearville, via Ellington, to Falconer.

From Horseheads, via Sullivanville, to West Cayuta.

From Conesus Centre to Scottsburg.

From Grahamsville, Sullivan county, via Clayville and Debruce, to Parksville, Sullivan county.

NORTH CAROLINA.

From Newbern to Adam's creek.

From Atlantic and North Carolina railroad to Adams's creek.

From Newbern to Bay river.

From Leechville, in Beaufort county, to Head of Pungo.

From Beaufort to Portsmouth.

From Brattleboro' to William F. Lewis's, or Prospect Hill, in Edgecomb county.

From Mosely Hall, in Lenoir county, to Jeri-cho, in Wayne county.

From Mosely Hall, via Hookerton, to Green-ville.

From Nahunta, in Wayne county, to Bull Head, in Green county.

From Midway, via Sandy Ridge, to Fulton.

From Columbia to Gun Neck.

From Leachburg, Johnson county, to Ra-leigh.

From Niyohoh, on the line of the Blue Ridge railroad, through the valleys of Cheve and Te-cote, or Hanging Dog, to Murpley.

From Thom's Creek post office, via Douglas' Ford and Green Harbor, to Dobson.

From Madison, in Rockingham county, to Martin's Lime Kiln, in Stokes county.

From Leakeville, via Martin Grogan's, Gro-ganville, to Horse Pasture, in Henry county.

From Jefferson to John Eldridge, esqr, in Ashe county.

From Thomasville, via Eden, Nance's Mills, Salem Church, Tasseter's Mills, New Hope In-stitute, Barney's Mills, to Troy.

From Jackson to Newbern.

From Franklinsville, via Richland creek, to Stone Lick.

From Walkersville, via Stewart's Store, D. D. A. Belk's, and Jackson Stognins, to Pleasant Hill, (South Carolina.)

From Kinston, Lenoir county, to Richlands, Onslow county.

From Waynesville, Haywood county, via Cat-tahooche creek, to Dandridge, Jefferson county, Tennessee.

NEW MEXICO [TERRITORY.]

From Santa Fe, via Canada, Abequier, and Reto, in the county of Rio Ariba, to San Anto-nio, (Los Corejos,) in the county of Taos.

From Fort Union, via Guadalupeita, Santa Ger-trude, San Antonio, Agua Negra, Rincones, Cantonment Burgwin, and Rancho, to Fernan-dez de Taos.

From Taos, via Arroyo Hondo, Rio Colora-do, and Calabra, to Fort Massachusetts.

From Albuquerque, via Ciboleta and Cuvero, to Fort Defiance.

From Albuquerque, via Peralta, Manzano, to Fort Stanton.

NEBRASKA TERRITORY.

From Brownsville, via Nemaha City, Archer, Falls City, Monterey, Salem, Pleasantville, and Pawnee City, to Table Rock.

From Nemaha City, via Salem, Plymouth, and Powhatan, to Topeka, in (Kansas.)

From Omaha City to Iowa City, (Iowa.)

From Omaha City, via Cedar Island, Eight Mile Grove, Mount Pleasant, and Waterville, to Nebraska City.

From Plattsmouth to Pacific City, (Iowa.)

From Fontenelle, via Lewisburgh, to De Witt, in Cuming county.

From Nebraska City, via Helena, Kingston, Beatrice, and Blue Springs, to Marysville, in (Kansas.)

From Blue Springs to Atchison, (Kansas.)

From Nebraska City, via Hamburg, Clarinda, and Bedford, to Chariton, (Iowa.)

From Nebraska City, via Quincy, Red Oak, Junction, to Winterset, (Iowa.)

From Covington to Sioux City, Iowa.

From Monroe, Monroe county, via Cleveland, Columbus, Buchanan, Emerson, North Bend, Fontenelle, Cuming City, Medail, Mouth of Sol-dier river, to Magnolia, Iowa.

From Bellevue, via Fairview, to Plattford.

From Bellevue, via Junction City, to Council Bluffs, (Iowa.)

From Bellevue, via St. Mary's, to Pacific City, (Iowa.)

From Bellevue, via Hazelton, Elk Horn, Fre-mont, Springville, Franklin, Emerson, Buchanan, Columbus, Monroe, Grand Island City, to New Fort Kearney.

From Bellevue to Larimee City.

From Omaha City, via Missouri river, to St. Joseph, Missouri.

From Dakota City, via Galena, to Pacific City, on the Niobrarah river.

From Brownsville, via Nemaha City, Peru, Winnebago, St. Stephen's, Yancton, and Rulo, to St. Joseph, Missouri.

From Fontenelle, via De Soto, Calhoun, and Cincinnati, to Magnolia, Iowa.

From Omaha City, via Bellevue, Plattsmouth, Rock Bluffs, Kenosha, Wyoming, Nebraska City, Otoe City, to Brownsville.

From Archer to Geneva and Shasta.

From Plattsmouth, via Rock Bluffs and Ke-nosha, to Sidney, Iowa.

From Nebraska City to Linden, Missouri.

From Florence, via Golden Gate, to Fontenelle.

From Florence, via Elk Horn City, Fremont, North Bend, Emerson, Buchanan, Columbus, and Nebraska Centre, to New Fort Kearney.

From Florence, via Crescent City, Pymosa, Lura, Hamlin's Grove, Bear Grove, Morrisburg, Wisconsin, Adell, and Boon, to Fort Des Moines, Iowa.

From De Soto to Pymosa, Iowa.

From Plattsmouth, via Cedar Creek, South Bend, and Parallel City, to Long Island.

From Niobrarah to Sioux City, Iowa.

From Decatur, via Ashton, Belvidere, to Den-nison, Crawford county, Iowa.

From St. Stephens to Archer.

35TH CONG....1ST SESS.

Laws of the United States.

From Dakotah City, via Sargent's Bluffs, to Fort Des Moines, Iowa.

From Bellevue to Fort Des Moines, Iowa.
From Omadi, via Logan, St. John, Addison, Ponca, Concord, and St. James, to Niobrarah.

From Niobrarah to Fort Randall.
From Fort Randall, via the mouth of Blue Earth river, to the mouth of Little Medicine Knoll river.
From Niobrarah, via the Ponca reserve, to Chimney Rock.

OHIO.

From McArthur, Vinton county, via Laurel Grove, to South Bloomingville, in Hocking county.

From Powhatan Point, via Captina Ring's Mills, Armstrong's Mills, Beallsville, Pilcher, to Malaga.

From Waverly, via Allison and Iron Spring, to Bainbridge.

From Nelsonville, via Hitchcock's Mills, Hocksville, and Medill, to New Lexington.

From Walhanding, via Yankee Ridge post office, in Coshocton county, Jones's Corners, Dewitt's Ridge, Drake's Valley, to Loudonville, in Ashland county.

From Newark to Millwood.

From Colton, in Henry county, via Beta, West Barre, to Wauseon, in Fulton county.

From McConnellsville, via Wolf Creek, Ringgold, Wise's Roads, and Bishopsville, to Trimble.

From Belpre, via Dunham, Veto, Vincent, Barlow, Watertown, and Watford, to Beverly.

From Ridge post office, in Coshocton county, via Clark's Mills, to Bloomfield.

From Maria Stine post office, to Minster.

From Youngstown to Mercer, in Mercer county, Pennsylvania.

From Lancaster, via Royalton, South Bloomfield, Genoa, Harrisburgh, California, to London, in Madison county.

From Gilead, via New Westfield and Osage Pike, to McComb.

From Powhatan Point, via Kantzig's, Lantz's, Gates's Yard, and Beallsville, to Malaga.

From Portsmouth to Locust Grove.

From River Styx to Guilford.

From Wadsworth to Guilford.

OREGON TERRITORY.

From Salem, along the military road, to Astoria.

From Roseburg, via the Coquille valley, to Empire City, at Coose bay.

From Salem to Tillamook bay.

From Salem, via Fort Yamhill, to Grand Round Reservation agency.

From Salem to Franklin Butte, in Lynn county.

From Lafayette, via McMinnville, Muddy, Wilhelmnia, to Grand Round Reservation agency.

From Jacksonville, via Mansaneta, to Frederick Westgate, Jackson county.

From Roseburg, in Douglas county, via Looking-Glass Prairie, Ten Mile Prairie, Camas Swain, Coquille valley, to Empire City.

From Salt Lake City, via Clamath Lake and Jackson, to Roseburg.

PENNSYLVANIA.

From Strattonville, via Kahli's Store, in Jefferson county, to Clarrington.

From Troy to Blossburg.

From Harrisonville, via Emanuel Sipe's Mill, Warfordsburg, to Hancock, Maryland.

From Ray's Hill to Akersville.

From Quakertown to Trumbowersville.

From Gap, via Buyerstown, New Milltown, and Hat, to Intercourse.

From Bellefonte, Centre Furnace, and Farmer's High School, to Pine Grove Mills.

From Emlenton, via Lawrenceburg, to Brady's Bend Iron Works.

From Bethany, via Dyberry Fall, West Lebanon, East Mount Pleasant, to Pleasant Mount.

From Butler, via Sparr's Store, Middletown, North Washington, and McMahon, to Emlenton.

From Bedford, via Rainsburg and Cheneysville, to Elbenville.

From Allentown, via Emans and Millerstown, Long Swamp, to Mertztown.

From Coalmont, via Broad Top, New Grenada,

Dublin Mills, and Fort Littleton, to Burnt Cabins.

From John P. Krigbaum's, via Palo Alto, Bridgeport, and Buffalo Mills, to Mount Choice.

From Gaines, via Germania and Elk run, to Carter's Camp, in Potter county.

From Harrisonville, via Saluvia Tannery, West Dublin, and Wells's Tannery, to Allaquippa.

From Saltsburg, in Indiana county, to Perrysville.

From Baldwin post office, Butler county, to Adams' post office, in Armstrong county.

From Coyleville, in Butler county, via Church Hill, Adams', Mouth of Red Bank, to Reimersburg, in Clarion county.

From Fannettsburg to Carrick Furnace, in Franklin county.

From Lancaster, via Millport and Musselman's Mill, to Strasburg.

From Leiverling's, on the Meadville and Edinburg plank road, in Crawford county, via Waterford and Belleville, to Wattsburg.

From Mercer, via West Middlesex, to Youngstown, Ohio.

From Clarion to Tianesta.

From Mercer to Brownsville.

From Andesville, via Sandy Hill, to Andersonburg.

From Andesville, via Roseburg, Ickesberg, and Shull's Mills, to Sandy Hill.

From Hollidaysburg to Williamsburg.

From Martinsburg to Kalamazoo.

From Waterford, via Belldona, to Wattsburg.

From Plumerhouse to Titusville.

From Bustleton, in Philadelphia, by the Berry P. O., to Oakford, in Buck's county.

SOUTH CAROLINA.

From Monk's Corner, via Cordesville, Huger's Bridge, and Brick Church, to Cainho, on the Wando river.

From Charleston to Curtis', on John's Island.

From King's Tree to Potato Fen, on Black river.

From Spartanburg C. H., via Crawfordville and Reidville, to Greenville C. H.

From Unionville, via Kelton, Mount Joy, and Skull Shoals, to Gowdysville.

From Charleston to New Orleans, by the way of Fernandina and Cedar Key, the route to go into operation if the service can be performed in sixty hours.

From Union C. H., daily, to Spartanburg.

TENNESSEE.

From Vernon, via Dunnington, to Buffalo.

From Waynesboro, via Ashland, to Linden.

From Waynesboro, via Smith's Fork and Hamburg, to Corinth, Mississippi.

From Nashville, via Saddle Tree, to Leiber's Fork.

From Granville to Chestnut Mound.

From Manchester, via Hillsboro' and Hindman's Hill, to Pelham.

From Union Depot, via Blountsville, to Ellisville.

From Knoxville to Wallace's Cross Roads.

From Maynardville to Loy's Cross Roads.

From Knoxville, via Moor's Rest, Vandegriff's and Racoon Valley, to Maynardville.

From Maynardville, via Lost creek, to Speedwell.

From Jackson, via Mount Pinson, Montezuma, to Purdy.

From Rock Island, via John L. Gressom's Store, Thomas Fancher's Mills, to Cokeville.

From the mouth of Sandy, via Buchanan, to Conyersville.

From Dyersburgh, via Chestnut Bluff, to Brownsville.

From Ellijoy, via Knob creek and Guist's creek, to Sevierville.

From McMinnville, via Myre's, in Warren county, and Sergeant's, in Bledsoe county, to Pikeville.

From Franklin, via Hart's Cross Roads, Rally Hill, Hardison's Mill, Beard's Store, and Berlin, to Lewisburg.

From Franklin, via Barren, to Charlotte.

From Huntingdon, via Paris and Boydsville, to Mayfield, Kentucky.

From Lexington, via Mifflin, to Jackson.

From Paris, via Mansfield and Marborough, to Huntingdon.

From Silvertop, via Darnell's Landing, to Compromise.

From Knoxville, via Beaver Ridge, Del Rey, Robertsville, Olivers', Crooked Fork, Morgan Court-House, Sage Field, and Glades, to Jamestown.

From Pikeville, via Pink Ridge and Myresville, to McMinnville.

From Athens, via Suvée and Moor's Store, to Sulphur Springs.

From Spring creek, in Madison county, via Lecompton and Juno, to Crucifer.

From Sparta, up the Calf Killer, via John H. Carmichael's, James Bohanan's, to the post office on the Walton road.

From Murfreesboro', to Las Casas, Milton, and Auburn, to Liberty.

From Memphis, by railroad, to Madison and Little Rock, in Arkansas.

TEXAS.

From Jasper to San Augustine.

From Gilmer, in Upshur county, to Sulphur Springs, Bright Star P. O., in Hopkins county.

From Petersburg, on Lake Soda, in Harrison county, to Marshall, along the railroad.

From Alto, in Cherokee county, to county site of Angelina county, or Jonesville.

From Logansport, via Truit's Store, Hilliard's, and Buena Vista, to Nacogdoches.

From Paris, in Lamar county, to Mount Pleasant, in Titus county.

From Carissa to Athens.

From Crockett, via Stell's Landing, to Centreville.

From Hillsboro, via Buchanan and Weatherford, to Fort Belknap.

From Fort Sullivan, via Cameron, to Betten.

From Cunningham, via Leesburg, to Lexington.

From Seguin, via Post Oak, Sutherland Springs, Chisem's Crossings, to Helena.

From Betten to Gatesville.

From Centreville to Magnolia.

From St. Mary's, via Refugio, to Goliad.

From Magnolia to Centreville.

From Fort Davis to Presidio del Norte.

From Marshall, via Gilmer, Quitman, and Greenville, to Dallas.

From some point in Texas to San Diego, in California.

From Tyler, via Athens, Carscance, and Dresden, to Waco.

From Columbus to George Waldman's.

VERMONT.

From Cabot, via Walden, East Hardwicke, and Greensboro', to Barton.

From Barton, via East Craftsbury and Craftsbury, to North Craftsbury.

From Readsboro', Vermont, via Monroe, to Florida, in Massachusetts.

From Castleton, via Hubbardton, to Sudbury.

From Hancock, in Addison county, via Granville, to Warren, in Washington county.

VIRGINIA.

From Oakland to Homeland.

From Beaver Dam Depot, via Chilesburg, Apple Wood, and Hippo's, to Thornburgh.

From North River Mills to Slonesville, in Hampshire county.

From Greenville to Mount Airy, in Surry county, North Carolina.

From Mannington, via Eugenius Wilson's, to West Union.

From Ketterman's, in Hardy county, via Mallow's Settlement, Swedlin Hill, Brake's Run, Oak Flat, Sugar Grove, and Palo Alto, to McDowell, in Highland county.

From Russellville, via Springvale, James Talley's Ford, on the Nolachucky river, Driskall's, on Slate creek, Evans' Roads, to Parrottsville.

From Betten, via Gorby's, Isaac Miller's, Absalom Postlewaits', and Benjamin Johnston's, to New Martinsville.

From Williesburg, via Otter Hill, Medon, Gregory's Store, and Thomas Gregory's, to Boyden.

From California to Smithville.

Laws of the United States.

35TH CONG....1ST SESS.

From Upshur C. H., up French creek, via Walkerville, and Jacksonville, Benjamin W. Haymond's Store, in Braxton county, to Gilmer C. H.

From Jeffersonville, Tazewell county, to McDowell C. H.

From Lebanon, Russell county, via Sand Lick, to Buchanan C. H.

From Newbern, Pulaski county, via Francis Allison's, to Graham's new furnace.

From Graham's new furnace to Jackson Ferry. From Macks Meadows Depot to Graham's old furnace.

From Abingdon, via Tool's creek and Byrd Lilley's in the Poor Valley, to Whitley Fullon's.

From Holston post office, in Washington county, via Hiram Fullon's, to Estillville, in Scott county.

From Graham's new furnace, via Francis Allison's, up the valley of Reed Island river, to the Hillsville and Floyd C. H. turnpike.

From Ganby Bridge, in Fayette county, via Big Sycamore, and Marshall, Clay Court-House, to Newton, Roane county.

WASHINGTON TERRITORY.

From Olympia, via Miami, William's, near mouth of Black river, Scammin's, Lee, (Grey's Harbor,) Oysterville, Pacific City, Chinook, to Astoria.

From Astoria, via Job Lamly's, Fort Willopa, to William's, near mouth of Black river.

From Oysterville, via Bruceport, Fort Willopa, Roundtree's Prairie, to Borsefort Prairie.

From Oakland to Hood's canal.

From Olympia, via Chambers' Prairie, Temalquit Prairie, to Coal Bank.

From Steilacoom to Camp Montgomery.

From Colville, via Antoine Planties to Cœur d'Alene Mission.

From Gamble to Sebec.

From Bellingham bay to Fort Colville.

WISCONSIN.

From Monroe City, in Green county, via Cadiz, Winslow, Stephenson county, Illinois, to Warren, in Jo Davis county, Illinois.

From Jonesville to Monroe.

From Stevens' Point, via Neillsville, in Clark county, to Eau Claire, in Eau Claire county.

From Montello, via Harrisville, to Westfield, in Marquette county.

From Two Rivers to Bayly's Harbor.

From Prairie du Chien, via Cassville, to Dunleith, Illinois.

From La Crosse, via Mount Pisgah, Dorset, to Mill Haven.

From New Lisbon, via Malery's Hotel, Jackson's Steam Mill, Tomah, Greenfield, Lafayette, Angelo, Sparta, Bangor, Salem, Bigby, Onalaska, to La Crosse.

From New Lisbon, via Necidah, to Grand Rapids.

From Waubeck, via Dunnville, Menominee, to Vanceburg.

From Platteville, via Smelser's Grove, Jamestown, and Fairplay, to Dubuque, (Iowa.)

From Dunlieth, (Illinois,) via Potosi, Waterloo, Cassville, Charlotte, Bunker Hill, Beaufl, Patch Grove, to Prairie du Chien.

From Prescott, via Point Douglas, to Hastings, Minnesota.

From Maiden Rock, via El Paso, and Hammondville, to Falls of St. Croix.

From Trempealeau, via Caledonia, New Amsterdam, to La Crosse.

From Mineral Point, via Argyle, to Monroe.

From Mineral Point, via Dodgeville, Helena, Spring Green, Honey creek, Westfield, to Reedsburgh.

From Maugh's Mills, via Wonnewoc and Hillsborough, to Vingna.

From Oshkosh to Shiocton.

From Viroque, via Bloomingdale, Masterson, and Whitestown, to Mount Taber.

From Badax City to Reedsburgh.

From Manston, via Wonnewoc and Hillsboro', to Viroqua.

From Litchfield, via Mount Kingston, Dryfork, Old Ripley, Pocahontas, New Hillsboro', Jamestown, to School creek station.

From Sheboygan, via Sheboygan Falls, Wheat

valley, Onion river, Cascade, Scott, Boltonville, and Barton, to West Bend.

From Green bay to Sturgeon bay.

From Two Rivers to Kewaunee.

From Kewaunee to Sturgeon bay.

From Green bay to Shawanaw.

From Inneau, via Oak Grove, and Lowell's, to Reesville.

From New London, in North Royalton, Ogdensburg, and Scandinavia, to Plover.

From Lone Rock, in Richland county, via Bear creek, Sandusky, Ironton, Lavalie Summit, to Maugh's Mill, in Juneau county.

From Oconto to Shawanaw.

From La Crosse, via Brownsville, Sheldon, Dedham, Preston, Carimona, Forestville, Spring Valley, Frankfort, Austin, Sumner, Albert Lea, to Winnebago, in Minnesota.

SEC. 2. *And be it further enacted*, That the Postmaster General be authorized to make such arrangements for the transmission of the great through mails between Portland and New Orleans as will insure the most speedy and certain connection, including in the route for one of the daily mails as many of the sea-board commercial cities as may be consistent with the greatest dispatch.

APPROVED, June 14, 1858.

CHAP. CLXIII.—An Act to supply Deficiencies in the Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the year ending June thirtieth, eighteen hundred and fifty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying deficiencies in the appropriations for the current and contingent expenses of the Indian department, and fulfilling treaty stipulations with various Indian tribes:

For restoring and maintaining, by peaceable measures, friendly relations with the Indian tribes in Oregon Territory, or so much thereof as may be necessary for expenditure during the year ending thirtieth June, eighteen hundred and fifty-eight, two hundred and sixty-four thousand dollars.

For payment to such Cherokees as were omitted in the census taken by D. W. Siler, but who were included and paid under the act of July, eighteen hundred and forty-eight, the same *per capita* allowance that was paid the other Indians under that distribution, provided the Commissioner of Indian Affairs shall be satisfied they ought to be included in said *per capita* distribution, three thousand two hundred and seventy-eight dollars and thirty-two cents.

For contingencies of the Indian department, or so much thereof as may be required for expenditure during the year ending June thirtieth, eighteen hundred and fifty-eight, twenty-five thousand dollars.

For indemnity to George W. Stidham, a Creek Indian, for property stolen from him and injured by a citizen of the United States, one hundred and twenty-five dollars.

For general incidental expenses of the Indian service in the Territory of Washington, or so much thereof as may [be] required during the year ending June thirtieth, eighteen hundred and fifty-eight, sixteen thousand dollars.

Senecas of New York.—For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand dollars.

For payment of the difference in salaries of the agents for the Sioux and Seminole Indians, for the Omaha agency, for the Kickapoo agency, for the Kansas agency, and for the Neosho agency, between the rates as fixed previous to the act of third March, eighteen hundred and fifty-seven, and the rate authorized by said act from the third March, eighteen hundred and fifty-seven, to the thirtieth June, eighteen hundred and fifty-eight, three thousand nine hundred and ninety-one dollars and sixty-eight cents.

For compensation of one clerk in the Indian

office, employed to enable the Secretary of the Interior to carry out the regulations prescribed to give effect to the seventh section of the act of third March, eighteen hundred and fifty-five, granting bounty lands to Indians, fourteen hundred dollars.

For compensation of two extra clerks, employed to carry out the treaty with the Chickasaws in the adjustment of their claims, two thousand eight hundred dollars.

For defraying the expenses of the several expeditions against Ink-pa-du-tah's band, and in the search, ransom, and recovery of the female captives taken by said band in eighteen hundred and fifty-seven, the sum of twenty thousand dollars, or so much thereof as may be necessary; the amounts to be ascertained and paid, on satisfactory proof, under the direction of the Secretary of the Interior.

SEC. 2. *And be it further enacted*, That none of the money herein appropriated to the Indian service in the Territories of Oregon and Washington shall be paid until the claims which they are intended to satisfy shall have been audited and stated by a commissioner to be sent to the said Territories by the Secretary of the Interior, and approved by the said Secretary. The said commissioner shall be appointed as soon as may be practicable by the Secretary of the Interior, to receive a compensation of eight dollars a day and his actual traveling expenses whilst engaged in the service herein prescribed. And it shall be the duty of the said commissioner to examine the vouchers, and to take testimony, if necessary, in regard to the claims or accounts which may be presented against the Government, and to report the result of his investigations, and his opinion thereupon, to the Secretary of the Interior, who shall pay such claims, if he approves them, so far as the appropriations herein made shall be sufficient for the purpose.

SEC. 3. *And be it further enacted*, That in executing process in the Indian country, the marshal be authorized to employ a *posse comitatus*, not exceeding three persons in any of the States respectively, to assist in executing process by arresting and bringing in prisoners from the Indian country, and to allow them three dollars per diem in lieu of all expenses and services.

SEC. 4. *And be it further enacted*, That the superintendent and agents within the superintend[en]cy of Texas shall be hereafter appointed in the same manner as other superintendents and agents, [are] appointed and confirmed.

APPROVED, June 14, 1858

CHAP. CLXIV.—An Act making Appropriations for the Transportation of the United States Mail by Ocean Steamers and otherwise, during the fiscal year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and fifty-nine:

For transportation of the mails from New York to Liverpool, and back, three hundred and forty-six thousand five hundred dollars; and it is hereby provided that there be paid to the Post Office Department out of said appropriation such sums as may be required to procure the transportation of the mails from New York to Liverpool, and back, on such days as the Collins line may fail to take them from New York.

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, two hundred and sixty-one thousand dollars.

For transportation of the mails from Panama to California and Oregon, and back, three hundred and twenty-eight thousand three hundred and fifty dollars.

For transportation of the mails between San Francisco, California, and Olympia, Washington Territory, one hundred and twenty-two thousand five hundred dollars.

For transportation of the mails on Puget sound, twenty-two thousand four hundred dollars.

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SEC. 2. *And be it further enacted*, That there be paid to the Post Office Department, out of the appropriation of three hundred and forty-six thousand five hundred dollars granted by the first section of the act of third March, eighteen hundred and fifty-seven, "for transportation of the mails from New York to Liverpool, and back," the sum of sixteen thousand seven hundred and fifty-seven dollars and seventy cents, for five outward trips from New York to Liverpool, to wit: on fourteenth February and eleventh April, eighteen hundred and fifty-seven, and thirteenth February, thirteenth March, and tenth April, eighteen hundred and fifty-eight, when the Collins line failed to perform service; and that the further sum of thirty-five thousand dollars, or so much thereof as may be necessary, by paid to the Post Office Department, out of the appropriation aforesaid, to enable the Postmaster General to procure the transportation of the mails from New York to Liverpool, and back, on the twenty-fourth April, the eighth and twenty-second May, and the fifth and nineteenth June, eighteen hundred and fifty-eight, if the Collins line should fail to perform service on those days.

SEC. 3. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, for the service of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and fifty-nine, out of any money in the Treasury arising from the revenues of said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For transportation of the mails from New York, by Southampton or Cowes, to Havre, two hundred and thirty thousand dollars.

For transportation of the mails between Charleston and Havana, fifty thousand dollars.

For transportation of the mails across the Isthmus of Panama, one hundred thousand dollars.

SEC. 4. *And be it further enacted*, That it shall not be lawful for the Postmaster General to make any steamship or other new contract for carrying the mails on the sea for a longer period than two years, nor for any other compensation than the sea and inland postages on the mails so transported.

SEC. 5. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized, to cause the mails to be transported between the United States and any foreign port or ports, by steamship, allowing and paying therefor out of any money in the Treasury not otherwise appropriated, if by an American vessel, the sea and United States inland postage, and if by a foreign vessel, the sea postage only, on the mails so conveyed: *Provided*, That the preference shall always be given to an American over a foreign steamship when departing from the same port for the same destination, within three days of each other.

APPROVED, June 14, 1858.

CHAP. CLXV.—An Act to authorize a Loan not exceeding the Sum of Twenty Millions of Dollars.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and hereby is, authorized, at any time within twelve months from the passage of this act, to borrow, on the credit of the United States, a sum not exceeding twenty millions of dollars, or so much thereof as, in his opinion, the exigencies of the public service may require; to be applied to the payment of appropriations made by law, in addition to the money received, or which may be received, into the Treasury from other sources: *Provided*, That no stipulation or contract shall be made to prevent the United States from reimbursing any sum borrowed under the authority of this act at any time after the expiration of fifteen years from the first day of January next.

SEC. 2. *And be it further enacted*, That stock shall be issued for the amount so borrowed, bearing interest not exceeding five per centum per annum, payable semi-annually, with coupons for the semi-annual interest attached to the certificates of stock thus created, and the Secretary of the Treasury be, and hereby is, authorized, with the consent of the President, to cause certificates of stock to be prepared, which shall be signed by

the Register, and sealed with the seal of the Treasury Department, for the amount so borrowed, in favor of the parties lending the same, or their assigns: *Provided*, That no certificate shall be issued for a less sum than one thousand dollars.

SEC. 3. *And be it further enacted*, That, before awarding said loan, the Secretary of the Treasury shall cause to be inserted in two of the public newspapers of the city of Washington, and in one or more public newspapers in other cities of the United States, public notice that sealed proposals for such loan will be received until a certain day to be specified in such notice, not less than thirty days from its first insertion in a Washington newspaper; and such notice shall state the amount of the loan, at what periods the money shall be paid; if by installments, and at what places. Such sealed proposals shall be opened on the day appointed in the notice, in the presence of such persons as may choose to attend, and the proposals decided on by the Secretary of the Treasury, who shall accept the most favorable proposals offered by responsible bidders for said stock. And the said Secretary shall report to Congress, at the commencement of the next session, the amount of money borrowed under this act, and of whom, and on what terms, it shall have been obtained; with an abstract or brief statement of all the proposals submitted for the same, distinguished between those accepted and those rejected, with a detailed statement of the expense of making such loans: *Provided*, That no stock shall be disposed of at less than its par value.

SEC. 4. *And be it further enacted*, That the faith of the United States is hereby pledged for the due payment of the interest and the redemption of the principal of said stock.

SEC. 5. *And be it further enacted*, That, to defray the expense of engraving and printing certificates of such stock, and other expenses incident to the execution of this act, the sum of five thousand dollars is hereby appropriated: *Provided*, That no compensation shall be allowed for any service performed under this act to any officer whose salary is established by law.

APPROVED, June 14, 1858.

CHAP. CLXVI.—An Act in Relation to Courts, and the holding of the Terms thereof, in the several Territories in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the judges of the supreme court of each Territory of the United States are hereby authorized to hold court within their respective districts, in the counties wherein, by the laws of said Territories, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party: *Provided*, That the expenses thereof shall be paid by the Territory, or by the counties in which said courts may be held, and the United States shall in no case be chargeable therewith.

APPROVED, June 14, 1858.

CHAP. CLXVII.—An Act making Appropriations for the Service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and fifty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, for the service of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and fifty-nine, out of any moneys in the Treasury arising from the revenues of the said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For transportation of the mails, (inland,) ten millions one hundred and forty thousand five hundred and twenty dollars.

For compensation to postmasters, two millions three hundred and twenty-five thousand dollars.

For ship, steamboat, and way letters, twenty thousand dollars.

For wrapping-paper, fifty-five thousand dollars.

For office furniture in the post offices, five thousand dollars.

For advertising, eighty-five thousand dollars.

For mail-bags, sixty-five thousand dollars.

For blanks, and paper for the same, one hundred and twenty-five thousand dollars.

For mail-locks, keys, and stamps, fifteen thousand dollars.

For mail depredations and special agents, seventy thousand dollars.

For clerks in the offices of postmasters, eight hundred and fifty thousand dollars.

For postage stamps and stamped envelopes, one hundred thousand dollars.

For miscellaneous items, one hundred and eighty thousand dollars.

SEC. 2. *And be it further enacted*, That if the revenues of the Post Office Department shall be insufficient to meet the appropriations of this act, then the sum of three millions five hundred thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

APPROVED, June 14, 1858.

PUBLIC RESOLUTIONS.

No. 1.—Joint Resolution to amend the Act entitled "An Act to regulate the Compensation of Members of Congress," approved August sixteenth, eighteen hundred and fifty-six.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the compensation allowed to members of Congress by an act entitled "An Act to regulate the compensation of members of Congress," approved August sixteenth, eighteen hundred and fifty-six, be paid in the following manner, to wit: on the first day of the first session of each Congress, or as soon thereafter as he may be in attendance and apply, each Senator, Representative, and Delegate shall receive his mileage, as now provided by law, and all his compensation from the beginning of his term, to be computed at the rate of two hundred and fifty dollars per month, and during the session compensation at the same rate. And on the first day of the second or any subsequent session, he shall receive his mileage as now allowed by law, and all compensation which has accrued during the adjournment, at the rate aforesaid, and during said session compensation at the same rate.

SEC. 2. *And be it further resolved*, That so much of said act, approved August sixteenth, eighteen hundred and fifty-six, as conflicts with this joint resolution, and postpones the payment of said compensation until the close of each session, be, and the same is hereby, repealed.

APPROVED, December 23, 1857.

No. 2.—Joint Resolution making an Appropriation for the payment of Expenses of Investigating Committees of the House of Representatives.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of thirty-five thousand dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, for the payment of expenses of the several investigating committees of the House of Representatives during the present session, and that the same shall be added to the miscellaneous item of the contingent fund of said House.

APPROVED, February 18, 1858.

No. 3.—A Resolution to extend and define the Authority of the President under the Act approved January sixteen, eighteen hundred and fifty-seven, entitled "An Act to amend an Act entitled 'An Act to Promote the Efficiency of the Navy,'" in respect to dropped and retired Naval Officers.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in case where the records of the courts of inquiry, appointed under the act of January sixteenth, eighteen hundred and fifty-

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seven, may render it advisable, in the opinion of the President of the United States, to restore to the active or reserved list of the Navy, or to transfer from furlough to leave of absence on the latter list, any officer who may have been dropped or retired by the operation of the act of February twenty-eight, eighteen hundred and fifty-five, entitled "An act to promote the efficiency of the Navy," he shall have authority, any existing law to the contrary notwithstanding, within six months from the passage of this resolution, to nominate, and, by and with the advice and consent of the Senate, to appoint such officer to the active or reserved list; and officers so nominated and confirmed shall occupy positions on the active and reserved lists, respectively, according to rank and seniority when dropped or retired as aforesaid, and be entitled to all the benefits conferred by the act approved January sixteenth, eighteen hundred and fifty-seven, on officers restored, or transferred, to the active or reserved list under that act.

APPROVED, March 10, 1858.

No. 4.—A Resolution to authorize certain Officers and Men, engaged in the Search for Sir John Franklin, to receive certain Medals presented to them by the Government of Great Britain.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers and men engaged in the several expeditions which have been fitted out in the United States for the recovery of Sir John Franklin and his companions, be authorized to accept the medals recently transmitted to this Government, for presentation to them, by the Government of Great Britain.

APPROVED, March 16, 1858.

No. 5.—Joint Resolution respecting the Distribution of certain Public Documents.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the words "so many," in the third section of the joint resolution of the twenty-eighth January, eighteen hundred and fifty-seven, "respecting the distribution of certain documents," be, and the same are hereby, stricken out; and the words "two hundred and fifty" be, and the same are hereby, inserted in their place; and further, that the words at the end of the section, "by him," be, and the same are hereby, stricken out; and the words "to him by, the Representative in Congress from each congressional district, and by the Delegate from each Territory in the United States," be, and are hereby, inserted.

APPROVED, March 20, 1858.

No. 6.—A Resolution authorizing Lieutenant William N. Jeffers to accept a Sword of Honor from her Majesty the Queen of Spain.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the assent of Congress be, and the same is hereby, given, to allow Lieutenant William N. Jeffers, of the Navy of the United States, to accept a sword of honor presented to him, through the Department of State, by her Majesty the Queen of Spain, "as an acknowledgment of the very efficient assistance which he gave, with the vessel under his command, to the Spanish schooner Catagenera, in the waters of the Parana," on the twenty-sixth, twenty-seventh, and twenty-eighth of October, eighteen hundred and fifty-five.

APPROVED, April 7, 1858.

No. 7.—A Resolution providing for the Payment of certain Expenses of holding the United States Courts in the Territory of Utah.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the expenses of holding the United States courts in the Territory of Utah, during the continuance of the present disturbances therein, be paid out of the judiciary fund, under the limitations contained in the existing laws in respect to fees: *Provided,* That, on the restoration of peace in said Territory, the expenses of

said courts, when exercising jurisdiction under the territorial laws, shall be chargeable to the Territory, or to the counties, as in other Territories.

APPROVED, May 4, 1858.

No. 8.—A Resolution to extend the operation of the Act approved January sixteenth, eighteen hundred and fifty-seven, entitled "An Act to amend an Act entitled 'An Act to promote the Efficiency of the Navy.'"

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the operation of the act entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" limiting the restoration of officers in certain cases, be extended to the sixteenth day of April, eighteen hundred and fifty-nine: *Provided,* That the time within which examinations by courts of inquiry may be made, as provided by the first section of said act, shall not be extended except as to any case pending and undetermined before any court of inquiry under the act of the sixteenth January, eighteen hundred and fifty-seven, at the expiration thereof; and excepting, also, the case of any officer who was absent from the country at the time of the passage of said act, and had not returned previous to the sixteenth of January, eighteen hundred and fifty-eight. And any such officer shall be entitled to all the privileges conferred by said act, provided he applies for the benefit thereof, at any time within sixty days after his return.

APPROVED, May 11, 1858.

No. 9.—A Resolution to extend for a further term the provisions of the Joint Resolution approved March tenth, eighteen hundred and fifty-eight, in relation to certain Dropped and Retired Officers of the Navy.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limited by the joint resolution approved March tenth, eighteen hundred and fifty-eight, entitled "A Joint resolution to extend and define the authority of the President, under the act approved January sixteenth, eighteen hundred and fifty-seven, entitled 'An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" in respect to dropped and retired naval officers," be, and hereby is, extended to the first day of January, eighteen hundred and fifty-nine, in lieu of six months, as provided therein.

APPROVED, May 11, 1858.

No. 10.—A Resolution authorizing suitable Acknowledgments to be made by the President to the British Naval Authorities at Jamaica, for the Relief extended to the Officers and Crew of the United States Ship Susquehannah, disabled by Yellow Fever.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized and requested to cause suitable acknowledgments to be made on the part of this Government to Admiral Sir Howston Stewart, of her Britannic Majesty's navy, and the officers under his command, for their prompt and efficient aid, and generous hospitality, extended to the disabled officers and crew of the United States ship Susquehannah, on her late arrival at Port Royal, in the Island of Jamaica, with the yellow fever on board; on which occasion besides placing the naval hospital, with an adequate corps of medical officers, nurses, and attendants, at their service, eighty-five of the sick officers and crew of the Susquehannah were safely and promptly conveyed on shore with the aid of the boats of the British squadron, and the lives of the greater portion of them thereby probably saved. And that the President be further requested to cause a gold medal, with appropriate devices, to be presented, on behalf of this Government, to Assistant Surgeon Frederick A. Rose, of the British navy, who volunteered, with the permission of his commanding officer, to join the Susquehannah, and, at imminent personal risk, devoted him-

self, on the voyage from Jamaica to New York, to the care of the sick remaining on board. And that the President cause suitable testimonials to be in like manner presented to the medical officers, in the British service, in attendance at the hospital, with appropriate rewards to the nurses and other attendants there, whilst occupied by the officers and crew of the Susquehannah.

APPROVED, May 11, 1858.

No. 11.—A Resolution to authorize the Secretary of the Treasury to audit and settle the Accounts of the Contractor for the erection of the United States Marine Hospital at San Francisco, California.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle and adjust the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, and to pay to said contractor, out of any money in the Treasury not otherwise appropriated, the amount that may be found to be justly due to him under the contracts made between said contractor and the proper officers of the Government in reference to said building.

APPROVED, May 18, 1858.

No. 12.—Joint Resolution for paying the compensation of Stenographers employed by Committees of the House of Representatives.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to allow and pay, out of any money in the Treasury not otherwise appropriated, the compensation of stenographers employed by the committees of the House of Representatives, as audited under the direction of said House.

APPROVED, May 24, 1858.

No. 13.—Joint Resolution making Appropriation to pay the expenses of the several Investigating Committees of the House of Representatives.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twelve thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the payment of expenses of the several investigating committees, and of the Judiciary Committee of the House of Representatives, and that the same shall be added to the miscellaneous item of the contingent fund of said House.

APPROVED, May 29, 1858.

No. 15.—A Resolution for the Adjustment of Difficulties with the Republic of Paraguay.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of adjusting the differences between the United States and the Republic of Paraguay, in connection with the attack on the United States steamer Water Witch, and with other matters referred to in the annual message of the President, he be, and is hereby, authorized to adopt such measures and use such force as, in his judgment, may be necessary and advisable, in the event of a refusal of just satisfaction by the Government of Paraguay.

APPROVED, June 2, 1858.

No. 16.—A Resolution to correct an error in a certain Act approved May eleventh, eighteen hundred and fifty-eight.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That an error in the act approved May eleventh, eighteen hundred and fifty-eight, entitled "An act to enlarge the Detroit and Saginaw land districts in the State of Michigan," be corrected, by extending the limits of that portion of the Cheboygan district which has been attached

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to the Detroit district, to the line dividing ranges two and three west, instead of one and two west, the former being the line intended by the Department as the western boundary of the addition to the Detroit district.

APPROVED, June 2, 1858.

No. 17.—Joint Resolution authorizing the Arrangement and Disposal of Public Buildings in the City of Philadelphia.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury, the Postmaster General, and the Attorney General be, and [they] are hereby, authorized to decide whether the custom-house at Philadelphia shall remain in its present location, or whether public convenience and interests require that the location of the custom-house be changed to the ground and building purchased of the Bank of Pennsylvania, by authority of the law of the second of August, eighteen hundred and fifty-four, for the purposes of a post office, and the post office be removed to the present custom-house; and also to decide whether it is best to sell the building and lot of ground now used for the purposes of the United States court, and establish court rooms in the building of the present custom-house; and [that] they be further authorized and empowered to so arrange the buildings for said offices and purpose[s] as may, in their judgment, best promote the public convenience: *Provided,* That the expenses incident to such change and arrangement of the buildings shall not exceed the sum already appropriated for any or all of such purposes, and any additional sum that may be received for the building and ground herein authorized to be sold: *And provided further,* That should it be deemed best to sell the said court building and lot of ground, the President of the United States may cause the same to be sold after due public notice.

APPROVED, June 3, 1858.

No. 20.—Joint Resolution authorizing Commander M. F. Maury to accept a Gold Medal awarded to him by the Emperor of Austria.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Commander M. F. Maury, of the United States Navy, be, and he is hereby, authorized to accept the great gold medal of the arts and sciences recently presented to him by his Majesty the Emperor of Austria.

APPROVED, June 5, 1858.

No. 23.—A Resolution authorizing the Secretary of War to expend the Appropriation made July eight, eighteen hundred and fifty-six, upon such Channel of the St. Mary's river as he may select.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the appropriation of July eighth, eighteen hundred and fifty-six, made for the improvement of St. Mary's river, in the State of Michigan, may be expended in excavating such channel as, from the evidence which he may obtain, the Secretary of War shall deem best.

APPROVED, June 9, 1858.

PRIVATE ACTS.

CHAP. II.—An Act to authorize the issuing of a Register to the Bark Jehu.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be issued, under the direction of the Secretary of the Treasury, a register to the bark Jehu, a Dominican vessel, lately called the "Naiad Queen," which vessel was sold to Daniel Draper and Son, of Boston, to pay for expenses and repairs incurred on her in the United States.

APPROVED, January 23, 1858.

CHAP. VII.—An Act to amend "An Act for the Relief of Whitmarsh B. Seabrook and others."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act for the

relief of Whitmarsh B. Seabrook and others," approved the second day of March, eighteen hundred and fifty-seven, be so amended as that the payments therein authorized to be made to "the heirs of those deceased," shall be made to the administrators and executors of those deceased.

APPROVED, February 27, 1858.

CHAP. X.—An Act for the Relief of John Hamilton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to pay out of any money in the Treasury not otherwise appropriated, the sum of two hundred dollars, with interest from the first day of June, eighteen hundred and fifty-two, to John Hamilton, of Champaign county, Ohio, in full compensation for his time and services, &c., during his imprisonment with the Indians, in the war of eighteen hundred and twelve with Great Britain.

APPROVED, March 16, 1858.

CHAP. XI.—An Act for the Relief of Doctor Charles D. Maxwell, a Surgeon in the United States Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the accounting officers of the Treasury be, and are hereby, required to allow and pay to Doctor Charles D. Maxwell, surgeon in the Navy of the United States, the difference of pay between that of a passed assistant surgeon and a surgeon, from the twenty-second day of December, eighteen hundred and forty-five, to the seventh day of July, eighteen hundred and forty-eight, being the period during which he performed the duties of a surgeon and assistant surgeon on board the United States ship Cyane, and that the same be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, March 20, 1858.

CHAP. XV.—An Act for the Relief of the legal Representatives or Assignees of James Lawrence.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the assignees or legal representatives of James Lawrence, to whom was issued donation certificate number three hundred and six, (306,) under the eighth section of the act of twenty-fourth of May, eighteen hundred and twenty-eight, entitled "An act to aid the State of Ohio in extending the Miami canal from Dayton to Lake Erie, and to grant a quantity of land to said State to aid in the construction of the canals authorized by law, and for making donations of land to certain persons in Arkansas Territory," shall be authorized to relocate the same upon any of the public lands in the State of Arkansas, subject to entry at a minimum of not more than one dollar and twenty-five cents per acre: *Provided,* The said certificate shall be found to have been issued in conformity with the said eighth section of the act of twenty-fourth of May, eighteen hundred and twenty-eight, and shall be located upon legal subdivisions of land of not less than one quarter section.

APPROVED, April 19, 1858.

CHAP. XVI.—An Act to authorize a Register to be issued to the Steamer "Fearless."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause a register to be issued for the steamer "Fearless," under that name, a foreign-built vessel, but now owned in part by J. M. Estell, of San Francisco, on proof satisfactory to the Secretary of the Treasury that the said steamer is wholly owned by a citizen or citizens of the United States, and that the repairs put upon her in the United States, while owned as aforesaid, are equal to three fourths of said steamer's cost when so repaired.

APPROVED, April 19, 1858.

CHAP. XVII.—An Act for the Relief of the Owners of the Bark Attica, of Portland, Maine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the owners of the bark Attica, of Portland, Maine, out of any money in the Treasury not otherwise appropriated, the sum of one hundred and seventy-four dollars and sixty-two cents, being the amount imposed on said vessel as tonnage duty, by the collector of New York, in the year of our Lord eighteen hundred and fifty-five.

APPROVED, April 19, 1858.

CHAP. XVIII.—An Act for the Relief of Major Jeremiah Y. Dashiell, Paymaster in the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed, in settling the accounts of Major Jeremiah Y. Dashiell, paymaster in the United States Army, to credit him in the sum of twenty-three thousand one hundred and fifteen dollars, that being the amount of public money accidentally lost by him on the first day of May, eighteen hundred and fifty-seven, in attempting to cross the bar of Indian river, Florida, for the purpose of paying the troops at Fort Capron, in that State.

APPROVED, April 21, 1858.

CHAP. XIX.—An Act for the Relief of the Heirs of Alexander Stevenson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States be, and he is hereby, required to pay to the legal representatives of Alexander Stevenson, a soldier of the revolutionary war, in trust for the heirs of said Stevenson, the sum of six hundred and fifty-four dollars, being the amount of money due to said Stevenson, from the time of his enlistment, January one, seventeen hundred and seventy-six, until the time of his discharge, in seventeen hundred and eighty-three.

APPROVED, April 21, 1858.

CHAP. XX.—An Act for the Relief of N. C. Weems, of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the entry of the section number sixty-eight, (68), of township number two (2) north, of range number one (1) east, in the southwestern land district of Louisiana, by N. C. Weems, of that State, and patented on the first day of September, eighteen hundred and forty-nine, be, and is hereby, confirmed; and the Commissioner of the Land Office shall cause to be refunded any excess of money paid into the land office in its purchase from the Government.

APPROVED, April 21, 1858.

CHAP. XXI.—An Act for the Relief of Francis Wlodecki.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Francis Wlodecki, of Lake county, Illinois, is hereby authorized to locate one hundred and twenty acres of the public lands of the United States, to be selected from any of the public lands subject to private entry at the rate of one dollar and a quarter per acre; and upon return being made to the General Land Office of such location, the President is hereby directed to issue a patent therefor to the said Francis Wlodecki; *And it is hereby provided,* That the same shall be in full discharge for all claims which the said Wlodecki has on the Government, arising under the act of Congress approved June thirty, eighteen hundred and fifty-four, [thirty-four,] entitled "An act granting land to certain exiles from Poland."

APPROVED, April 21, 1858.

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CHAP. XXII.—An Act for the Relief of Duncan Robertson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury pay, from any money in the Treasury not otherwise appropriated, to Duncan Robertson, the sum of seven hundred and forty-nine dollars and ninety-two cents, in full for moneys paid by him to the navy-yard at Gosport, it being the amount expended for repairs of the Norwegian bark Ellen, for damages encountered by said bark in aiding and rescuing the passengers of the steamer Central America.

APPROVED, May 1, 1858.

CHAP. XXX.—An Act for the Relief of Captain James Mc. McIntosh, of the United States Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, directed, out of any money in the Treasury not otherwise appropriated, to pay to Captain James Mc. McIntosh, of the United States Navy, the sum of two hundred and four dollars and ninety-five cents, being the difference between the sum paid to him at the Treasury, as commander "on other duty," and that which was due to him as such officer "attached to a vessel for sea service," and being in full for his services as an officer of the West India squadron from the fourteenth day of August, eighteen hundred and thirty-seven, to the third day of September, eighteen hundred and thirty-eight.

APPROVED, May 5, 1858.

CHAP. XLI.—An Act for the Relief of John R. Temple, of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John R. Temple be, and he is hereby, confirmed in his title to a tract of land containing six hundred and seventy arpents, lying and being within what is known as the "Baron de Bastrop grant," on the east side of Bayou Bartholomew, and more particularly described in a plat and survey executed on the nineteenth and twentieth days of January, eighteen hundred and fifty-five, by Henry Curtis, parish surveyor for the parish of Morehouse, and State of Louisiana; and being all that part of two certain tracts of land, not heretofore confirmed to any other claimant, as follows, to wit: A tract of land sold and conveyed by the heirs of Morehouse to George Hook, by deed dated the tenth day of December, eighteen hundred and fourteen; and a certain other tract conveyed by Abraham Morehouse to Jacob Stroop, son of George Stroop, by deed dated the tenth day of December, eighteen hundred and twelve.

SEC. 2. *And be it further enacted,* That the Commissioner of the General Land Office, upon the receipt of a plat and survey of the land hereby confirmed, executed by the proper officer, shall cause a patent to be issued therefor to the said John [R.] Temple: *Provided, however,* That such patent shall only operate as a relinquishment of title on the part of the United States, and shall not effect the rights of any third person.

APPROVED, May 18, 1858.

CHAP. XLII.—An Act to authorize the Settlement of the Accounts of Luther Jewett, late Collector of the District of Portland and Falmouth, in the State of Maine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to credit the account of Luther Jewett, late collector of the district of Portland and Falmouth, with the sum of one thousand dollars, being for that sum lost in transitu from said collector to be deposited with the assistant treasurer at Boston.

APPROVED, May 18, 1858.

CHAP. XLVII.—An Act for the Relief of Thomas Smithers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress

assembled, That the Secretary of the Interior be, and he is hereby, authorized to place the name of Thomas Smithers upon the invalid pension roll of the Army of the United States, and that he cause to be paid to him the sum of eight dollars per month, commencing January first, eighteen hundred and fifty-five, and such sum of eight dollars per month to continue during his natural life.

APPROVED, May 24, 1858.

CHAP. XLVIII.—An Act to revive an Act entitled "An Act for the Relief of the Heirs, or their legal Representatives, of William Conway, deceased."

Whereas, the heirs of William Conway, deceased, or their legal representatives, have never been able to avail themselves of the provisions in their favor contained in an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased," partly because of some error or mistake as to the location of the portion of the lands applied for under the act, and partly because of the existence of a legal controversy between the parties in interest under the provisions of said act: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased," approved July second, eighteen hundred and thirty-six, be, and the same is hereby, revived and continued in force for one year from the passage of this act, and no longer.

APPROVED, May 24, 1858.

CHAP. XLIX.—An Act for the Relief of the Representatives of William Smith, deceased, late of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claim of William Smith to six hundred and forty acres of land, now occupied by William B. Allen, in the parish of Livingston, in the State of Louisiana, and being the same he resided on at the time of his death, and settled originally by Stephen Terry, and represented on the map of surveys as section number thirty-nine, (39), in township number six (6) south, of range number three (3) east; and section number sixty, (60), in township number six (6) south, of range number two (2) east, be, and the same is hereby, confirmed to the said William Smith and to his heirs and representatives, and that a patent shall issue therefor, as in other cases: *Provided,* That this act shall only operate as a relinquishment forever on the part of the United States to said lands, and shall not interfere with adverse valid rights of others, if such exist.

APPROVED, May 24, 1858.

CHAP. L.—An Act for the Relief of the Heirs and legal Representatives of Pierre Broussard, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the heirs and legal representatives of Pierre Broussard, deceased, late of Louisiana, be, and they are hereby, confirmed in their title to a certain tract of land situated on the Bayou Teche, in the parish of St. Martin, in said State of Louisiana, and known on the recognized public surveys as section thirty-six, (36), in township eight (8) south, of range five (5) east, containing about one hundred and seventy acres: *Provided,* That this confirmation shall only operate as a relinquishment of title on the part of the United States, and shall not affect any adverse rights, if any such there be.

APPROVED, May 24, 1858.

CHAP. LI.—An Act for the Relief of Regis Loisel, or his legal Representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said Regis Loisel, or his legal representatives, be, and they are hereby, confirmed in their title to a certain tract of land ceded by Don Carlos Dehault Delassus, Spanish Gov-

ernor of Upper Louisiana, on the twenty-fifth day of March, anno Domini eighteen hundred, to Regis Loisel, situate in what was then known as Upper Louisiana, on the Missouri river, including Cedar Island, as the same was surveyed on the twentieth November, anno Domini eighteen hundred and five, by Antonio Soulard, surveyor general for the Territory of Louisiana, according to the plat now on file in the archives of the Missouri district. But it is provided that if said tract of land, confirmed as aforesaid, or any part thereof, has been located by any other person or persons, under any law of the United States, or has been surveyed and sold by the United States, this act shall confer no title to such lands in opposition to the rights acquired by such location or purchase; but the said Loisel, or his legal representatives, shall be permitted to make a relocation on an equal amount of the public lands as may be taken by such location or purchase, that may be subject to entry at private sale, at a price not to exceed one dollar and twenty-five cents per acre; and the surveyor general for the district of Missouri shall issue a certificate to authorize the same.

SEC. 2. *And be it further enacted,* That the location authorized by this act shall be entered with the register of the proper land office, who shall, on application for that purpose, make out a certificate of such location as in other cases; and if it shall appear to the Commissioner of the General Land Office that said certificate has been obtained according to the provisions of this act, then patents shall issue as in other cases: *And it is further provided,* That if it shall be found that said tract of land, confirmed as aforesaid, has not been located by any other person or persons, or has not been sold by the United States as aforesaid, that, in that case, a patent shall be issued for the same as in other cases.

APPROVED, May 24, 1858.

CHAP. LII.—An Act to amend an Act entitled "An Act granting a Pension to Ansel Wilkinson," approved August thirteenth, eighteen hundred and fifty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the "act granting a pension to Ansel Wilkinson," approved August thirtieth, eighteen hundred and fifty-six, be so amended that the word "Ansel" shall read *Ansel* wherever the same occurs in said act.

APPROVED, May 24, 1858.

CHAP. LIII.—An Act to increase the Pension of John Richmond.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the two-third pension heretofore allowed to John Richmond, of the State of Massachusetts, a private in the war of eighteen hundred and twelve, be, and the same is hereby, raised to a full pension.

SEC. 2. *And be it further enacted by the authority aforesaid,* That the benefits accruing to the said John Richmond under and by virtue of this act, shall commence January one, eighteen hundred and fifty-five, and continue for and during his natural life.

APPROVED, May 24, 1858.

CHAP. LIV.—An Act for the Relief of Pierre Gagnon, of Natchitoches, Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Pierre Gagnon be allowed to enter and pay for his preemption claim to the northeast and southeast fractional quarters of section number seven, in township number nine north, of range number six west, containing about one hundred and eighty-nine acres, in the land office at Natchitoches, Louisiana, and that a patent issue therefor as in ordinary cases: *Provided, however,* That [neither] this right of entry, nor any patent issued under it, shall prejudice any valid adverse claim, should such exist.

APPROVED, May 24, 1858.

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CHAP. LV.—An Act for the Relief of Isaac Carpenter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Isaac Carpenter, of the State of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the tenth day of June, one thousand eight hundred and fifty-six, to continue during his natural life.

APPROVED, May 24, 1858.

CHAP. LVI.—An Act for the Relief of Brevet Major H. L. Kendrick.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they hereby are, authorized and directed to credit and allow Brevet Major H. L. Kendrick, of the second artillery, the sum of twelve hundred and ninety-four dollars and sixty-six cents in the settlement of his account for the sales made by him, by order of General Worth, of certain ordnance property belonging to the United States, at Puebla, in Mexico, in June, eighteen hundred and forty-eight; said sum being so much of the proceeds of said sale as were stolen from him at Jalapa, while transporting the same to Vera Cruz.

APPROVED, May 24, 1858.

CHAP. LVII.—An Act for the Relief of the legal Representatives of Marie Malines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the legal representatives of Marie Malines, born Rillieux, be, and they are hereby, confirmed in all the right, title, and interest now held or possessed by the United States in and to a certain tract of land in the State of Louisiana, containing about thirty-two hundred arpents, being a part of a grant made by the French Government, in the year one thousand seven hundred and sixty-four, to Marie Rillieux, according to a survey and plat made by the royal surveyor, Don Carlos Trudeau, and of record in the land office at New Orleans; and upon a proper survey, duly approved, being returned to the General Land Office, a patent shall issue: *Provided,* That this act shall only be construed to vest in the said legal representatives of Marie Malines, born Rillieux, the rights, title, and interest in said land now held and possessed by the United States, and shall not be construed in any way to impair the *bona fide* rights, interests, or claims acquired by any other person under adverse grants, concessions, or purchases made prior to the passage of this act.

APPROVED, May 24, 1858.

CHAP. LX.—An Act for the Relief of Nancy Serena.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to place the name of Nancy Serena, widow of Joseph Serena, deceased, on the pension roll, and pay her at the rate of eight dollars per month, commencing on the fifteenth day of June, eighteen hundred and fifty-four, and to continue during her natural life or widowhood.

APPROVED, May 29, 1858.

CHAP. LXI.—An Act for the Relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and hereby is, authorized and required to refund to Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith, or the survivors of them, composing the firm of Smith, Perkins and Company, of Rochester, New York, the sum of eight hundred and thirty-seven dollars, paid by them to the United States, on one debenture bond, executed by John B. Glover and Company, dated

April second, eighteen hundred and fifty-seven, as penalty over and above the regular duties on the merchandise therein mentioned.

APPROVED, June 1, 1858.

CHAP. LXII.—An Act explanatory of an Act entitled "An Act for the Relief of Dempsey Pittman," approved August sixteenth, eighteen hundred and fifty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved August sixteenth, eighteen hundred and fifty-six, entitled "An act for the relief of Dempsey Pittman," be so construed as to authorize and direct the Secretary of War to pay to the said Dempsey Pittman the compensation and allowances of a colonel of infantry, for the period of five months, in full consideration for his services in Florida in eighteen hundred and thirty-eight.

APPROVED, June 1, 1858.

CHAP. LXIII.—An Act for the Relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the assignment by David A. Ring, to his four daughters, to wit: Anna M. E. Ring, Cordelia E. Ring, Louisa M. Ring, and Sarah J. De Lannoy, of land warrant number three thousand one hundred and seventy-two, for one hundred and sixty acres of land, issued on the eighteenth July, eighteen hundred and fifty-five, to the said David A. Ring, be, and the same is hereby, held to vest in said assignees all the right, title and interest of said David A. Ring in and to said warrant.

APPROVED, June 1, 1858.

CHAP. LXIV.—An Act for the Relief of William Allen, of Portland, in the State of Maine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to cause the name of William Allen to be placed on the pension list, at the rate of six dollars per month, from and after the passage of this act, said pension to continue during his life, and to be in lieu of the pension to which he is now by law entitled.

APPROVED, June 1, 1858.

CHAP. LXV.—An Act for the Relief of Fabius Stanly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, directed to pay to Fabius Stanly, as full compensation for his services during the time he was actually on duty and attached to the navy-yard at Mare Island, California, at the rate of two thousand one hundred dollars per annum, deducting therefrom the pay he received for his services during that period.

APPROVED, June 1, 1858.

CHAP. LXVI.—An Act for the Relief of George A. O'Brien.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be allowed and paid, out of any money in the Treasury not otherwise appropriated, to George A. O'Brien, for his services as clerk in the office of the Second Auditor, from the fifth day of July, eighteen hundred and forty-five, to the third day of March, eighteen hundred and forty-six, the sum of five hundred and forty-nine dollars and thirty-three cents.

APPROVED, June 1, 1858.

CHAP. LXVII.—An Act for the Relief of the heirs of John B. Hand.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed and required to pay to

the heirs of John B. Hand, out of any money in the Treasury not otherwise appropriated, the sum of thirteen hundred and forty dollars.

APPROVED, June 1, 1858.

CHAP. LXVIII.—An Act for the Relief of Brevet Major James L. Donaldson, Assistant Quartermaster United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed, in settling the accounts of Brevet Major James L. Donaldson, to allow him a credit for the sum of four hundred dollars, being the amount of public funds stolen while in his possession as acting assistant quartermaster of the Army, near Monterey, in Mexico, on the tenth of October, eighteen hundred and forty-six.

APPROVED, June 1, 1858.

CHAP. LXIX.—An Act to continue a Pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to continue upon the pension roll at the rate of thirty dollars per month, from and after the fourth day of July, eighteen hundred and fifty-seven, when her pension expired, the name of Christine Barnard, widow of the late Brevet Major Moses J. Barnard, captain in company H, regiment of voltigeurs, who was twice wounded in planting the American colors upon the parapet of Chapultepec while storming that fortress, and who died from disease contracted in, and greatly enhanced by hardships and fatigue of, the Mexican campaign; said pension to be held by her, or by her children, in accordance with existing laws in reference to the widows and children of those who died from wounds or disease received or contracted during the Mexican war.

APPROVED, June 1, 1858.

CHAP. LXX.—An Act for the Relief of Rufus Dwinel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be paid to Rufus Dwinel, out of any money in the Treasury not otherwise appropriated, the sum of eleven thousand seven hundred and forty-eight dollars and three cents, being for interest at the rate of six per centum per annum, on the sum of thirteen thousand and thirty-seven dollars and seventy-two cents, from the fourth day of March, eighteen hundred and thirty-seven, when the latter sum was due from the United States to said Dwinel's assignor, to March eleventh, eighteen hundred and fifty-two, when an appropriation was made for its payment.

APPROVED, June 1, 1858.

CHAP. LXXI.—An Act for the Relief of Jonas P. Keller.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of seven hundred and fifty dollars be allowed and paid, out of any money in the Treasury not otherwise appropriated, to Jonas P. Keller, in full for his services as a watchman or overseer of the executive building at the corner of F and Seventeenth streets, from the first of April, eighteen hundred and forty-nine, to the thirtieth of September, eighteen hundred and fifty.

APPROVED, June 1, 1858.

CHAP. LXXII.—An Act for the Relief of Stephen R. Rowan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the attorney of the United States of America for the southern district of Illinois be, and he is hereby, authorized and directed to

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enter satisfaction of a judgment rendered by the district court of the United States for the said southern district of Illinois, at its June term, anno Domini eighteen hundred and fifty-six, in favor of the United States of America against Stephen R. Rowan, on his paying all the costs in said case.

APPROVED, June 1, 1858.

CHAP. LXXXIII.—An Act for the Relief of Caleb Sherman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of the accounts of Caleb Sherman, collector of customs at Paso del Norte, Texas, the proper accounting officers of the Treasury allow to his credit the sum of nine hundred and seventy-five dollars and thirty-seven cents, that being the amount of Government money of which he was robbed on the night of the sixth day of November, eighteen hundred and fifty-five.

APPROVED, June 1, 1858.

CHAP. LXXXIV.—An Act for the Relief of Susanna T. Lea, widow and administratrix of James Maglenen, late of the City of Baltimore, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury pay to the legal representatives of the said James Maglenen, the sum of one hundred and thirty dollars, being the value of a horse and equipments belonging to the said James Maglenen, the same having been impressed in September, eighteen hundred and fourteen, for the purpose of sending an express to North Point, and said horse and equipments having been lost in said service.

APPROVED, June 1, 1858.

CHAP. LXXXV.—An Act for the Relief of Laurent Millaudon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Laurent Millaudon be, and he is hereby, confirmed in his title to two certain tracts of land lying on the east side of Mobile bay, in the State of Alabama, being the two tracts of land known as the De Feriet claims, as surveyed in the year eighteen hundred and thirty, and approved of by the surveyor general in the year eighteen hundred and thirty-five, with the exception of so much off of the north end thereof as has heretofore been surveyed and confirmed to William Patterson, and included within what is known as the Patterson claim, as now located: *Provided,* That this act shall only be construed as a relinquishment of any title that the United States may have to said lands: *And provided further,* That this confirmation shall inure to the benefit of any other persons, if such there be, as may be entitled to any part of said De Feriet claims, under conveyances from him.

APPROVED, June 1, 1858.

CHAP. LXXXVI.—An Act for the Relief of James G. Benton, E. B. Babbitt, and James Longstreet, United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed, in settling the accounts of Lieutenant James G. Benton, of the ordnance department; of Brevet Major E. B. Babbitt, chief assistant quartermaster; and of Brevet Major James Longstreet, acting commissary of subsistence, to allow them, as credits, the respective amounts of which they were defrauded by Parker H. French, in San Antonio, Texas, in July eighteen hundred and fifty, viz: to James G. Benton, one thousand and twenty-one dollars and four cents; to E. B. Babbitt, five hundred and nineteen dollars ninety-three and a half cents; and to James Longstreet, four hundred and forty-eight dollars and ninety-eight cents.

APPROVED, June 1, 1858.

CHAP. LXXXVII.—An Act for the Relief of Michael Kinny, late a Private in Company I, Eighth Regiment, United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Michael Kinny on the pension list, at the rate of eight dollars per month, commencing on the eleventh day of December, one thousand eight hundred and fifty-six, and to continue during his life.

APPROVED, June 1, 1858.

CHAP. LXXXVIII.—An Act for the Relief of J. Wilcox Jenkins.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to pay to J. Wilcox Jenkins, out of any money in the Treasury not otherwise appropriated, the difference between the pay of captain's clerk and a purser of a first-class sloop-of-war, from the first day of January to the thirtieth of April, eighteen hundred and fifty-six, during which time he was the acting purser of the sloop-of-war Germantown.

APPROVED, June 1, 1858.

CHAP. LXXXIX.—An Act for the Relief of William B. Trotter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to William B. Trotter, of Clarke county, Mississippi, the sum of sixteen hundred and eighty dollars, out of any money in the Treasury not otherwise appropriated, the same being in full of all demands of the said Trotter growing out of the emigration and subsistence of Choctaw Indians, in the State of Mississippi, in the year eighteen hundred and thirty-one, under a contract with the United States.

APPROVED, June 1, 1858.

CHAP. LXXX.—An Act for the Relief of John Dick, of Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office shall cause a patent to be issued to John Dick, for lots numbered ten, of section twenty-nine, and one of section thirty-one, fractional section of thirty, and the northwest quarter of the northwest quarter of section thirty-two, all lying in township ten south, of range twenty-seven east, containing one hundred and fifty-three acres, situate in East Florida, and of the lands subject to sale at St. Augustine, Florida: *Provided,* That such patent shall only operate as a relinquishment of title on the part of the United States, and shall not affect the rights of any third person.

APPROVED, June 1, 1858.

CHAP. LXXXIII.—An Act to vest the Title to certain Warrants for Land in George M. Gordon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office is hereby directed, under such regulations as he may prescribe, to recognize the assignment made to George M. Gordon on the twenty-first day of January, one thousand eight hundred and fifty-two, by Edmund Hugill, sergeant in Captain Gordon's company, third regiment of United States infantry, and James McIntyre, a private of the same company and regiment, to whom warrants numbers seventy-eight thousand four hundred and two, and seventy-eight thousand four hundred and three, respectively, issued on the thirteenth day of July, one thousand eight hundred and fifty-three, so as to vest the legal title in and to the warrants aforesaid in the said George M. Gordon, his heirs or assigns, according to the intention of said parties.

APPROVED, June 2, 1858.

CHAP. LXXXVII.—An Act for the Relief of the Heirs or Legal Representatives of Richard D. Rowland, deceased, and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay out of any money in the Treasury not otherwise appropriated, to the heirs, executors, administrators, or legal representatives of Richard D. Rowland, deceased, late of Alabama, the sum of three thousand two hundred dollars, and to the heirs, executors, administrators, or legal representatives of whomsoever possesses whatever title the United States gave to Cureton, Smith, and Heifner, to the southeast quarter of section two, township fourteen, range eight east, of the lands selected in Alabama, and sold under treaty of March twenty-four, eighteen hundred and thirty-two, with the Creek Indians, for the benefit of the orphans of the tribe, the sum of two thousand two hundred and sixty dollars, with interest, at the rate of five and a half per cent. per annum, upon both aforesaid sums, from November first, eighteen hundred and thirty-six.

APPROVED, June 3, 1858.

CHAP. LXXXVIII.—An Act for the Relief of Samuel W. Turner and Alvin A. Turner.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of twenty-three thousand eight hundred and twenty-five dollars (\$23,825) unto Samuel W. Turner and Alvin A. Turner, in full for their services in transporting the United States mail on their steamers from Cleveland, Ohio, and Detroit, Michigan, to Mackinaw, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan, and La Pointe, Bayfield, and Superior City, in the State of Wisconsin.

APPROVED, June 3, 1858.

CHAP. LXXXIX.—An Act for the Relief of D. O. Dickinson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to D. O. Dickinson the sum of one hundred and eight dollars and seventy-five cents, out of any money in the Treasury not otherwise appropriated, the same being the amount due him by the United States for services rendered by said Dickinson, in connection with keeping a light in Waukegan harbor, Illinois.

APPROVED, June 3, 1858.

XC.—An Act to continue the Pension heretofore paid to Mary C. Hamilton, Widow of Captain Fowler Hamilton, late of the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to continue the name of Mrs. Mary C. Hamilton on the pension rolls, at the same rate of pension allowed her under the act passed for her benefit, and approved March first, eighteen hundred and fifty-four, payment to commence from and after the expiration of said act, and to continue for five years from the date of the passage of this act.

APPROVED, June 3, 1858.

CHAP. XCIV.—An Act for the Relief of Thomas Phenix, jr.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to pay to Thomas Phenix, jr., during the time he was acting as paymaster's clerk in the employment of D. Randall, deputy paymaster general, the sum of three dollars a day; but from this compensation is to be deducted the salary of five hundred dollars per annum already received by him.

APPROVED, June 5, 1858.

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CHAP. XCV.—An act for the Relief of Isaac Body and Samuel Fleming.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Isaac Body be allowed to enter at the land office at Springfield, Illinois, at the minimum price, at any time within one year after the date of this act, the southeast quarter of section number nineteen of township number twenty-six north, of range twelve west; and that Samuel Fleming be allowed to enter, at the same land office, and on the same terms and conditions, the northwest quarter of section twenty, township twenty-six north, range, twelve west: *Provided, however,* That this act shall only operate as a relinquishment of title on the part of the United States.

APPROVED, June 5, 1858.

CHAP. XCVI.—An Act for the Relief of Lewis W. Broadwell.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Lewis W. Broadwell, out of any money in the Treasury not otherwise appropriated, the sum of twelve thousand nine hundred and thirty-eight dollars, it being in full compensation for transporting the United States mails, in steamboats, from Vicksburg, Mississippi, to Grand Lake, Arkansas, from the fourth day of September, eighteen hundred and fifty-four, to the seventeenth day of April, eighteen hundred and fifty-seven, at the rate of five thousand dollars per annum.

APPROVED, June 5, 1858.

CHAP. XCVII.—An Act for the Relief of Captain Stanton Sholes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to place Captain Stanton Sholes upon the list of invalid pensioners of the United States, who shall be entitled to and receive a pension at the rate of twenty dollars per month, to commence on the first day of January, eighteen hundred and fifty-eight.

APPROVED, June 5, 1858.

CHAP. XCVIII.—An Act for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, directed, out of any money in the Treasury not otherwise appropriated, to pay to Benjamin L. McAtee and I. N. Eastham, the sum of six thousand dollars in full for transporting extra mail matter over routes number three thousand nine hundred and sixty and number four thousand one hundred and sixty-nine, between the first day of July, eighteen hundred and forty-six, and the thirtieth day of June, eighteen hundred and fifty.

APPROVED, June 5, 1858.

CHAP. XCIX.—An Act for the Relief of Job Stafford, of the State of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Pensions be, and he is hereby, instructed to issue to Job Stafford, of the State of New York, a bounty land warrant for one hundred and sixty acres of land, the same to be held, located, or assigned, as if it had issued in the ordinary way, on application under existing laws.

APPROVED, June 5, 1858.

CHAP. C.—An Act for the Relief of Benjamin Wakefield.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to pay to Benjamin Wakefield, out any money in the Treasury not otherwise appro-

riated, the difference of pay between that of master's mate and boatswain, from the first day of January, eighteen hundred and forty-eight, to the nineteenth day of January, eighteen hundred and fifty.

APPROVED, June 5, 1858.

CHAP. CI.—An Act for the Relief of Susannah Redman, widow of Lloyd Redman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and hereby is, authorized to pay to Susannah Redman, widow of Lloyd Redman, formerly of Captain Clay's company of Kentucky volunteers, one hundred and seventy dollars, (\$170,) being the amount adjudged as due to said Lloyd Redman for three horses lost by him while in the service of the United States during the Mexican war; and that said sum be paid out of any moneys in the United States Treasury not otherwise appropriated.

APPROVED, June 5, 1858.

CHAP. CII.—An Act for the Relief of Simeon Stedman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and hereby is, directed to instruct the proper disbursing officer to pay to Simeon Stedman, who served in Captain Christopher Ripley's company of the thirty-seventh infantry during the war with Great Britain, in eighteen hundred and twelve, such sum or sums as may have accrued to him from the time of his last receiving payment for services till the end of the war; and that said payment shall be made out of any moneys in the Treasury not otherwise appropriated.

APPROVED, June 5, 1858.

CHAP. CIII.—An Act for the Relief of Joseph Webb.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the monthly pay heretofore allowed by law to Joseph Webb, as an invalid pensioner, be, and the same is hereby, increased to eight dollars per month; and that the Secretary of the Interior be, and he is hereby, authorized and directed to pay said Webb, at the rate aforesaid, from and after the first day of January, eighteen hundred and fifty-two.

APPROVED, June 5, 1858.

CHAP. CIV.—An Act for the Relief of Oliver P. Hovey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay to Oliver P. Hovey, out of any moneys in the Treasury not otherwise appropriated, fifteen hundred and fifty-five dollars, compensation for printing the "Kearny Code" of laws for New Mexico in eighteen hundred and forty-six.

APPROVED, June 5, 1858.

CHAP. CV.—An Act for the Relief of George W. Biscoe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury shall audit the claim of George W. Biscoe to indemnification, under the first article of the treaty of Ghent, for the loss of the schooner "Speedwell," captured in the Patuxent river, by the British naval forces, on the twenty-second of August, eighteen hundred and fourteen, and which was in the waters and within the territorial jurisdiction of the United States on the seventeenth day of February, eighteen hundred and fifteen, the day of the exchange of the ratifications of the said treaty of Ghent, and was carried away out of the said waters and territorial jurisdiction of the United States, in violation of the said first article of the said treaty; and that the said officers shall ascertain the value of the said schooner Speedwell, from such proof as may be exhibited to them, within six months from the date of this

act; and that the amount so ascertained shall be paid out of any money in the Treasury not otherwise appropriated: *Provided, always,* That the said amount shall not exceed the sum of two thousand dollars.

APPROVED, June 5, 1858.

CHAP. CVI.—An Act for the Relief of Micajah Brooks.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby directed to place the name of Micajah Brooks, of the State of Georgia, on the pension roll, at the rate of four dollars per month, or forty-eight dollars per annum; and that he be paid at that rate from the first day of January, eighteen hundred and fifty; and that said amount be paid to said Micajah Brooks, if living; otherwise, to his sur[vi]ving children.

APPROVED, June 5, 1858.

CHAP. CVII.—An Act for the Relief of Elizabeth McBrier, only surviving Child and Heir of Colonel Archibald Loughry, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to issue land scrip in eighty-acre certificates, receivable in payment for public lands at any of the land offices in the United States, in favor of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughry, deceased, or to her order, for an amount equal to six thousand six hundred and sixty-six acres and two thirds of an acre of land, which may be located on land subject to private entry, at one dollar and twenty-five cents per acre, or less.

APPROVED, June 5, 1858.

CHAP. CVIII.—An Act for the Relief of Richard B. Alexander.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury pay, out of any moneys in the Treasury not otherwise appropriated, to Richard B. Alexander, late a major in the first Tennessee regiment, Mexican war, the sum of two hundred and fifty dollars, in full of the value of one horse and one mule, lost by him during the said war.

APPROVED, June 5, 1858.

CHAP. CIX.—An Act for the Relief of Robert W. Cushman, formerly an acting Purser in the United States Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Robert W. Cushman, acting purser of the Germantown, the flag ship of the African squadron, the difference of pay between that of a purser and a captain's clerk, for such time as he so acted as purser.

APPROVED, June 5, 1858.

CHAP. CX.—An Act for the Relief of the Heirs of William Turvin, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the heirs of William Turvin, deceased, be, and they are hereby, authorized to locate, free of cost, nine hundred and sixty arpents of land, or as near thereto as the same can be done not exceeding that quantity, according to the legal subdivisions, on any of the public lands of the United States subject to entry at private sale at one dollar and twenty-five cents per acre; which lands, when so located, shall be in full for the claim of their said father, William Turvin, to a tract of land lying on the east side of the Mobile river and west of the Bayou Pascual, under a grant from the Spanish Government, and which was recommended for confirmation on the report

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of the register and receiver of the land office for the district of St. Stephens.

Sec. 2. *And be it further enacted*, That the Commissioner of the General Land Office, upon the receipt of the certificate of entry from the proper land office, be, and he is hereby authorized to issue a patent for the land so located.

APPROVED, June 7, 1858.

CHAP. CXI.—An Act for the Relief of William Heine, Artist in the Japan Expedition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, out of any money in the Treasury not otherwise appropriated, to William Heine, artist in the late Japan expedition under Commodore Perry, compensation at the rate of eighteen hundred dollars per annum during the time he was actually employed in such service: *Provided*, The amount already paid him as master's mate on said expedition be deducted therefrom.

APPROVED, June 7, 1858.

CHAP. CXII.—An Act for the Relief of Alonzo and Elbridge G. Colby.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twenty-five hundred and two dollars and eleven cents be, and the same is hereby, appropriated out of any moneys in the Treasury of the United States not otherwise appropriated, to and for Alonzo Colby and Elbridge G. Colby, of the town of Buck[s]port, in the State of Maine, the sum being the balance due them on their contract with the United States, dated July twenty-four, eighteen hundred and fifty-five, for constructing a breakwater at Owl's Head harbor, Penobscot river, Maine.

APPROVED, June 7, 1858.

CHAP. CXIII.—An Act for the Relief of Shove Chase, of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Shove Chase, of New York, upon the invalid pension list, at the rate of eight dollars per month, commencing on the first day of January, eighteen hundred and fifty-six, to continue during his natural life.

APPROVED, June 7, 1858.

CHAP. CXIV.—An Act granting an Invalid Pension to Brevet Major John Jones, of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Brevet Major John Jones, of Tennessee, on the invalid pension roll, and pay him a pension at the rate of forty dollars per month, from and after the date of his application, and to continue during his natural life.

APPROVED, June 7, 1858.

CHAP. CXV.—An Act for the Relief of the legal Representatives of Jean Baptiste Devidrine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the legal representatives of Jean Baptiste Devidrine, late of Louisiana, be, and they are hereby, confirmed in their claim to that tract or parcel of land known on the public surveys of the southwestern land district of that State as lot number forty-five, (45,) in township number four (4) south, range number three (3) east, and lot number seventy-three, (73,) in township number four (4) south, range four (4) east, containing about four hundred arpents, or three hundred and fifty acres of land, and that a patent shall issue therefor as in other cases: *Provided*, That this act shall only be construed as a relinquishment of whatever title may be now vested in the United States, and shall in nowise interfere with any valid adverse claim of other or third parties, should such there be.

APPROVED, June 7, 1858.

CHAP. CXVI.—An Act for the Relief of David McClure, Administrator of Joseph McClure, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to David McClure, administrator of Joseph McClure, deceased, the sum of one hundred and seven dollars and sixty-four cents, out of any money in the Treasury not otherwise appropriated; it being the amount of interest collected from the said Joseph McClure, in his lifetime, on a judgment, in favor of the United States Government, which it was afterwards ascertained the said McClure did not properly owe, and the amount of which judgment has been previously refunded to him by Congress.

APPROVED, June 7, 1858.

CHAP. CXVII.—An Act for the Relief of James Rumph.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay James Rumph, out of any money in the Treasury not otherwise appropriated, the sum of seven hundred and sixty dollars, it being in full compensation for medical aid rendered to soldiers in the service of the United States in the year eighteen hundred and thirty-seven.

APPROVED, June 7, 1858.

CHAP. CXVIII.—An Act for the Relief of John Dearnit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby is, authorized and required out of any money in [the] Treasury not otherwise appropriated, to pay to John Dearnit the sum of two hundred and ninety-five dollars, in addition to the amount already paid him by the Government under his contract for carrying the mail upon route number one thousand six hundred and one, from July first, eighteen hundred and forty-four, for four years.

APPROVED, June 7, 1858.

CHAP. CXIX.—An Act for the Relief of the legal Representatives of John McDonough, deceased, late of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claim numbered thirty-nine (39) in the report of the register and receiver of the land office at New Orleans, Louisiana, made on the twenty-second day of November, eighteen hundred and thirty-seven, in the same of John McDonough, to a tract of about one hundred and seventy-seven superficial arpents of land, be, and the same is hereby, confirmed; and that a patent shall issue, as in ordinary cases, to the legal representatives of the said McDonough: *Provided*, That this confirmation shall only be construed as a relinquishment of all right and title of the United States, and shall not prejudice the legal claim of any other party, should such exist.

APPROVED, June 7, 1858.

CHAP. CXX.—An act for the Relief of Stuckey and Rogers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, authorized and instructed to pay, out of any moneys in the Treasury not otherwise appropriated, to Stuckey and Rogers, mail contractors on route number six thousand and seventy-eight, (6078,) from Winsboro' to Pinckneyville, in the State of South Carolina, at the rate of three hundred and thirty-three dollars per annum, for the transportation of the mails on said route; deducting therefrom whatever payments may have been made, at the rate of one hundred and thirty-eight dollars per annum, by the Post Office Department.

APPROVED, June 7, 1858.

CHAP. CXXI.—An Act for the Relief of Lieutenant Loomis L. Langdon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to credit the account of Second Lieutenant Loomis L. Langdon, first artillery, United States Army, with eleven hundred and seventy-six dollars and sixty-six cents; it being the amount stolen from his possession, at Fort Brown, on the night of the twenty-third of October, eighteen hundred and fifty-seven.

APPROVED, June 7, 1858.

CHAP. CXXIII.—An Act for the Relief of Peter Parker.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby is, directed, out of any moneys in the Treasury not otherwise appropriated, to pay to Peter Parker the sum of two thousand six hundred and three dollars and nineteen cents, the same being in full for his services as chargé d'affaires ad interim at Canton, in China, at various periods between the dates of May twenty-six, anno Domini eighteen hundred and fifty-two, and the fourth day of May, eighteen hundred and fifty-five.

APPROVED, June 8, 1858.

CHAP. CXXIV.—An Act for the Relief of David Bruce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents be, and he is hereby, empowered to extend the patent of David Bruce, dated the sixth of November, eighteen hundred and forty-three, for a new and improved mode of casting type, for seven years from the date of its expiration, subject to the rules and regulations now in force for granting extensions, provided it shall appear, on examination, that the failure to extend his patent occurred through an official mistake.

APPROVED, June 8, 1858.

CHAP. CXXV.—An Act for the Relief of the legal Representatives of Daniel Hay, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officer of the Treasury be, and he is hereby, authorized and directed to pay to the legal representatives of Daniel Hay, deceased, a sum equal to two per centum on all moneys disbursed by him as agent for paying pensions, from and after the twentieth day of April, eighteen hundred and thirty-six, with interest on the same, from the thirtieth April, eighteen hundred and fifty-six.

APPROVED, June 8, 1858.

CHAP. CXXVI.—An Act for the Relief of Judith Nott.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Judith Nott upon the pension roll of the United States, at the rate of nine dollars per month.

Sec. 2. *And be it further enacted*, That the aforesaid pension commence and be computed from the first day of January, eighteen hundred and fifty-five, and to continue during her widowhood.

APPROVED, June 8, 1858.

CHAP. CXXVII.—An Act for the Relief of Dr. Thomas Antisell.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay to Dr. Thomas Antisell, out of any moneys in the Treasury not otherwise appropriated, the sum of two hundred and seventy-four dollars and sixty-five cents, in full of the account of said Antisell, for services rendered as acting assistant surgeon to the command, (company G, 3d Artillery,) escorting Lieutenant Parke's party of survey, from California to New Mexico, in the year eighteen hundred and fifty-five.

APPROVED, June 8, 1858.

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CHAP. CXXVIII.—An Act for the Relief of Dr. Ferdinand O. Miller.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to audit and settle the account of Doctor Ferdinand O. Miller, and allow him the pay of an assistant surgeon in the Army from the sixth day of July, eighteen hundred and forty-six, to the twenty-eighth day of February, eighteen hundred and forty-seven, both days inclusive, in full for his services as surgeon and assistant surgeon during the late war with Mexico, deducting therefrom the amount paid the said Dr. Miller as a private soldier during the same specified time.

APPROVED, June 8, 1858.

CHAP. CXXIX.—An Act for the Relief of Thomas Hasam and B. S. Brewster.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to audit and settle the accounts of Thomas Hasam and B. S. Brewster, for services as inspectors of hulls and boilers, at New Orleans, in the State of Louisiana, and to allow them their regular compensation from the date of their appointment as if they had been sworn and properly qualified.

APPROVED, June 8, 1853.

CHAP. CXXX.—An Act for the Relief of the Heirs of Richard Tarvin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to the heirs of Richard Farren, alias Richard Tarvin, who was a friendly Creek Indian in the war of eighteen hundred and thirteen and fourteen, the sum of six hundred dollars, for losses sustained by said Richard Farren, or Richard Tarvin, during said war, the said sum to be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, June 8, 1858.

CHAP. CXXXI.—An Act for the Relief of John B. Roper.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, authorized and required to pay to John B. Roper, in addition to the sum already paid him, the sum of three hundred dollars for services performed on mail route number thirteen thousand three hundred and thirty-six.

APPROVED, June 8, 1858.

CHAP. CXXXII.—An Act for the Relief of Cornelius H. Latham.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to allow and pay Cornelius H. Latham, of the State of New York, an invalid pensioner, the sum of eight dollars per month during his natural life, in lieu of the pension now allowed him by law, to commence on the twenty-fifth day of February, eighteen hundred and fifty-six.

APPROVED, June 8, 1858.

CHAP. CXXXIV.—An Act for the Relief of Wyatt Griffith.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Wyatt Griffith, of Tennessee, on the invalid pension roll, at the rate of eight dollars per month, from the 20th of June, anno Domini eighteen hundred and fifty-four, and pay him at that rate during the term of his natural life.

APPROVED, June 9, 1858.

CHAP. CXXXV.—An Act to increase the Pension of Henry E. Read, a citizen of Kentucky, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the half pension heretofore allowed to Henry E. Read, of the State of Kentucky, a non-commissioned officer in the Mexican war, be, and the same is hereby, raised to thirteen dollars a month.

SEC. 2. *And be it further enacted by the authority aforesaid,* That the benefits accruing to the said Henry E. Read, under and by virtue of this act, shall commence March third, eighteen hundred and forty-eight, and continue for and during his natural life.

APPROVED, June 9, 1858.

CHAP. CXXXVI.—An Act for the Relief of Michael A. Davenport, of Illinois.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Michael A. Davenport, of Illinois, on the invalid pension roll, at the rate of eight dollars per month, and pay him a pension, at said rate, from the fifth day of March, anno Domini eighteen hundred and fifty-eight, during his natural life.

APPROVED, June 9, 1858.

CHAP. CXXXVII.—An Act granting an Invalid Pension to Alexander S. Bean, of Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized and directed to place the name of Alexander S. Bean, of the State of Pennsylvania, on the invalid pension roll, at the rate of eight dollars per month, and pay him at that rate from the twenty-ninth day of May, eighteen hundred and fifty-six, during his natural life.

APPROVED, June 9, 1858.

CHAP. CXXXVIII.—An Act for the Relief of Stephen Fellows.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Stephen Fellows on the invalid pension list, at the rate of four dollars per month, from the twentieth day of January, eighteen hundred and fifty-eight, and continue during life.

APPROVED, June 9, 1858.

CHAP. CXXXIX.—An Act for the Relief of Elijah Close, of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to place the name of Elijah Close, of Washington county, Tennessee, on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the third day of December, eighteen hundred and fifty-five, and to continue during his natural life.

APPROVED, June 9, 1858.

CHAP. CXL.—An Act granting an Invalid Pension to Conrad Schroeder.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized and directed to place the name of Conrad Schroeder, who was a captain in the "Louisville Legion" during the war with Mexico, on the invalid pension roll, and pay him a pension at the rate of thirteen dollars and thirty-three cents per month, commencing on the twenty-second day of January, anno Domini eighteen hundred and fifty-eight, and continuing during life.

APPROVED, June 9, 1858.

CHAP. CXLI.—An Act granting an Invalid Pension to James Fugate, of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, instructed to place the name of James Fugate, of the State of Missouri, upon the roll of invalid pensioners, and pay him a pension at the rate of eight dollars per month, instead of four dollars per month, the amount he now receives; said pension to commence on the fourth day of March, eighteen hundred and fifty-eight, and to continue during his natural life.

APPROVED, June 9, 1858.

CHAP. CXLII.—An Act for the Relief of Mrs. Harriet O. Reid, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Mrs. Harriet O. Reid, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army, out of any money in the Treasury not otherwise appropriated, the sum of one thousand two hundred and fifty dollars, being the amount claimed to be due the estate of the said Brevet Colonel Fanning, as commissions of two and a half per cent. upon the sum of fifty thousand dollars disbursed by him in eighteen hundred and twenty-seven and eighteen hundred and twenty-eight, at the United States arsenal, in Augusta, Georgia.

APPROVED, June 9, 1858.

CHAP. CXLIII.—An Act for the Relief of Gardner and Vincent, and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed, upon the production of satisfactory evidence, to audit and settle the several accounts of Gardner and Vincent, A. S. Gardner, A. F. Holmes, G. B. Murphy, C. C. Carlton, N. E. Crittenden, O. A. Brooks and Company, and W. Bingham and Company, for goods, *et cetera*, furnished the United States marine hospital at Cleveland, Ohio, during the superintendency of John Coon, and to pay the amounts found to be due, out of any money in the Treasury not otherwise appropriated.

APPROVED, June 9, 1858.

CHAP. CXLIV.—An Act for the Relief of Keep, Bard and Company, J. Caulfield, and Joseph Landis and Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the attorney of the United States for the eastern district of Louisiana, be, and he is hereby, authorized to enter satisfaction of the judgment rendered by the district court of the United States for the eastern district of Louisiana, on or about the twenty-first day of January, A. D. eighteen hundred and fifty-eight, in favor of the United States against Keep, Bard and Company, principals, composed of E. S. Keep, J. S. Bard, and J. Caulfield, and Joseph Landis and Company, sureties, composed of L. H. Place and Paul E. Mortimer, jointly and severally, *in solido*.

APPROVED, June 9, 1858.

CHAP. CXLIX.—An Act for the Relief of John Sawyer, a soldier of the War of the Revolution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to enter the name of John Sawyer, of Garland, in the county of Penobscot, in the State of Maine, on the roll of revolutionary pensioners, and pay him a pension, at the rate of twenty-four dollars a year, during his natural life, commencing on the fourth day of March, in the year one thousand eight hundred and thirty-one.

APPROVED, June 11, 1858.

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CHAP. CL.—An Act for the Relief of William S. Bradford.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passage of this act, the pension now paid to William S. Bradford be increased from the present amount received by him to twenty-five dollars per month.

APPROVED, June 11, 1858.

CHAP. CLI.—An Act for the Relief of Albert G. Allen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the settlement of the accounts of Albert G. Allen, late Navy agent at Washington, District of Columbia, one and one fourth per centum be allowed him upon the disbursements of extra pay made by him under the acts of August thirty-first, eighteen hundred and fifty-two, and March third, eighteen hundred and fifty-three, to the officers, seamen, and marines who had served on the Pacific coasts of Mexico and California, deducting therefrom such amount as may be due from him to the United States.

APPROVED, June 11, 1858.

CHAP. CLII.—An Act for the Relief of Jennett H. McCall, only child of Captain James McCall, of the Revolutionary War.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay to Jennett H. McCall, only child of Captain James McCall, of General Pickens' brigade, in the South Carolina regiment, during the war of the Revolution, the seven years' half pay of a captain, as allowed by the resolution of Congress passed August twenty-fourth, one thousand seven hundred and eighty, amounting to two thousand one hundred dollars; the said sum to be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, June 11, 1858.

CHAP. CLVII.—An Act granting a Pension to Beriah Wright, of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Beriah Wright, of New York, upon the roll of invalid pensioners of the United States, and pay to him a pension at the rate of four dollars per month, from the sixteenth day of February, one thousand eight hundred and fifty-eight, during his natural life.

APPROVED, June 12, 1858.

CHAP. CLVIII.—An Act for the Relief of Nancy Magill, of Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby directed to place the name of Nancy Magill, widow of James Magill, of the State of Ohio, on the pension roll, at the rate of eight dollars per month, for five years, commencing on the fourth day of March, eighteen hundred and fifty-eight.

APPROVED, June 12, 1858.

CHAP. CLIX.—An Act for the Relief of Georgiana M. Lewis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the twelfth section of the act entitled, "An act making appropriation[s] for the naval service for the year ending the thirtieth of June, eighteen hundred and fifty-eight," approved March third, eighteen hundred and fifty-seven, be so construed that the five years' pay provided for in said section, which would have been paid to her deceased husband, Armstrong

Irvine Lewis, in case he had been living at the time of the passage of said act, be paid to Georgiana M. Lewis, his widow.

APPROVED, June 12, 1858.

CHAP. CXLVIII.—An Act granting an Invalid Pension to John Holland, of Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of John Holland of Arkansas, on the invalid pension roll at the rate of eight dollars per month, and to pay him at that rate from the fourteenth day of December, eighteen hundred and fifty-seven, during his natural life.

APPROVED, June 14, 1858.

CHAP. CLXIX.—An Act granting an Invalid Pension to William Randolph.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of William Randolph on the invalid pension roll, at the rate of four dollars per month, and pay him at that rate from the twelfth day of May, one thousand eight hundred and fifty-eight, during his natural life.

APPROVED, June 14, 1858.

CHAP. CLXX.—An Act granting an Invalid Pension to William Howell, of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of William Howell, of the State of Tennessee, on the invalid pension roll, and that he be paid a pension at the rate of eight dollars per month, commencing on the twenty-third of February, eighteen hundred and fifty-eight, and continuing during his life.

APPROVED, June 14, 1858.

CHAP. CLXXI.—An Act granting a Pension to Mary A. M. Jones.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be directed to place the name of Mary A. M. Jones, widow of Brevet Major General Roger Jones, deceased, late adjutant general of the Army, upon the roll of pensioners, and pay her a pension at the rate of one half the pay, monthly, to which her late husband was entitled at the time of his death; such pension to commence on the fifteenth day of July, in the year eighteen hundred and fifty-two, and continue during her natural life or widowhood.

APPROVED, June 14, 1858.

CHAP. CLXXII.—An Act for the Relief of Sherlock and Shirley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and [he] is hereby, authorized to examine the cases of fines charged against Sherlock and Shirley, under their contract for carrying the mails on route number five thousand one hundred and three, from Louisville, Kentucky, to St. Louis, Missouri, and to remit so much of such fines as, in his judgment, ought not to be enforced against the said contractors: *Provided,* That no case of any fine or deduction heretofore considered and decided by any former Postmaster General, upon the application of the contractors, shall be reviewed under the provisions of this act, and the Postmaster General shall be authorized to cause any persons to be cross-examined whose testimony may be offered for the purposes of such examination by him as aforesaid.

APPROVED, June 14, 1858.

PRIVATE RESOLUTIONS.

No. 14.—A Resolution for the Relief of John Grayson.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the accounting officers of the Treasury be, and they are hereby, directed, in adjusting the account of John Grayson, pension agent at Pittsburg, Pennsylvania, to place to the credit of the said John Grayson the amount of five hundred and twenty-six dollars and thirteen cents, paid by him to George De Camp, one of the surviving children and heirs of Susannah Stokely, deceased, widow of Nehemiah Stokely, a captain in the revolutionary war; the same having been paid in conformity with the directions of the Secretary of the Interior, as conveyed upon the face of a certificate of pension issued by the Commissioner of Pensions to said George De Camp.

APPROVED, June 1, 1858.

No. 18.—A Resolution for the benefit of the widow of Commander William Lewis Herndon, United States Navy.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress entertain a high sense of the devotion to duty, the coolness, courage, and conduct of Commander William Lewis Herndon, United States Navy, in command of the steamer Central America, at sea during the prevalence of a hurricane on the twelfth of September, eighteen hundred and fifty-seven; and that the widow of the said William Lewis Herndon be entitled to receive, out of any money in the Treasury not otherwise appropriated, a sum equal to three years' full sea-service pay of a commander in the Navy.

APPROVED, June 3, 1858.

No. 19.—A Resolution devolving upon the Secretary of War the Execution of the Act of Congress entitled "An Act supplemental to an Act therein mentioned," approved December twenty-two, eighteen hundred and fifty-four.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties imposed, or required to be performed, by the act of Congress entitled "An act supplemental to an act therein mentioned," approved December twenty-two, eighteen hundred and fifty-four, including the act to which it is supplemental, be, and the same are hereby, transferred to the Secretary of War, who shall proceed *de novo* to execute the same in their plain and obvious meaning: *Provided, nevertheless,* That from any amount which may be found just and equitably due to the legal representatives of George Fisher, deceased, there shall be deducted all sums which may have been heretofore allowed and paid by the United States.

APPROVED, June 3, 1858.

No. 21.—Joint Resolution for the Relief of General Sylvester Churchill.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper disbursing officer be, and he is hereby, authorized and required to allow and pay to General Sylvester Churchill, inspector general, the pay and allowances of inspector general, from the twenty-ninth of April, eighteen hundred and forty-five, the date of his discharge, to the twenty-first of January, eighteen hundred and forty-six, when he was reinstated in his office, according to the rates of pay then allowed, deducting from said pay and allowance any amounts which may have been paid to the said Churchill for services performed between the time of his discharge and restoration to office.

APPROVED, June 5, 1858.

No. 22.—Joint Resolution for the Relief of Henry Orndorf.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and

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[he] hereby is, authorized and instructed to revise and readjust the account of the Department with Henry Orndorf, for mail service on route number nine thousand one hundred and fifty-seven, from Zanesville to Columbus, Ohio, and to allow to said Orndorf full pay for said service, the same as if his bid had been for service six times a week, as required by the advertisement, instead of daily service.

APPROVED, June 7, 1858.

No. 24.—A Resolution to correct an error in the "Act for the Relief of Stephen R. Rowan," approved June first, eighteen hundred and fifty-eight.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the act for the relief of Stephen R. Rowan, approved June first, eighteen hundred and fifty eight, be so corrected as to read as follows: That the attorney of the United States of

America for the southern district of Illinois be, and he is hereby, authorized and directed to enter satisfaction of a judgment entered by the district court of the United States for the said southern district of Illinois, at its June term, anno Domini, eighteen hundred and fifty-seven, in favor of the United States of America against Stephen R. Rowan, on his paying all the costs of said case.

APPROVED, June 14, 1858.

APPROPRIATIONS, NEW OFFICES, ETC.

STATEMENTS SHOWING

- I. Appropriations made during the First Session of the Thirty-Fifth Congress.
- II. Offices created and the Salaries thereof.
- III. The offices the Salaries of which have been increased, with the amount of such increase, during the same period.

JULY 19, 1858.—Prepared under the direction of the Clerk of the House of Representatives, in compliance with the sixth section of the act "to authorize the appointment of additional paymasters, and for other purposes," approved July 4, 1836.

I. APPROPRIATIONS MADE DURING THE FIRST SESSION OF THE THIRTY-FIFTH CONGRESS.

By the act to authorize the issue of Treasury notes.

To purchase said Treasury notes at par for the amount of principal and interest due at the time of the purchase on such notes.....[Indefinite.]
To defray the expenses of engraving, printing, preparing, and issuing the Treasury notes herein authorized.....\$20,000 00

By the act making appropriations for the payment of Invalid and other Pensions of the United States for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

For invalid pensions, under various acts.....\$325,000 00
For pensions under acts of the eighteenth March, eighteen hundred and eighteen, fifteenth May, eighteen hundred and twenty-eight, and seventh June, eighteen hundred and thirty-two... 18,000 00

For pensions to widows of those who served in the revolutionary war, under the third section of the act of fourth July, eighteen hundred and thirty-six, the acts of seventh July, eighteen hundred and thirty-eight, third March, eighteen hundred and forty-three, seventeenth June, eighteen hundred and forty-four, second February and twenty-ninth July, eighteen hundred and forty-eight, and second section act of third February, eighteen hundred and fifty-three.....250,000 00

For pensions to widows and orphans, under act of twenty-first of July, eighteen hundred and forty-eight, first section act of third February, eighteen hundred and fifty-three, and under special acts..... 86,000 00

For privateer invalids..... 500 00

For Navy pensions to widows and orphans, under act of eleventh August, eighteen hundred and forty-eight..... 90,000 00

\$769,500 00

By the act to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles in the treaty between the United States and the King of Denmark, of the eleventh April, eighteen hundred and fifty-seven, for the discontinuance of the Sound dues.

To carry out the stipulation contained in the third article of said treaty.....\$393,011 00

To carry out the stipulation contained in the sixth article of said treaty, or so much thereof as may be necessary to pay the interest provided for in said article..... 15,720 44

\$408,731 44

By the act to appropriate money to supply Deficiencies in the appropriations for paper, printing, binding, and engraving ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-fourth Congresses, and which has been executed.

To pay for paper.....\$104,000 00

To pay for the printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses..... 57,619 94

To pay for the binding, lithographing, and engraving ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses...179,569 64

\$341,189 58

By the act to supply Deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and fifty-eight.

For compensation of the officers, clerks, messengers, and others receiving an annual salary, in the service of the House of Representatives, viz: Six messengers, by resolution of the House of Representatives, twenty-third December, eighteen hundred and fifty-seven.... \$3,913 00

For folding documents, including pay of folders, wrapping paper, twine, and paste..... 20,000 00

For furniture for Speaker's room, and committee rooms, clerks' offices, Sergeant-at-Arms' office, Doorkeeper's room, and carpenters' work..... 30,000 00

For newspapers..... 3,000 00

For laborers, by resolution of the House of Representatives, twenty-third December, eighteen hundred and fifty-seven..... 2,000 00

For stationery..... 4,000 00

For horses, carriages, and saddle horses..... 1,500 00

To enable John C. Rives to pay to the reporters of the House for reporting the debates of the present session of Congress the usual additional compensation of eight hundred dollars each..... 4,000 00

Army.

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and offices; forage in kind for the horses, mules, and oxen of the quartermaster's department at the several posts and stations, and with the armies in the field; for the horses of the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts; of straw for soldiers' bedding, and of stationery, including company and other blank books for the Army, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders, Army regulations, and reports.....778,000 00

For the purchase of horses for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts...252,000 00

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation to judges advocate, recorders, members, and witnesses, while on that service, under the act of March sixteenth, eighteen hundred and two; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals, the construction of roads, and other constant labor, for periods of not less than ten

days, under the acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of express to and from the frontier posts and armies in the field; of escorts to paymasters, other disbursing officers, and trains, when military escorts cannot be furnished; expenses of the internment of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including hire of interpreters, spies, and guides, for the Army; compensation of clerks to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, viz: the purchase of traveling forges, blacksmith's and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps.....\$190,000 00

For constructing barracks and other buildings at posts which it may be necessary to occupy during the year; and for repairing, altering, and enlarging buildings at the established posts, including hire or commutation of quarters for officers on military duty; hire of quarters for troops, of storehouses for the safe-keeping of military stores, and of grounds for summer cantonments; for encampments and temporary frontier stations..... 80,000 00

For transportation of the Army, including the baggage of the troops when moving either by land or water; of clothing, camp, and garrison equipage from the depot at Philadelphia to the several posts and Army depots; horse equipments and of subsistence from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require it to be sent; of ordnance, ordnance stores, and small-arms, from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferrriages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts, drays, ships, and other sea-going vessels and boats for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as from their situation require that it be brought from a distance; and for clearing roads and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops on the frontier.....5,409,000 00

For subsistence in kind.....1,220,000 00

For surveys for military defenses, geographical explorations, and reconnaissances for military purposes..... 5,000 00

Miscellaneous.

For contingent expenses of the Northeast Executive building, viz: for fuel, light, and repairs.... 1,000 00

For the erection of stables and conservatory at the President's House, to replace those about to be taken down to make room for the extension of the Treasury building..... 3,905 00

For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor

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Appropriations, New Offices, &c.

general during the fiscal year ending thirtieth June, eighteen hundred and fifty-seven, over and above that authorized under the appropriation of fifty thousand dollars for that period.	\$220,000 00	For fourth of five installments for pay of physician, teacher, blacksmith, and farmer, per third article treaty twenty-second January, eighteen hundred and fifty-five.	\$2,260 00	For one third of seventeenth of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	\$3,500 00
For payment to clerks temporarily employed in the Post Office Department on account of the extraordinary labors connected with the lettings of new contracts for the term commencing on the first July, eighteen hundred and fifty-eight, and the increase of business in the inspection and depredation office of said Department.	5,218 89	<i>Chasta, Scoton, and Umpqua Indians.</i>		For one third of seventeenth of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	666 67
For lighting the President's House and Capitol, the public grounds around them, and around the executive offices, and Pennsylvania avenue, and Bridge and High streets in Georgetown.	5,000 00	For fourth of fifteen installments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four.	2,000 00	For one third of seventeenth of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	666 67
For compensation of the surveyor general of Utah Territory, from first day of January, eighteen hundred and fifty-six, to thirtieth of June, eighteen hundred and fifty-seven.	1,500 00	For fourth of fifteen installments for support of two smiths and smiths' shops, per fifth article treaty eighteenth November, eighteen hundred and fifty-four.	600 00	For one third of seventeenth of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	666 67
For purchase of the "Masonic Temple," in the city of Boston, for the accommodation of the United States courts, upon the terms agreed on by the Secretary of the Interior and the proprietors thereof, in addition to the sum of one hundred thousand dollars appropriated by the act of third March, eighteen hundred and fifty-seven, for the erection of a building for said purpose.	5,000 00	For fourth of ten installments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four.	2,120 00	For one third of seventeenth of twenty-five installments for pay of two smiths' shops, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	666 67
To supply deficiencies in the revenue of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and fifty-eight.	1,469,173 00	For fourth of fifteen installments for pay of teachers and purchase of books and stationery, per fifth article treaty eighteenth November, eighteen hundred and fifty-four.	1,060 00	For one third of seventeenth of twenty-five installments for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	333 33
To enable the accounting officers of the Treasury to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been or may be made under allowances authorized by the House of Representatives during the last Congress.	[Indefinite]	For this amount, to be expended when the united bands shall be required to remove to the Table Rock reserve, or elsewhere, for provisions to aid in their subsistence during the first year they shall reside thereon, as the President may direct, per fourth article treaty eighteenth November, eighteen hundred and fifty-four.	1,300 00	For fourth of twenty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five.	20,000 00
	\$9,704,209 89	<i>Chippewas of Lake Superior.</i>		<i>Chippewas, Pillager, and Lake Winnibigoshish bands.</i>	
By the act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and fifty-nine.		Fulfilling the treaty of thirtieth September, eighteen hundred and fifty-four:		For fourth of thirty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five.	10,666 66
For the current and contingent expenses of the Indian department, viz:		For two thirds of seventeenth of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	8,333 33	For fourth of thirty installments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five.	8,000 00
For the pay of superintendents of Indian affairs, and of the several Indian agents, per acts of fifth June, eighteen hundred and fifty, twenty-eighth September, eighteen hundred and fifty, twenty-seventh February, eighteen hundred and fifty-one, third March, eighteen hundred and fifty-two, third March, eighteen hundred and fifty-three, thirty-first July, eighteen hundred and fifty-four, third March, eighteen hundred and fifty-five, eighteenth August, eighteen hundred and fifty-six, and third March, eighteen hundred and fifty-seven.	86,250 00	For two thirds of seventeenth of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	800 00	For fourth of thirty installments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five.	4,000 00
For the pay of the several Indian sub-agents, per act of thirty-first July, eighteen hundred and fifty-four.	10,500 00	For two thirds of seventeenth of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	1,333 33	For fourth of twenty installments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five.	3,000 00
For the pay of clerk to superintendent at St. Louis, Missouri, per act of twenty-seventh June, eighteen hundred and forty-six.	1,900 00	For two thirds of seventeenth of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	7,000 00	For fourth of five annual installments for the purchase of powder, shot, lead, twine, and tobacco, per third article treaty twenty-second February, eighteen hundred and fifty-five.	600 00
For the pay of clerk to superintendent in California, per act of third March, eighteen hundred and fifty-two.	2,500 00	For fourth of twenty installments for the support of six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	1,333 33	For fourth of five annual installments for the hire of six laborers, per third article treaty twenty-second February, eighteen hundred and fifty-five.	3,000 00
For the pay of interpreters, per acts of thirtieth June, eighteen hundred and thirty-four, twenty-seventh February, eighteen hundred and fifty-one, and eighteenth August, eighteen hundred and fifty-six.	31,900 00	For fourth of twenty installments for the support of six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	600 67	For fourth of fifteen annual installments for support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen hundred and fifty-five.	2,120 00
For presents to Indians.	5,000 00	For fourth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	1,333 33	<i>Chippewas of Saginaw, Swan Creek, and Black River.</i>	
For provisions for Indians.	11,800 00	For fourth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	1,333 33	For third of five equal annual annual installments for educational purposes, under the direction of the President, per second article of the treaty of second August, eighteen hundred and fifty-five.	4,000 00
For buildings at agencies, and repairs thereof.	10,000 00	For fourth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	19,000 00	For third of five equal annual installments for agricultural implements and carpenters' tools, household furniture, and building materials, cattle, labor, and necessary useful articles, per second article of the treaty of second August, eighteen hundred and fifty-five.	5,000 00
For insurance, transportation, and necessary expenses of delivery of annuities, goods, and provisions to the Indian tribes in Minnesota, Michigan, and Wisconsin.	30,000 00	For fourth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	2,000 00	For third of ten equal annual installments in coin, to be distributed <i>per capita</i> , in the usual manner of paying annuities, per second article of the treaty of second August, eighteen hundred and fifty-five.	10,000 00
For contingencies of the Indian department.	36,500 00	For fourth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	5,040 00	For third installment for the support of one blacksmith shop for ten years, per second article of the treaty of second August, eighteen hundred and fifty-five.	1,240 00
For the employment of temporary clerks by Superintendent of Indian Affairs, on such occasions and for such periods of time as the Secretary of the Interior may deem necessary to the public service.	5,000 00	For fourth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	1,320 00	<i>Chippewas, Menomonees, Winnebagoes, and New York Indians.</i>	
<i>Blackfoot nation.</i>		For second of twenty installments for the seventh smith and assistant, and support of shop, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four.	1,060 00	For education, during the pleasure of Congress, per fifth article treaty eleventh August, eighteen hundred and twenty-seven.	1,500 00
For third of ten installments as annuity, to be expended in the purchase of such goods, provisions, and other useful articles as the President, at his discretion, may from time to time determine, per ninth article of the treaty of seventeenth October, eighteen hundred and fifty-five.	20,000 00	For support of a smith, assistant, and shop for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four.	1,060 00	<i>Chickasaws.</i>	
For third of ten installments as annuity, to be expended in establishing and instructing them in agricultural and mechanical pursuits, and in educating their children, and promoting civilization and Christianity, at the discretion of the President, per tenth article of the treaty of seventeenth October, eighteen hundred and fifty-five.	15,000 00	For support of two farmers for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four.	1,200 00	For permanent annuity in goods, per act of twenty-fifth February, seventeen hundred and ninety-nine.	3,000 00
For expenses of transportation and delivery of annuities in goods and provisions.	17,000 00	<i>Chippewas of the Mississippi.</i>		<i>Choctaws.</i>	
<i>Calapooias, Molalla, and Clackamas Indians of Willamette Valley.</i>		Fulfilling the treaty of twenty-second February, eighteen hundred and fifty-five:		For permanent annuity, per second article treaty sixteenth November, eighteen hundred and fifty, and thirtieth article treaty twenty-second June, eighteen hundred and fifty-five.	3,000 00
For fourth of five installments of annuity for beneficial objects, per second article of treaty twenty-second January, eighteen hundred and fifty-five.	10,000 00	For one third of seventeenth of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	4,166 67	For permanent annuity for support of light-horsemen, per thirteenth article treaty eighteenth October, eighteen hundred and twenty, and thirtieth article treaty twenty-second June, eighteen hundred and fifty-five.	6,000 00
		For one third of seventeenth of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four.	400 00	For permanent provision for blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, and thirtieth article treaty twenty-second June eighteen hundred and fifty-five.	600 00

Appropriations, New Offices, &c.

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For permanent provision for iron and steel, per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article of treaty twenty-second June, eighteen hundred and fifty-five.....	\$320 00	For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land set apart by treaty of eighteen hundred and twenty-nine for education, per resolution of Senate nineteenth January, eighteen hundred and thirty-eight, and fifth article treaty sixth May, eighteen hundred and fifty-four.....	\$2,304 00	For interest on investment of two hundred and twenty-one thousand two hundred and fifty-seven dollars and eighty-six cents, at five per centum, for Miami Indians of Indiana, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four.....	\$11,062 89
For interest on five hundred thousand dollars, at five per centum, for educational and other beneficial purposes, to be applied under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five.....	25,000 00	For fifth of eight equal installments for payment of five chiefs, per sixth article treaty sixth May, eighteen hundred and fifty-four.....	1,250 00	<i>Miamies, Eel River.</i>	
For fulfilling treaty stipulations with the various Indian tribes:		<i>Florida Indians, or Seminoles.</i>		For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five.....	500 00
<i>Camanches, Kiowas, and Apaches, of Arkansas river.</i>		For the last of fifteen installments in goods, per sixth article treaty fourth January, eighteen hundred and forty-five.....	2,000 00	For permanent annuity in goods or otherwise, per third article treaty twenty-first August, eighteen hundred and five.....	250 00
For fifth of ten installments for the purchase of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three.....	18,000 00	For the last of fifteen installments in money, per sixth article treaty fourth January, eighteen hundred and forty-five, and fourth article treaty ninth May, eighteen hundred and thirty-two.....	3,000 00	For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine.....	350 00
For expenses of transportation of the fifth of ten installments of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three.....	7,000 00	<i>Iowas.</i>		<i>Navajoes.</i>	
<i>Creeks.</i>		For interest in lieu of investment on fifty-seven thousand five hundred dollars to the first July, eighteen hundred and fifty-nine, at five per centum, for education or other beneficial purposes, under the direction of the President, per second article treaty nineteenth October, eighteen hundred and thirty-eight, and ninth article treaty seventeenth May, eighteen hundred and fifty-four.....	2,875 00	For fulfilling treaty stipulations with the Navajoes, pursuant to the requirements of the tenth article treaty ninth September, eighteen hundred and forty-nine.....	5,000 00
For permanent annuity in money, per fourth article treaty seventh August, seventeen hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	1,500 00	<i>Kansas.</i>		<i>Nisqually, Puyallup, and other tribes and bands of Indians.</i>	
For permanent annuity in money, per second article treaty sixteen June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	3,000 00	For interest in lieu of investment on two hundred thousand dollars, at five per centum, per second article treaty fourteenth January, eighteen hundred and forty-six.....	10,000 00	For fulfilling the articles negotiated twenty-sixth December, eighteen hundred and fifty-four, with certain bands of Indians of Puget sound, Washington Territory:	
For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	20,000 00	<i>Kaskaskias, Peorias, Weas, and Piankeshawes.</i>		For fourth installment, in part payment for relinquishment of title to lands to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four.....	2,000 00
For permanent provision for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	840 00	For second of three installments of nine thousand dollars, for the years eighteen hundred and fifty-seven, eighteen hundred and fifty-eight, and eighteen hundred and fifty-nine, per sixth article treaty thirtieth May, eighteen hundred and fifty-four.....	9,000 00	For fourth of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistant if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four.....	4,500 00
For permanent provision for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	270 00	For the last of five installments for support of blacksmith and assistant, per sixth article treaty thirtieth May, eighteen hundred and fifty-four.....	720 00	<i>Omahas.</i>	
For permanent provision for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	600 00	For the last of five installments for the purchase of iron and steel, per sixth article treaty thirtieth May, eighteen hundred and fifty-four.....	220 00	For the first of ten installments of this amount, being second of the series, in money or otherwise, per fourth article treaty sixteenth March, eighteen hundred and fifty-four.....	30,000 00
For blacksmith and assistant and shop and tools during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	840 00	<i>Kickapoos.</i>		For fourth of ten installments for support of a miller, per eighth article treaty sixteenth March, eighteen hundred and fifty-four.....	600 00
For iron and steel for shop during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	270 00	For fifth installment of interest, at five per centum, on one hundred thousand dollars for education, per second article treaty eighteenth May, eighteen hundred and fifty-four.....	5,000 00	For fourth of ten installments for support of blacksmith and assistant, and iron and steel for shop, per eighth article treaty sixteenth March, eighteen hundred and fifty-four.....	940 00
For wagon maker during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	600 00	For the payment of this sum as the fifth installment upon two hundred thousand dollars, to be paid in eighteen hundred and fifty-eight, per second article treaty eighteenth May, eighteen hundred and fifty-four.....	14,000 00	For fourth of ten installments for support of farmer, per eighth article treaty sixteenth March, eighteen hundred and fifty-four.....	600 00
For assistance in agricultural operations during the pleasure of the President, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	2,000 00	<i>Menomonees.</i>		<i>Osages.</i>	
For education during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	1,000 00	For third of twelve installments for continuing and keeping up a blacksmith shop, and providing the usual quantity of iron and steel, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four.....	916 66	For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the value of fifty-four sections of land set apart second June, eighteen hundred and twenty-five, for educational purposes, per Senate resolution nineteenth January, eighteen hundred and thirty-eight.....	3,450 00
For the second of seven additional installments for two blacksmiths, assistants, shop, and tools, per thirteenth article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	1,680 00	For third of ten installments of annuity upon two hundred thousand dollars, balance of three hundred and fifty thousand dollars for cession of lands, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four.....	30,000 00	<i>Ottos and Missourias.</i>	
For the second of seven additional installments for iron and steel for shops, per thirteenth article treaty twenty-fourth March, eighteen hundred and thirty-two, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	540 00	<i>Miamies of Kansas.</i>		For the first of ten installments of this amount, being the second series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four.....	13,000 00
For twenty-eight of twenty installments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	3,000 00	For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty fifth June, eighteen hundred and fifty-four.....	940 00	For fourth of ten installments for pay of miller, per seventh article treaty fifteenth March, eighteen hundred and fifty-four.....	600 00
For fifteenth of twenty installments for education, per fourth article treaty fourth January, eighteen hundred and forty-five, and fifth article treaty seventh August, eighteen hundred and fifty-six.....	3,000 00	For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four.....	600 00	For fourth of ten installments for blacksmith and assistant, and iron and steel for shop, per seventh article treaty fifteen March, eighteen hundred and fifty-four.....	940 00
For five per centum interest on two hundred thousand dollars, for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six.....	10,000 00	For their proportion of eighteenth of twenty installments in money, per second article treaty twenty-eighth November, eighteen hundred and forty, and fourth article treaty fifth June, eighteen hundred and fifty-four.....	5,636 36	For fourth of ten installments for farmer, per seventh article treaty fifteenth March, eighteen hundred and fifty-four.....	600 00
<i>Delawares.</i>		For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four.....	2,500 00	<i>Ottawas and Chippewas of Michigan.</i>	
For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen.....	100 00	For fifth of six equal annual installments to Miamies residing on ceded lands, for purchase of former perpetual and other annuities and relinquishment of claims, per fourth article treaty fifth June, eighteen hundred and fifty-four.....	31,739 11	For third of ten equal annual installments for educational purposes, to be expended under the direction of the President, according to the wishes of the Indians, so far as may be reasonable and just, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five.....	8,000 00
		<i>Miamies of Indiana.</i>		For third of five equal annual installments in agricultural implements and carpenter's tools, household furniture, and building materials, cattle, labor, and necessary useful articles, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five.....	15,000 00
		For their proportion of eighteenth of twenty installments in money, per second article treaty twenty-eighth November, eighteen hundred and forty, and fourth article treaty fifth June, eighteen hundred and fifty-four.....	6,863 64	For third installment for the support of four blacksmith shops for ten years, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five.....	4,240 00
				For third installment of principal payable annually for ten years, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five.....	10,000 00
				For interest on two hundred and seventy-six thousand dollars, unpaid part of the principal sum of three hundred and six thousand dollars, for one year, at five per cent. per annum, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five.....	13,800 00
				For third of ten equal annual installments, in lieu of former treaty stipulations, to be paid per capita to the Grand River Ottawas, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five.....	3,500 00

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Appropriations, New Offices, &c.

Ottawas of Kansas.		Sacs and Foxes of Missouri.		Treaty of Fort Laramie.	
For their proportion of the permanent annuities in money, goods, or otherwise, payable under the fourth article of the treaty of third August, seventeen hundred and ninety-five; second article of the treaty of seventeenth November, eighteen hundred and seven; fourth article of the treaty of seventeenth September, eighteen hundred and eighteen; and fourth article of the treaty of twenty-ninth August, eighteen hundred and twenty-one.....	\$2,600 00	For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven.....	\$7,870 00	For eighth of ten installments in provisions and merchandise, for payment of annuities and transportation of the same to certain tribes of Indians, per seventh article treaty seventeenth September, eighteen hundred and fifty-one, and Senate's amendment thereto.....	\$70,000 00
Pawnees.		Seminoles.		Umpquas, (Cow Creek Band.)	
For agricultural implements, during the pleasure of the President, per fourth article treaty ninth October, eighteen hundred and thirty-three...	1,000 00	For the second of ten installments for the support of schools, per eighth article treaty seventh August, eighteen hundred and fifty-six...	3,000 00	For fifth of twenty installments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three.....	550 00
Pottawatomies.		For the second of ten installments for agricultural assistance, per eighth article treaty seventh August, eighteen hundred and fifty-six.....	2,000 00	Fulfilling the articles of twenty-ninth November, eighteen hundred and fifty-four, with the	
For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five.....	1,000 00	For the second of ten installments for the support of smiths and smiths' shops, per eighth article treaty seventh August, eighteen hundred and fifty-six.....	2,200 00	Umpquas and Callapooias, of Umpqua Valley, Oregon.	
For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine.....	500 00	For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article treaty seventh August, eighteen hundred and fifty-six.....	12,500 00	For fourth of five installments of annuity for beneficial objects, to be expended as directed by the President, per third article of treaty twenty-ninth November, eighteen hundred and fifty-four.....	3,000 00
For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighteen.....	2,500 00	Senecas.		For fourth of ten installments for the pay of a blacksmith, and furnishing shop, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four.....	1,060 00
For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight.....	2,000 00	For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seven.....	500 00	For fourth of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four.....	1,000 00
For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hundred and twenty-nine.....	16,000 00	For blacksmith and assistant, shop and tools, and iron and steel, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one...	1,060 00	For fourth of ten installments for the pay of a farmer, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four...	600 00
For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two.....	200 00	For miller, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one.....	600 00	For fourth of twenty installments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four.....	700 00
For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three.....	700 00	Senecas of New York.		Utahs.	
For education, during the pleasure of Congress, per third article treaty sixteenth October, eighteen hundred and twenty-six; second article treaty twentieth September, eighteen hundred and twenty-eight; and fourth article treaty twenty-seventh October, eighteen hundred and thirty-two.....	5,000 00	For permanent annuity, in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one.....	6,000 00	For fulfilling treaty stipulations with the Utahs, pursuant to the requirements of eighth article treaty thirtieth December, eighteen hundred and forty-nine.....	5,000 00
For permanent provision for the payment of money, in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-seven.....	300 00	For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six.....	3,750 00	Winnebagoes.	
For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine.....	250 00	For interest, at five per centum, on forty-three thousand and fifty dollars, transferred from Ontario bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six.....	2,152 50	For the last of thirty installments as annuity in specie, per second article treaty first August, eighteen hundred and twenty-nine.....	18,000 00
For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six.....	32,150 00	Senecas and Shawnees.		For the last of twenty-seven installments as annuity in specie, per third article treaty fifteenth September, eighteen hundred and thirty-two...	10,000 00
Pottawatomies of Huron.		For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen.....	1,000 00	For the last of thirty installments for thirty barrels of salt, per second article treaty first August, eighteen hundred and twenty-nine.....	250 00
For permanent annuity in money or otherwise, per second article treaty seventeenth November, eighteen hundred and seven.....	400 00	For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one...	1,060 00	For the last of thirty installments for three thousand pounds of tobacco, per second article treaty first August, eighteen hundred and twenty-nine.....	600 00
Quapaws.		Shawnees.		For the last of twenty-seven installments for one thousand five hundred pounds of tobacco, per fifth article treaty fifteenth September, eighteen hundred and thirty-two.....	300 00
For education, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three.....	1,000 00	For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four.....	1,000 00	For the last of thirty installments for three smiths and assistants, per third article treaty first August, eighteen hundred and twenty-nine...	2,160 00
For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three.....	1,060 00	For fifth of seven annual installments of money, in payment for lands, per third article treaty tenth May, eighteen hundred and fifty-four...	1,000 00	For the last of thirty installments for iron and steel for shop, per third article treaty first August, eighteen hundred and twenty-nine.....	660 00
For farmer, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three.....	600 00	For fifth installment of interest, at five per centum, on forty thousand dollars for education, per third article treaty tenth May, eighteen hundred and fifty-four.....	2,000 00	For the last of thirty installments for laborer and oxen, per third article treaty first August, eighteen hundred and twenty-nine.....	365 00
Rogue Rivers.		For permanent annuity for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four.....	2,000 00	For the last of twenty-seven installments for education, per fourth article treaty fifteenth September, eighteen hundred and thirty-two...	3,000 00
For fifth of sixteen installments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three.....	2,500 00	Six Nations of New York.		For the last of twenty-seven installments for six agriculturists, purchase of oxen, plows, and other implements, per fifth article treaty fifteenth September, eighteen hundred and thirty-two.....	2,500 00
Sacs and Foxes of Mississippi.		For permanent annuity in clothing and other useful articles, per sixth article treaty eleventh November, seventeen hundred and ninety-four.....	4,500 00	For the last of twenty-seven installments for the pay of two physicians, per fifth article treaty fifteenth September, eighteen hundred and thirty-two.....	400 00
For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four.....	1,000 00	Sioux of Mississippi.		For interest on one million one hundred thousand dollars, at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven.....	55,000 00
For twenty-seventh of thirty installments as annuity in specie, per third article treaty twenty-first September, eighteen hundred and thirty-two.....	20,000 00	For interest on three hundred thousand dollars, at five per centum, per second article treaty twenty-ninth September, eighteen hundred and thirty-seven.....	15,000 00	For twelfth of thirty installments of interest on eighty-five thousand dollars, at five per centum, per fourth article treaty thirteenth October, eighteen hundred and forty-six.....	4,250 00
For twenty-seventh of thirty installments for gunsmith, per fourth article treaty twenty-first September, eighteen hundred and thirty-two,	600 00	For eighth of fifty installments of interest, at five per centum, on one million three hundred and sixty thousand dollars, per fourth article treaty twenty-third July, eighteen hundred and fifty-one.....	68,000 00	Miscellaneous.	
For twenty-seventh of thirty installments for iron and steel for shops, per fourth article treaty twenty-first September, eighteen hundred and thirty-two.....	220 00	For eighth of fifty installments of interest, at five per centum, on one hundred and twelve thousand dollars, being the amount in lieu of the reservations set apart in the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty twenty-third July, eighteen hundred and fifty-one...	5,600 00	For carrying into effect the act of third March, eighteen hundred and nineteen, making provisions for the civilization of the Indian tribes, in addition to the sum specified in said act...	5,000 00
For twenty-seventh of thirty installments for blacksmith and assistant, shop and tools, per fourth article treaty twenty-first September, eighteen hundred and thirty-two.....	840 00	For eighth of fifty installments of interest, at five per centum, on six hundred thousand dollars, being the amount allowed in lieu of the reservation of lands set apart by the third article of Senate's amendment of twenty-third June, eighteen hundred and fifty-two, to treaty fifth August, eighteen hundred and fifty-one.....	3,450 00	For continuing the compilation and completion of a map of the Indian territory.....	2,000 00
For twenty-seventh of thirty installments for iron and steel for shop, per fourth article treaty twenty-first September, eighteen hundred and thirty-two.....	220 00				\$1,338,104 49
For twenty-seventh of thirty installments for forty barrels of salt and forty kegs of tobacco, per fourth article treaty twenty-first September, eighteen hundred and thirty-two.....	1,000 00			By the act making appropriations for the support of the Military Academy, for the year ending the thirtieth of June, eighteen hundred and fifty-nine.	
For interest on two hundred thousand dollars, at five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven.....	10,000 00			For pay of officers, instructors, cadets, and musicians.....	112,806 00
For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two.....	40,000 00			For commutation of subsistence.....	3,066 00
				For forage for officers' horses.....	864 00
				For current and ordinary expenses, as follows: repairs and improvements, fuel and apparatus, forage, postage, stationery, transportation, printing, clerks, miscellaneous and incidental expenses, and departments of instruction.....	35,610 00

Appropriations, New Offices, &c.

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For gradual increase and expense of library....	\$1,000 00
For expenses of the Board of Visitors.....	3,000 00
For forage for artillery and cavalry horses.....	2,640 00
For supplying horses for cavalry and artillery practice.....	1,000 00
For barracks for dragoon detachment.....	1,500 00
For barracks for artillery detachment.....	6,500 00
For purchase of a bell, and mounting the same with the clock on one of the public buildings,	450 00
For repairs to officers' quarters.....	500 00
For models for the department of cavalry.....	250 00
For extension of water-pipes and increase of reservoir.....	2,500 00
For targets and batteries for artillery exercise...	150 00
For gas pipes and retorts, extension to cadets' mess-hall, academic hall, and other public buildings.....	2,500 00
For stables for dragoon and artillery horses.....	2,468 00

\$182,804 00

By the act to amend the "Act to incorporate the Columbia Institution for the Instruction of the Deaf and Dumb and the Blind," approved February sixteenth, eighteen hundred and fifty-seven.

For the payment of salaries and incidental expenses of said institution.....\$3,000 00

By the act making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Legislative.

For compensation and mileage of Senators....	\$162,750 00
For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz:	
Secretary of the Senate.....	3,600 00
Officer charged with disbursements of the Senate, Chief Clerk.....	480 00
Principal clerk and principal executive clerk in the office of the Secretary of the Senate, at two thousand one hundred and sixty dollars each.....	4,320 00
Eight clerks in the office of the Secretary of the Senate, at one thousand eight hundred and fifty dollars each.....	14,800 00
Keeper of the stationery.....	1,752 00
Two messengers, at one thousand and eighty dollars each.....	2,160 00
One page.....	500 00
Sergeant-at-Arms and Doorkeeper.....	2,000 00
Assistant Doorkeeper.....	1,700 00
Postmaster to the Senate.....	1,750 00
Assistant Postmaster and mail carrier.....	1,440 00
Two mail boys, at nine hundred dollars each.....	1,800 00
Superintendent of the document room.....	1,500 00
Two assistants in document room, at one thousand two hundred dollars each.....	2,400 00
Superintendent of the folding room.....	1,500 00
Two messengers, acting as assistant doorkeepers, at one thousand five hundred dollars each.....	3,000 00
Sixteen messengers, at one thousand two hundred dollars each.....	19,200 00
Superintendent in charge of Senate furnaces.....	1,200 00
Assistant in charge of furnaces.....	600 00
Laborer in private passage.....	600 00
Two laborers, at four hundred and eighty dollars each.....	960 00
Clerk or secretary to the President of the Senate, Draughtsman.....	1,752 00
Clerk to the Committee on Finance.....	1,850 00
Clerk to the Committee on Claims.....	1,850 00
Clerk of printing records.....	1,850 00
For the additional compensation allowed by the resolution of the Senate of the eleventh of May, eighteen hundred and fifty-eight, to a messenger in the office of the Secretary of the Senate, for the fiscal year ending the thirtieth of June, eighteen hundred and fifty-eight.....	330 00
For the contingent expenses of the Senate, viz:	
For binding.....	50,000 00
For lithographing and engraving.....	45,000 00
For stationery.....	12,000 00
For newspapers.....	3,000 00
For Congressional Globe, and binding the same.....	24,217 20
For reporting proceedings.....	10,400 00
For clerks to committees, pages, police, horses, and carriages.....	26,508 50
For miscellaneous items.....	20,000 00
For stationery for fiscal year ending the thirtieth of June, eighteen hundred and fifty-eight, for the Senate.....	5,000 00
For stationery for fiscal year ending thirtieth of June, eighteen hundred and fifty-eight, for the House of Representatives.....	5,000 00
For compensation and mileage of members of the House of Representatives and Delegates from Territories.....	580,250 00
For compensation of the officers, clerks, messengers, and others, receiving an annual salary in the service of the House of Representatives, viz:	
Clerk of the House of Representatives.....	3,600 00
Two clerks, at two thousand one hundred and sixty dollars each.....	4,320 00
Seven clerks, at one thousand eight hundred dollars each.....	12,600 00
Clerk in charge of books for member.....	1,500 00

Reading clerk.....	\$1,800 00
Librarian.....	1,800 00
Clerk in charge of the stationery.....	1,800 00
Principal messenger in the office.....	1,752 00
Three messengers, at one thousand two hundred dollars each.....	3,600 00
Sergeant-at-Arms.....	2,160 00
Clerk to the Sergeant-at-Arms.....	1,800 00
Messenger to the Sergeant-at-Arms.....	1,200 00
Postmaster.....	2,160 00
One messenger in the office.....	1,740 00
Four messengers, at one thousand four hundred and forty dollars each.....	5,760 00
Doorkeeper.....	2,160 00
Superintendent of the folding room.....	1,800 00
Superintendent and assistant in the document room, at one thousand seven hundred and fifty-two dollars each.....	3,504 00
Messenger in charge of the Hall.....	1,740 00
Five messengers, at one thousand five hundred dollars each.....	7,500 00
Eight messengers, at one thousand two hundred dollars each.....	9,600 00
Six messengers, at one thousand two hundred dollars each.....	7,200 00
Messenger to the Speaker.....	1,752 00
Clerk to the Committee of Claims.....	1,800 00
Clerk to the Committee of Ways and Means.....	1,800 00

For contingent expenses of the House of Representatives, viz:

For binding documents.....	100,000 00
For furniture, repairs, and boxes for members.....	10,000 00
For stationery.....	15,000 00
For horses, carriages, and saddle-horses.....	6,000 00
For fuel, oil, and candles.....	3,600 00
For newspapers.....	12,500 00
For engraving, electrotyping, and lithographing.....	100,000 00
For Capitol police.....	5,890 00
For laborers.....	6,285 00
For pages and temporary mail boys.....	4,200 00
For folding documents, including pay of folders, wrapping-paper, twine, and paste.....	30,000 00
For cartage.....	2,000 00
For miscellaneous items.....	30,000 00
For twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the second session of the Thirty-Fifth Congress.....	17,352 00
For binding twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the second session of the Thirty-Fifth Congress.....	8,097 60
For reporting the debates of the second session of the Thirty-Fifth Congress.....	8,000 00
For the usual additional compensation to the reporters for the Congressional Globe for reporting the proceedings of the House of Representatives for the next regular session of the Thirty-Fifth Congress, eight hundred dollars to each reporter.....	4,000 00
To pay to the reporters of the Senate the usual extra compensation for the third session of the Thirty-Fourth Congress, eight hundred dollars each.....	3,200 00
To pay to the reporters of the Senate the usual extra compensation for the first session of the Thirty-Fifth Congress, eight hundred dollars each.....	3,200 00
To pay to the reporters of the Senate the usual extra compensation for the second session of the Thirty-Fifth Congress, eight hundred dollars each.....	3,200 00
For one hundred copies of the Congressional Globe and Appendix, and for binding the same, for the second session of the Thirty-Fifth Congress, for the use of the library of the House of Representatives.....	440 00
For the compensation of the draughtsman and clerks employed upon the land maps, clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives.....	17,800 00
For two mail boys, at nine hundred dollars each, and the messenger in charge of the south extension.....	3,300 00
For furnishing the committee-rooms, retiring-rooms, and offices, in the south wing of the Capitol extension, with gas-fixtures, chandeliers, iron safes, and other furniture.....	40,000 00

Library of Congress.

For compensation of Librarian, three assistant librarians, and messenger.....	9,000 00
For contingent expenses of said library.....	1,000 00
For coal, and fireman for furnaces to warm the library.....	600 00
For purchase of books for said library.....	5,000 00
For purchase of law books for said library.....	2,000 00

Botanic garden.

For procuring manure, tools, fuel, repairs, purchasing trees and shrubs for botanic garden, to be expended under the direction of the Library Committee of Congress.....	2,300 00
For pay of horticulturists and assistants in the botanic garden and green-houses, to be expended under the direction of the Library Committee of Congress.....	5,121 50
For reglazing and repairing damages to the green-houses by the hail storm of June, eighteen hundred and fifty-seven.....	1,044 16

Public Printing.

For compensation to the Superintendent of Public Printing, and the clerks and messenger in his office.....	11,514 00
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For contingent expenses of his office, viz: For blank books, stationery, postage, advertising for proposals for paper, furniture, traveling expenses, cartage, and labor in storing and transportation of paper, and miscellaneous items.....	\$2,850 00
For rent of warehouse.....	250 00
For paper required for the printing of the second session of the Thirty-Fifth Congress.....	100,000 00
For printing required for the second session of the Thirty-Fifth Congress.....	70 00

Court of Claims.

For salaries of three judges of the Court of Claims, the solicitor, assistant solicitor, deputy solicitor, clerk and assistant clerk, and messenger thereof.....	27,300 00
For stationery, fuel, gas or other lights, printing, labor, and miscellaneous items for the Court of Claims.....	4,000 00
For commissioners' fees for taking testimony in behalf of the Government, fees of witnesses and of agents or attorneys to be appointed by the solicitor to attend to the taking of depositions.....	5,000 00

Executive.

For compensation of the President of the United States.....	25,000 00
For compensation of the Vice President of the United States.....	8,000 00
For compensation to secretary to sign patents for lands.....	1,500 00
For compensation to the private secretary, steward, and messenger of the President of the United States.....	4,600 00
For contingent expenses of the executive office, including stationery therefor.....	350 00

Department of State.

For compensation of the Secretary of State and assistant Secretary of State, clerks, messenger, assistant messenger, and laborers in his office.....	57,800 00
For the incidental and contingent expenses of said Department.....	
For proof-reading, packing, and distributing laws and documents, including cases and transportation, and miscellaneous expenses.....	5,000 00
For stationery, blank-books, binding, furniture, fixtures, repairs, painting, and glazing.....	6,500 00
For newspapers.....	600 00
For miscellaneous items.....	2,000 00
To enable the Secretary of State to purchase fifty copies, each, of volumes twenty-two and twenty-three of Howard's Reports of the Decisions of the Supreme Court of the United States.....	500 00
To enable the Secretary of State to carry into effect the act entitled "An act for the admission of the State of Kansas into the Union".....	10,000 00

Northeast Executive building.

For compensation of four watchmen and two laborers of the Northeast Executive building.....	3,600 00
For contingent expenses of said building, viz: for fuel, light, repairs, and miscellaneous expenses.....	4,300 00

Treasury Department.

For compensation of the Secretary of the Treasury, assistant Secretary of the Treasury, clerks, messenger, assistant messenger, and laborers in his office.....	48,600 00
For compensation of the First Comptroller, and the clerks, messenger, and laborers in his office.....	28,340 00
For compensation of the Second Comptroller, and the clerks, messenger, and laborer in his office.....	26,840 00
For compensation of the First Auditor, and the clerks, messenger, assistant messenger, and laborer in his office.....	35,940 00
For compensation of the Second Auditor, and the clerks, messenger, assistant messenger, and laborer in his office.....	35,540 00
For compensation of the Third Auditor, and the clerks, messenger, assistant messenger, and laborers in his office.....	132,640 00
For compensation of the Fourth Auditor and the clerks, messenger, and assistant messenger in his office.....	27,740 00
For compensation of the Fifth Auditor, and the clerks, messenger, and laborer in his office.....	17,840 00
For compensation of the Auditor of the Treasury for the Post Office Department, and the clerks, messenger, assistant messenger, and laborers in his office.....	172,340 00
For compensation of the Treasurer of the United States, and the clerks, messenger, assistant messenger, and laborers in his office.....	25,740 00
For compensation of the Register of the Treasury, and the clerks, messenger, assistant messenger, and laborers in his office.....	50,340 00
For compensation of the Solicitor of the Treasury, and the clerks and messenger in his office.....	17,140 00
For compensation of the Commissioner of the Customs, and the clerks, messenger, and laborer in his office.....	20,440 00
For compensation of the clerks, messenger, and laborer of the Light-House Board.....	9,210 00

Contingent expenses of the Treasury Department.

In the office of the Secretary of the Treasury: For copying, blank-books, stationery, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items.....	15,000 00
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Appropriations, New Offices, &c.

In the office of the First Comptroller:	
For furniture, blank-books, binding, stationery, public documents, State and territorial statutes, and miscellaneous items, and the Union and National Intelligencer newspapers.....	\$2,200 00
In the office of the Second Comptroller:	
For blank-books, binding, stationery, pay for the National Intelligencer and Union, to be filed and preserved for the use of the office, office furniture, and miscellaneous items.....	1,500 00
In the office of the First Auditor:	
For blank-books, binding, stationery, office furniture, cases for records and official papers, and miscellaneous items, including subscription for the Union and National Intelligencer, to be filed for the use of the office.....	1,800 00
In the office of the Second Auditor:	
For blank-books, binding, stationery, office furniture, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office.....	1,200 00
In the office of the Third Auditor:	
For blank-books, binding, stationery, office furniture, carpeting, two newspapers, the Union and Intelligencer, preserving files and papers, bounty-land service, miscellaneous items, and arrearages.....	3,450 00
In the office of the Fourth Auditor:	
For stationery, books, binding, labor, and miscellaneous items.....	1,100 00
In the office of the Fifth Auditor:	
For blank-books, binding, stationery, office furniture, carpeting, and miscellaneous expenses, in which are included two daily newspapers....	1,000 00
In the office of the Auditor of the Treasury for the Post Office Department:	
For stationery, blank-books, binding, ruling, miscellaneous items, for file-boards, repairs, cases and desks for safe-keeping of papers, furniture, lights, washing towels, ice, horse for messenger, telegraphic dispatches, and stoves....	12,550 00
In the office of the Treasurer:	
For blank-books, binding, stationery, and miscellaneous items.....	1,000 00
In the office of the Register:	
For ruling and full binding books for recording collectors' quarterly abstracts of commerce and navigation, and blank abstracts for their use, blank-books, binding, and stationery, arranging and binding canceled marine papers and records, and miscellaneous items, including office furniture and carpeting, copper-plate printed certificates of registers of vessels and crew list.....	10,000 00
In the office of the Solicitor:	
For blank-books, binding, stationery, labor, and miscellaneous items, and for statutes and reports.....	2,200 00
In the office of Commissioner of Customs:	
For blank-books, binding, stationery, and miscellaneous items.....	2,000 00
<i>Light-House Board.</i>	
For blank-books, binding, stationery, miscellaneous expenses, and postage.....	750 00
<i>For the general purposes of the Southeast Executive building.</i>	
For compensation of eight watchmen and nine laborers of the Southeast Executive Building, for contingent expenses of said building, viz:	10,200 00
Fuel, lights, repairs, and miscellaneous.....	8,500 00
For compensation of four watchmen and two laborers for the south extension of the Southeast Executive building.....	3,600 00
For contingent expenses of said building, fuel, and miscellaneous items.....	3,000 00
<i>Department of the Interior.</i>	
For compensation of the Secretary of the Interior, and the clerks, messengers, assistant messengers, watchmen, and laborers in his office, for compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office.....	36,900 00
For additional clerks in the General Land Office, under the act of third March, one thousand eight hundred and fifty-five, granting bounty lands, and for laborers employed therein.....	58,400 00
For compensation of the Commissioner of Indian Affairs, and the clerks, messenger, assistant messenger, watchmen, and laborer in his office.....	31,940 00
For compensation of the Commissioner of Pensions, and the clerks, messenger, assistant messenger, and laborers in his office.....	109,340 00
For compensation of the Commissioner of Public Buildings, and the clerk in his office.....	3,200 00
<i>Contingent expenses, Department of the Interior.</i>	
Office of the Secretary of the Interior:	
For books, stationery, furniture, fuel, lights, and other contingencies, and for books and maps for the library.....	7,200 00
For expense of packing and distributing the congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress approved twenty-eighth January, eighteen hundred and fifty-seven....	6,000 00
For the preservation of the collections of the exploring and surveying expeditions of the Government.....	\$4,000 00
For the transfer to, and new arrangement of those collections in, the Smithsonian Institution.....	1,000 00
To enable the Secretary of the Interior to pay the superintendent of the building occupied by said Secretary and his Department, from the first day of January, eighteen hundred and fifty-five, to the thirtieth day of June, eighteen hundred and fifty-eight, the allowance to be made to such superintendent, with his salary as clerk, not to exceed two thousand dollars per annum.....	700 00
<i>General Land Office:</i>	
For cash system and military patents, under laws prior to twenty-eighth September, eighteen hundred and fifty; patent and other records; tract-books and blank-books for this and the district land offices; binding plats and field notes; stationery, furniture, and repairs of same, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office.....	33,500 00
For contingent expenses, in addition, under swamp land act of twenty-eighth September, eighteen hundred and fifty, military bounty acts of twenty-eighth September, eighteen hundred and fifty, and twenty-second March, eighteen hundred and fifty-two, and act thirty-first August, eighteen hundred and fifty-two, for the satisfaction of Virginia land warrants, for fuel, lights, and incidental expenses attending the same, including pay of furnace keepers, for contingent expenses under the act of third March, one thousand eight hundred and fifty-five, granting bounty lands, and amendatory act of fourteenth May, eighteen hundred and fifty-six, to wit: For patents, patent and other records, stationery, and miscellaneous items on account of bounty lands under said acts....	26,100 00
For fuel, lights, and incidental expenses attending the same, including pay of furnace keepers, for contingent expenses under the act of third March, one thousand eight hundred and fifty-five, granting bounty lands, and amendatory act of fourteenth May, eighteen hundred and fifty-six, to wit: For patents, patent and other records, stationery, and miscellaneous items on account of bounty lands under said acts....	4,000 00
Office of Indian Affairs:	
For blank-books, binding, stationery, fuel and lights, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office.....	5,000 00
<i>Pension Office:</i>	
For stationery, binding books, furniture, and repairing the same, and miscellaneous items, including two of the daily newspapers, to be filed, bound, and preserved for the use of the office, and for books for the library.....	10,000 00
For contingent expenses in the said office under the bounty land act of third March, one thousand eight hundred and fifty-five:	
For engraving and retouching plates for bounty land warrants, printing and binding the same, stationery, blank-books for registers' office, furniture, and miscellaneous items.....	15,000 00
<i>Surveyors General and their clerks.</i>	
For compensation of the surveyor general of Illinois and Missouri and the clerks in his office, for compensation of the surveyor general of Louisiana and the clerks in his office.....	5,820 00
For compensation of the surveyor general of Florida and the clerks in his office.....	4,500 00
For compensation of the surveyor general of Wisconsin and Iowa and the clerks in his office.....	5,500 00
For compensation of the surveyor general of Arkansas and the clerks in his office.....	8,300 00
For compensation of the surveyor general of Oregon and the clerks in his office.....	8,300 00
For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses.....	7,500 00
For compensation of the surveyor general of California and the clerks in his office.....	1,500 00
For compensation of the surveyor general of Washington Territory and the clerks in his office.....	15,500 00
For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses.....	7,000 00
For compensation of the surveyor general of New Mexico and the clerks in his office.....	3,000 00
For compensation of translators in the office of the surveyor general of New Mexico.....	7,000 00
For rent of the surveyor general's office in New Mexico, fuel, books, stationery, and other incidental expenses.....	2,000 00
For compensation of the surveyor general of Kansas and Nebraska and the clerks in his office.....	3,000 00
For compensation of the surveyor general of Minnesota and the clerks in his office.....	8,300 00
For compensation of clerks in the offices of the surveyors general, to be apportioned to them according to the exigencies of the public service, and to be employed in transcribing field notes of surveys, for the purpose of preserving them at the seat of Government.....	41,900 00
For salary of the recorder of land titles in Missouri.....	500 00
<i>War Department.</i>	
For compensation of the Secretary of War, and the clerks, messenger, assistant messenger, and laborer in his office.....	22,000 00
For compensation of the clerks and messenger in the office of the Adjutant General.....	12,640 00
For compensation of the clerks and messenger in the office of the Quartermaster General.....	16,410 00
For compensation of the clerks and messenger in the office of the Paymaster General.....	\$12,440 00
For compensation of the clerks, messenger, and laborer in the office of the Commissary General.....	10,040 00
For compensation of the clerks and messenger in the office of the Surgeon General.....	5,240 00
For compensation of the clerks, messenger, and laborer in the office of Topographical Engineers.....	10,640 00
For compensation of the clerks and messenger in the office of the Chief Engineer.....	8,240 00
For compensation of the clerks and messenger in the office of the Colonel of Ordnance.....	12,240 00
<i>Contingent expenses of the War Department.</i>	
Office of the Secretary of War:	
For blank-books, stationery, books, maps, extra clerk hire, and miscellaneous items.....	5,500 00
<i>Office of the Adjutant General:</i>	
For blank-books, binding, stationery, and miscellaneous items.....	2,000 00
<i>Office of the Quartermaster General:</i>	
For blank-books, binding, stationery, and miscellaneous items.....	1,200 00
<i>Office of the Paymaster General:</i>	
For blank-books, binding, stationery, and miscellaneous items.....	500 00
<i>Office of the Chief Engineer:</i>	
For blank-books, binding, stationery, and miscellaneous items, including two daily Washington papers.....	900 00
<i>Office of the Surgeon General:</i>	
For blank-books, binding, stationery, and miscellaneous items.....	400 00
<i>Office of Colonel of Ordnance:</i>	
For blank-books, binding, stationery, and miscellaneous items.....	359 00
<i>Office of the Colonel of Topographical Engineers:</i>	
For blank books, binding, stationery, and miscellaneous items.....	1,200 00
<i>For the general purposes of the Northwest Executive building.</i>	
For compensation of four watchmen and two laborers of the Northwest Executive building....	3,600 00
For fuel, light, and miscellaneous items.....	4,000 00
<i>For the general purposes of the building corner F and Seventeenth streets.</i>	
For compensation of superintendent, four watchmen, and two laborers, for said building.....	3,850 00
For fuel, compensation of firemen, and miscellaneous items.....	4,800 00
<i>Navy Department.</i>	
For compensation of the Secretary of the Navy, and the clerks, messenger, assistant messenger, and laborer in his office.....	20,600 00
For compensation of the chief of the Bureau of Navy-yards and Docks, and the clerks, messenger, and laborer in his office.....	14,140 00
For compensation of the chief of the Bureau of Ordnance and Hydrography, and the clerks, messenger, and laborer in his office.....	12,340 00
For compensation of the chief of the Bureau of Construction, Equipment, and Repairs, and of the engineer-in-chief, and the clerks, messenger, and laborers in his office.....	21,340 00
For compensation of the clerks, messenger, and laborer, in the Bureau of Provisions and Clothing.....	8,840 00
For compensation of the chief of the Bureau of Medicine and Surgery, and the clerks, messenger, and laborer in his office.....	9,540 00
<i>Contingent Expenses of the Navy Department.</i>	
Office Secretary of the Navy:	
For blank-books, binding, stationery, newspapers, periodicals, and miscellaneous items....	2,840 00
<i>Bureau of Yards and Docks:</i>	
For stationery, books, plans, and drawings.....	800 00
<i>Bureau of Ordnance and Hydrography:</i>	
For blank-books, stationery, and miscellaneous items.....	750 00
<i>Bureau of Construction, Equipment, and Repairs:</i>	
For blank-books, binding, stationery, printing, and miscellaneous items.....	800 00
<i>Bureau of Provisions and Clothing:</i>	
For blank-books, stationery, and miscellaneous items.....	700 00
<i>Bureau of Medicine and Surgery:</i>	
For blank-books, stationery, and miscellaneous items.....	450 00
<i>For the general purposes of the Southwest Executive building.</i>	
For compensation of four watchmen of the Southwest Executive building.....	2,100 00
For contingent expenses of said building, viz:	
For labor, fuel, lights, and miscellaneous items,.....	3,912 00
<i>Post Office Department.</i>	
For compensation of the Postmaster General, three Assistant Postmasters General, and the clerks, messengers, assistant messengers, watchmen, and laborers of said Department.....	137,899 00

Appropriations, New Offices, &c.

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Contingent Expenses of said Department.

For blank-books, binding, and stationery, fuel for the General Post Office building, including the Auditor's Office, oil, gas, and candles, printing, day watchman, and for miscellaneous items.....\$11,000 00

For repairs of the General Post Office building, for office furniture, glazing, painting, white-washing, and for keeping the fire-places and furnaces in order..... 4,000 00

To meet the expenses incident to the completion of a large portion of the General Post Office extension, viz: for furnishing partially eighty-one rooms, incidental expenses in all other portions of the new building, fuel, gas, candles, day watchman, miscellaneous items, and ten laborers at six hundred dollars each..... 28,000 00

Printing for Executive Departments.

For paper and printing for the Executive Departments, including the paper, printing, and binding of the Annual Statement of Commerce and Navigation of the United States, and the paper and printing of the annual estimates of appropriations..... 55,000 00

*Mint of the United States.**At Philadelphia:*

For salaries of the director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, assistant melter and refiner, and seven clerks..... 27,900 00

For wages of workmen and adjusters..... 74,800 00

For incidental and contingent expenses, including wastage, in addition to other available funds..... 75,000 00

For specimens of ores and coins to be reserved at the Mint..... 300 00

For transportation of bullion from New York assay office to the United States Mint for coinage..... 10,000 00

At San Francisco, California:

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and five clerks..... 26,455 00

For wages of workmen and adjusters..... 166,894 00

For incidental and contingent expenses, including wastage, in addition to other available funds..... 22,606 00

At New Orleans:

For salaries of superintendent, treasurer, assayer, coiner, melter and refiner, and three clerks..... 18,300 00

For wages of workmen..... 22,000 00

For incidental and contingent expenses, including wastage, in addition to other available funds..... 20,900 00

At Charlotte, North Carolina:

For salaries of superintendent, coiner, assayer, and clerk..... 4,500 00

At Dahlonega, Georgia:

For salaries of superintendent, coiner, assayer, and clerk..... 5,300 00

For wages of workmen..... 1,200 00

Assay Office, New York:

For salaries of officers and clerks..... 21,100 00

*Government in the Territories.**Territory of Oregon:*

For salaries of Governor, three judges, and secretary..... 12,500 00

For contingent expenses of said Territory..... 1,500 00

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly..... 20,000 00

Territory of New Mexico:

For salaries of Governor, three judges, and secretary..... 12,000 00

For contingent expenses of said Territory..... 1,000 00

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly..... 20,000 00

Territory of Utah:

For salaries of Governor, three judges, and secretary..... 12,000 00

For contingent expenses of said Territory..... 1,500 00

Territory of Washington:

For salaries of Governor, three judges, and secretary..... 12,500 00

For contingent expenses of said Territory..... 1,500 00

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly..... 20,000 00

Territory of Nebraska:

For salaries of Governor, three judges, and secretary..... 10,500 00

For contingent expenses of said Territory..... 1,000 00

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly..... 20,000 00

Territory of Kansas:

For salaries of Governor, three judges, and secretary..... 10,500 00

For contingent expenses of said Territory..... 1,500 00

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly..... 20,000 00

Territory of Minnesota:

For defraying the expenses incurred in taking the census of the Territory of Minnesota, under the act approved twenty-sixth February, eighteen hundred and fifty-seven.....\$20,000 00

Judiciary.

For salaries of the Chief Justice of the Supreme Court and eight associate justices..... 54,500 00

For salaries of the district judges..... 108,750 00

For salary of the circuit judge of California..... 6,000 00

For salaries of the chief justice of the District of Columbia, the associate judges, and the judges of the criminal court and the orphans' court... 15,750 00

Office of the Attorney General.

For salaries of the Attorney General, and the clerks and messenger in his office..... 18,100 00

For contingent expenses of the office of the Attorney General..... 2,500 00

For purchase of law and necessary books, and binding for the office of the Attorney General, for the purchase of deficient State reports and statutes for the office of the Attorney General, for fuel and labor for the office of the Attorney General..... 1,000 00

For furniture and book-cases for the office of the Attorney General..... 1,000 00

For legal assistance and other necessary expenditures in the disposal of private land claims in California..... 12,000 00

For services of special counsel and other extraordinary expenses in defending the title of the United States to public property in California, for the employment of such number of clerks not exceeding three, by the district attorney of the northern district of California, as may be necessary to transcribe the records of the district court in land cases upon which appeals have been or may be taken to the Supreme Court, [Indefinite.]

For salary of the reporter of the decisions of the Supreme Court..... 1,300 00

For compensation of the district attorneys..... 11,750 00

For compensation of the marshals..... 10,400 00

Independent Treasury.

For salaries of the assistant Treasurers of the United States at New York, Boston, Charleston, and St. Louis..... 16,500 00

For additional salary of the Treasurer of the Mint at Philadelphia..... 1,000 00

For additional salary of the treasurer of the branch mint at New Orleans..... 500 00

For salaries of five of the additional clerks authorized by the acts of sixth August, eighteen hundred and forty-six, and paid under acts of twelfth August, eighteen hundred and forty-eight, third March, eighteen hundred and fifty-one, and third March, eighteen hundred and fifty-five..... 5,700 00

For salary of additional clerk in office of assistant Treasurer at Boston..... 1,200 00

For salaries of clerks, messengers, and watchmen in the office of the assistant Treasurer at New York..... 13,900 00

For contingent expenses under the act for the safe-keeping, collecting, transfer, and disbursement of the public revenue, of sixth August, eighteen hundred and forty-six, in addition to premium received on transfer drafts..... 10,000 00

For salaries of nine supervising and fifty local inspectors, appointed under act of thirtieth August, eighteen hundred and fifty-two, for the better protection of the lives of passengers by steamboats, with traveling and other expenses incurred by them..... 80,000 00

Expenses of the Collection of Revenue from Lands.

To meet the expenses of collecting the revenue from the sale of the public lands in the several States and Territories:

For salaries and commissions of registers of land offices, and receivers of public moneys..... 120,000 00

For defraying the expenses of the Supreme, circuit, and district courts of the United States, including the District of Columbia; also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures incurred in the fiscal year ending June thirtieth, eighteen hundred and fifty-nine, and previous years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners..... 1,000,000 00

Penitentiary.

For compensation of the warden, clerk, physician, chaplain, assistant keepers, guards, and matron of the penitentiary of the District of Columbia..... 12,540 00

For compensation of three inspectors of said penitentiary..... 750 00

For the support and maintenance of said penitentiary..... 7,920 25

For compensation of two additional guards, hereby authorized..... 1,320 00

For compensation, in part, for the messenger in charge of the main furnace in the Capitol.... 420 00

For stationery, blank books, plans, drawings, and other contingent expenses of the office of Commissioner of Public Buildings..... 250 00

For compensation to the laborer in charge of the water closets in the Capitol..... 428 00

For compensation to the public gardener..... 1,140 00

For compensation of twenty-two laborers employed in the public grounds and President's garden.....\$13,200 00

For compensation of the keeper of the western gate, Capitol square..... 876 00

For compensation of two day watchmen employed in the Capitol square..... 1,200 00

For compensation of two night watchmen employed at the President's house..... 1,200 00

For compensation of the doorkeeper at the President's house..... 600 00

For compensation of the assistant doorkeeper at the President's house..... 600 00

For compensation of one night watchman employed for the better protection of the buildings lying south of the Capitol, and used as public stables and carpenters' shops..... 600 00

For compensation of four draw-keepers at the Potomac bridge, and for fuel, oil, and lamps.. 5,584 40

For compensation of two draw-keepers at the two bridges across the Eastern Branch of the Potomac, and for fuel, oil, and lamps..... 1,180 00

For compensation of the auxiliary guard, and for fuel and oil for lamps..... 19,400 00

For furnace-keeper at the President's House... 600 00

\$6,057,878 61

By the act to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February three, eighteen hundred and fifty-three.

For the continuance of such half pay, under the following terms and limitations, viz: to such widows during life, and to such child or children, where there is no widow, whilst under the age of sixteen years, to commence from the expiration of the half pay provided for by the first section of the act entitled "An act to continue half pay to certain widows and orphans," approved February three, eighteen hundred and fifty-three.....[Indefinite.]

By the act making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon.

To enable the Secretary of the Interior to reimburse the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon, for expenses incurred by them in the employment of clerks actually required for the transaction of the business of their respective offices, growing out of an act entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey and to make donations to settlers of said public lands," approved September the twenty-seventh, one thousand eight hundred and fifty.....\$7,000 00

By the act to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas.

To run and mark the boundary lines between the Territories of the United States and the State of Texas: Beginning at the point where the one hundredth degree of longitude west from Greenwich crosses Red river, and running thence north to the point where said one hundredth degree of longitude intersects the parallel of thirty-six degrees thirty minutes north latitude; and thence west with the said parallel of thirty-six degrees and thirty minutes north latitude to the point where it intersects the one hundred and third degree of longitude west from Greenwich; and thence south with the said one hundred and third degree of longitude to the thirty-second parallel of north latitude; and thence west with the said thirty-second degree of north latitude to the Rio Grande.....\$80,000 00

By the act making appropriations for the Consular and Diplomatic Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-nine:

For salaries of Envoys Extraordinary, Ministers, and Commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Chili, Peru, Portugal, Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Denmark, Sweden, Turkey, Buenos Ayres, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, and Sandwich Islands..... 274,000 00

For salaries of the secretaries of legation of the United States..... 12,000 00

For salaries of assistant secretaries of legation at London and Paris..... 3,000 00

For salary of the secretary of legation to China, acting as interpreter..... 5,000 00

For salary of the secretary of legation to Turkey, acting as dragoman..... 3,000 00

For contingent expenses of all the missions abroad..... 50,000 00

For contingent expenses of foreign intercourse.. 60,000 00

For expenses of intercourse with the Barbary powers..... 3,000 00

For expenses of the consulates in the Turkish dominions, viz: interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut.... 2,500 00

For the relief and protection of American sea men in foreign countries..... 150,000 00

35TH CONG....1ST SESS.

Appropriations, New Offices, &c.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens and vessels of the United States from shipwreck, to be expended under the direction of the President of the United States.....\$19,000 00

For the purchase of blank-books, stationery, arms of the United States, seals, presses, and flags, and for the payment of postages and miscellaneous expenses of the consuls of the United States..... 40,000 00

For office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon 27,370 00

For salaries of consuls general at Quebec, Calcutta, Alexandria, Simoda, Havana, Constantinople, Frankfort-on-the-Main; consuls at Liverpool, London, Melbourne, Hong Kong, Glasgow, Mauritius, Singapore, Belfast, Cork, Dundee, Demarara, Halifax, Kingston, (Jamaica,) Leeds, Manchester, Nassau, (New Providence,) Southampton, Turk's Island, Prince Edward's Island, Havre, Paris, Marseilles, Bordeaux, La Rochelle, Lyons, Moscow, Odessa, Revel, Saint Petersburg, Matanzas, Trinidad de Cuba, Santiago de Cuba, San Juan, (Porto Rico,) Cadiz, Malaga, Ponce, (Porto Rico,) Trieste, Vienna, Aix-la-Chapelle, Canton, Shanghai, Fouchou, Amoy, Ningpo, Beirut, Smyrna, Jerusalem, Rotterdam, Amsterdam, Antwerp, Funchal, Oporto, St. Thomas, Elsinore, Genoa, Basle, Geneva, Messina, Naples, Palermo, Leipzig, Munich, Leghorn, Stuttgart, Bremen, Hamburg, Tangiers, Tripoli, Tunis, Rio de Janeiro, Pernambuco, Vera Cruz, Acapulco, Callao, Valparaiso, Buenos Ayres, San Juan del Sur, Aspinwall, Panama, Lagunayra, Honolulu, Lahaina, Capetown, Falkland Islands, Venice, Steutin, Candia, Cyprus, Batavia, Fayal, Santiago, (Cape de Verdes,) Saint Croix, Spezzia, Athens, Zanzibar, Bahai, Maranham Island, Para, Rio Grande, Matamoros, Mexico, (city,) Tampico, Paso del Norte, Tabasco, Paita, Tumbes, Talcahuano, Cartagena, Sabanillo, Omoa, Guayaquil, Cobija, Montevideo, Tahiti, Bay of Islands, Apia, Lantaha; commercial agents at San Juan del Norte, Port-au-Prince, San Domingo, (city,) St. Paul de Loanda, (Angola,) Monrovia, Gaboon, Cape Nyatien, Aux Cayes, and Amour river.....173,750 00

For interpreters to the consulates in China..... 4,500 00

For compensation of the commissioner, secretary, chief astronomer and surveyor, assistant astronomer and surveyor, clerk, and for provisions, transportation, and contingencies of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory..... 71,000 00

For compensation and per diem of the commissioner, compensation of the surveyor, and for the payment of all expenses of the commission under the reciprocity treaty with Great Britain..... 23,000 00

\$912,120 00

By the act making appropriations for the naval service for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

For pay of commission, warrant, and petty officers, and seamen, including engineer corps of the Navy, \$3,800,405 00

For provisions for commission, warrant, and petty officers, and seamen, including engineers and marines attached to vessels for sea service, 941,700 00

For surgeons' necessities and appliances for the sick and hurt of the Navy, including the engineer and marine corps 32,150 00

For increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy.....2,850,000 00

For ordnance and ordnance stores, and small arms, including incidental expenses.....598,000 00

For contingent expenses that may accrue for the following purposes, viz: freight and transportation, printing and stationery, advertising in newspapers, books, maps, models, and drawings, purchase and repair of fire-engines and machinery, repairs of and attending to steam-engines in navy-yards, purchase and maintenance of horses and oxen and drawing teams, carts, timber-wheels, and the purchase and repairs of workmen's tools, postage of public letters, fuel, oil and candles for navy-yards and shore stations, pay of watchmen and incidental labor not chargeable to any other appropriation, transportation to and labor attending the delivery of provisions and stores on foreign stations, wharfage, dockage, and rent, traveling expenses of officers and others under orders, funeral expenses, store and office rent, stationery, fuel, commissions and pay of clerks to Navy agents and storekeepers, flags, awnings, and packing boxes, premiums and other expenses of recruiting, apprehending deserters, per diem pay to persons attending courts martial and courts of inquiry, and other services authorized by law, pay to judges advocate, pilotage and towage of vessels and assistance to vessels in distress, bills of health and quarantine expenses of vessels of the United States Navy in foreign ports.....897,600 00

MARINE CORPS.

For pay of the officers, non-commissioned officers, musicians, and privates, clerks, messengers, stewards, and servants, for rations and clothing for servants, subsistence and additional rations for five years' service of officers, for undrawn clothing and rations, bounties for reenlistments, and pay for unexpired terms of previous service.....\$395,578 26

For provisions for marines serving on shore.... 64,313 00

For clothing..... 66,512 00

For fuel..... 20,756 75

For military stores, viz: repair of arms, pay of armorers, purchase of accoutrements, ordnance stores, flags, drums, fifes, and other instruments, and one thousand rifled muskets.. 25,000 00

For transportation of officers and troops, and expenses of recruiting 12,000 00

For repairs of barracks and rent of offices where there are no public buildings for that purpose, To pay the contractors for building cisterns, erecting porticoes to commandant's house and officers' quarters, to complete porticoes on the men's quarters, pavements and curb to commandant's house and officers' quarters of the marine barracks at Pensacola, Florida, (so as fully to complete said marine garrison) 16,800 00

For contingencies, viz: freight, ferrage, toll, cartage, and wharfage, compensation to judges advocate, per diem for attending courts martial, courts of inquiry, and for constant labor, house rent in lieu of quarters, burial of deceased marines, printing, stationery, postage, and telegraphing, apprehension of deserters, oil, candles, gas, forage, straw, furniture, bed-sacks, spades, shovels, axes, picks, and carpenters' tools, keep of a horse for the messenger, and pay of matron, washerwomen, and porter at hospital headquarters, and for the purchase of a fire engine for the use of the marine barracks at headquarters..... 32,500 00

NAVY-YARDS.

For the construction and completion of works, and for the current repairs at the several navy-yards, viz:

Portsmouth, New Hampshire.

For mooring piers for dock, extending stables, completion of dock basin, repairs of floating dock, and repairs of all kinds..... 52,215 00

Boston.

For reservoirs, boiler-house, chimney and boilers at rope-walk, altering tar-kettles, machinery, and bobbins for rope-walk, to complete machine-shop, and for machinery for machine-shop and foundry, extension of dry-dock, and repairs of all kinds.....203,500 00

New York.

For boiler-house and setting boilers, water pipes, drains, quay walls, sewer extended to quay wall, boiler to dredger, timber basin, repairs of oakum-shop, filling ponds in yard, dredging channel and scows, piling site for marine barracks, machinery for machine-shop, boiler-shop, saw-mill, foundry, smithery, and brass foundry, and repairs of all kinds.....269,516 00

Philadelphia.

For extending gun-carriage shop, additional story to plumber's shop, dredging channels, and repairs of dredger, repairs of dry-dock, and repairs of all kinds..... 97,214 00

Washington.

For extension of navy store, for anchor shop and coal-houses, pavements, drains, and gutters, machinery and tools, and repairs of all kinds.. 99,100 00

Norfolk.

For continuation of quay wall, completing victualling establishment, completing grading and drainage, dredging channels, continuing ship-house number forty-eight, to be built of iron or wood, as may be deemed expedient, machinery and tools, completing reservoir, completing carpenters' shop, and repairs of all kinds.....285,808 00

To enable the Secretary of the Navy to purchase tools and furnish the machine-shop and foundry at the Norfolk navy-yard..... 20,000 00

Pensacola.

For continuing granite wharf, repairing and operating dock, filling and paving around dock basin, dredging in front of basin, repairs of railways, completing water-pipes to permanent wharf, completing foundry, constructors' workshop, cistern at machine-shop, trip-hammer for smithery, blast-pipes, and repairs of all kinds247,365 00

Marc Island, California.

For guard-house, number seventy-three, tar and pitch-house number seventy-four, two cisterns number forty-nine, grading, paving, continuing wharf, foundry and boiler establishment, gas-works and Bishop's derreck317,971 00

HOSPITALS.

For the construction and completion of works, and for the current repairs of the several naval hospitals:

Boston.

For repairs of buildings and grounds 3,000 00

To enable the Secretaries of the Treasury and Navy to ascertain and pay the actual value of the ten acres of land heretofore belonging to the naval hospital estate at Chelsea, Massachusetts, and ceded by the sixth section of "An act making appropriations for the civil and diplomatic service of the Government," approved the third March, eighteen hundred and fifty-five, for the purposes of a marine hospital for the district of Boston and Charlestown, to the credit of the naval hospital fund, out of which the original purchase of the property so ceded was made[Indefinite.]

New York.

For completing heating apparatus, and repairs of buildings and fences.....\$13,200 00

Naval Asylum, Philadelphia.

For gateway and iron gate on Shippen street, and road from same; repairs to furnaces, grates, and ranges; painting main building and lodges; brick floors in governor's and surgeon's houses; cleaning and whitewashing; gas-tax, water-tax, furniture for the asylum and repairs, and for general repairs 8,500 00

For support of beneficiaries at the asylum..... 26,392 00

Norfolk.

For repairs of buildings and appurtenances.... 11,000 00

Pensacola.

For draining and filling ponds, and repairs of buildings and grounds..... 18,700 00

MAGAZINES.

For the construction and completion of works, and for the current repairs at the several naval magazines:

Portsmouth, New Hampshire.

For gun-carriage shop and storehouse, boiler-room, engine and machinery, and repairs of all kinds..... 46,600 00

Boston.

For repairs of all kinds..... 1,500 00

New York.

For dredging channel to Ellis's Island, and repairs of all kinds..... 6,800 00

Philadelphia.

For repairs of all kinds..... 1,000 00

Norfolk.

To complete ordnance building, continuation of sea wall at magazine, and for iron crane at Fort Norfolk..... 61,265 00

Pensacola.

For repairs of all kinds..... 1,000 00

Marc Island, California.

For shell-house, magazine, keeper's house and grounds, tank-house and filling room, railway and cars to transport powder to and from magazine, shot-beds, cleaning and piling shot and shells 11,450 00

For pay of superintendents, naval constructors, and all the civil establishments at the several navy-yards and stations.....139,232 00

For the purchase of nautical instruments required for the use of the Navy; for repairs of the same, and also of astronomical instruments; and for the purchase of nautical books, maps, and charts, and for backing and binding the same..... 18,000 00

For printing and publishing sailing directions, hydrographical surveys, and astronomical observations, in addition to the balance on hand... 5,000 00

For continuing the publication of the series of Wind and Current Charts, and for defraying all the expenses connected therewith..... 18,000 00

To enable the Secretary of the Navy to pay the salary of Professor James P. Espy..... 2,000 00

For models, drawings, and copying; for postage, freight, and transportation; for keeping grounds in order; for fuel and lights; and for all other contingent expenses; and for the wages of persons employed at the United States Naval Observatory and Hydrographical Office, viz: one instrument-maker, two watchmen, and one porter 6,160 00

For improvement and repairs of buildings and grounds, and support of the Naval Academy at Annapolis, Maryland..... 45,671 32

For preparing for publication the American Nautical Almanac..... 26,880 00

For five steam-sloops, authorized by act third March, eighteen hundred and fifty seven...1,350,000 00

To enable the Secretary of the Navy to pay for the preparation of a code of regulations for the government of the Navy, as directed in the seventh section of the act entitled "An act making appropriations for the naval service for the year ending the thirtieth of June, eighteen hundred and fifty eight," approved third March, eighteen hundred and fifty seven..... 3,000 00

To enable the Secretary of the Navy to pay the expenses of courts of inquiry to investigate the cases of certain officers affected by the act entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" approved sixteenth January, eighteen hundred and fifty-seven.....110,600 00

Appropriations, New Offices, &c.

35TH CONG...1ST SESS.

For completing the publication of the charts of the late expedition for the exploration of the river La Plata and its tributaries.....\$5,000 00

For compensation from and after the first day of July, eighteen hundred and fifty-six, to the clerks and messengers at the navy-yard and marine barracks at Washington, as authorized by the acts of April twenty-second, eighteen hundred and fifty four, and August fifth, eighteen hundred and fifty four.....[Indefinite.]

To defray the expenses and compensation of a commissioner to the Republic of Paraguay, (should it be deemed proper by the President to appoint one,) in execution of the joint resolution of the present session "for the adjustment of difficulties with the Republic of Paraguay".....10,000 00

To enable the Secretary of the Navy to cause to be constructed, as speedily as may be consistent with the public interests, seven steam screw sloops-of-war, with full steam power, whose greatest draught of water shall not exceed fourteen feet, which ships shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and one side-wheel war steamer, whose greatest draught shall not exceed eight feet, armed and provided for service in the China seas.....1,200,000 00

\$14,508,354 23

By the act making appropriations for sundry civil expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-nine.

Survey of the Coast.

For continuing the survey of the Atlantic and Gulf coast of the United States, (including compensation to superintendent and assistants, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed on the work,) \$250,000 00

For continuing the survey of the western coast of the United States.....130,000 00

For continuing the survey of the Florida reefs and keys, (excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed on the work,) 40,000 00

For running a line to connect the triangulation on the Atlantic coast with that on the Gulf of Mexico, across the Florida peninsula.....10,000 00

For repairs of the Crawford, Madison, Mason, and George M. Bache, and other sailing vessels used in the coast survey.....10,000 00

For pay and rations of engineers for seven steamers, used in the hydrography of the coast survey, no longer supplied by the Navy Department.....12,900 00

To supply deficiency in the fund for the relief of sick and disabled seamen.....150,000 00

Light-House Establishment.

For the Atlantic, Gulf, and lake coasts, viz:

For supplying five hundred and fifty-six light-houses and beacon lights with oil, glass chimneys, wicks, chamois skins, polishing powder, whitening, and cleaning materials, transportation and other necessary expenses of the same, repairing and keeping in repair the lighting apparatus.....138,724 45

For repairs and incidental expenses, refitting and improvements of all the light-houses and buildings connected therewith.....173,289 91

For salaries of six hundred and eleven keepers of light-houses and light-beacons and their assistants.....60,000 00

For salaries of fifty-two keepers of light-vessels, 20,205 57

For seamen's wages, repairs, supplies, and incidental expenses of fifty-two light-vessels.....185,199 50

For expenses of raising, cleaning, painting, re-mooring, and supplying losses of buoys and day beacons, and for chains and sinkers for the same, and for coloring and numbering all the buoys.....82,228 78

For the coasts of California, Oregon, and Washington:

For oil and other supplies for twenty-four lights, cleaning materials of all kinds, and transportation of the same, expenses of keeping lamps and machinery in repairs, publishing notices to mariners of changes of aids to navigation....1,472 91

For repairs and incidental expenses of twenty-four lights, and buildings connected therewith, 24,563 00

For maintenance of the vessel provided for by the act of eighteenth August, eighteen hundred and fifty-six, for inspection and transportation purposes.....30,000 00

For fuel and quarters for officers of the army serving on light-house duty, the payment of which is no longer provided for by the quartermaster's department.....7,034 05

For compensation of two superintendents for the life-saving stations on the coasts of Long Island and New Jersey.....3,000 00

For compensation of fifty-four keepers of stations, at two hundred dollars each.....10,800 00

For contingencies for life saving apparatus on the coast of the United States.....12,000 00

For the purchase of the best self righting life-boat, to be placed at each of the twenty-eight life-saving stations on the coast of New Jersey, 6,449 00

For the purchase of the best life-boats, to be approved by the Treasury Department, for use on the coast of Long Island.....10,000 00

For procuring two additional improved metallic life-boats, a metallic life-car, and necessary harness, lines, and other suitable articles, to be used, under the direction of the Secretary of the Treasury, in saving life in case of marine disaster off Galveston station, Texas....\$10,000 00

Survey of the Public Lands.

For surveying the public lands, (exclusive of California, Oregon, Washington, New Mexico, Kansas, Nebraska, and Utah,) including incidental expenses and island surveys in the interior, and all other special and difficult surveys demanding augmented rates, to be apportioned and applied to the several surveying districts according to the exigencies of the public service, including expenses of selecting swamp lands, and the compensation and expenses to survey or to locate private land claims in Louisiana, in addition to the unexpended balances of all former appropriations.....40,000 00

For correcting erroneous and defective lines of public and private surveys in Illinois and Missouri, at a rate not exceeding six dollars per mile.....1,000 00

For surveying in Louisiana at augmented rates, now authorized by law.....3,000 00

For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work.....100,000 00

For continuing the survey of base, meridian, standard parallels, township and section lines, in New Mexico.....25,000 00

For surveying such of the private land claims in New Mexico as shall have been confirmed by Congress, including expenses incurred by the surveyor general in adjudicating the same....15,000 00

For surveying the necessary base, meridian, standard parallels, township and section lines, in Kansas and Nebraska; also, outlines of Indian reservations.....100,000 00

For preparing the unfinished records of public and private surveys, to be transferred to the State authorities, under the provisions of the act of twelfth June, eighteen hundred and forty, in those districts where the surveys are about being completed.....10,000 00

For resurveys and examinations of the surveys of the public lands in those States where the offices of the surveyors general have been or shall be closed, under the acts of the twelfth June, eighteen hundred and forty, and twenty-second January, eighteen hundred and fifty-three, including two thousand dollars for the salary of the clerk detailed to this special service in the General Land Office.....2,000 00

For collection of agricultural statistics, investigations for promoting agriculture and rural economy, and the procurement of cuttings and seeds.....60,000 00

For drawings to illustrate the mechanical report of the Commissioner of Patents for the year eighteen hundred and fifty-eight.....6,000 00

Hospital for the Insane.

For the support, clothing, and medical treatment of the insane of the District of Columbia, and of the Army and Navy, at the asylum in said District.....24,500 00

For salaries and incidental expenses of the institution for the instruction of the deaf, dumb, and blind in the District of Columbia, authorized by the act approved May twenty-nine, eighteen hundred and fifty-eight.....3,000 00

For extension of stables and erection of sheds in connection with the stock-yard.....4,000 00

For heating and ventilating the entire unfinished remainder of the hospital edifice, and for slightly remodeling the heating apparatus of the present finished portions of the building, so that the heating and ventilation of the whole establishment shall be one connected and efficient system.....15,000 00

For support, care, and medical treatment of forty transient paupers, medical and surgical patients in Washington Infirmary.....6,000 00

For purchase of manure for the public grounds..1,000 00

For hire of carts on the public grounds.....1,095 50

For purchase and repair of tools used in the public grounds.....500 00

For purchase of trees and tree-boxes to replace, where necessary, such as have been planted by the United States, and the repair of pavements in front of the public grounds.....5,000 00

For annual repairs of the Capitol, water-closets, public stables, water-pipes, pavements, and other walks within the Capitol square, broken glass and locks.....6,000 00

To enable the Commissioner of Public Buildings to fit up with shelves the two rooms at the south end of the Library of Congress for the use of the library, and for putting up a partition in the passage to them.....270 00

For annual repairs of the President's House and furniture, improvement of grounds, purchasing trees and plants for garden, and making hot-beds therein, and contingent expenses incident thereto.....12,000 00

For fuel, in part, of the President's House.....1,800 00

For lighting the President's House and Capitol, the public grounds around them, and around the executive offices, and Pennsylvania avenue, and Bridge and High streets in Georgetown.....43,000 00

For erecting thirty additional lamp-posts in Bridge and High streets, in Georgetown.....\$810 00

For purchase of books for the library at the Executive mansion, to be expended under the direction of the President of the United States..250 00

For repairs of the Potomac navy-yard, and upper bridges.....6,000 00

For repairs of Pennsylvania avenue.....3,000 00

To pay the residue of the salary due the engineer for constructing the bridge across the Potomac at Little Falls.....2,589 67

For painting the hand rails and iron work of said bridge.....400 00

For public reservation number two, La Fayette square.....3,000 00

For taking care of the grounds south of the President's House, and keeping them in order....1,000 00

For the payment of laborers employed in shoveling snow from the walks to and around the Capitol, the President's House, and the pavements along the Government reservations on Pennsylvania avenue.....800 00

For repairs of water-pipes.....500 00

For repairs of the furnaces under the Senate Chamber and Supreme Court room.....1,000 00

For casual repairs of the Patent Office building, 3,000 00

For completing the west wing of the Patent office building, filling up the southwest corner of the square, setting the curb, and raising Ninth street, in front of the building, to its proper grade.....50,000 00

For repairing the fence around that portion of the Mall upon which the Smithsonian Institution is situated.....1,000 00

For cleaning out the sewer traps on Pennsylvania avenue.....300 00

For purchasing plants for the conservatory at the President's House.....1,000 00

For the completion of the Washington aqueduct, in addition to so much of the appropriation of two hundred and fifty thousand dollars "for paying existing liabilities for the Washington aqueduct, and preserving the work already done from injury," contained in the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending the thirtieth June, eighteen hundred and fifty-seven," approved eighteenth August, eighteen hundred and fifty-six, as may not be required for said purposes.....800,000 00

For United States Capitol extension.....750,000 00

For extension of the General Post Office.....100,000 00

For binding two thousand four hundred copies Code of the District of Columbia, at seventy-five cents per copy, authorized by act approved third March, eighteen hundred fifty-five.....1,875 00

For defraying the expenses of a certain party of Omaha Indians who visited the city of Washington during the months of February and March, eighteen hundred and fifty-two, to be expended under the direction of the Secretary of the Interior.....335 00

For continuing the extension of the Treasury building.....500,000 00

For continuing the work on the custom-house at New Orleans, Louisiana.....250,000 00

For continuing the work on the custom-house at Charleston, South Carolina.....200,000 00

For the completion of custom-houses at the following places, viz:

At Ellsworth, Maine.....2,000 00

At Portsmouth, New Hampshire.....50,000 00

At Bristol, Rhode Island, including fencing and grading.....5,000 00

At New Haven, Connecticut.....60,000 00

At Oswego, New York.....10,0 00

At Plattsburg, New York.....10,000 00

At Newark, New Jersey.....10,000 00

At Norfolk, Virginia.....20,000 00

At Pensacola, Florida.....5,000 00

At St. Louis, Missouri.....20,000 00

At Mobile, Alabama, including fencing and paving.....30,000 00

At Galena, Illinois.....10,000 00

At Milwaukee, Wisconsin.....10,000 00

For annual repairs at custom-houses.....15,000 00

For the completion of marine hospitals at the following places, viz:

At Portland, Maine.....3,000 00

At St. Mark's, Florida.....2,500 00

At New Orleans, Louisiana, including filling up site, grading, introducing gas and water-pipes and fixtures, and fencing.....85,000 00

At Cincinnati, Ohio.....50,000 00

At Galena, Illinois.....5,000 00

For annual repairs at marine hospitals.....15,000 00

For fencing, grading, paving, and furnishing the custom-houses at the following places, viz:

At Ellsworth, Maine.....3,000 00

At Bath, Maine, (for furniture alone).....1,100 00

At Burlington, Vermont.....4,600 00

At New Haven, Connecticut.....8,500 00

At Oswego, New York.....7,300 00

At Plattsburg, New York.....9,900 00

At Newark, New Jersey.....5,300 00

At Alexandria, Virginia.....3,700 00

At Norfolk, Virginia.....12,000 00

At Mobile, Alabama, (for furniture alone).....2,6 00

At Pensacola, Florida.....2,500 00

At St. Louis, Missouri.....4,600 00

At Louisville, Kentucky.....3,600 00

At Cleveland, Ohio.....7,100 00

At Galena, Illinois.....3,700 00

At Milwaukee, Wisconsin.....7,700 00

Appropriations, New Offices, &c.

For fencing, grading, paving, and furnishing the marine hospitals at the following places, viz:	
At Burlington, Vermont.....	\$3,400 00
At Chelsea, Massachusetts, (out-buildings, grading, and fencing).....	19,700 00
At St. Mark's, Florida.....	1,200 00
At Detroit, Michigan.....	7,500 00
At Galena, Illinois.....	3,800 00
At Burlington, Iowa.....	4,100 00
To enable the Library Committee to complete the payments for a series of portraits of the Presidents of the United States, contracted for under the authority of Congress, and for framing the same.....	5,000 00
For paying the expenses of the commissioners appointed in pursuance of the joint resolution of the twenty-sixth of February, eighteen hundred and fifty-seven, to inquire into and test the process of J. T. Barclay for preventing the counterfeiting the coins of the United States, in addition to the sum appropriated by said resolution.....	800 00
For printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and paper for the same.....	80,000 00
For binding documents ordered to be printed by the House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same.....	123,000 00
For binding documents ordered to be printed by the Senate during the Thirty-Third and Thirty-Fourth Congresses, and for engravings, lithographs, and electrotypes for the same.....	113,000 00
To enable the Secretary of the Interior to complete the digest of the statistics of manufactures according to the returns of the seventh census.....	3,500 00
For making the necessary repairs to the jail in Washington city, and putting venetian blinds to the windows.....	840 00
To pay the draughtsman employed by the Committees on Public Buildings and Grounds of the two Houses of Congress, for drawings and calculations furnished, and incidental expenses defrayed by him during the last and present session of Congress.....	528 00
For satisfying the claims of the States of Maine and Massachusetts, under the stipulation of the treaty between the United States and Great Britain, concluded on the ninth day of August, in the year eighteen hundred and forty-two:	
For the satisfaction of such claims of the State of Maine.....	11,496 81
For the satisfaction of like claims of the State of Massachusetts.....	9,215 13
For defraying the expense of carrying into execution the joint resolution, approved May eleven, eighteen hundred and fifty-eight, "authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica, for the relief extended to the officers and crew of the United States ship <i>Susquehanna</i> , disabled by yellow fever?"....	3,000 00
For the payment of three companies of volunteers called into the service of the United States, in the Territory of Kansas, in eighteen hundred and fifty-six, by the order of the Governor of that Territory.....	8,668 14
For the contingent expenses of the Senate, viz:	
For miscellaneous items, and paying fees of witnesses before committees of the Senate.....	7,700 00
To John B. Mutt, for compensation as acting Secretary of the Territory of Nebraska, during the vacancy created by the death of T. B. Cummings.....	316 35
For lithographing and engraving ordered by the Senate during the present session.....	45,000 00
For binding documents ordered to be printed by the Senate during the present session.....	40,000 00
To supply a deficiency in the appropriation for legislative and contingent expenses of Washington Territory for the fiscal year ending June thirty, eighteen hundred and fifty-seven.....	7,500 00
To enable the Secretary of the Treasury to employ in the office of the Register of the Treasury an additional clerk of the third class, and in the office of the Treasurer of the United States an additional clerk of the third class....	3,200 00
To enable the proper accounting officers of the Treasury to ascertain as among the expenditures of the State of Maine, in defending the territory heretofore in dispute with Great Britain, the amounts paid in borrowing money for those expenditures beyond the rate of six per centum per annum, whether in the form of discount or otherwise, in all cases in which the principal of such expenditures, and interest upon them at the rate of six per centum, have heretofore been refunded to said State by the United States.....	[Indefinite.]
To enable the Secretary of State to adjust, upon principles of equity and justice, the accounts of I. D. Andrews, late agent of the United States, for expenses and disbursements in connection with the reciprocity treaty.....	[Indefinite.]
To enable the Secretary of the Senate and Clerk of the House of Representatives to continue, down to the fourth of March, eighteen hundred and fifty-nine, the compilation of the congressional documents published by Congress, under the name of the "American State Pa-	
pers," in the same manner as the first series thereof, under the authority of the act of Congress of March two, eighteen hundred and thirty-one, and the joint resolution of Congress of March two, eighteen hundred and thirty-three, and with the same particular index to each class, and a general index to the work; and to contract with Gales & Seaton, the publishers of the first series thereof, for publishing the same, not to exceed two thousand copies in number, at a price per volume not exceeding that paid for the first series, to be delivered to the Secretary of the Interior as the same may be published.....	\$340,000 00
	\$5,897,148 07
By the act making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and fifty-nine.	
<i>Calapooias, Mollalla, and Clackamas Indians, of Willamette Valley.</i>	
For fourth of five installments for pay of physician, teacher, blacksmith, and farmer, per third article treaty twenty-second January, eighteen hundred and fifty-five.....	\$3,440 00
<i>Nisqually, Puyallup, and other tribes and bands of Indians.</i>	
For fulfilling the articles negotiated twenty-sixth December, eighteen hundred and fifty-four, with certain bands of Indians of Puget sound, Washington Territory:	
For fourth of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistants, if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four.....	2,200 00
<i>Chasta, Scocon, and Umpqua Indians.</i>	
For fourth of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four.....	400 00
For fourth of ten installments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four.....	440 00
<i>Umpquas, and Calapooias, of Umpqua Valley, Oregon.</i>	
For fourth of ten installments for the pay of a blacksmith, and furnishing shop, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four.....	440 00
For fourth of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four.....	1,000 00
For fourth of ten installments for the pay of a farmer, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four....	400 00
For fourth of twenty installments for the pay of a teacher, and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four.....	750 00
For the general incidental expenses of the Indian service in the Territory of Oregon, including insurance and transportation of annuities, goods, and presents, and office and traveling expenses of the superintendent, agents, and sub-agents.....	39,500 00
For adjusting difficulties and preventing outbreaks among the Indians in the Territory of Oregon.....	10,000 00
For defraying the expenses of the removal and subsistence of Indians in Oregon Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, compensation of laborers and other employes.....	111,000 00
For the general incidental expenses of the Indian service in the Territory of Washington, including insurance and transportation of annuities, goods, and presents, and office and traveling expenses of the superintendent, agents, and sub-agents.....	36,000 00
For adjusting difficulties and preventing outbreaks among the Indians in Washington Territory.....	12,500 00
For defraying the expenses of the removal and subsistence of the Indians in Washington Territory to the reservations therein, aiding them in procuring their own subsistence, purchase of provisions and presents, and compensation of laborers and other employes.....	61,500 00
For the general incidental expenses of the Indian service in California, including traveling expenses of the superintendent, agent, and sub-agent.....	15,000 00
For defraying the expenses of the removal and subsistence of Indians of California to the reservations in that State, and for pay of physicians, smiths, mechanics, and laborers at the reservations.....	162,000 00
For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior,	75,000 00
For the compensation of three special agents and three interpreters for the Indian tribes of Texas, and for purchase of presents.....	\$15,000 00
For the expenses of colonizing, supporting, and furnishing agricultural implements and stock for the Indians in Texas.....	50,000 00
For the maintenance of a school at Brazos agency, pay of a teacher, and purchase of books....	1,500 00
For the general incidental expenses of the Indian service in the Territory of Utah, presents of goods, agricultural implements, and other useful articles, including traveling expenses of the superintendent, agents, and clerk hire....	55,000 00
<i>Creeks.</i>	
For payment in goods to the Creek Indians for damages on their annuity goods, wrecked in the steamer Governor Meigs, in December, eighteen hundred and fifty-four.....	1,995 25
<i>Seminoles.</i>	
For payment to the Seminoles for damages on their annuity goods, wrecked in the steamer Governor Meigs, in December, eighteen hundred and fifty-four.....	332 11
For reimbursement to W. J. Cullen, superintendent of Indian affairs for the northern superintendency, for expenditures made by him in the recovery of five thousand dollars of the public funds stolen from Fort Ridgely.....	650 00
<i>Ottos and Missourias.</i>	
For keeping in repair the grist and saw-mill provided for by the seventh article of the treaty of fifteenth March, eighteen hundred and fifty-four.....	300 00
For the erection of a blacksmith's shop, for supplying the same with tools, and keeping it in repair, per seventh article of the treaty fifteenth March, eighteen hundred and fifty-four.....	600 00
For erection of houses for the miller, farmer, blacksmith, and engineer.....	1,850 00
For assistant miller.....	300 00
For an engineer and assistant.....	1,800 00
<i>Omahas.</i>	
For keeping in repair the grist and saw-mill provided for by the eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four.....	500 00
For the erection of a blacksmith's shop, for supplying the same with tools, and keeping it in repair, per eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four.....	600 00
For erection of houses for miller, farmer, blacksmith, and engineer.....	2,250 00
For an assistant miller.....	300 00
For an engineer and assistant.....	1,800 00
For this amount to erect suitable buildings at the Omaha agency, to replace those recently destroyed by fire.....	2,500 00
<i>Shawnees.</i>	
For fifth of seven annual installments of money, in payment for lands, per third article treaty tenth May, eighteen hundred and fifty-four, the same having been omitted in the enrolling of the "Act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and fifty-nine," approved May fifth, eighteen hundred and fifty-eight.....	99,000 00

Appropriations, New Offices, &c.

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For purchase of iron, steel, and other necessaries for same, during the pleasure of the President, per fourth article.....	\$500 00
For pay of two blacksmiths, one of whom to be a gunsmith and tinsmith, per fourth article....	1,200 00
For compensation of two strikers or apprentices in shops, per fourth article.....	480 00
For first of ten installments for farming utensils and stock, during the pleasure of the President, per fourth article.....	1,200 00
For the first year's purchase of stock, and for erecting shelters for the same, per fourth article.....	3,000 00
For pay of a farmer, per fourth article.....	600 00
For the erection of a steam grist and saw-mill, per fourth article.....	6,000 00
For first of ten installments for pay of miller, at the discretion of the President, per fourth article.....	600 00
For first of ten installments for pay of an engineer, at the discretion of the President, per fourth article.....	1,200 00
For compensation to apprentices to assist in working the mill, per fourth article.....	500 00
For the erection of dwelling-houses for the interpreter, blacksmiths, farmer, miller, and engineer, (five hundred dollars each,) per fourth article.....	3,000 00
For the first of three installments for the pay of six laborers, per seventh article.....	3,000 00
For payment to Samuel Allis, in remuneration for his services, and for losses sustained by him, per tenth article.....	1,000 00
For payment to Ta-ra-da-ka-wa, head chief of the Tappahs band, and four other Pawnees, for their services as guides, and for losses sustained by them, (one hundred dollars each,) per eleventh article.....	500 00
To enable the Pawnees to settle any just claims existing against them, per twelfth article.....	10,000 00
For surveying the exterior lines of the reservation provided for in the first article.....	1,000 00
	\$959,957 36

By the act making appropriations for the support of the Army for the year ending thirtieth June, eighteen hundred and fifty-nine.

For expenses of recruiting, transportation of recruits, three months' extra pay to non-commissioned officers, musicians, and privates on reenlistment.....	\$110,000 00
For pay of the Army.....	3,591,784 00
For commutation of officers' subsistence.....	996,434 50
For commutation of forage for officers' horses.....	124,128 00
For payments to discharged soldiers for clothing not drawn.....	50,000 00
For payments in lieu of clothing for officers' servants.....	39,890 00
For subsistence in kind.....	1,380,652 65
For clothing for the Army, camp, and garrison equipage.....	1,062,702 99
For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guards, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen, of the quartermaster's department at the several posts and stations, and with the armies in the field; for the horses of the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding, and of stationery, including company and other blank-books for the Army; certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders, Army regulations, and reports.....	1,745,000 00
For the incidental expenses of the quartermaster's department, consisting of postage on letters and packets received and sent by the officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation of judges advocate, recorders, members, and witnesses, while on that service, under the act of March sixteen, eighteen hundred and two; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; in the construction of roads and on other constant labor for periods of not less than ten days, under the acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of express to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains, where military escorts cannot be furnished; expenses of the internment of officers killed in action, or who die when on duty in the field, or at the posts on the frontiers, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses	

incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, viz: purchase of portable forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps.....	\$500,000 00
For constructing barracks and other buildings at posts which it may be necessary to occupy during the year; and for repairing, altering, and enlarging buildings at the established posts, including hire or commutation of quarters for officers on military duty; hire of quarters for troops, of storehouses for the safe-keeping of military stores, and of grounds for summer cantonments, and for temporary frontier stations.....	790,000 00
For the repairs of the barracks at Baton Rouge, Louisiana, to be expended under the direction of the Secretary of War.....	25,000 00
For mileage, or the allowance made to officers of the Army for the transportation of themselves and their baggage when traveling on duty without troops, escort, or supplies.....	130,000 00
For transportation of the Army, including the baggage of the troops, when moving either by land or water; of clothing, camp and garrison equipage, from the depot at Philadelphia to the several posts and Army depots; of horse equipments, and of subsistence from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small arms, from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts, drays, ships and other sea-going vessels and boats required for the transportation of supplies and garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as, from their situation, require that it be brought from a distance; and for clearing roads and removing obstructions from roads, harbor, and rivers, to the extent which may be required for the actual operations of the troops on the frontier.....	3,400,000 00
For the purchase of horses for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and the companies of light artillery.....	200,000 00
For contingencies of the Army.....	25,000 00
For the medical and hospital departments.....	103,000 00
For contingent expenses of the adjutant general's department at division and department headquarters.....	500 00
For compensation of the clerk and messenger in the office of the commanding general.....	2,000 00
For contingent expenses of the office of the commanding general.....	300 00
For armament of fortifications.....	300,000 00
For ordnance, ordnance stores, and supplies, including horse equipments for the mounted regiments.....	250,000 00
For the current expenses of the ordnance service, including experiments in the manufacture of cannon and cannon powder, and for tests of arms and ammunition, not otherwise provided for.....	150,000 00
For the purchase of gunpowder for the land service.....	100,000 00
For the manufacture of arms at the national armories.....	400,000 00
For the purchase of breech-loading carbines of the best model, to be selected and approved by a board of ordnance officers.....	25,000 00
For the alteration of old arms so as to make them breech-loading arms, upon a model to be selected and approved by the board of ordnance officers.....	25,000 00
For the Alleghany arsenal.....	35,100 00
For Fort Monroe arsenal.....	24,900 00
For Kennebec arsenal.....	11,600 00
For St. Louis arsenal.....	21,000 00
For Washington arsenal.....	9,379 00
For an additional timber and carriage storehouse at the North Carolina arsenal.....	25,000 00
For Watervliet arsenal.....	30,000 00
For repairs and preservation of the public buildings, fences, drains, culverts, &c., at all the smaller arsenals.....	20,000 00
For continuing the construction of the arsenal in California.....	100,000 00
For contingencies of arsenals.....	10,000 00
For repairing the arsenal and two eighteen pound gun-carriages, at Stonington, Connecticut.....	750 00
For repairs and improvements and new machinery at Springfield armory, Massachusetts.....	55,227 00
For repairs and improvements and new machinery at Harper's Ferry.....	101,907 00
For surveys for military defenses, geographical explorations and reconnaissances, for military purposes, and surveys with armies in the field, for purchase and repairs of instruments.....	95,000 00
For continuing the survey of the northern and northwestern lakes, including Lake Superior,	75,000 00

For printing charts of lake surveys.....	\$10,000 00
To enable the Secretary of War to employ temporary clerks in the office of Quartermaster General, on bounty land service.....	5,000 00
For the support of four companies of volunteers mustered into the service of the United States, at Camp Scott, Utah Territory, in October, November, and December, eighteen hundred and fifty-seven.....	173,478 80
For continuing the construction of the following works of defense:	
Fort at Hog Island ledge, in Portland harbor, Maine.....	40,000 00
Fort Richmond, Staten Island, New York harbor, New York.....	75,000 00
Fort Delaware, Delaware river, Delaware.....	75,000 00
Fort Carroll, Solter's Point flats, Baltimore harbor, Maryland.....	75,000 00
Fort Taylor, Key West, Florida.....	75,000 00
Fort Jefferson, Garden Key, Tortugas, Florida.....	150,000 00
Fort Point, San Francisco, California.....	112,500 00
For contingent expenses of fortifications, preservation of sites, protection of titles, and repairs of sudden damage.....	30,000 00
For construction of permanent platforms for modern cannon of large caliber in existing fortifications of important harbors.....	30,000 00
For the payment of claims favorably reported upon by the board of Army officers (appointed under the sixth section of the act approved August thirty-first, eighteen hundred and fifty-two) in their final report to Congress, dated April nineteenth, eighteen hundred and fifty-five.....	7,872 52½
For the construction of bridges and the improvement of the crossings of streams on the road from Fort Smith, in Arkansas, to Albuquerque, in New Mexico.....	50,000 00
For completing connected sections of the road extending from Albuquerque, in the Territory of New Mexico, westward, on the route to the Colorado river, on or near the thirty-fifth parallel of north latitude.....	100,000 00
For preparing the drawings of the sailing charts of the Bering's Strait and North Pacific exploring and surveying expedition, under the control and direction of the Secretary of the Navy.....	6,700 00
	\$17,185,806 46½

By the act making appropriations for the expenses of collecting the revenue from customs.

For the expenses of collecting the revenue from customs, together with such sums as may be received from storage, cartage, drayage, and labor.....	\$3,600,000 00
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By the act making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory.

For the completion of the military road from Astoria to Salem, to be completed under the direction of the Secretary of War.....	\$30,000 00
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By the act to supply an omission in the enrollment of a certain act therein named.

For manufacture of arms at national armories.....	\$360,000 00
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By the act to supply Deficiencies in the appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and fifty-eight.

For restoring and maintaining, by peaceable measures, friendly relations with the Indian tribes in Oregon Territory, or so much thereof as may be necessary for expenditures during the year ending thirtieth of June, eighteen hundred and fifty-eight.....	\$264,000 00
For payment to such Cherokees as were omitted in the census taken by D. W. Siler, but who were included and paid under the act of July, eighteen hundred and forty-eight, the same per capita allowance that was paid the other Indians under that distribution, provided the Commissioner of Indian Affairs shall be satisfied they ought to be included in said per capita distribution.....	3,278 32
For contingencies of the Indian department during the year ending June thirtieth, eighteen hundred and fifty-eight.....	25,000 00
For indemnity to George W. Sudham, a Creek Indian, for property stolen from him and injured by a citizen of the United States.....	125 00
For general incidental expenses of the Indian service in the Territory of Washington during the year ending June thirtieth, eighteen hundred and fifty-eight.....	16,000 00

Seneca of New York.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six.....	3,000 00
For payment of the difference in salaries of the agents for the Sioux and Seminole Indians, for the Onaga agency, for the Kickapoo agency, for the Kaoska agency, and for the Neosho agency, between the rates as fixed previous to the act of third March, eighteen hundred and fifty-seven, and the rate authorized by said act,	

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from the third March, eighteen hundred and fifty-seven, to the thirtieth June, eighteen hundred and fifty-eight.....\$3,991 68

For compensation of one clerk in the Indian office, employed to enable the Secretary of the Interior to carry out the regulations prescribed to give effect to the seventh section of the act of third March, eighteen hundred and fifty-five, granting bounty land to Indians.....1,400 00

For compensation of two extra clerks, employed to carry out the treaty with the Chickasaws in the adjustment of their claims.....2,800 00

For defraying the expenses of the several expeditions against Luk pa-du-tah's band, and in search, ransom, and recovery of the female captives taken by said band in eighteen hundred and fifty-seven.....20,000 00

\$339,515 00

By the act to authorize a loan not exceeding the sum of twenty million dollars.

To defray the expense of engraving and printing certificates of such stock and other expenses incident to the execution of this act.....\$5,000 00

By the act making appropriations for the transportation of the United States mail by ocean steamers, and otherwise, during the fiscal year ending the thirtieth of June, eighteen hundred and fifty-nine.

For transportation of the mails from New York to Liverpool, and back.....\$346,500 00

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back.....261,000 00

For transportation of the mails from Panama to California and Oregon, and back.....328,350 00

For transportation of the mails between San Francisco, California, and Olympia, Washington Territory.....122,500 00

For transportation of the mails on Puget Sound, and for transportation of the mails from New York, by Southampton or Cowes, to Havre.....230,000 00

For transportation of the mails between Charleston and Havana.....50,000 00

For transportation of the mails across the Isthmus of Panama.....100,000 00

To enable the Postmaster General to cause the mails to be transported between the United States and any foreign port or ports, by steamship, allowing and paying therefor, if by an American vessel, the sea and United States inland postage, and if by a foreign vessel, the sea postage only, on the mails so conveyed.....[Indefinite.]

\$1,460,750 00

By the act making appropriations for the service of the Post Office Department during the fiscal year ending the thirtieth June, eighteen hundred and fifty-nine.

For transportation of the mails, (inland)....\$10,140,520 00

For compensation to postmasters.....2,325,000 00

For ship, steamboat, and way letters.....20,000 00

For wrapping paper.....55,000 00

For office furniture in the post offices.....5,000 00

For advertising.....85,000 00

For mail bags.....65,000 00

For blanks, and paper for the same.....125,000 00

For mail locks, keys, and stamps.....15,000 00

For mail depredations and special agents.....70,000 00

For clerks in the offices of postmasters.....850,000 00

For postage stamps and stamped envelopes.....100,000 00

For miscellaneous items.....180,000 00

To supply deficiencies in the revenue of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and fifty-nine, 3,500,000 00

\$17,535,520 00

By the joint resolution making an appropriation for the payment of expenses of investigating committees of the House of Representatives.

For the payment of expenses of the several investigating committees of the House of Representatives during the present session, and that the same shall be added to the miscellaneous item of the contingent fund of said House.....\$35,000 00

By the resolution to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California.

To settle and adjust the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, and to pay to said contractor the amount that may be found to be justly due to him under the contracts made between said contractor and the proper officers of the Government in reference to said building.....[Indefinite.]

By the joint resolution for paying the compensation of stenographers employed by committees of the House of Representatives.

The compensation of stenographers employed by the committees of the House of Representatives, as audited under the direction of said House.....[Indefinite.]

By the joint resolution making appropriations to pay the expenses of the several investigating committees of the House of Representatives.

For the payment of expenses of the several investigating committees, and of the Judiciary Committee of the House of Representatives, and that the same shall be added to the miscellaneous item of the contingent fund of said House.....\$12,000 00

By the act for the relief of John Hamilton.

In full compensation for his time and services, &c., during his imprisonment with the Indians in the war of eighteen hundred and twelve with Great Britain.....[Indefinite.]

By the act for the relief of Dr. Charles D. Maxwell, a surgeon in the United States Navy.

The difference of pay between that of a passed assistant surgeon and a surgeon, from the twenty second day of December, eighteen hundred and forty-five, to the seventh day of July, eighteen hundred and forty-eight, being the period during which he performed the duties of a surgeon and assistant surgeon on board the United States ship Cyane.....[Indefinite.]

By the act for the relief of the owners of the bark Attica, of Portland, Maine.

For the amount imposed on said vessel as tonnage duty by the collector of New York, in the year of our Lord eighteen hundred and fifty-five.....\$174 62

By the act for the relief of the heirs of Alexander Stevenson.

The amount of money due to said Stevenson from the time of his enlistment, January one, seventeen hundred and seventy-six, until the time of his discharge in seventeen hundred and eighty-three.....\$654 00

By the act for the relief of Duncan Robertson.

For moneys paid by him to the navy-yard at Gosport, it being the amount expended for repairs of the Norwegian bark Ellen, for damages encountered by said bark in aiding and rescuing the passengers of the steamer Central America.....\$749 00

By the act for the relief of Captain James Mac McIntosh, of the United States Navy.

The difference between the sum paid to him at the Treasury as commander "on other duty" and that which was due to him as such officer "attached to a vessel for sea service," and being in full for his services as an officer of the West India squadron from the fourteenth day of August, eighteen hundred and thirty-seven, to the third September, eighteen hundred and thirty-eight...\$304 95

By the act for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith.

To refund to Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith, or the survivors of them, composing the firm of Smith, Perkins, and Company, of Rochester, New York, the amount paid by them to the United States on one debenture bond, executed by John B. Glover and Company, dated April second, eighteen hundred and fifty-seven, as penalty over and above the regular duties on the merchandise therein mentioned.....\$837 00

By the act for the relief of George A. O'Brien.

For his services as clerk in the office of the Second Auditor from the fifth of July, eighteen hundred and forty-five, to the third day of March, eighteen hundred and forty-six.....\$549 33

By the act for the relief of the heirs of John B. Hand.

To pay to the heirs of John B. Hand.....\$1,340 00

By the act for the relief of Rufus Dwinel.

For interest at the rate of six per centum per annum, on the sum of thirteen thousand and thirty-seven dollars and seventy-two cents, from the fourth day of March, eighteen hundred and thirty-seven, when the latter sum was due from the United States to said Dwinel's assignor, to March eleventh, eighteen hundred and fifty-two, when an appropriation was made for its payment...\$1,748 03

By the act for the relief of Jonas P. Keller.

For his services as a watchman or overseer of the executive building at the corner of F and Seventeenth streets, from the first of April, eighteen hundred and forty-nine, to the thirtieth September, eighteen hundred and fifty.....\$750 00

By the act for the relief of Susanna T. Lea, widow and administratrix of James Maglenen, late of the city of Baltimore, deceased.

For the value of a horse and equipments, belonging to the said James Maglenen, the same having been impressed in September, eighteen hundred and fourteen, for the purpose of sending an express to North Point, and the said horse and equipments having been lost in said service.....\$130 00

By the act for the relief of J. Wilcox Jenkins.

For the difference between the pay of captain's clerk and a purser of a first-class sloop-of-war from the first day of January to the thirtieth of April, eighteen hundred and fifty-six, during which time he was the acting purser of the sloop-of-war Germantown.....[Indefinite.]

By the act for the relief of William B. Trotter.

For all demands of the said William B. Trotter growing out of the emigration and subsistence of Choctaw Indians in the State of Mississippi, in the year eighteen hundred and thirty-one, under a contract with the United States.....\$1,680 00

By the act for the relief of the heirs or legal representatives of Richard D. Rowland, deceased, and others.

To pay to the heirs, executors, administrators, or legal representatives of Richard D. Rowland, deceased, late of Alabama, three thousand two hundred dollars, and to the heirs, executors, administrators, or legal representatives of whomsoever possesses whatever title the United States gave to Cureton, Smith, and Heffner, to the southeast quarter of section two, township fourteen, range eight east, of the lands selected in Alabama, and sold under treaty of March twenty-four, eighteen hundred and thirty-two, with the Creek Indians, for the benefit of the orphans of the tribe, two thousand two hundred and sixty dollars, with interest at the rate of five and a half per cent. per annum, upon both aforesaid sums, from November first, eighteen hundred and thirty-six.....[Indefinite.]

By the act for the relief of Samuel W. Turner and Alvin A. Turner.

For their services in transporting the United States mail on their steamers from Cleveland, Ohio, and Detroit, Michigan, to Mackinaw, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan, and La Pointe, Bayfield, and Superior City, in the State of Wisconsin.....\$23,625 00

By the act for the relief of D. O. Dickinson.

For services rendered by said Dickinson in connection with keeping a light in Waukegan harbor, Illinois....\$108 75

By the act for the relief of Thomas Phenix, jr.

To pay Thomas Phenix, jr., during the time he was acting as paymaster's clerk in the employment of D. Randall, deputy paymaster general, the sum of three dollars a day; but from this compensation is to be deducted the salary of five hundred dollars per annum, already received by him.....[Indefinite.]

By the act for the relief of Lewis W. Broadwell.

For transporting the United States mails, in steamboats, from Vicksburg, Mississippi, to Grand Lake, Arkansas, from the fourth day of September, eighteen hundred and fifty-four, to the seventeenth day of April, eighteen hundred and fifty-seven, at the rate of five hundred dollars per annum.....\$12,938 00

By the act for the relief of Benjamin L. McAtee and Isaac N. Eastham, of Louisville, Kentucky.

For transporting extra mail matter over routes number three thousand nine hundred and sixty, and number four thousand one hundred and sixty-nine, between the first day of July, eighteen hundred and forty-six, and the thirtieth day of June, eighteen hundred and fifty.....\$6,000 00

By the act for the relief of Benjamin Wakefield.

For the difference of pay between that of master's mate and boatswain, from the first day of January, eighteen hundred and forty-eight, to the nineteenth day of January, eighteen hundred and fifty.....[Indefinite.]

By the act for the relief of Susannah Redman, widow of Lloyd Redman.

For the amount adjudged as due to said Lloyd Redman for three horses lost by him while in the service of the United States during the Mexican war.....\$170 00

By the act for the relief of Simeon Stedman.

To pay to Simeon Stedman, who served in Captain Christopher Ripley's company of the thirty-seventh infantry during the war with Great Britain in eighteen hundred and twelve, such sum or sums as may have accrued to him from the time of his last receiving payment for services till the end of the war.....[Indefinite.]

By the act for the relief of Oliver P. Hovey.

For printing the "Kearny Code" of laws for New Mexico in eighteen hundred and forty-six.....\$1,555 00

By the act for the relief of George W. Eiscoe.

For indemnification under the first article of the treaty of Ghent for the loss of the schooner Speedwell, captured in the Patuxent river by the British naval forces on the twenty-second of August, eighteen hundred and fourteen, and which was in the waters and within the territorial jurisdiction of the United States on the seventeenth day of February, eighteen hundred and fifteen, the day of the exchange of the ratifications of the said treaty of Ghent and was carried away out of the said waters and territorial jurisdiction of the United States, in violation of the said first article of the said treaty.....\$3,000 00

Appropriations, New Offices, &c.

35TH CONG...1ST SESS.

By the act for the relief of Richard B. Alexander.
For the value of one horse and one mule lost by him during
the Mexican war.....\$250 00

By the act for the relief of Robert W. Cushman,
formerly an acting purser in the United States
Navy.

To pay to Robert W. Cushman, acting purser of the Ger-
mantown, the flag ship of the African squadron, the dif-
ference of pay between that of a purser and a captain's
clerk for such time as he so acted as purser. [Indefinite.]

By the act for the relief of William Heine, artist
in the Japan expedition.

To pay to William Heine, artist of the late Japan expedi-
tion under Commodore Perry, compensation at the rate
of eighteen hundred dollars per annum during the time he
was actually employed in such service.....[Indefinite.]

By the act for the relief of Alonzo and Elbridge
G. Colby.

For the balance due them on their contract with the United
States, dated July twenty-four, eighteen hundred and
fifty-five, for constructing a breakwater at Owl's Head
harbor, Penobscot river, Maine.....\$2,502 11

By the act for the relief of David McClure, ad-
ministrator of Joseph McClure, deceased.

For the amount of interest collected from the said Joseph
McClure, in his lifetime, on a judgment in favor of the
United States Government, which it was afterwards as-
certained the said McClure did not properly owe, and the
amount of which judgment has been previously refunded
to him by Congress.....\$107 64

By the act for the relief of James Rumph.

In full compensation for medical aid rendered to soldiers in
the service of the United States in the year eighteen
hundred and thirty-seven.....\$760 00

By the act for the relief of John Dearmit.

To pay to John Dearmit, in addition to the amount already
paid him by the Government under his contract for car-
rying the mail upon route number one thousand six hun-
dred and one, from July first, eighteen hundred and fifty-
four, for four years.....\$295 00

By the act for the relief of Stuckey and Rogers.

To pay to Stuckey and Rogers, mail contractors on route
number six thousand and seventy-eight, (6078), from
Winsboro' to Pinckneyville, in the State of South Caroli-
na, at the rate of three hundred and thirty-three dollars per
annum, for the transportation of the mails on said route;
deducting therefrom whatever payments may have been
made, at the rate of one hundred and thirty-eight dollars
per annum, by the Post Office Department..[Indefinite.]

By the act for the relief of Peter Parker.

For his services as chargé d'affaires ad interim at Canton,
in China, at various periods between the dates of May
twenty-six, anno Domini eighteen hundred and fifty-two,
and the fourth day of May, eighteen hundred and fifty-
five.....\$2,603 19

By the act for the relief of the legal representa-
tives of Daniel Hay, deceased.

To pay to the legal representatives of Daniel Hay, deceased,
a sum equal to two per centum on all moneys disbursed
by him as agent for paying pensions, from and after the
twentieth day of April, eighteen hundred and thirty-six,
with interest on the same, from the thirtieth of April,
eighteen hundred and fifty-six.....[Indefinite.]

By the act for the relief of Dr. Thomas Antisell.

For services rendered as acting assistant surgeon to the
command (company G, third artillery) escorting Lieuten-
ant Parke's party of survey from California to New Mex-
ico, in the year eighteen hundred and fifty-five, \$274 65

By the act for the relief of the heirs of Richard
Tarvin.

For losses sustained by Richard Farren, or Richard Tarvin,
during said war of eighteen hundred and thirteen and
fourteen.....\$600 00

By the act for the relief of Mrs. Harriet O. Reid,
executrix of the late Brevet Colonel A. C. W.
Fanning, of the United States Army.

To pay to Mrs. Harriet O. Reid, executrix of the late Bre-
vet Colonel A. C. W. Fanning, of the United States Army,

the amount claimed to be due the estate of the said Bre-
vet Colonel Fanning, as commissions of two and a half
per cent. upon the sum of fifty thousand dollars disbursed
by him in eighteen hundred and twenty-seven and eight-
teen hundred and twenty-eight, at the United States arse-
nal in Augusta, Georgia.....\$1,250 00

By the act for the relief of Gardner and Vincent,
and others.

To audit and settle the several accounts of Gardner and
Wilson, A. S. Gardner, A. F. Holmes, G. B. Murphy, C.
C. Carlton, N. E. Crittenden, O. A. Brooks and Company,
and W. Bingham and Company, for goods, &c., furnished
the United States marine hospital at Cleveland, Ohio,
during the superintendency of John Coon...[Indefinite.]

By the act for the relief of Jennett H. McCall,
only child of Captain James McCall, of the
revolutionary war.

To pay to Jennett H. McCall, only child of Captain James
McCall, of General Pickens's brigade, in the South Caro-
lina regiment, during the war of the Revolution, the
seven years' half pay of a captain, as allowed by the res-
olution of Congress passed August twenty-fourth, one
thousand seven hundred and eighty.....\$2,100 00

By the resolution for the benefit of the widow of
Commander William Lewis Herndon, United
States Navy.

To pay the widow of Commander William Lewis Herndon,
a sum equal to three years' full sea-service pay of a com-
mander in the Navy.....[Indefinite.]

Total.....\$81,824,825 40

RECAPITULATION.

Legislative, Executive, Judicial, Civil, and Miscellane- ous.....	\$12,796,646 42
Diplomatic and Consular.....	912,120 00
Indian Department, Revolutionary, Invalid, and other Pensions.....	3,407,156 85
Army fortifications, Military Academy, and Military Roads.....	25,633,610 46
Naval service.....	14,508,354 23
Post Office Department.....	19,047,456 00
Ocean Steam Mail service.....	1,460,750 00
Collection of the Revenue.....	3,600,000 00
Treaty with the King of Denmark.....	408,731 44
	\$81,824,825 40

II.—OFFICES CREATED, AND THE SALARIES
THEREOF.

By the act (chap. 12) to create additional land
districts in the State of California and for other
purposes.

Three registers, at three thousand dollars per annum.
Three receivers, at three thousand dollars per annum.

By the act (chap. 13) to provide for the organiza-
tion of a regiment of mounted volunteers for
the defense of the frontier of Texas, and to
authorize the President to call into the service
of the United States two additional regiments
of volunteers.

One colonel;
One lieutenant colonel;
One major;
One adjutant, with the rank of first lieutenant;
One quartermaster, with the rank of first lieutenant;
One surgeon;
Two assistant surgeons;
One sergeant major;
One quartermaster and commissary sergeant,
Ten captains;
Ten first lieutenants;
Ten second lieutenants;
Forty sergeants;
Forty corporals;
Twenty buglers;
Ten farriers;
who shall receive the pay and emoluments fixed by exist-
ing laws for regiments of cavalry.

Two colonels;
Two lieutenant-colonels;
Two majors;
Two adjutants, with the rank of first lieutenant;

Two quartermasters and commissaries, with the rank of
first lieutenant;
Two surgeons;
Four assistant surgeons;
Two sergeant majors;
Two quartermaster and commissary sergeants;
Twenty captains;
Twenty first lieutenants;
Twenty second lieutenants;
Eighty sergeants;
Eighty corporals;
Twenty buglers;
Twenty farriers;

who shall receive the pay and emoluments fixed by exist-
ing laws for regiments of infantry.

By the act (chap. 25) to supply deficiencies in
the appropriations for the service of the fiscal
year ending the thirtieth of June, eighteen hun-
dred and fifty-eight.

Six messengers of the House of Representatives, at a
compensation of twelve hundred dollars per annum each.

By the act (chap. 31) for the admission of the
State of Minnesota into the Union.

One judge of the district court of the United States;
One attorney for the United States;

One marshal;
who shall receive the same compensation as the judge, at-
torney, and marshal for the district of Iowa.

By the act (chap. 44) to create a land district in
the Territory of New Mexico.

One register;
One receiver;
who shall receive the same compensation fixed by law for
other land officers.

By the act (chap. 92) to authorize the President
of the United States, in conjunction with the
State of Texas, to run and mark the boundary
lines between the Territories of the United States
and the State of Texas.

One superintendent, or commissioner. [No salary fixed
by the act.]

By the act (chap. 153) making appropriations
for the naval service for the year ending the 30th
of June, 1859.

One commissioner to the Republic of Paraguay, at a com-
pensation not to exceed \$7,500.

By the act (chap. 154) making appropriations for
sundry civil expenses of the Government for
the year ending the 30th of June, 1859.

One additional clerk in the office of the Register of the
Treasury, at a compensation of sixteen hundred dollars per
annum.

One additional clerk in the office of the Treasurer of the
United States, at a compensation of sixteen hundred dol-
lars per annum.

By the act (chap. 155) making supplemental
appropriations for the current and contingent
expenses of the Indian department, and for
fulfilling treaty stipulations with various Indian
tribes for the year ending June 30, 1859.

Three special agents for the Indian tribes in Texas. [No
compensation named in the act.]

Three interpreters for the Indian tribes in Texas. [No
compensation named in the act.]

By the act (chap. 163) to supply deficiencies in
the appropriations for the current and contin-
gent expenses of the Indian department, and
for fulfilling treaty stipulations with various
Indian tribes, for the year ending June 30, 1858.

Three clerks in the office of the Commissioner of Indian
Affairs, at a compensation of fourteen hundred dollars per
annum.

One commissioner to audit and state the claims for the
Indian service in the Territories of Oregon and Washing-
ton, at a compensation of eight dollars per day and actual
traveling expenses.

III.—OFFICES, THE SALARIES OF WHICH HAVE
BEEN INCREASED, WITH THE AMOUNT OF SUCH
INCREASE.

By the act (chap. 82) making appropriations for
the legislative, executive, and judicial expenses
of Government, for the year ending the 30th of
June, 1859.

Salary of one messenger in the office of the Secretary of
the Senate increased three hundred and thirty dollars per
annum.